

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 28 May 2008

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

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

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

THE HONOURABLE MARGARET NG

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

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

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

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

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

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

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

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

DR THE HONOURABLE YEUNG SUM, J.P.

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

THE HONOURABLE CHOY SO-YUK, J.P.

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

THE HONOURABLE 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 CHIM PUI-CHUNG

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

THE HONOURABLE ALBERT JINGHAN CHENG, J.P.

THE HONOURABLE KWONG CHI-KIN

THE HONOURABLE TAM HEUNG-MAN

THE HONOURABLE MRS ANSON CHAN, G.B.M., J.P.

MEMBERS ABSENT:

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

THE HONOURABLE ALBERT CHAN WAI-YIP

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

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

PUBLIC OFFICERS ATTENDING:

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

THE CHIEF SECRETARY FOR ADMINISTRATION

THE HONOURABLE FREDERICK MA SI-HANG, J.P.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT

THE HONOURABLE STEPHEN LAM SUI-LUNG, J.P.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS

DR THE HONOURABLE YORK CHOW YAT-NGOK, S.B.S., J.P.

SECRETARY FOR FOOD AND HEALTH

THE HONOURABLE TSANG TAK-SING, J.P.

SECRETARY FOR HOME AFFAIRS

THE HONOURABLE EVA CHENG, J.P.

SECRETARY FOR TRANSPORT AND HOUSING

CLERKS IN ATTENDANCE:

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

MRS CONSTANCE LI TSOI YEUK-LIN, ASSISTANT SECRETARY
GENERAL

MRS VIVIAN KAM NG LAI-MAN, ASSISTANT SECRETARY GENERAL

MS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

PRESIDENT (in Cantonese): Clerk, a quorum is not present. Please ring the bell.

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

PRESIDENT (in Cantonese): A quorum is present. The meeting shall start.

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Designation of Libraries Order 2008	145/2008
Education Ordinance (Amendment of Schedule 3) Notice 2008.....	146/2008

Other Papers

No. 97 — Annual Report 2006-2007
Broadcasting Authority

Report of the Bills Committee on Prevention and Control of Disease Bill

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions: First Question.

Protection of Personal Data by Government Departments and Public Organizations

1. **MR JASPER TSANG** (in Cantonese): *President, regarding the leakage of personal data of the public by government departments and public organizations, will the Government inform this Council:*

- (a) *of the total number of such cases in the past three years and the number of people whose data were involved in those cases; among such cases, the number of those in which the authorities concerned had informed the police, the Office of the Privacy Commissioner for Personal Data and the people affected about the leakage;*
- (b) *whether various government departments and public organizations have issued to their staff guidelines, stipulating the restrictions on the access, downloading, copying and sending of personal data of members of the public through computers and their accessories (such as USB memory sticks and card readers), security standards and procedure on reporting loss of data; if they have, of the contents of such guidelines; if not, whether such guidelines will be issued; and*
- (c) *whether various government departments and public organizations have plans to review the existing information security measures and systems, and enhance staff awareness of information security; if they have, of the details; if not, the reasons for that?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): *President, regarding the questions raised by Mr Jasper TSANG, my reply is as follows:*

- (a) In the past three years, the Government received 14 reports up to 25 May 2008 in connection to the leakage of personal data involving around 1 900 citizens by government departments. For the same period, there were 16 cases of information leakage by public organizations involving about 44 000 citizens. At present, data

users are not required to report leakage of personal data to the Privacy Commissioner under the Privacy Data (Protection) Ordinance. However, the Government has issued internal guidelines to departments requiring them to report information leakage incidents to the central incident response office.

Of the above 30 cases, seven government departments and public organizations had notified the police, Privacy Commissioner and the affected citizens. For the other 23 cases (which might involve crimes like theft or without the persons' contact information), the concerned government departments and public organizations had suitably reported to the relevant parties.

- (b) The Government has developed a comprehensive set of information security regulations and policies and has promulgated these to bureaux/departments (B/Ds). These regulations, policies and associated procedures and guidelines were developed with reference to international best practices and are reviewed from time to time to reflect changes in technology and security threats. The topics covered include access control to information systems and data, physical security, software asset management and authorization requirements for using software not supplied by the Government. B/Ds are also required to periodically remind their staff including contract staff about the need to comply with information security provisions and provide training to them where necessary.

For public bodies, B/Ds which have purview over them will take into account the government security regulations and policies in their respective regulatory or administrative arrangements with the public bodies. Public bodies are generally recommended to adopt or customize government information security related policies, guidelines and technical information when formulating their own information security policy, programme plans and implementation.

In case security incidents do occur, individual B/Ds are responsible for conducting initial investigations in the first instance. They are required to report the incidents to a central incident response office

if the incident involves personal data or classified information, and/or affects public services or the Government.

For public bodies, I understand they will deal with the incidents in accordance with any applicable legislation or regulations and will consider making public announcements depending on the circumstances of the individual cases.

- (c) While the investigations for some of these incidents are still in progress, the preliminary findings are that most of the incidents are caused by lack of awareness and/or alertness of the established information security regulations, policies and guidelines especially on the use of portable electronic devices and the file sharing software. As an immediate measure, two reminders have been issued to all government staff about their obligations to protect government information systems and classified/personal data in accordance with standing guidelines and requirements. To further enhance staff awareness of and facilitate their compliance with information security requirements, the OGCIO and Security Bureau with the support of the Civil Service Bureau are working closely with departmental IT security officers to design a communication programme to impress upon all staff the importance attached by the Government to information security and data privacy, and to build and sustain a high level of awareness, vigilance and commitment among all staff. The handling of official documents outside the office, or from home, will be a particular area of focus in these programmes.

On the governance side, the Government has established mechanisms for reviewing our information security management framework and measures to facilitate compliance by B/Ds. The OGCIO and Security Bureau play a leading role in this, with participation by other administrative and law-enforcement agencies on a need basis. The Government will review the information security policies, guidelines and facilitation measures in the next three to four months addressing these recent issues.

For public bodies, again B/Ds which have purview over them are expected to convey the latest development in the Government for their adoption and/or reference.

MR JASPER TSANG (in Cantonese): *President, among those cases of leakage of personal data of the public, many are caused by staff of government departments and public organizations who have to handle data outside the office or at home using personal computers. The Secretary said in the main reply that the handling of official documents outside the office, or from home will be a particular area of focus in these communication programmes. According to this view, this is to remind the staff of the existing requirements. However, have the authorities ever thought that the risk in practice is very high indeed if the Government allows its staff to bring such personal data out of the office or use personal computers to handle such data? May I ask whether the existing requirements are adequate in reminding the staff and whether a review should be undertaken to oversee the procedures regarding the handling of data outside the office? Would some departments even consider not allowing their staff to handle data outside the office?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): *President, Mr TSANG has pointed out the crux of the problem related to such events and that is, some colleagues would bring some work to do at home. Arrangements for the storage, processing and transmission of confidential information are clearly provided in our security regulations. The Government is taking active steps to dissuade the staff from bringing home removable storage devices which have personal data stored. If the staff really want to bring the information home for work, they will need to comply with the stipulations of the ordinances concerned. As far as I know, if colleagues really wish to work at home, their computers should be those provided by the Government. The staff will need to install security measures in their computers such as encryption before they are allowed to bring the information home. The best practice is not to bring the information home at all. But we understand that some hardworking civil servants may have to bring their work home and do it. We will advise them to comply with all the regulations to prevent information leakage.*

We know that technology is developing by leaps and bounds, so we will conduct a review of the system as a whole to ameliorate problems in this regard. A very important part is that the staff should have a heightened awareness and as I have said in the main reply, even if the staff bring their work home and work from there, it is hoped that they can handle the information with care. This is because we are aware of cases in which staff have lost their USB thumb drives, and this may be due to a lack of proper awareness.

PRESIDENT (in Cantonese): A total of eight Members are waiting for their turns to ask supplementary questions. Members who have the chance to ask questions should be as concise as possible so that more Members may ask their questions.

MS EMILY LAU (in Cantonese): *President, the Secretary said that the authorities have a comprehensive set of information security regulations and policies. But during the past three years and up to last week, there are 30 cases involving 46 000 people, not including the case about the police which took place a few days ago and caused a public uproar. President, the case is about the leakage of the identity of a police constable working undercover as well as the appraisals of some policemen. Last week we asked some questions on that and today we have this oral question. A meeting will be held in this Council this Friday. I do not know if the authorities realize the urgency of these incidents. President, part (a) of the main reply says that once incidents have occurred, several departments should be notified. But it is not required that the Privacy Commissioner be informed. May I ask the authorities whether full-scale and independent investigations will be undertaken to see if there is any need to amend the laws and plug the loopholes as soon as possible so that the privacy of the public can be protected?*

PRESIDENT (in Cantonese): Secretary, please reply to the latter half of the supplementary question raised by Ms Emily LAU, for I believe this is the thrust of her question.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, the Government takes a serious view of the information leakage incidents and we are not happy at all to see such incidents take place. We will never want to leak any personal data of any member of the public. I wish to reiterate to Members that the Government does not want to see such incidents and we take a serious view of them.

As for the point raised by Ms Emily LAU just now, the existing law does not require that the Privacy Commissioner be informed on a mandatory basis and the approach mentioned by Ms LAU is to the best of our understanding not the kind of measures that are being adopted in other places, such being a more progressive measure. However, if Members have any views on how the system can be improved, we would be most delighted to hear them.

MS EMILY LAU (in Cantonese): *President, you told him to answer my question but he did not. May I ask the Secretary to answer the question of whether or not any full-scale and independent investigation will be undertaken with a view to proposing sound recommendations?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, with respect to this, if the Member is asking about discussions with the Office of the Privacy Commissioner on problems related to this topic, of course, we will certainly look into that. However, I do not get Ms LAU's point about an independent investigation. As I have said in the main reply, the Government takes a serious view of the issue and we will review the existing system on a regular basis and raise the awareness of the staff in handling information. And we will ensure that our system and infrastructure can keep abreast of the developments so that all documents, especially classified documents, will not be leaked. We will undertake work in this respect and that is why I say that I do not quite understand the meaning of the independent committee which Ms LAU was talking about.

MR CHAN KAM-LAM (in Cantonese): *President, there is an independent department within the Government tasked with the development of information*

technology in Hong Kong. In view of the many information leakage incidents related to classified information, may I know if the Government will consider developing a kind of information technology control system for encryption in downloading, security and such like matters? This is because we have heard people from the information technology sector say that information can be encrypted and even if an USB thumb drive is lost, other people may not be able to open the files in it. Will the Government do something about this as a first step?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, when we analysed the information concerning these past cases, we gained a comprehensive view of the whole situation. We found that often these cases happened not simply because of system defects but related to the security awareness of the staff with respect to personal data. Often they did not follow our guidelines. Our guidelines specify clearly what the staff should do, especially when they have to bring work home. They should obtain the approval of their head of department. In some cases, it is also related to the design of the information system contractors as well as problems related to information security of the computer programs provided. We will undertake a review of our entire system from time to time. We know that scientific advancements are amazing, for we would never have thought of inventions like USB thumb drives several years ago. We come to realize that we must review the related infrastructure on a regular basis. Personally, I think that the security awareness of staff is also very important. They must know clearly the kind of work they are handling, especially when they are to bring the information home and load it into their personal computers, for leakage of information may happen. So we will undertake a comprehensive review.

MR JAMES TIEN (in Cantonese): *President, on the question of government departments leaking personal data of the public, we think that according to the internal guidelines of the Government, if the cases were investigated by the Security Bureau or the police, it would certainly not be as fair as an investigation undertaken by the Privacy Commissioner. Recently the Privacy Commissioner wrote to the Liberal Party stating that since we were concerned about this problem, we should reflect to the Government that there was a manpower shortage in the Office of the Privacy Commissioner as well as in the funding allocated to it each year. Will the Government act in the light of this and*

consider revising the existing manpower establishment of the Office of the Privacy Commissioner and increase its annual funding, so that it can oversee the situation on behalf of the public, instead of just waiting for the Government to draw up the related guidelines and leave the work to the police and other security agencies?

PRESIDENT (in Cantonese): Mr James TIEN, can you try to relate this supplementary question to the main question?

MR JAMES TIEN (in Cantonese): *President, in paragraph two of part (a) of the main reply, the Government stated that the police and the Privacy Commissioner had been notified of the incidents. Given this remark by the Secretary, then it is very important that the Privacy Commissioner can do his job well. This is why I am concerned about the work of the Privacy Commissioner. Since the Commissioner says that there is a manpower shortage in his Office and funding is not sufficient, does the Government agree that such a problem exists? If so, would it increase the manpower and funding of the Office of the Privacy Commissioner?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, first of all, I would like to say that we have provided additional resources at \$2.8 million for the year 2008-2009 to the Office of the Privacy Commissioner, representing an increase of about 7.7%. Of this, a sum of \$1.8 million is for increasing manpower at the Office to implement the Personal Data (Privacy) Ordinance. The other \$1 million is for stepping up publicity and education efforts to enhance public understanding of the protection of personal data.

Members know that we have a resource allocation mechanism in place and I believe if the Office of the Privacy Commissioner wishes to obtain additional resources, it can working according to the existing mechanism and make a request to the related policy bureau.

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

MS AUDREY EU (in Cantonese): *President, part (a) of the main reply mentioned that about 44 000 citizens were involved. May I ask the Government, since it said that it took a serious view of the situation, if it has any plans to offer compensation to these 44 000 citizens? If so, what kind of compensation would be offered? If not, why is no compensation offered or any expression made if it takes a serious view of the incidents?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): First, I wish to say that the 44 000 citizens involved are related to incidents that happened in public organizations, not in government departments, that is,

MS AUDREY EU (in Cantonese): *President, of course this also includes all public organizations.*

PRESIDENT (in Cantonese): All right, Secretary, please go on with your reply.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): A total of 16 cases have occurred in public organizations and about 44 000 citizens are involved. If the public organizations receive complaints from citizens whose personal data have been leaked or if they think that compensation should be offered, they would hand such cases in accordance with their own procedures.

MS AUDREY EU (in Cantonese): *My supplementary question is actually saying, about the 44 000 citizens involved in cases that happened in public organizations, they are certainly in the same situation as those 19 000 citizens, this is why I asked the Government if it would take any action as a form of response.*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): I am not sure if Ms EU has some misunderstanding here. One

thousand and nine hundred citizens are involved in cases about government departments. Did I hear she say 19 000 citizens?

MS AUDREY EU (in Cantonese): *It should be 1 900 citizens.*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): One thousand and nine hundred citizens are involved in cases about government departments and 44 000 citizens are involved in cases about public organizations. Up to now, neither the departments nor statutory bodies have received any claims.

PRESIDENT (in Cantonese): Second Question.

Traditional and Festive Events in Community

2. **MR DANIEL LAM** (in Cantonese): *President, some members of the public have relayed to me that quite a number of traditional community events in various districts in the New Territories, such as the Cheung Chau Bun Festival and the Tin Hau Festival Parade in Yuen Long, are very popular among members of the public in Hong Kong, and have even become one of the selling points used by the Hong Kong Tourism Board (HKTB) in promoting Hong Kong to other places. These members of the public have also pointed out that similar ritual events can actually be found in many walled villages and villages in New Territories, and the fact that such traditional events have been held for hundreds of years without showing any sign of waning demonstrates that such customs are of great vitality and can also help promote the economy of the districts concerned. In this connection, will the Government inform this Council:*

- (a) *of the assistance the relevant government departments will provide to the organizations concerned in various districts in the New Territories when such organizations are making preparations for the above events;*
- (b) *how the Government and HKTB will capitalize on the above events to strengthen the work on promoting Hong Kong to other places, so*

*as to attract many more tourists from other places to Hong Kong;
and*

- (c) *whether the Government will draw on the experience of the Macao Special Administrative Region Government in successfully bidding for the inscription of the Historic Centre of Macao on the World Heritage List, and promote the above events as cultural activities representative of Hong Kong?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, while Hong Kong is a modernized city, it still retains quite a number of traditional festivals and customs that are rich in district characteristics. Being parts of our history and culture, these traditional traits are very attractive to both local people and overseas visitors.

The Special Administrative Region (SAR) Government has been supportive of local communities in organizing different types of celebrations for traditional festivals. Among these activities, the Tai Ping Ching Chiu, Tin Hau Festival, Tam Kung Festival and Buddha's Birthday are well-known ones. In organizing these activities, the organizers are always properly supported by relevant government departments to ensure that the activities will be implemented in a smooth manner. This includes offering government venues and sites, processing application for permit for parades, crowd control and management, road closure, and so on.

Apart from assuming the role of a co-ordinator, District Offices at districts where traditional festivals are celebrated render much support to these activities. Assistance is provided in the form of funds allocated on the basis of District Council deliberations, publicity and promotion, and so on. One prominent example is the resumption of the Bun Scrambling Competition during the Tai Ping Ching Chiu on Cheung Chau Island. The activity was suspended for more than two decades. Owing to the active support of the Home Affairs Bureau and with the introduction of technical devices to provide better protection to safety, the activity has been resumed in the recent years. It is earning an international dimension as many tourists are attracted by its traditional features.

To enhance Hong Kong's appeal as a tourist destination, the Government is committed to developing a diversity of tourist attractions. The HKTB has

been promoting Hong Kong's living culture, heritage, traditional festivals and celebrations through various channels, such as its website, publications and promotional videos. For example, the HKTB introduces to visitors from other places the history, architecture and scenery of the walled villages in the New Territories. It also works closely with the travel trade partners to develop special travel itineraries like "Heritage Tour", guided visits to the walled villages in the New Territories, and so on.

The HKTB also helps overseas media to give coverage to Hong Kong's heritage sites and traditional festivals, such as festive celebration and customs in the walled villages and villages in the New Territories. For example, arrangement was made for an Italian media crew to report on the Lo Tin Tai Chiu held in Yuen Yuen Institute last November, and it has become an annual event that overseas media are invited to enjoy casserole food in the walled villages for the Lunar New Year.

Regarding the application for inscription on the World Cultural Heritage List, the traditional festivals and ritual events in various districts in the New Territories are items of intangible cultural heritage. Unlike the Historic Centre of Macao, they are not covered by the Convention for the Protection of the World Cultural and Natural Heritage of the United Nations Educational, Scientific and Cultural Organization (UNESCO).

The UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage (the Convention) which formally entered into force on 20 April 2006 applies to Hong Kong. One of the purposes of the Convention is to safeguard the intangible cultural heritage (ICH) endangered to preserve cultural diversity. The HKSAR Government is planning for a territory-wide ICH survey in accordance with the requirement of Article 12 of the Convention, so as to set up a database on the ICH in Hong Kong. The Government will commission local experts and scholars to conduct the survey, the scope of which will cover traditional festivals and ritual events celebrated by the various districts in the New Territories. Once the ICH inventory is in place, the Government will identify those of significant cultural value and apply for their inclusion in the ICH list at national level. We will also examine the possibility of seeking UNESCO inscription for these items. The Government will implement relevant measures to enhance research study and education on local ICH, as well as to strengthen its protection, development and promotion.

MR DANIEL LAM (in Cantonese): *President, I thank the Secretary for his reply. I also agree that under the leadership of the Secretary, the Cheung Chau Bun Festival organized by the Leisure and Cultural Services Department (LCSD) has actually enhanced the reputation of Cheung Chau and is a most successful event. However, given that the majority of the ritual events are held in the New Territories, may I ask the Secretary whether it will enhance communication with the Heung Yee Kuk (HYK) so as to join hands in strengthening these activities with a view to promoting the local economy?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, the Home Affairs Bureau will definitely enhance communication with the HYK. We are aware of the valuable advice given by the HYK in this respect, and a standing mechanism has been established between the Home Affairs Bureau and the HYK. We are ready to exert more efforts to promote the passing on of ICH.

MR CHEUNG HOK-MING (in Cantonese): *In the main reply, the Secretary stressed that these festivals are very attractive to both local people and overseas visitors, and that assistance has been provided by the District Offices concerned. Nowadays, such traditional festivals as the Tai Ping Ching Chiu, Tin Hau Festival, Tam Kung Festival and Buddha's Birthday have become popular tourist attractions. Yet, they have nothing tangible to learn except for the dragon dance and lion dance. May I ask the Secretary if the Government will consider acting as a co-ordinator or subsidizing certain bodies in providing accurate information about these festivals, so as to enable Hong Kong tourist guides or people providing docent services to give accurate guidance?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, local traditional festivals and customs are currently promoted by the HKTB in the international community to attract tourists to embark on cultural tours. The promotional materials do not only introduce the general features, but will also look into the meaning of the festivals for promotion.

MISS TAM HEUNG-MAN (in Cantonese): *President, we have numerous traditional Chinese festivals all year round. What criteria have the HKTB and*

the Government adopted to determine the events and celebration activities to be promoted to overseas visitors? Furthermore, will a review of the criteria be conducted? If so, what is the detail? If not, what is the reason for that?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Regarding the criteria for determining the traditional festivals to be promoted, consideration will be given by the HKTB to the attractiveness and the objective circumstances of the activities concerned, including the timing and scale, and the presence of other scenic spots in the vicinity to form a chain of attractions, so as to give visitors a diversity of travel experience within a short time. What is more, the HKTB will also consider the supporting facilities of the venues, such as transportation, environmental hygiene and the safety of facilities. Advice of the tourism sector will also be taken into consideration, for instance, the possibility of joint promotion with other tourist products in order to achieve greater effectiveness. This is a regular process of review and adjustment.

MISS CHAN YUEN-HAN (in Cantonese): *Either the Secretary's reply to our colleague or the main reply given shows that the Government appears to attach great importance to this. However, in my opinion, it might only care about the ceremonies which it would attend on invitation — and yet, this is better than not caring a dime at all. The Nga Chin Wai village, for instance, is the only walled village left in Kowloon where the "Kowloon League of Seven" will organize the Tai Ping Ching Chiu every year. When the activity was conducted last year, many people in the community (including the media) were extremely worried that it would be the last time. This is a place with a very long history — as long as a couple of centuries (600 years). Has the Government considered preserving it? No, it has not. While the Secretary said that the Government would focus its effort on co-ordination, its attitude towards those precious legacy is actually*

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

MISS CHAN YUEN-HAN (in Cantonese): *I wish to ask the Secretary what will be done to show me that he cares. Given that the place has been handed over to the Urban Renewal Authority, will the Government come forth to protect it in the*

face of demolition? Madam President, I hope that the Government will prove to me with action that it really cares about the traditional customs and buildings.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, we are well aware of individual Members' views on the Nga Chin Wai village. It is necessary to achieve conservation by retaining and preserving the place through development. This is the consensus reached between the Government and the community after widespread consultation.

DR KWOK KA-KI (in Cantonese): *President, the Secretary said that great importance has been attached to these activities and many people are aware of them. However, I believe many Hong Kong people do not even know when and where exactly these festivities are held. I wonder how the Secretary can convince us that a lot of work has been done to promote them to both local and overseas visitors. He had better tell us exactly where the resources have been put, what activities have been introduced, and the festive events that have been promoted either locally or internationally. In fact, I have no objection to all of his remarks. However, honestly, I believe except for the Cheung Chau Bun Festival, many Hong Kong people do not have the slightest idea of where the activities are held.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): District Offices have joined hands with the District Councils concerned to promote local tourist attractions that tie in with the relevant traditional festivities. In 2007-2008, the District Councils allocated \$14.2 million to assist the organization of such activities, among which about \$8.6 million was earmarked for promoting related activities in the New Territories. Apart from the direct expenditure on the activities, money was spent on the celebration activities of traditional festivals, the provision of docent services, the publication of pamphlets, heritage booklets, leaflets, and so on. Activities under promotion include the Tai Ping Ching Chiu and the abovementioned Buddha's Birthday, Carnival Parade, Dragon Boat Race, Tin Hau's Birthday, Che Kung Festival, Hung Shing Festival and Hau Wang Festival. Apart from the publication of leaflets, pamphlets and heritage booklets, the Home Affairs Department has also uploaded information on unique scenic spots and activities of various districts onto its website "Hong Kong Fun in 18 Districts" <www.gohk.gov.hk> for the reference of the public and visitors.

DR KWOK KA-KI (in Cantonese): *President, I wish to follow up. I wonder how many people have browsed that website. Just now, I asked the Secretary what had actually been done by the authorities for the local or overseas visitors. Does the abovementioned \$8.6 million represent all the promotional efforts made, including that for both local and overseas visitors?*

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

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, what I meant is the work done by various District Offices. Similarly, great efforts have been made by the HKTB.

DR KWOK KA-KI (in Cantonese): *May I ask the Secretary to provide additional information in writing after the meeting on the efforts made by the Home Affairs Bureau on the whole, be it the District Offices or the HKTB?*

PRESIDENT (in Cantonese): Secretary, can you give a reply in writing?

SECRETARY FOR HOME AFFAIRS (in Cantonese): I may do so. (Appendix I)

MS LI FUNG-YING (in Cantonese): *President, the Secretary mentioned in the main reply that the Government would be planning for a territory-wide ICH survey and the setting up of a database. I really appreciate that. May I ask the Secretary when such work will commence, how long it is expected to take and how much resources will be put into it?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, we plan to set up a working group within this year. Insofar as the ICH is concerned, professional knowledge is necessary and it should reflect the mainstream community view of it. Therefore, we hope to consolidate expert

views and public engagement with a view to conducting a general survey with full public participation.

PRESIDENT (in Cantonese): Ms LI Fung-ying, has your supplementary question not been answered?

MS LI FUNG-YING (in Cantonese): *Yes, President. Apart from saying that work will be done within this year, the Secretary failed to tell us the amount of resources to be injected. He has yet to answer this part.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, further consideration has to be given to the amount of resources to be injected for this purpose.

MR HOWARD YOUNG (in Cantonese): *President, I notice that the wordings of the main question put by the Member pinpointed the New Territories, and so did the Secretary's main reply, probably to avoid going beyond the ambit of the main question. However, apart from Miss CHAN Yuen-han's supplementary question, activities like the Fire Dragon Dance in Causeway Bay and Cha Kwo Ling are held in the urban areas but not the New Territories. I believe the co-ordination and assistance as stated by the Secretary in the third paragraph of the main reply is not confined to the New Territories, but is territory-wide. Neither will publications, for overseas visitors in particular, differentiate the urban areas from the New Territories.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, traditional festivals are also held in both Hong Kong and Kowloon, other than the New Territories. Admittedly, both the ICH and customs are worth conservation and full development. Not only has the HKTB published promotional leaflets for overseas visitors, the Home Affairs Bureau has also supported the publication of heritage booklets of various districts. In fact, these are also valuable reference for local people.

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

MR LAU KONG-WAH (in Cantonese): *The Secretary mentioned a survey in the main reply earlier on, which only covers traditional festivals and ritual events. But according to my personal experience obtained throughout some two decades of residence in the New Territories, the cultural heritage of Hakka, the walled villages and religion also have their unique characteristics, but they are not covered in the ICH survey mentioned by the Secretary. Will the Secretary consider including this kind of ICH into the survey so that people can have a better understanding of them?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, the ICH survey will cover many aspects. Earlier, I said that a working group will be set up to conduct a preliminary study on the scope and to draw an outline, with a view to deciding the way forward.

PRESIDENT (in Cantonese): Third question.

Pilot Scheme on Basic Health and Community Health Centres

3. **MR CHEUNG HOK-MING** (in Cantonese): *President, it has been reported that the Hospital Authority (HA) is planning to set up basic health and community health centres in all 18 districts in Hong Kong to provide one-stop medical and health care services. The HA will first set up such centres at Tin Shui Wai and Fan Ling as trial points. In this connection, will the Government inform this Council whether it knows:*

- (a) *the details of the above centres at Tin Shui Wai and Fan Ling, including their location, scale, services to be provided, population that they can serve, expected time for official commencement of operation, and the number of consultation slots they can provide each day;*

- (b) *for how long the above centres will serve as trial points, and the criteria for assessing the effectiveness of the centres so as to finalize the timetable for setting up such centres in all 18 districts in Hong Kong; and*
- (c) *apart from the above two trial points, whether the HA will consider setting up additional ones in other new towns (such as Tung Chung) where medical facilities are lacking?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, at present, the Administration has neither any plan nor policy to set up "basic and community health centres" in all 18 districts in Hong Kong. The establishment of better service network in the community is the Administration's policy on developing primary health care. Therefore, the HA is currently exploring the idea of introducing various continuous health care services into the public primary health care. The Administration and the HA are still working out the details of this service model. It is expected that this service model can help strengthen primary health care services and reduce the needs for specialist out-patient services and in-patient services.

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

- (a) To cater for the increasing population's need for public general out-patient (GOP) services in Tin Shui Wai, the Administration has planned to build a general out-patient clinic (GOPC) in Tin Shui Wai North Area 109 with various continuous health care services (including GOP services, family medicine services, and some consultative sessions of specialist and allied health services) to be introduced into this project on a pilot basis to cater for the health care needs of local residents. The Administration now plans to submit the proposal of constructing the GOPC and the related medical facilities in Tin Shui Wai Area 109 to the Public Works Subcommittee and Finance Committee of the Legislative Council in June this year. If funding application is approved, the Administration plans to start construction in mid-2009 for completion by end-2011.

The Administration has also planned to strengthen the public primary health care services in Shek Wu Hui, Sheung Shui while the HA also has a preliminary plan to introduce various continuous health care services into this project on a pilot basis. The Administration and the HA are still working out the details of this pilot project.

- (b) Since the Administration and the HA are still working out the details on the piloted introduction of various continuous health care services into the public primary health care, we have not set an implementation timeframe for these pilot projects at the present stage.

It is the HA's preliminary plan that the effectiveness of the piloted introduction of various continuous health care services into the public primary health care will be assessed in two aspects. The first one is effectiveness of the services, that is, assessing whether the service model of having GOP services supplemented with family medicine and some consultative sessions of specialist and allied health services can provide the public with more appropriate services, and reduce the needs for specialist out-patient services and in-patients services. The second one is patients' views, that is, assessing the level of satisfaction of the patients towards the services.

- (c) The Administration will continue to study how to provide the most appropriate public primary health care services in different districts to cater for their different needs.

MR CHEUNG HOK-MING (in Cantonese): *President, in the first sentence of his reply the Secretary made it clear that these centres would not be set up in all 18 districts in Hong Kong, but the Secretary seemed to be a bit self-contradictory in his reply, as he said that the policy on primary health care is very important and the Government would conduct studies in this respect, and the Secretary also said that the Government and the HA are still working out the details of the service model. What exactly are those details? Can the Secretary explain them more clearly? How do they define primary health care service?*

PRESIDENT (in Cantonese): Mr CHEUNG Hok-ming, you seemed to have asked a multi-barrelled question, but Members can only follow up one point in a supplementary question. Can you try to link them up?

MR CHEUNG HOK-MING (in Cantonese): *I am sorry, President. In that case, can the Secretary explain this to me: He stressed on the one hand the importance of primary health care but said on the other that these centres would not be set up. How will the Government resolve this contradiction?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I think my reply may also answer Mr CHEUNG's other questions as well. In respect of primary health care service, we hope to develop the relevant facilities and make arrangements for service delivery according to the needs of different districts, rather than adopting a rigid model and apply it to all 18 districts indiscriminately.

Members must understand that quite many facilities are already provided in some districts. We can basically do it with a service clustering approach and so, it may not be necessary to set up an all-inclusive centre. In the new districts, we hope to take this opportunity to group together some articulated services, so that the patients and their family do not have to go to different places for these services, and this can also better the co-ordination and co-operation among medical and health care personnel. In this connection, we will first implement this model in the new districts, especially in districts where suitable sites can be identified, such as Tin Shui Wai and Shek Wu Hui.

Certainly, we will also examine the overall provision of primary health care service in other districts. As we stated in the documents on health care reform, co-operation should be enhanced in all aspects, be it in the public sector or in the form of public-private partnership, and it is necessary to review the relevant arrangements.

As for Tin Shui Wai in particular, we are going to commit substantial resources to, among other things, general out-patient services, family medicine clinics and specialist out-patient services, so that specialist doctors in Tuen Mun Hospital or Pok Oi Hospital can provide consultation sessions and treatment for patients in the district on a regular basis, in which case the patients do not have to

go to other districts for the services. Moreover, we also hope that some allied health services, such as nurses specializing in rehabilitation care, can be provided in the centre for better co-ordination in the provision of service in the entire district.

As for other districts, we may continue with the existing mode of service delivery and take it as a virtual centre. I think we cannot implement the same model in all 18 districts, but we hope that service clustering can be implemented in all 18 districts to take care of the patients in the district.

DR JOSEPH LEE (in Cantonese): *President, the Secretary's reply just now seemed to be a response to the question asked by Mr CHEUNG Hok-ming but in fact, he did not answer his question. Certainly, we very much support the introduction of articulated health care services in various districts, but the Secretary said that suitable sites would have to be identified in, for example, Tin Shui Wai and Shek Wu Hui, Sheung Shui. May I ask the Secretary, in identifying sites in these districts or other districts, if the Government has specific or detailed principles for deciding the suitability of these districts for provision or introduction of these services?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): *President, we will first look into the primary health care facilities and services of the district in both the public and private sectors. We hope to provide room for co-operation between the public and private sectors in the provision of service. In some districts, there may already be quite many out-patient services or services provided by the Department of Health (DH), and there may even be many private medical practitioners. Therefore, we have to look at what we can do to complement their work.*

On the other hand, we will look at the magnitude of demographic changes in the district, such as the growth in population or whether population ageing is becoming increasingly serious.

Third, we have to find out whether there is really space in the district for setting up a centre of a larger scale, and this is also a more important factor. If there is sufficient land in the district for a centre to be set up expeditiously, these

districts can become the trial points. We can see that there are now two such places suitable for being used as trial points.

MR DANIEL LAM (in Cantonese): *President, my question is similar to that asked by Dr Joseph LEE. I would like to ask the Secretary this: Under what circumstances will trial points be set up or will a review be conducted regularly to ascertain whether more trial points can be set up?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, let me add that we have particularly inspected the provision of primary health care service in the 18 districts and asked the HA to review how their existing services can complement the services of the DH. Moreover, there are also services provided by the private sector or non-governmental organizations (NGOs) in the districts and so, we have to look into how they can complement each other. These factors aside, consideration must be given to such other factors as land or transport facilities. If we consider it appropriate to set up a centre in a certain district, we will consider doing so. However, this idea is still not a policy. I think a more correct approach is to handle this issue with greater flexibility.

MISS TAM HEUNG-MAN (in Cantonese): *President, to make the pilot project more successful, what will the Government do to promote it among residents in Tin Shui Wai and Fan Ling, so as to ensure that they know the location of the new community health centres, thereby facilitating their access to the services and helping the Government in reviewing the effectiveness of the project?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, publicity work will be carried out before any new health care facility comes into operation. To promote it among the patients, we will specifically conduct publicity through the District Offices, welfare organizations or NGOs in various districts to ensure that patients can obtain the information. Meanwhile, these facilities definitely will not be provided as standalone facilities, but under a service clustering system whereby the public can obtain information about the location of these services in the vicinity of their homes and make their own choices.

DR KWOK KA-KI (in Cantonese): *Madam President, I agree with what the Secretary has said. It is necessary to provide the services on a pilot basis and reduce patients' reliance on in-patient service or specialist out-patient service. But the problem is that in part (b) of the main reply the Secretary pointed out that they had not set a timeframe for the pilot projects. Many colleagues asked about details of these projects earlier on, but the Secretary did not give very clear answers. Can the Secretary tell us for how long we have to wait or till which stage of the project before improvement can be made to the reliance on specialist out-patient service or in-patient service? According to the Secretary's estimate, how far can such reliance be reduced in terms of percentage, or in terms of the number of patients in the total number of hospitalized patients?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I think this question cannot be answered in a simple way. First, the public and patients have their own choice as to which district they will go for medical consultation and treatment, while we hope that the primary health care service provided in a district can serve residents of the district. Therefore, the volume of the services required must be determined according to, say, the number of residents, the demographic structure, and so on, in a district.

Having considered these factors, we have to study the preference of the public. Generally speaking, proximity is the major consideration to most patients. Their second consideration is the amount of fees. So, people seldom seek medical consultation in another district if adequate services are available in their own district. Meanwhile, if the quality of the services is good in a district, the residents may also seek medical consultation in hospital or the Accident and Emergency Department less often.

So, with regard to these statistics, we certainly have to conduct some analyses, but when will these analyses be conducted? They must be conducted on a continuous basis, so that adjustments can be made to the policy, and it is difficult to set a timeframe. As I said earlier, we will look into the facilities in the 18 districts respectively, in order to develop a service clustering system by all means. While we may not necessarily set up one single centre, service clustering is necessary. We consider that this approach will facilitate greater improvement in our health care service and so, I hope Members will support our current policy.

MR LAU KONG-WAH (in Cantonese): *President, all new projects are subject to an assessment of objectives. These new projects of the Secretary cover specialist service, but the public considers that the waiting time for specialist consultation and treatment is very long. Since the Secretary has drawn up these new projects, can he tell the public what specialties will be included? Besides, how far can the waiting time be shortened, so as to ensure support for the new projects?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): *President, the new project that I mentioned is the project in Tin Shui Wai, but this idea has actually been implemented in other clusters before. For example, it was adopted when I was working in the Hong Kong West Cluster where some specialist out-patient services were provided in the GOPC in Sai Ying Pun, so that for cases involving patients who might require referral to specialist care, the specialist doctors in the GOPC would determine whether referral was required, thus sparing the patients the trouble of travelling a long distance to other hospitals for the service. So, in our view, this idea is certainly effective.*

But the question is: How many resources must we plough in? What specialties should be covered? This will depend on the need in the out-patient clinic. If the patients are mostly in need of Medicine or Surgery services, or they only require the service for only one day or half a day weekly, adjustments will have to be made. Therefore, we cannot rigidly work out their needs. Rather, we must look at the reception of residents of the district of the service, the common health problems and the number of patients requiring referral after the clinic has come into operation before this service can be provided.

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

DR FERNANDO CHEUNG (in Cantonese): *President, the idea of providing basic and community health centres is very good. I notice that as part of the primary health care services, a specific doctor is designated to follow up the conditions of a patient. But while the Government is going to introduce these centres, a long-term doctor-patient relationship has yet to be widely established, or put in another way, a patient still sees a different doctor every time he visits*

the clinic, be it general or specialist service. May I ask the Secretary when this arrangement will be changed, so that primary care doctors can be linked to the patients?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, insofar as the public sector is concerned, there will be difficulties if we have to arrange for a patient to see the same doctor every time he seeks medical consultation. This is why we stated clearly in the health care reform document that we hope to revamp both the public and private sectors in carrying out the reform. If a patient's family medicine needs are attended to by a designated doctor, the patient's health can definitely be taken care of more effectively. Communication between health care personnel and patients will be further improved, and with the introduction of the electronic medical records system, communication between the public and private sectors will also be improved.

Therefore, it is impossible to achieve the objective mentioned by the Member earlier if we purely rely on the public health care system of the HA in providing these services. For the purpose of doctors' training in the public sector, doctors may not always work in the same place, for they may be deployed to another district and so, it is difficult for a patient to be followed up by the same doctor. Such being the case, we consider that we must make preparations in the district and map out plans. We also hope to see some degree of co-operation between the public and private sectors in this respect, with a view to achieving this objective.

DR FERNANDO CHEUNG (in Cantonese): *President, my supplementary question is when this can be implemented. In fact, the Secretary admitted in his reply earlier that this is a good idea, but he did not tell us when this good idea will be implemented.*

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

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, we will take it forward step by step, but I think we must first ensure that our health care reform is widely accepted by the public before these services can be officially launched.

PRESIDENT (in Cantonese): Fourth question.

Traffic Accident Black Spots

4. **MISS TAM HEUNG-MAN** (in Cantonese): *President, as reported, quite a number of road sections at which fatal accidents had repeatedly occurred have so far not been classified as traffic accident black spots (TABSs) by the Transport Department (TD), and very limited road improvement works have been carried out by the Government at these road sections after the occurrence of accidents. In this connection, will the Government inform this Council:*

- (a) *whether it will review the criteria adopted for classifying a road section as a TABS; if it will, of the details and timetable of the review; if not, the reasons for that;*
- (b) *of the road sections not classified as TABSs at which four or more fatal accidents had occurred in a period of 12 months; whether the TD will consider classifying such road sections as TABSs and carry out road improvement works there; if it will, of the relevant details; if not, the reasons for that; and*
- (c) *of the measures in place to enhance drivers' awareness of safe driving so that they will drive with care no matter whether they are driving through a TABS or not?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Madam President,

- (a) We attach great importance to road safety. Investigation of TABSs is one of the many aspects of our work in improving the road environment for enhanced road safety. The behaviour of road users (including drivers and pedestrians) has been the contributory factor for over 90% of the traffic accidents and road environment is a contributory factor for about 3%. Nevertheless, as long as there is a need to further enhance safety on any road, irrespective of whether it is classified as a TABS, we will examine possible measures for improvement.

The purpose of setting criteria to classify TABS is for carrying out focused studies on locations with more traffic accidents, so that common characteristics of the contributory factors may be deduced, and improvement measures introduced accordingly. According to the criteria currently adopted by the TD, any location with six or more traffic accidents involving pedestrian injuries within a year; or nine or more traffic accidents involving personal injuries within a year, will be classified as a TABS. The TD will carry out detailed investigations and analyses of the TABSs to examine if there are common characteristics among the traffic accidents and to derive improvement measures targeting these accidents' possible contributory factors concerning the road environment. The TD will continue to monitor closely the distribution of traffic accidents, and will review the criteria for classifying TABSs as and when necessary.

Madam President, I would like to emphasize that our work in investigating traffic accidents and improving road facilities is by no means confined to TABSs. Neither do we inflexibly first classify a "black spot" according to the criteria before we start our study on improvement measures. Rather, the TD exercises flexibility to meet practical needs. For any location with traffic accidents involving serious casualties or causing considerable public concern, any location that has frequent occurrence of a similar type of traffic accidents, or any individual accident which is apparently caused by road environment factors, the TD will explore possible measures and submit appropriate improvement proposals to enhance road safety.

In addition, related departments will continue to carry out the following aspects of work:

- (i) The TD will continue to carry out other studies, including road safety review for strategic roads (for example, Tolo Highways, Tuen Mun Highways, and so on), and area studies on road safety (for example, areas in the vicinity of Wan Chai Road);
- (ii) The TD and Highways Department will continue to conduct regular inspections on road traffic and facilities throughout

the territory. They will also continue to seek views from Members of the District Councils, local communities and members of the public through regular meetings with the traffic and transport committees of the District Councils, the government hotline, the Transport Complaint Unit, and so on, and take appropriate improvement measures to enhance road safety as and when necessary; and

- (iii) The police will investigate the cause of each traffic accident. If they find that there is scope for improvement to the road environment, they will reflect their views to the relevant departments (such as the TD and Highways Department), for follow-up actions, including adding traffic signs and erecting barriers, and so on.
- (b) According to the TD's information, there was no location having four or more fatal traffic accidents during a 12-month period in the past three years.
- (c) We have all along been adopting a multi-pronged approach to enhance road safety through legislation, enforcement, improvement in traffic facilities and management, as well as publicity and education. We attach great importance to enhancing safety awareness among road users and instilling in drivers a proper driving attitude. We have been working with the Road Safety Council to enhance road safety through on-going publicity and educational activities, instill the concept of "Smart Driving with Courtesy", and foster a courteous and considerate driving attitude. We have been publicizing road safety messages through Announcements in the Public Interest on television and radio, leaflets, as well as advertisements at prominent locations and bus body on a regular basis. We have also organized talks, seminars, thematic training courses and road safety workshops particularly for the transport trades to promote road safety and a responsible driving culture.

In addition, we have submitted to the Legislative Council the Road Traffic Legislation (Amendment) Bill 2008 with a view to introducing a series of measures to enhance road safety. Apart

from raising the penalties of the offences of drink driving and causing death by dangerous driving, we also make legislative proposals to make it a mandatory requirement for offenders of serious traffic offences and repeat traffic offenders incurring 10 or more driving-offence points to attend driving improvement courses in order to instill road safety awareness in these drivers, improve their driving attitude and promote good driving behaviour. The Bill is under active scrutiny by the Legislative Council and we hope that the Bill can be passed soon.

MISS TAM HEUNG-MAN (in Cantonese): *Part (a) of the main reply has already stated the problem, that is, the behaviour of 90% of road users will have great implications on the incidence of traffic accidents. In this connection, the Government has advised in page two of the reply that the aspects of work listed in (i), (ii) and (iii) are carried out. However, has the Government reviewed whether the result of such work can enable drivers to drive more safely? It seems that inadequate effort has been made in this respect, thereby leading to the accident which happened in Sai Kung sometime ago.*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): In part (c) of my main reply, I have mentioned that we will adopt a multi-pronged approach to enhance road safety through legislation, enforcement and improvement in traffic facilities. One key point of the approach is to instill the concept of "Smart Driving with Courtesy" and the concept of safe driving. On the other hand, we have sent out a strong message and, with the support of the Legislative Council, submitted to the Legislative Council the Road Traffic Legislation (Amendment) Bill 2008 to introduce a series of measures to raise the penalties and strike home to drivers the message that everyone must abide by the law in this respect and adopt an attitude of courtesy and responsibility in driving.

MISS TAM HEUNG-MAN (in Cantonese): *Madam President, my question is on the effectiveness. The Bureau has not pointed out specifically whether the effectiveness can solve the problems revealed by the incident occurred earlier in Sai Kung.*

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

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Madam President, if the Sai Kung incident is used as the basis to evaluate the overall effectiveness — the incident is still under investigation, but we have immediately made a series of efforts, including some improvement measures which have been completed and some which are underway. With a high level of co-operation by the Sai Kung District Council, we are expeditiously implementing this aspect of work — I think the incident should not be used as the basis for evaluating the effectiveness of our current efforts. In fact, efforts on road safety have to be carried out on a continuous and sustained basis in order to achieve any effect.

MR LEE WING-TAT (in Cantonese): *President, part (c) of the main reply is on safe driving. Many members of the public have reflected to us that the level of safe driving by drivers nowadays has been lowering because if they cannot be proved to be driving dangerously, even if someone has been knocked down and killed — many such incidents have occurred — they will only be subject to suspension of driving licence for two to three years, which will have no deterrent effect at all. May I ask the Secretary (in fact we have raised this point many times) whether any review has been conducted on the appropriateness of imposing mandatory penalties, so that all drivers who have knocked down people, whether they have done so carelessly, when driving dangerously or have done so unintentionally, will be liable to imprisonment? Has any such study been conducted?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Madam President, I remember that this issue has been discussed in the Council sometime ago. After striking a balance, we have proposed, under the Road Traffic Legislation (Amendment) Bill 2008, to increase the sentence for the offence of drink driving and dangerous driving causing death stipulated under existing enactment from five years' imprisonment to 10 years. After balancing various considerations, we think that this is more appropriate. We have also imposed mandatory attendance of driving improvement courses on drivers who have committed serious traffic offences. Besides, there are also a series of other

measures, which I am not going to repeat here. However, we have actually taken various measures with a view to improving the attitude of drivers.

MR LEE WING-TAT (in Cantonese): *President, the Secretary has not answered my supplementary question. The Secretary has just said that imprisonment will only be imposed if the driver is proved to have committed dangerous driving. However, my question is whether any study or consideration has been undertaken by the Government instead of the rationale. Is it true that as long as someone has been knocked down and killed, whether it is caused by dangerous driving, unintentional or caused by careless driving, imprisonment will definitely be imposed on the driver?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Madam President, I believe that in the Court, the judge should not make a decision to impose imprisonment without inquiring into the causes. Under existing legislation and the ordinance after amendment, there are adequate provisions to ensure that people who have actually committed dangerous driving causing death will be subject to appropriate terms of imprisonment commensurate with their offence.

MS MIRIAM LAU (in Cantonese): *Madam President, to promote road safety, prevention is always better than cure. After the traffic accident in Sai Kung on 1 May, there has been wide coverage in the newspapers about a lot of roads of faulty design in Hong Kong, such as the Texaco Road Flyover at Tsuen Wan, the Bride's Pool Road in Tai Po, and so on. These roads are not classified as TABSs, and they may not be classified as non-black spots on which the Secretary has advised in the main reply that studies will be conducted. Therefore, may I ask the Secretary whether expeditious improvements can be made to those roads which might have been considered faulty in design so as to enhance road safety?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Madam President, as I have suggested earlier in the main reply, we do not first classify a black spot before we start our study on improvement measures. We have very close dialogue with the Traffic and Transport Committee through various

District Councils at any time and exercise flexibility to meet practical needs. Irrespective of the incidence of minor or major accidents, we will make efforts in the light of the actual circumstances. Take the Texaco Road mentioned by Ms Miriam LAU just now as an example, although it is not classified as a TABS, we will continue to put forward improvement proposals to enhance road safety there. Another example is that we have recently issued a works order to install additional safety facilities in flyovers, including the erection of directional signs for sharp bends, "Slow" signs, the addition of some tactile material and reflective studs along the double white line in the central divider, and so on. These are improvement measures we have all along been taking when necessary, especially with the example I have cited just now on Texaco Road.

MISS CHOY SO-YUK (in Cantonese): *President, talking about safe driving, I am a "self-driving person", I find that road signs in Hong Kong ((Laughter) I am a driver myself, can I put it that way?(Laughter) or cannot I?(Laughter) Sorry.) The road signs are very inconsistent. I think this will have a very great impact on road safety. Let me cite a very simple example. There is this road in Shaukiwan which leads to Shek O, Stanley and the crematorium. There is, first of all, a road sign which indicates that drivers heading for Stanley should stay on the right most lane, but this directional sign will no longer be seen later. Only after driving down the road for a while will there be another directional sign which indicates turning right to the crematorium. Just before turning right, there is the directional sign which indicates turning right to Shek O. If I have to go to Shek O, I will of course sharply turn right when I see the directional sign which shows that I have to turn right. However, if I have to go to Stanley, I will be very worried when I cannot find any sign for Stanley. Therefore, these road signs make drivers*

PRESIDENT (in Cantonese): Please come to your supplementary question direct. If you keep on explaining, we will be running out of time.

MISS CHOY SO-YUK (in Cantonese): *Madam President, the inconsistency of these road signs will distract drivers' attention, and they will have to brake abruptly, turn right or left abruptly. I think this can definitely be improved. May I ask the Secretary whether the inconsistency of such road signs throughout the territory will be examined?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Madam President, I may not agree with the comment made by Miss CHOY So-yuk, that there is great inconsistency in the road signs throughout the territory. But I believe that before erecting road signs, professionals from the Highways Department and TD must have done some research, and there are also regulations to follow. It is undesirable either to erect too many road signs, erect them at inappropriate places, or not giving drivers adequate time to respond. Therefore, we will definitely follow up with specific opinions. I have said just now that there is presently a mechanism under which consultation can be conducted from time to time at the district level through the Traffic and Transport Committee under District Councils. Regarding traffic improvement measures, we also adopt a highly co-operative approach to carry out discussions and make improvements. Regarding the place mentioned just now by Miss CHOY So-yuk, I will ask my colleagues to follow it up when I am back in the office.

PRESIDENT (in Cantonese): We have spent more than 15 minutes on this question. Last supplementary question.

MR LAU KONG-WAH (in Cantonese): *Although the traffic accident in Sai Kung is still under investigation, it is a relevant example. The reason is that after inspections at the spot, some remedial measures were immediately taken, including the provision of anti-skid dressing and the possible installation of permanent video cameras in future, and so on. These are posterior remedies made with the benefit of hindsight. Although 11 traffic accidents have happened at this section of the road over the past 15 months, it is not classified as a TABS. Therefore, may I ask the Secretary whether the definition of the so-called black spot is somewhat outdated? Is it somewhat inflexible? Will a list of dangerous roads, that is, the so-called dangerous zones, be compiled within the Government? Is this list available within the Government? If it is not, will such a list be compiled in the future to avoid the taking of wise actions in hindsight again in the future?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Madam President, I would like to stress a point once again. We do not first classify the black spots before taking measures. I have said just now that if special incidents have occurred or when local residents relay the circumstances to us, we

will take immediate actions. Mr LAU Kong-wah asked just now whether we had identified any place where especially serious incidents might occur. In fact, this is not inconsistent at all with our existing arrangements and principles. When we see the need, of course we will take improvement measures. In fact, apart from targeting at traffic accidents, we will also carry out focused studies from time to time at some districts, such as Wan Chai, where traffic conditions are more complicated, or some major trunk roads.

As for the criteria for classifying TABSs, why do we want to set the criteria and a threshold? For example, as I said just now, any location with six traffic accidents involving pedestrians or nine traffic accidents, disregarding the seriousness of the accidents, will be classified as a TABS, so that deduction can be made. If environmental factors are identified, appropriate improvement measures can be deduced. This does not mean that our efforts or focused studies are only confined to TABSs. Members can rest assured that we are prepared to and will surely make every effort to take necessary measures on road design and safety.

PRESIDENT (in Cantonese): The fifth question.

Impact of Rising Prices of Motor Vehicle Fuels on Relevant Trades

5. **MISS CHAN YUEN-HAN** (in Cantonese): *President, international crude oil price, which has continued to rise over the past few years, recently reached a record high of US\$127 per barrel. Moreover, oil companies in Hong Kong have raised the selling prices of motor vehicle fuels for five times since the beginning of the year, resulting in an accumulated increase of more than 5%. In this connection, will the Government inform this Council whether:*

- (a) *it has assessed the impact of persistently high fuel prices on the competitiveness of the relevant trades in Hong Kong, such as logistics, transport and tourism industries; if it has, of the findings; if not, whether it will conduct such an assessment;*
- (b) *it knows which countries currently do not impose duties on motor vehicle fuels or had abolished such duties in the past two years; whether it will consider abolishing the fuel duty, which accounts for*

10% of the diesel retail price, so as to reduce the impact of high oil price on the relevant trades; if not, of the justifications for that; and

- (c) *it knows which places, apart from the Mainland, have provided subsidy on the retail price of diesel; whether it will consider providing such subsidy?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Madam President,

- (a) According to the Government Economist, fuel costs accounted for about 17% of the total operating cost of the transport and related sectors as a whole in 2006. The figures are based on the latest Annual Survey completed by the Census and Statistics Department in 2007. An increase of about 24% in the retail price of diesel in the period from 1 January 2008 till now is expected to add about 4% in their operating costs. However, I have to point out that the exact impact varies among the individual sectors and some are more hard hit, depending on the fuel used and the intensity of fuel consumption. Air transport is a case in point. According to information from the industry, fuel cost takes up about 30% to 40% of an airline's operating cost. Given the high level and volatility of fuel prices, energy-intensive sectors such as transport are feeling the impact more keenly and such effects are also transmitting into sectors that are dependent on transport support, including logistics and tourism.
- (b) We are aware that most major economies levy one or more types of tax on fuel. Even though some economies, such as the Mainland, Singapore and Malaysia, do not have fuel tax *per se*, they generally levy other forms of tax, such as customs duty or sales tax. We have no information on the abolition of fuel tax in other economies in the past two years.
- (c) We also know that some economies, such as the Mainland, Indonesia, Malaysia and Taiwan, are providing subsidies on retail price of diesel.

It is the Administration's established policy to levy fuel tax on fiscal, environmental and transport grounds. With the introduction of a concessionary duty of \$0.56 per litre for Euro V diesel since December last year, down from the previous concessionary duty rate of \$1.11 per litre for ultra low sulphur diesel (ULSD), duty on diesel currently represents less than 5% of the retail price. This is among the lowest in the region. Moreover, the Administration has undertaken to review the concessionary duty rate before making the Euro V diesel the statutory standard in 2009. The revenue and the environmental protection considerations, as well as the economic implications on the trade, will all be covered in the review.

Madam President, the Administration is concerned about the impact of inflation on livelihood and business environment. Taking into account the three basic principles in public finances management, namely "commitment to society", "sustainability" and "pragmatism", the Financial Secretary has already announced a series of relief measures in the 2008-2009 Budget, including one-month rental relief for lower-income families living in public housing estates; one-off tax reduction for salaries tax, profits tax and property tax; waiving of rates and business registration fee; electricity charge subsidies, and so on. In addition to these measures, the sustained labour productivity growth should help provide some cushioning effect to inflation. The Government will consider all feasible and effective measures to address rising inflation.

MISS CHAN YUEN-HAN (in Cantonese): *President, I raised this oral question because I have regularly received a lot of complaints from professional drivers in my constituency recently. The Secretary said in the main reply that the Administration would review the concessionary duty rate before making the Euro V diesel the statutory standard in 2009. However, may I ask the Secretary why the review cannot be commenced immediately? According to the Government, intensive fuel users, such as bus companies with a profit of over \$200 million last year, can benefit from the duty-free policy, and yet professional drivers, with fuel accounting for 30% of their operating costs, have to wait until 2009, why? As most of them are users of Euro V diesel, why can the review not be launched immediately?*

In reply to my oral question today, the Secretary quoted a series of measures introduced in the Budget for the benefit of the entire community. How can these measures relieve the plight faced by professional drivers, who are

earning a monthly income of only several thousands of dollars? I think the measures will not serve this purpose. May I ask the Secretary why the review cannot be conducted until 2009? Why can professional drivers not be treated like bus companies by having the review launched immediately? Why is it impossible to do so? Why can large consortia be benefited while the poor drivers cannot? This is precisely the question put to me by many drivers. President, I hope to put this question to the Secretary in the Council today.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Madam President, Miss CHAN Yuen-han asked in her supplementary question why the review could not be launched earlier. We decided at that time to conduct the review in 2009 because of the intention of the Environment Bureau to make Euro V diesel the statutory standard in the same year. At present, ULSD is still allowed to be used. However, it is the intention of the Administration to encourage, by way of levying a duty, more people to switch to this type of cleaner fuel more quickly. At present, the duty rate of ULSD is \$1.11 per litre, whereas that of Euro V diesel is \$0.56. Our efforts appear to bear fruit for we can see that most drivers have already switched to Euro V diesel.

As regards the question raised by the Honourable Member concerning whether the review can be launched earlier, this will depend on whether or not Euro V diesel is to be made the statutory standard, a commitment made by the Environment Bureau back then. Of course, I can convey this request to the Environment Bureau to let it decide whether the review should be launched earlier.

Generally speaking, we can see at the present stage that, because of the concession, diesel duty accounts for less than 5% of the retail price. Notwithstanding this, we are aware that inflation has further aggravated the burden on the public and professional drivers and brought them tremendous pressure. Therefore, we undertake to consider any feasible and effective measure.

MISS CHAN YUEN-HAN (in Cantonese): *Although the Secretary said that she is willing to consider, I think she what I mean is immediately. I said in the supplementary question just now that the review should be carried out*

immediately. Many professional drivers would tell me this when we meet — this was what they told me this morning — as fuel duty accounts for 30% of their operating costs, why can the Administration not consider launching the review immediately?

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

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Madam President, I have nothing to add.

MR LEUNG YIU-CHUNG (in Cantonese): *President, in the last paragraph of the main reply, the Secretary quoted a series of measures for easing inflation. But regrettably, the only point she has omitted is the one concerning transport fares, that is, ways to prevent them from rising.*

The Secretary has recently announced the outcome of the request made by bus companies for a fare rise. May I ask the Secretary whether or not there are further measures to alleviate rising fuel prices have resulted in rises in prices and fares by public utilities, especially ferries. As the outcome of the tendering of ferry services will be announced shortly, what effective measures does the Government have? For instance, is it possible to set up a fuel fund to enable the rate of increase to be excluded from the rate of increase or decrease of fuel price, thereby easing the pressure on the public, or introduce some environmentally-friendly fuels to enable the rate of increase to be lowered, in addition to the subsidy provided by the Government?

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung, this supplementary question raised by you is actually about ferries. But you want to ask about what impact the fuel prices will have on ferry fares, right?

MR LEUNG YIU-CHUNG (in Cantonese): *I actually wanted to ask about the impact of fuel prices on all modes of public transport, including ferries.*

PRESIDENT (in Cantonese): The main question is actually about logistics. But never mind, I can allow you to raise this supplementary question. But this is already very

MR LEUNG YIU-CHUNG (in Cantonese): *Very marginal.*

PRESIDENT (in Cantonese): Yes, very marginal. But still I will allow you to raise this question. All supplementary questions raised by Members from now on should be relevant to the main question by all means because time can thus be saved.

MR LEUNG YIU-CHUNG (in Cantonese): *President, my question was raised in response to the Secretary's reply.*

PRESIDENT (in Cantonese): Fine. Secretary, please reply.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Madam President, there is no denying that fuel is major constituent of the costs of public transport. In considering the rates of fare increase for buses, as mentioned by the Honourable Member just now, we have actually struck a most fitting balance. I hope Members will agree that it is not that we will approve of whatever percentage of fare increase applied for by bus companies. This is not the case. We will weigh a host of factors. As Members are familiar with what those factors are, I will not repeat them here.

Similarly, ferries are also affected by fuel prices. As Members are aware, we have conducted the first tender but considered the rate of increase, which ranged from 30% to 50% at that time, too high. Therefore, during the second tender, additional concessions were offered by, for instance, reducing certain charges levied by the Government. The tender was drawn up in this manner.

Regarding the question raised by the Honourable Member concerning whether certain funds can be set up, we must, first of all, understand that a benchmark price must be set so that the Government can make a subsidy when

the oil price rises to higher than the benchmark price. However, once the oil price falls below the benchmark price, the excess will not be repaid to us immediately. Instead, it will be put into the fund first. How should it operate then? There is a certain degree of complexity here.

Furthermore, we will have to examine whether this approach, if adopted, will have any impact on other modes of transport. A large number of transport operators have actually suggested the necessity of a fuel surcharge. However, we do not consider it necessary at the present stage because, if we do so, the costs will be directly passed onto the public. As public transport operators, they should be obligated to control their costs.

Therefore, we will keep in view the impact of fuel prices on all modes of public transport. We will definitely endeavour to offer assistance where possible to lower costs through some concessionary measures.

MR LEUNG YIU-CHUNG (in Cantonese): *In the examples cited by me earlier, in addition to the fuel fund, I also mentioned environmentally-friendly fuels. Is it possible for the Government to offer subsidy in this respect? Because fare pressure can be relieved if, in addition to government subsidy, the Government can encourage some organizations to switch to environmentally-friendly fuels.*

PRESIDENT (in Cantonese): I get your point. Mr LEUNG Yiu-chung, Members should preferably be concise when raising their questions. If your supplementary question is very long, it is really difficult for the Secretary to answer each and every part of the question. Moreover, the Secretary will need to answer every example cited by you. Let me see if the Secretary still has anything to add.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Madam President, we can certainly relay the issue of environmentally-friendly fuels to the Environment Bureau. However, Members must be aware that efforts are being made in this direction. For instance, we have proceeded with setting up a unit with some shipping and ferry companies with a view to examining what can be done in introducing environmentally-friendly fuels.

However, apart from introducing environmentally-friendly fuels, adjustments might probably need to be made to engines or daily operation. Work in this respect has already been commenced. As regards whether subsidy will be offered, this issue involves not only transport policies but also environmental polices. We will consider Members' views on this matter back in the office.

MR SIN CHUNG-KAI (in Cantonese): *President, according to the Government, the Euro V diesel will be made the statutory standard in 2009. May I ask the Secretary whether this standard will apply to all vessels registered in Hong Kong? According to my understanding, many vessels regularly plying the Pearl River Delta will enter Hong Kong waters. In that case, will these vessels be required to use the Euro V diesel?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Madam President, I could not catch that clearly. The reception seemed to have some problems just now.

PRESIDENT (in Cantonese): You could not catch it clearly? Fine. Mr SIN Chung-kai, will you please repeat your question.

MR SIN CHUNG-KAI (in Cantonese): *All right. My supplementary question is very simple. It is pointed out in the main reply that the Euro V diesel will be made the statutory standard in 2009. Will this standard apply to all vessels registered in Hong Kong, including pleasure boats and ferries? Will these vessels be required to use the Euro V diesel? Furthermore, will vessels regularly plying between Hong Kong and the PRD, including those sailing to such places as Xiamen, Zhuhai and Zhongshan, be included as well?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Madam President, insofar as the marine aspect is concerned, a series of legislation was just passed by the Legislative Council for the introduction of MARPOL VI — I am sorry, I do not know its Chinese translation — it is a new international

standard, but it is not the same as the Euro V diesel. I am afraid I have no specific information on hand.

As regards ships, we are heading in the direction of using cleaner fuels. However, the standard drawn up for compliance by vessels in the territory might be slightly different from those required of cross-boundary and international ships. We must understand that other vessels are required to meet their respective standards, too. We cannot raise our standard suddenly upon the entry of those vessels into our territory. However, our work on this front will continue.

MR SIN CHUNG-KAI (in Cantonese): *The Secretary has not given me a concrete reply. My supplementary question is: Are vessels registered in Hong Kong, that is, those operating in Hong Kong — I am referring to vessels, let us not talk about ships — be required to use the Euro V diesel? She has not answered this part.*

PRESIDENT (in Cantonese): Secretary, perhaps you need to explain a bit more clearly.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Madam President, I do not have the information concerning this on hand. However, according to my understanding, the ULSD can meet the standard already. As regards whether the Euro V diesel has to be used, I will give Mr SIN a reply in writing to explain its applicability. (Appendix II)

MR WONG KWOK-HING (in Cantonese): *President, may I ask the Secretary why there has been discrimination in the waiver of diesel duty? Bus companies, such as the Kowloon Motor Bus, though having a profit of \$200 million, can still be exempted from diesel duty, and granted approval to raise fares. However, many commercial vehicles, such as dump trucks, container trucks, taxis, public light buses, and even van-type light goods vehicles, making very little profits with their drivers earning a monthly income of only several thousands of dollars are not exempted from diesel duty. Why does the Government exercise discrimination? I hope the Secretary can give me a reply. Although the Secretary said in the main reply that*

PRESIDENT (in Cantonese): You need not explain any further. You only need to raise your question of requesting the Secretary to give you a reply. Secretary, please reply.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Madam President, bus companies will calculate costs in determining and adjusting fares. Therefore, the benefit, if diesel duty is waived, will be reflected in fares. It is one of our public transport policies to lower as far as possible the costs of some mass transit services, such as bus services, for the benefit of the public.

As for commercial vehicles, I agree that this will certainly exert pressure on drivers. But on the other hand, the current duty rate, which should be less than 5%, is \$0.56 per litre. The rate was slashed by nearly half not long ago, in December 2007. Regarding the next move to be made, we have different policy considerations, such as environmental protection and revenue concerns. The consideration in respect of transport will be less because we consider that commercial vehicles have a role to play in the economy. We will give careful consideration to what impact will be caused in this respect. As pointed out by me earlier, the Government will definitely consider all feasible and effective measures to address rising inflation.

MR WONG KWOK-HING (in Cantonese): *The Secretary has not answered the first part of my supplementary question regarding why bus companies, which have already made enormous profits, are exempted from diesel duty, whereas other commercial vehicles, which can only make little profit with some of them making even losses, are on the contrary not exempted from diesel duty? She has not answered this part.*

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

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Madam President, I think this is because the policy considerations are different. As pointed out by me earlier, we will give consideration to revenue, and the environment, but lesser consideration to transport. Regarding these several aspects, we will actually give careful consideration back in the office.

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

MR LEE CHEUK-YAN (in Cantonese): *I have all along supported the exemption of diesel duty. However, I am greatly hesitant after learning this piece of news lately. What news is it? Has the Secretary considered that oil companies will ultimately be benefited by the exemption of diesel duty, whereas the condition of professional drivers has actually not been improved? President, what sort of analysis is this?*

May I ask the Secretary if she is aware that, if the duty on petrol and diesel is discounted, the retail prices of diesel and petrol will almost be the same, and the difference between the two will be very small. However, the cost of diesel is actually much lower. Therefore, the only beneficiary of the Government's duty exemption is oil companies. Has the Secretary examined this problem?

Currently, there is a level playing field lacking in Hong Kong. Oil companies enjoy the sole privilege of being exempted from all duty on the diesel retail price. As a result, the prices of diesel and petrol are nearly equally expensive. Actually, this should not be allowed to happen. Hence, may I ask the Secretary if the Government will adopt an alternative approach, such as levying a tax, and then provide direct subsidy to drivers in order to put the benefits derived from duty exemption directly into the pockets of drivers with a view to alleviating their burden instead of allowing oil companies to be benefited alone? May I ask whether the Secretary is aware of this situation, and if she will consider providing subsidy to drivers direct?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Madam President, according to my understanding, when the concessionary duty rate of \$0.56 per litre was introduced, the diesel price was also reduced by the same rate accordingly.

PRESIDENT (in Cantonese): Last oral question.

Polling Arrangements for Disabled Persons

6. **DR FERNANDO CHEUNG** (in Cantonese): *President, will the Government inform this Council:*

- (a) *whether it has collected statistics on the number of disabled persons among registered electors; if it has, of a breakdown of the number of such electors by type of disability; if not, whether the Government has any plan to set up such a database;*
- (b) *given that of the 501 polling stations for the 2004 Legislative Council Election, 287 were accessible polling stations suitable for use by disabled persons, representing 57% of the total number of polling stations, how many accessible polling stations does the Government plan to set up for the 2008 Legislative Council Election to facilitate disabled persons in casting their votes; and*
- (c) *whether it has enhanced dissemination of information to disabled persons regarding voting at the 2008 Legislative Council Election (for example, when disabled persons are disqualified from being registered as electors, and points to note when they go to polling stations to cast their votes); if it has, of the details; if not, the reasons for that; and whether the Government has formulated clear guidelines to instruct Presiding Officers how to assist those electors who are unable to complete the voting procedure on their own because of physical disabilities; if it has, of the details of the guidelines; if not, the reasons for that?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Madam President,

- (a) The Legislative Council Ordinance (Cap. 542) stipulates that a person is eligible to be registered as an elector if he meets the requirements specified in the relevant provisions. In the application form for voter registration, an applicant is not required to indicate whether he is a disabled person. Moreover, a registered elector is not required to inform the Registration and Electoral Office (REO) whether he is disabled. Hence, the REO does not

have the relevant figures. We have no plans currently to set up such a database.

- (b) The REO makes every effort to identify venues suitable for use by disabled persons as polling stations in every election. In the 2004 Legislative Council Election, 294 (or 59%) out of the total of 501 polling stations were suitable for use by disabled persons.

The REO is identifying venues to be used as polling stations for the 2008 Legislative Council Election. During the process, it will identify venues suitable for use by disabled persons as far as possible. However, in individual districts, the design of some venues in suitable locations may not include facilities to cater for disabled persons. Moreover, the availability of these venues is subject to the consent of their owners. For the 2008 Legislative Council Election, the REO plans to set up about 520 polling stations. It is estimated that over 70% of the stations will be suitable for use by disabled persons.

- (c) The Government has all along adopted a multi-pronged approach of publicity measures (including means accessible to both the able-bodied or disabled, such as Announcements in the Public Interest (APIs) on television and radio, roving voter registration counters and dedicated website), to call upon more eligible persons, irrespective of whether they are able-bodied or disabled, to register as voters and to cast votes on the polling day. Under the current legislation, no one would be disqualified from registration because of his/her disability.

To facilitate electors to vote, the REO will issue to every elector a poll card to be attached with the location map of the allocated polling station, which also specifies whether the station is suitable for use by disabled persons. For a person with disability, he can apply to the REO five days before the polling day to switch to a polling station suitable for use by disabled persons. The applicant will then be allocated to a polling station close to his residence and suitable for use by disabled persons. If circumstances permit, the REO will arrange Rehabus service for disabled persons through the

Hong Kong Society for Rehabilitation to transport them to and from the polling station.

For the benefit of visually impaired electors, the REO will set up a hotline when the poll cards and Introduction to Candidates are distributed to electors. The hotline provides visually impaired electors with the information on the candidates. On the polling day, the REO will also provide templates to visually impaired electors who choose to mark the ballot paper on their own.

For those electors who are unable to mark the ballot paper by themselves (due to reading or writing difficulties, visual impairment or other physical problems), they may request the Presiding Officer, the Deputy Presiding Officer or the Assistant Presiding Officer to mark the ballot paper on their behalf. When the relevant officer is marking the ballot paper on behalf of an elector, another polling station staff will act as witness.

During the training sessions, the REO will remind polling station staff specifically to offer assistance to electors with special needs whenever possible and practicable to facilitate them in casting their votes smoothly. Detailed arrangements for electors with disability will be specified in the staff training manual.

DR FERNANDO CHEUNG (in Cantonese): *President, many persons with disabilities have told me that polling stations were unsuitable for their use because there were staircases and such polling stations were not accessible to wheelchair users, whereas polling stations nearby are actually very far away, therefore, they gave casting their votes. Some of them found that there were staircases upon arrival at the polling stations and they had to be carried into these stations by other people. They felt as if they had no dignity, and some of them subsequently gave up voting.*

Has the Secretary considered if such a high proportion of polling stations unsuitable for use by persons with disabilities may be in violation of the Disability Discrimination Ordinance? Why would the Secretary not make every effort to turn all (100%) polling stations into barrier-free polling stations in 2008?

PRESIDENT (in Cantonese): You have asked two supplementary questions. Which one do you think the Secretary must answer?

DR FERNANDO CHEUNG (in Cantonese): *President, I certainly hope he would turn 100% of polling stations into barrier-free polling stations*

PRESIDENT (in Cantonese): I know, but I am duty-bound to ask you this question. The Secretary can answer both of your supplementary questions, but I am duty-bound to ask which one you would like the Secretary to answer.

DR FERNANDO CHEUNG (in Cantonese): *This question I will say.*

PRESIDENT (in Cantonese): The second supplementary question, right?

DR FERNANDO CHEUNG (in Cantonese): *Yes, this question.*

PRESIDENT (in Cantonese): Very well.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Madam President, the REO makes every effort to identify venues suitable for use by disabled persons as polling stations in every election, so 59% of the polling stations were suitable for use by disabled persons in the last Legislative Council Election, and we anticipate that there will be more than 70% of such stations in this election. REO staff have tried their best in making progress.

In the past few elections such as the 2004 Legislative Council Election, the REO received a total of 182 special applications for switching to other polling stations suitable for use by disabled persons; we also received 34 similar applications in the 2007 District Council Election and 24 such applications in the 2007 Legislative Council By-election, and the REO acceded to all their requests. We respect the needs of disabled electors and try our very best.

DR FERNANDO CHEUNG (in Cantonese): *President, the Secretary was asked why 100% of the polling stations cannot be made barrier-free but he only told us that 70% would be accessible. He has not answered why 100% of the polling stations could not be made barrier-free.*

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

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Madam President, REO staff have already tried their best to identify suitable venues but, unfortunately, some buildings, community halls and schools built in Hong Kong in the past few decades do not have these facilities. The REO has to identify enough polling stations while retaining polling stations that other electors have got used to using. But given time, I believe we would have a higher and higher proportion.

MRS ANSON CHAN (in Cantonese): *I wish to follow up the supplementary question just raised by Dr Fernando CHEUNG. Can the Secretary undertake to ensure 100% of the polling stations would be suitable for use by all electors including the disabled and able-bodied as soon as possible?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Madam President, I can tell Members that REO staff will try their best to identify polling stations suitable for use by disabled persons, but it all depends on the availability of venues and facilities in each constituency. We also need sufficient polling stations to meet the voting needs of 3.3 million electors.

MR ALBERT HO (in Cantonese): *I believe the Government is well aware of its responsibility under the Disability Discrimination Ordinance to provide disabled persons with accessible facilities to facilitate them in casting their votes. The Secretary has said time and again that the Government has tried its best, but some areas are still not covered. And that is not an answer.*

The Secretary has just referred to some alternative measures allowing disabled persons to choose to cast their votes at accessible polling stations, but the votes they cast will certainly belong to their respective constituencies. I would like to ask the Secretary why persons with disabilities cannot freely make their choices to facilitate them in casting their votes. Can the Secretary undertake to do so in the upcoming election?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Madam President, after reading the poll cards distributed by post to 3.3 million electors, persons with disabilities will understand that they can apply to the REO five days before the polling day to switch to polling stations suitable for use by disabled persons. The REO will make corresponding arrangements upon their requests. So, such arrangements will be made for all disabled persons.

MR LEUNG KWOK-HUNG (in Cantonese): *In saying that a lot of efforts have been made, the Secretary is telling us he cannot guarantee the provision of 100% accessible polling stations to disabled persons in the elections to be held after 2008. That is the Secretary's answer.*

May I ask the Secretary if he has considered allowing disabled persons to cast their votes in advance of the polling day to facilitate their access to polling stations? As it will be very crowded at polling stations on the polling day, it may solve the problem if they are allowed to vote one day in advance or by computer. Has the Secretary considered making such arrangements to make it more convenient for them?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Madam President, we have considered whether polling can be conducted one day in advance or earlier in another context. Having taking the matter into account, we considered there would still be an exit poll problem and the disclosure of the relevant information earlier may affect voter inclinations on the official polling day. Therefore, we ultimately decided not to allow some voters to cast their votes earlier in the 2008 Legislative Council Election.

As to Mr LEUNG Kwok-hung's question about whether special arrangements such as electronic voting would be made, the REO has determined that voters should vote in person to facilitate identity verification. Identity verification will not be easy and there would be technical difficulties if voters cast their votes electronically.

PRESIDENT (in Cantonese): Mr LEUNG, which part of your supplementary question has not been answered? Please repeat that part only.

MR LEUNG KWOK-HUNG (in Cantonese): *It is the part about electronic voting. The Secretary told us that it is a policy for voters to vote in person, which I think does not make sense. Actually, we now have computer software that can, firstly*

PRESIDENT (in Cantonese): It is not time for a debate between you and the Secretary. Which part of your supplementary question has not been answered? Please repeat the relevant part so that I can call upon the Secretary to answer it.

MR LEUNG KWOK-HUNG (in Cantonese): *The Secretary's answer does not show that he has considered the adoption of electronic voting.*

PRESIDENT (in Cantonese): This is only a comment of yours rather than your original supplementary question. Although you think the Secretary's answer is not satisfactory, you cannot say he has not answered your question, right?

MR LEUNG KWOK-HUNG (in Cantonese): *The problem is he said that it is a policy for voters to vote in person. Insofar as the so-called policy is concerned, the Secretary has not answered whether he has considered the adoption of voting by computer, technically*

PRESIDENT (in Cantonese): I think the Secretary has already answered your question. Please sit down.

MR JAMES TO (in Cantonese): *President, can the Secretary suggest a remedy? The Government has to suggest a remedy when it fails to do something, and I think disabled persons should go to the relevant polling stations on their own accord to cast their votes.*

In the elections held between 2004 and 2008, there has been a more than 10% marginal increase in the polling stations for use by disabled persons, but it has taken the Government four years to make the arrangement. The Government acted in accordance with the Disability Discrimination Ordinance in identifying a lot of venues, does it mean it has not worked hard enough, or does the Secretary want to tell us that it is just about right as 70% of the polling stations are already suitable for use by disabled persons? Is the Secretary saying that further increases may not be possible? As a Member said just now, it would be best if 100% of the polling stations would be accessible.

In fact, we have discussed the topic for many years and the Disability Discrimination Ordinance has already been implemented. I hope the Secretary would tell us frankly whether he considers 70% just about right. Does it mean there will only be 75% or 78% of such polling stations even though we go on identifying venues and certain venues cannot offer full accessibility?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Madam President, for decades in the past, we have promoted the renewal of local buildings, especially newly completed buildings, to provide facilities for use by disabled persons. The issue has been the concern of the Government and the professional, construction and social service sectors. Some old schools and community halls still do not have the latest facilities now, but I believe the needs of persons with disabilities will be catered for in the event of future renovation or new facility installation. Hence, I anticipate a higher and higher proportion in the future.

PRESIDENT (in Cantonese): This Council has spent more than 17 minutes on this question. Last supplementary question.

MS EMILY LAU (in Cantonese): *President, I also hope the authorities concerned would make all polling stations accessible by disabled persons as quickly as possible. President, the Secretary said that the Government will offer assistance to disabled persons in need and it has also mentioned the Rehabus service, and so on. But owing to the inadequate provision of Rehabus service, users who need the service have to make appointments four months in advance.*

Would the Secretary inform this Council of the number of disabled persons who sought assistance in the latest elections, including the users of Rehabus service or visually impaired electors? How many of them were offered assistance and how many of them had their requests declined?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Madam President, regarding the figures of the past few elections, I have just reported that the REO received a total of 182 special applications for switching to other polling stations suitable for use by disabled persons in the 2004 Legislative Council Election; it received applications from 34 disabled persons for switching to such polling stations in the 2007 District Council Election and 24 such applications in the 2007 Legislative Council By-election. We made the relevant arrangements in each and every case and the wishes of the electors concerned were realized in the past three elections.

Insofar as the Rehabus service is concerned, during the Legislative Council Election in 2004, there were 17 cases in which Rehabus service was arranged for electors with disabilities; there were 27 such cases during the District Council Election in 2007; and there were nine such cases in the Legislative Council By-election in 2007. In these three elections, we managed to provide Rehabus service at the request of the electors concerned.

As to the information on visually impaired electors seeking assistance at polling stations, I have to consult the REO to see if they have such figures. I will give a reply in writing if it does. (Appendix III)

PRESIDENT (in Cantonese): Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS**Corruption Cases Involving Private Building Maintenance Works**

7. **DR RAYMOND HO** (in Chinese): *President, it has been reported that last year, the Independent Commission Against Corruption (ICAC) received over 2 000 private sector corruption reports, of which 40% were related to building maintenance works. In this connection, will the Government inform this Council:*

- (a) *of the number of private sector corruption reports involving building maintenance works received by the ICAC in the past three years;*
- (b) *whether the works referred to in (a) will be inspected afresh; if so, of the details; and*
- (c) *apart from amending the relevant provisions of the Building Management Ordinance (Cap. 344) and implementing the Building Management (Amendment) Ordinance 2007 (Ordinance No. 5 of 2007), whether the authorities had formulated any other measures in the past three years for monitoring the tendering procedures on private building maintenance works undertaken by owners' corporations (OCs) and preventing malpractices; if so, of the details?*

SECRETARY FOR HOME AFFAIRS (in Chinese): *President,*

- (a) In the past three years, the number of corruption reports involving building management received by the ICAC are 978 (2005), 822 (2006) and 972 (2007) respectively. Most of them are related to building maintenance works and building management contracts.
- (b) The Buildings Department regulates building maintenance works in accordance with the Buildings Ordinance to ensure that the works are carried out in compliance with the law. If the Buildings Department receives a case referral from the ICAC, the Department will, depending on the nature, conduct site inspections to ascertain whether the works conform to the legal requirements.

- (c) The Building Management Ordinance stipulates that an OC shall invite tender for any projects with a total value over \$200,000, and that a general meeting shall be convened to endorse the relevant tender if the total value of the project exceeds 20% of the annual budget of the OC. Furthermore, an OC has to observe the Code of Practice on Procurement of Supplies, Goods and Services and the Code of Practice on Building Management and Maintenance under the Building Management Ordinance during the tendering process. The above requirements seek to enhance the transparency of OCs in carrying out maintenance works, and ensure that OCs effectively supervise the tendering and the maintenance works concerned.

Besides, the ICAC proactively assists owners and OCs in taking effective preventive measures against corruption. In addition, the Government actively promotes clean and effective building maintenance through education and publicity. The Government extensively publicizes the message of integrity and quality building management and maintenance through television, radio, newspapers, websites, as well as workshops and roving exhibitions co-organized with the 18 District Councils. The ICAC and the Hong Kong Housing Society have jointly compiled a Building Maintenance Toolkit to provide a practical, user-friendly and informative guide on measures that can be taken by OCs to prevent corruption in the tendering process for building maintenance works. The toolkit contains sample probity clauses in maintenance consultancy agreements, project consultancy fees and tender evaluation forms, and sample anti-collusion clauses in tender documents for reference and use by owners. The toolkit, together with posters and leaflets, will be distributed to all OCs in Hong Kong.

Franchised Bus Services

8. **MR ANDREW CHENG** (in Chinese): *President, regarding franchised bus services, will the Government inform this Council:*

- (a) *of the reasons for the substantial reduction over the past two years in the annual numbers of new buses approved, by the Transport*

Department (TD), to be purchased under the Forward Planning Programme by the Kowloon Motor Bus Company (1933) Limited (KMB);

- (b) whether it knows the reasons for the substantial reduction over the past two years in the numbers of buses decommissioned annually by most of the franchised bus companies;*
- (c) of the utilization rate of the buses of each franchised bus company in each of the past three years; and*
- (d) of the following details of the Bus Route Development Programme submitted recently by each franchised bus company to TD?*

Proposed new routes:

<i>Service areas</i>	<i>Frequency</i>	<i>Operating hours</i>	<i>Fare and sectional fares (if applicable)</i>	<i>Implementation date</i>

Routes proposed to be reorganized/cancelled:

<i>Route number</i>	<i>Service area</i>	<i>Details of changes in service</i>	<i>Implementation date</i>

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

- (a) The number of buses approved by the TD for purchase by the KMB over the past two years decreased because of the smaller number of KMB buses reaching retirement age during this period. Moreover, there has been a continuous decline in the KMB's passenger demand in recent years. Meanwhile, both the TD and KMB have been exploring and promoting the rationalization of bus routes to enhance network efficiency, so as to provide proper and efficient services to meet passenger demand on the one hand and reduce the frequency of

buses, particularly those operating on busy corridors, to relieve traffic congestion on the other hand. As a result, there has been a reduction in the number of additional new buses required by the KMB in recent years.

- (b) The drop in the number of buses decommissioned by most of the franchised bus companies over the past two years is also due to the fact that fewer buses reached retirement age during the same period.
- (c) In the past three years, fleet utilization of franchised bus companies remained at about 90%. Fleet utilization in daily operation of all the companies does not reach 100% because some buses have to undergo repair or maintenance and various types of inspections.
- (d) Details of the Bus Route Development Programme of each franchised bus company of the latest year (year 2008-2009) are set out at the Annex.

Annex

Bus Route Development Programmes of franchised bus company
(year 2008-2009)

Proposed New Routes

<i>Franchised Bus Company</i>	<i>Service Areas</i>	<i>Frequency</i>	<i>Operating Hours</i>	<i>Fare and Section Fare (if applicable)</i>	<i>Implementation Date</i>
No new route is proposed for year 2008-2009 as no new route is needed to tie in with any large-scale development during this period.					

Proposed Rationalization/Cancellation of Existing Routes

<i>Franchised Bus Company</i> ^{Note 1}	<i>Route Number</i>	<i>Origin and Destination</i>	<i>Details of Changes in Service</i>	<i>Proposed Implementation Date</i> ^{Note 2}
KMB	30	Allway Gardens — Cheung Sha Wan	Bus route rationalization package (to be truncated to terminate at Cho Yiu)	May 2008

<i>Franchised Bus Company</i> ^{Note 1}	<i>Route Number</i>	<i>Origin and Destination</i>	<i>Details of Changes in Service</i>	<i>Proposed Implementation Date</i> ^{Note 2}
KMB	32B	Tsuen Wan West Station Bus Terminus — Cheung Shan (Circular)	Bus route rationalization package (to be merged with route no. 36)	May 2008
KMB	82K	Mei Lam — Fo Tan Station	Bus route rationalization package (to be changed to one special morning departure)	June 2008
KMB	82M	Kwong Yuen — Kowloon Tong (Suffolk Road)	To be cancelled	June 2008
KMB	93M	Po Lam — Lam Tin Station	Frequency to be reduced by one trip	May 2008
KMB	234A	Sea Crest Villa — Tsuen Wan West Station Bus Terminus	Bus route rationalization package (to be changed to provide peak-hour service)	May 2008
KMB	242X	Cheung Hang — Tsim Sha Tsui	Return trips in the afternoon to be cancelled having regard to passenger demand	July 2008
KMB	263M	Fu Tai — Tsing Yi Station	Bus route rationalization package (to be truncated to terminate at Tsuen Wan (Nina Tower))	May 2008
KMB	277	Long Ping Estate — Lok Ma Chau	Bus route rationalization package (to be cancelled)	May 2008
KMB	K14	Tai Po Centre — Tai Po Market Station	Bus route rationalization package (to be merged with route no. K12)	June 2008
KMB	N237	Mei Foo — Kwai Shing (Circular)	Frequency to be reduced having regard to passenger demand	May 2008
KMB/CTB (F1) ^{Note 3}	681P	Yiu On — Sheung Wan	Services on Saturday afternoons to be cancelled	December 2008
KMB/CTB (F1)	690P	Hong Sing Garden — Central (Exchange Square)	Departures from Central on Saturday afternoons to be cancelled having regard to patronage	December 2008

<i>Franchised Bus Company</i> ^{Note 1}	<i>Route Number</i>	<i>Origin and Destination</i>	<i>Details of Changes in Service</i>	<i>Proposed Implementation Date</i> ^{Note 2}
KMB/CTB (F1)	807	Sha Tin Race Course — Wah Fu	To be cancelled	February 2009
KMB/CTB (F1)	N170	Wah Fu — Sha Tin Central (New Town Plaza)	Frequency to be reduced having regard to passenger demand	November 2008
KMB/CTB (F1)	N182	Central (Macau Ferry Terminal) — Kwong Yuen	Frequency to be reduced having regard to passenger demand	November 2008
NWFB	19	North Point Ferry Pier — Tai Hang Road	To be re-routed to operate between Tai Hang Road and Tin Hau (Circular), with fare reduced from \$4.8 to \$3.9.	2nd quarter of 2008
NWFB	23B	Braemar Hill — Park Road (Circular)	To be changed to provide services for the peak direction before and after school hours	July 2008
NWFB	46X	Tin Wan — Wan Chai (Harbour Road) (Circular)	Proposed to be cancelled due to low patronage	July 2008
NWFB	63	North Point Ferry Pier — Stanley Prison	Proposed to be cancelled due to low patronage	July 2008
NWFB	66	Ma Hang Estate — Central (Exchange Square)	Operating hours to be shortened to end at 7.30 pm, with Citybus route no. 6 running via Ma Hang Estate after 7.30 pm	November 2008
NWFB	78	Wong Chuk Hang — Wah Kwai Estate (Circular)	To be re-routed to operate between Wah Kwai Estate and Shek Pai Wan (Circular), with additional trips running between Wong Chuk Hang and Wah Kwai Estate to provide services for schools	May 2008
NWFB	309	Central (Exchange Square) — Shek O	Proposed to be cancelled due to low patronage. Bus-bus interchange concession to be provided for NWFB route nos. 9 and 720.	July 2008

<i>Franchised Bus Company</i> ^{Note 1}	<i>Route Number</i>	<i>Origin and Destination</i>	<i>Details of Changes in Service</i>	<i>Proposed Implementation Date</i> ^{Note 2}
NWFB	315	Ma Hang Estate — The Peak	Proposed to be cancelled due to low patronage. Bus-bus interchange concession to be provided for NWFB route no. 15 and Citybus route no. 6.	July 2008
NWFB	399	South Horizons — Stanley Village	Proposed to be cancelled due to low patronage	July 2008
NWFB	796B	Tiu Keng Leng Public Transport Interchange — Yau Yat Tsuen	To be re-routed to operate between the temporary public transport interchange in Tseung Kwan O Area 86 (Lohas Park) and Kowloon Bay (Circular), with slight modification of the routing within Tseung Kwan O and Tiu Keng Leng so that the route will run along Kwun Tong By-pass. Two-way section fare (\$4.3) to be introduced for the section between Tseung Kwan O and Tiu Keng Leng in Tseung Kwan O Area 86 (Lohas Park).	3rd quarter of 2008
NWFB	797M	Tiu Keng Leng Public Transport Interchange — Tseung Kwan O Industrial Estate (Circular)	To be re-routed to operate between the temporary public transport interchange in Tseung Kwan O Area 86 (Lohas Park) and Tseung Kwan O Industrial Estate (Circular), with full fare reduced to \$3.5.	3rd quarter of 2008
NWFB	970X	Aberdeen — So Uk	Evening departures from Tin Wan are proposed to be cancelled due to low patronage, with the spared trips deployed to route 970X departing from Aberdeen.	July 2008

<i>Franchised Bus Company</i> ^{Note 1}	<i>Route Number</i>	<i>Origin and Destination</i>	<i>Details of Changes in Service</i>	<i>Proposed Implementation Date</i> ^{Note 2}
CTB (F1)	12	Central (Central Ferry Piers) — Robinson Road (Circular)	To be cancelled	2nd quarter of 2008
CTB (F1)	61	Central (Exchange Square) — Repulse Bay	To be cancelled	August 2008
CTB (F1)	M47	Wah Fu (North) — Central (Hong Kong Station)	To be cancelled	July 2008
CTB (F1)	969	Tin Shui Wai Town Center — Causeway Bay (Moreton Terrace)	Two special departures from Tin Yiu Estate to be deployed to route no. 969X	May 2008
CTB (F1)/ KMB ^{Note 3}	681P	Yiu On — Sheung Wan	Services on Saturday afternoons to be cancelled	December 2008
CTB (F1)/ KMB	690P	Hong Sing Garden — Central (Exchange Square)	Departures from the Central on Saturday afternoons to be cancelled having regard to patronage	December 2008
CTB (F1)/ KMB	807	Sha Tin Race Course — Wah Fu	To be cancelled	February 2009
CTB (F1)/ KMB	N170	Wah Fu — Sha Tin Central (New Town Plaza)	Frequency to be reduced having regard to passenger demand	November 2008
CTB (F1)/ KMB	N182	Central (Macau Ferry Terminal) — Kwong Yuen	Frequency to be reduced having regard to passenger demand	November 2008
CTB (F2)	R11	North Point Ferry Pier — Disneyland Resort Public Transport Interchange	Morning departures from urban areas to Hong Kong Disneyland to be cancelled	June 2008
CTB (F2)	R21	Hung Hom (Laguna Verde) — Disneyland Resort Public Transport Interchange	Morning departures from urban areas to Hong Kong Disneyland to be cancelled, with route no. R11 merged with R12	June 2008

<i>Franchised Bus Company</i> ^{Note 1}	<i>Route Number</i>	<i>Origin and Destination</i>	<i>Details of Changes in Service</i>	<i>Proposed Implementation Date</i> ^{Note 2}
CTB (F2)	R22	Yau Tong — Disneyland Resort Public Transport Interchange	Morning departures from urban areas to Hong Kong Disneyland to be cancelled	June 2008
CTB (F2)	E23P	Choi Hung — Airport (Ground Transportation Centre)	To be cancelled, with buses deployed to route no. E23	July 2008
NLB	A35	Mui Wo — Airport (Passenger Terminal Building)	To be truncated to terminate at Tung Chung instead of the Airport	June 2008
LW	A33	Tuen Mun (Fu Tai) — Airport (Ground Transportation Centre)	Daily frequency to be reduced from eight trips to two trips, with the spared trips deployed to route no. E33P	July 2008

Note 1: Abbreviated names of franchised bus companies are as follows:

KMB	—	Kowloon Motor Bus Company (1933) Limited
CTB (F1)	—	Citybus Limited (Franchise for Hong Kong Island and Cross-harbour Routes)
CTB (F2)	—	Citybus Limited (Franchise for North Lantau and Chek Lap Kok Airport Routes)
NWFB	—	New World First Bus Services Limited
NLB	—	New Lantao Bus Company (1973) Limited
LW	—	Long Win Bus Company Limited

Note 2: The TD has been consulting the relevant District Councils (DCs) on the relevant bus routes development programmes. TD would decide on whether and when these proposals will be implemented taking into account the views of DCs.

Note 3: Routes jointly operated by the two companies concerned

Allied Health Staff of Hospital Authority

9. **DR JOSEPH LEE** (in Chinese): *President, regarding the manpower position of allied health staff of the Hospital Authority (HA), will the Government inform this Council whether it knows:*

- (a) *in the past five years, the respective numbers of allied health staff in various HA's hospital clusters who were newly employed, had departed and were promoted, and of those who were promoted, the average length of service in their previous ranks before promotion (please provide the figures in the following table);*

<i>Allied Health Staff</i>	<i>Hong Kong East Cluster</i>	<i>Hong Kong West Cluster</i>	<i>Kowloon Central Cluster</i>	<i>Kowloon East Cluster</i>	<i>Kowloon West Cluster</i>	<i>New Territories East Cluster</i>	<i>New Territories West Cluster</i>
<i>Physiotherapist</i>							
<i>Occupational Therapist</i>							
<i>Radiotherapist</i>							
<i>Pharmacist</i>							
<i>Optometrist</i>							
<i>Dietitian</i>							
<i>Clinical Psychologist</i>							
<i>Medical Technologist</i>							

- (b) *whether the HA has filled all of the vacancies arising from the above departure or promotion of allied health staff; if not, of the reasons for that; and*
- (c) *the details of the training programmes to be provided by the HA in the next five years for the above allied health staff?*

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

- (a) Statistical data on allied health staff in various hospital clusters under the Hospital Authority (HA) for the past five years are as follows:

Number of allied health staff who were newly employed

<i>Allied Health Staff</i>	<i>Hong Kong East Cluster</i>	<i>Hong Kong West Cluster</i>	<i>Kowloon Central Cluster</i>	<i>Kowloon East Cluster</i>	<i>Kowloon West Cluster</i>	<i>New Territories East Cluster</i>	<i>New Territories West Cluster</i>	<i>Total</i>
Physiotherapist	20	3	26	26	13	25	11	124
Occupational Therapist	12	4	15	4	16	14	18	83

<i>Allied Health Staff</i>	<i>Hong Kong East Cluster</i>	<i>Hong Kong West Cluster</i>	<i>Kowloon Central Cluster</i>	<i>Kowloon East Cluster</i>	<i>Kowloon West Cluster</i>	<i>New Territories East Cluster</i>	<i>New Territories West Cluster</i>	<i>Total</i>
Radiotherapist	7	5	9	0	4	4	3	32
Pharmacist	19	2	19	16	43	26	18	143
Optometrist	0	1	0	0	1	2	0	4
Dietitian	7	2	3	4	7	1	7	31
Psychologist	0	3	7	1	5	1	4	21
Medical Technologist	3	16	9	12	22	22	19	103
							Total	541

Number of allied health staff who had departed

<i>Allied Health Staff</i>	<i>Hong Kong East Cluster</i>	<i>Hong Kong West Cluster</i>	<i>Kowloon Central Cluster</i>	<i>Kowloon East Cluster</i>	<i>Kowloon West Cluster</i>	<i>New Territories East Cluster</i>	<i>New Territories West Cluster</i>	<i>Total</i>
Physiotherapist	18	11	28	24	20	18	5	124
Occupational Therapist	8	4	10	9	11	15	8	65
Radiotherapist	3	11	5	0	1	4	3	27
Pharmacist	2	2	5	2	13	9	6	39
Optometrist	0	1	0	0	1	0	0	2
Dietitian*	3	5	5	4	7	2	6	32
Psychologist	0	3	2	0	2	1	1	9
Medical Technologist	5	21	13	7	31	7	6	90
							Total	388

Note*: Following the change in the mode of training, the provision of clinical supervision for dietitians was taken up by the School of Professional and Continuing Education of the University of Hong Kong in 2004-2005. Two dietitian posts of the HA have been accordingly deleted.

In the past five years, the respective numbers of allied health staff in the HA who were promoted and the average length of service in their previous ranks before promotion are as follows:

<i>Allied health staff</i>	<i>Total number of allied health staff who were promoted</i>	<i>Average length of service in their previous ranks before promotion</i>	
		<i>From the recruitment rank (for example, Physiotherapist II) to the next promotion rank (for example, Physiotherapist I)</i>	<i>From the next promotion rank to the senior rank</i>
Physiotherapist	35	11 years	12 years
Occupational Therapist	29	10 years	14 years
Radiotherapist	37	10 years	11 years
Medical Technologist	71	12 years	12 years
		From the recruitment rank to the senior rank	
Pharmacist	3	12 years	
Dietitian	3	10 years	
Psychologist	1	13 years	

There is only one rank in the Optometrist grade and there is therefore no promotion record for officers of the grade.

- (b) The HA clusters redeploy its existing manpower and get new recruits for replacement or additional support in the light of the service demand. For instance, some physiotherapists were redeployed from the Hong Kong West Cluster to other clusters upon the closure of the Nam Long Hospital; some radiotherapists were transferred from the Queen Mary Hospital (QMH) to the Princess Margaret Hospital (PMH) in tandem with the opening of the PMH's new radiotherapy centre, while the HA will make arrangements to fill the vacancies in QMH arising from the staff transfer; additional pharmacists have also been employed by the HA upon the taking over of the general out-patient service from the Department of Health.

In the past five years, the numbers of staff who had departed and those who were newly employed in the allied health grades are 388 and 541 respectively. Save for the dieticians, for which the total number of staff has decreased by one as a result of a change in the

mode of their clinical training, there has been a general increase in the number of staff in all other allied health grades.

- (c) The HA has all along attached great importance to the training of its allied health staff. Since April 2007, a three-year induction training programme has been provided by the HA for its newly-employed allied health staff. In addition to the provision of training on day-to-day clinical work, the programme also lays the foundation for future development of the allied health staff. So far, over 150 staff have participated in the programme.

The Institute of Advanced Allied Health Studies (IAAHS) was established by the HA in July 2007. In addition to devising a structured long-term training plan for allied health staff, IAAHS also runs courses on specialist and multi-disciplinary training and on personal development to cope with service demand and facilitate professional development. To meet service needs, some 50 courses will be organized for allied health staff in 2008-2009, most of which will be open to non-HA allied health staff. The HA will also arrange training for relevant staff to tie in with the use of new equipment or technology.

Nuisance Caused by Lights from Government Venues

10. **MR JAMES TO** (in Chinese): *President, I often receive complaints from members of the public about the nuisance caused to them by lights from various venues managed by government departments. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of complaints, received by various government departments from members of the public over the past three years, about the nuisance caused to them by lights from various ball game pitches/courts managed by government departments, street lamps inside public housing estates, as well as lights from car parks inside public housing estates and those from other government facilities;*

- (b) *whether any designs (such as following overseas countries' practice of putting lampshades on street lamps) and operational guidelines relating to the street lamps inside public housing estates are in place to reduce the nuisance caused by lights from such street lamps to the households on the lower floors of nearby buildings, and whether the venues managed by the Leisure and Cultural Services Department (LCSD) and other government departments have adopted similar guidelines; and*
- (c) *while the Government has repeatedly indicated that it has no intention to legislate against light pollution, whether it has conducted studies in this regard, such as examining how the issue of light pollution is tackled in overseas countries; if not, whether it will conduct such studies?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President,

- (a) The respective number of complaints about the nuisance caused by lights from various ball game pitches/courts managed by government departments, street lamps inside public housing estates, lights from car parks inside public housing estates and those from other government facilities over the past three years is as follows:

<i>Year</i>	<i>Pitches/courts managed by government departments</i>	<i>Street lamps inside public housing estates</i>	<i>Car parks inside public housing estates</i>	<i>Other government facilities</i>
2005	11	0	0	10
2006	16	2	0	14
2007	10	1	0	24

- (b) The Housing Authority (HA) has put in place design guidelines to ensure that the outdoor lighting installations of their housing estates do not affect the public. The guidelines require, *inter alia*, that street lamps or landscape lighting installed near residential units should be shorter in height, and the light source of the lighting installations should be more concentrated so that the light will cast

directly on the road surface instead of scattering onto residential flats. The Housing Department will also switch off the lighting of pitches/courts in public housing estates and the advertising lightboxes outside the shopping malls in public housing estates by 11 pm. In addition, the HA will make appropriate arrangements taking account of individual circumstances and residents' needs, such as changing the operation hours of lighting installations, altering the light projection angles, switching to less powerful light bulbs or relocating the street lamp, and so on.

The LCSD will take into consideration the operational and safety needs of different types of venues, and the principle of minimizing impact on nearby residents, in putting forward the lighting system requirements of works projects to the Architectural Services Department (ArchSD). The ArchSD will design relevant lighting systems in accordance with these requirements and with reference to the internationally-recognized guidelines, such as those recommended by the Chartered Institution of Building Services Engineers (United Kingdom). Relevant measures taken by the ArchSD include adjusting the angles of spotlights, installing lampshades and light screens, using lamps which project light downward in parks and switching to dimmer light bulbs. The LCSD will also turn off the lights of some low usage facilities at night to reduce the impact of lighting on nearby residents, provided that the operation and safety will not be affected.

The Highways Department (HyD) also works to ensure that lighting installations do not affect residents wherever possible. If street lamps have to be installed close to residential flats on the lower floors due to site constraints, the HyD will, subject to site circumstances and residents' views, adopt practicable measures such as installing light screens to reduce the impact of street lamps on residents.

- (c) The Government is committed to promoting energy conservation and efficiency in the community through various channels. For example, the Electrical and Mechanical Services Department wrote to a number of trade associations earlier to encourage them to appeal

to their members to reduce unnecessary lighting installations and use lighting products of high energy efficiency. The Government will continue to monitor the international trend of regulations on outdoor lighting, and will strive to further improve lighting installations.

Stench Near Siu Ho Wan Water Treatment Works

11. **MR ALBERT CHAN** (in Chinese): *President, recently, I have received complaints from members of the public that they often smelled stench when they were on a bus and passed by Siu Ho Wan. They suspected that the stench came from the nearby Siu Ho Wan Water Treatment Works. They have also pointed out that as members of the public and tourists must use the expressway near Siu Ho Wan to commute to and from the Hong Kong International Airport, the stench may affect public health and the image of Hong Kong. In this connection, will the Government inform this Council whether:*

- (a) *it knows the source of the above stench; if so, of the details; if not, the reasons for that; and*
- (b) *it has measures to ameliorate the above stench problem; if so, of the details and when the problem is expected to be resolved; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, the Siu Ho Wan Sewage Treatment Works of the Drainage Services Department (DSD) was expanded in 2005 to become a chemically enhanced primary treatment plant for treatment of sewage inflow from Discovery Bay, the Theme Park and Tung Chung. The DSD attaches great importance to impacts arising from the operation of the sewage treatment works on the surrounding environment and has installed deodorizing facilities in the design of the plant. Since the operation of the expanded plant, we have been conducting odour monitoring exercises about two times per week.

After receiving several enquiries on odour in 2006, the DSD conducted investigation accordingly. It was found that due to the relatively long travelling time of the sewage to the plant from various sources, the septicity of the sewage

was relatively high and therefore susceptible to odour emission. In order to further ameliorate the impact of odour to the neighbourhood, the DSD has completed the following improvement measures:

- (a) covering the sewage intakes to prevent release of odour;
- (b) providing additional return liquor (generated from sludge dewatering process) pipes and installing additional deodorizing facilities. Upon completion of the works, odour from return liquor has been effectively reduced;
- (c) replacing the chemicals for accelerating the sedimentation of solids. Ferric chloride, which can effectively control the production of odour, is adopted; and
- (d) increasing the frequency of cleaning of the sludge container and enclosed inspection, and providing extra deodorizing facilities at the sludge handling area.

The above measures have improved the odour problem. In addition, the DSD will commence the following works in August 2008 and monitor the progress closely to ensure completion of works in late 2009 as scheduled. The works include:

- (a) providing deodorizing facilities in the sludge treatment system (already in the design stage);
- (b) covering other possible sources of odour such as the intake and outlet of sedimentation tanks (already in the design stage); and
- (c) installing an automatic hydrogen sulphide-monitoring device in the plant for round-the-clock monitoring of the operation of the deodorizing facilities to enable immediate follow-up action to be done.

The above measures will further improve the plant's management of the odour problem.

Impact of Air Quality and Weather Conditions on Equestrian Events of 2008 Olympic Games

12. **MISS CHOY SO-YUK** (in Chinese): *President, the equestrian events of the Games of the XXIX Olympiad will be held in Sha Tin in August this year. According to government records on the Air Pollution Index (API) for August in each of the past four years, the API recorded in three of them reached the "very high" band which ranges between 101 and 200, and the Very Hot Weather Warning issued by the Hong Kong Observatory was also in force for nine episodes during that period. Some members of the public are therefore concerned whether the equestrian events will have to be rescheduled or even cancelled due to poor air quality or hot and stuffy weather. In this connection, will the Government inform this Council whether:*

- (a) *it has assessed the risk of postponement or cancellation of the equestrian events due to the impact of air quality and weather conditions; if it has, of the details; if not, the reasons for that;*
- (b) *it will draw up objective standards to specify under what air quality and weather conditions the equestrian events will be rescheduled or even cancelled; if it will, of the details; if not, the reasons for that; and*
- (c) *it has drawn up any plan, including formulating collaborative measures in consultation with the mainland authorities concerned, to improve air quality during the equestrian events, so as to provide the best environment for the people and horses coming to Hong Kong to participate in the events; if it has, of the details, if not, the reasons for that?*

SECRETARY FOR HOME AFFAIRS (in Chinese): *President, the Government of the Hong Kong Special Administrative Region (SAR), together with the Equestrian Events (Hong Kong) of the Games of the XXIX Olympiad Company Limited and the other organizations concerned, will adopt various practicable environmentally-friendly measures and practices to ensure the Olympic and Paralympic Equestrian Events to be "of high standard, and with characteristics".*

- (a) We have assessed the possible impact of weather conditions on the Equestrian Events and prepared relevant contingency plans to set out guidelines on situations in case the events are affected by inclement weather. We shall, under the following circumstances, follow the established procedures and apply to the Beijing Organizing Committee for the Games of the XXIX Olympiad and the International Olympic Committees for approval of postponing the competition until the weather conditions have improved:
- (i) Severe Thunderstorms;
 - (ii) Black Rainstorm Warning;
 - (iii) Tropical Cyclone Signal No. 8 or higher; and
 - (iv) Other weather conditions that may affect the safety of participants.

Meanwhile, we have also reserved two contingency days for the Olympic Equestrian Events and one contingency day for the Paralympic Equestrian Events in case the competition has to be rescheduled. To ensure the safety of all people and horses in the competition venues during inclement weather, we will work closely with the Hong Kong Observatory to monitor weather conditions in the vicinity of the venues.

- (b) Regarding air quality, Environmental Protection Department will provide forecast of the API for the coming 24 hours on its website. The hourly API from the Sha Tin and Tai Po air quality monitoring stations will also provide representative air quality information for the two competition venues in Sha Tin and Beas River respectively. We will closely monitor the situation. However, how air quality may impact on various aspects of the Equestrian Events, it is not possible to reschedule the events on the basis of some simple standards, say when the API has reached a certain level.
- (c) The SAR Government is committed to improving air quality. Apart from implementing various long-term measures to control emissions from major pollution sources, we will also make the

following arrangements during the 2008 Olympic Equestrian Events:

- the two power companies in Hong Kong have agreed to increase the use of natural gas and ultra low sulphur coal as much as possible during the events so as to reduce emissions of pollutants; and
- during the events, the Environmental Protection Department will update the APIs of the Sha Tin and Tai Po districts, which are near to the competition venues, on a hourly basis through the website of the department as well as that of the Hong Kong Observatory.

The SAR Government has already gained the support of the Environmental Protection Bureau of Guangdong Province (GDEPB) to introduce measures in support of the Olympic Equestrian Events. These include strengthening its inspection and control on air pollutant emissions and ensure proper operation of the flue gas desulphurization systems of power plants during the Olympic events period. In fact, the two governments are determined to improve regional air quality. We have been actively pursuing various emission reduction measures to control emissions from pollution sources such as power plants, industries and motor vehicles.

We believe that implementing the above measures will help to provide the best competition environment to the athletes and horses coming to Hong Kong for the events.

Doctors and Dentists Employed by Government

13. **DR KWOK KA-KI** (in Chinese): *President, will the Government inform this Council:*

- (a) *of the respective current numbers of doctors and dentists employed by the Department of Health (DH) on non-civil service contract (NCSC) terms, their longest and average length of service, and their respective percentages in the staff of the DH at their relevant ranks;*

- (b) *in the past three years, of the respective numbers of doctors and dentists who were employed by the Government on civil service terms of appointment, the respective numbers of serving doctors and dentists on NCSC terms who applied for such posts and, among them, the number of those who had successfully secured appointment;*
- (c) *of the measures in place to encourage or assist serving doctors and dentists on NCSC terms in applying for the relevant civil service posts; and*
- (d) *of the respective expected numbers of doctors and dentists to be employed by the Government in each of the coming three years, and whether all such doctors and dentists will be employed on civil service terms of appointment?*

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

- (a) At present, a total of 41 full-time doctors and 50 full-time dentists are employed by the DH on NCSC terms, and the details are as follows:

	<i>Full-time Doctors on NCSC terms</i>	<i>Full-time Dentists on NCSC terms</i>
(a) Average length of service	2.5 years	2.4 years
(b) Longest length of service	6.3 years	6.0 years
(c) Percentages in the total number of doctors/dentists	9.2%	21.0%

- (b) On 1 April 2003, the Administration imposed a general civil service open recruitment freeze. The recruitment freeze was lifted on 1 April 2007 (except for those grades included in the Second Voluntary Retirement Scheme (Second VR Scheme)). In the same year, the DH successfully appointed 56 doctors on civil service

probationary terms through open recruitment. Among the 69 NCSC doctors who had applied for the post in this exercise, 10 failed to meet the language proficiency requirements for appointment while 38 were offered appointment. Save for two applicants who declined the offers, the remaining 36 applicants accepted appointment as doctors on civil service terms.

The DH is conducting a new round of open recruitment exercise to employ 65 doctors on civil service probationary terms. Selection interviews are being arranged. In this new exercise, 31 doctors on NCSC terms have applied for the posts. Of the 10 NCSC doctors who have not filed an application, five are retired civil servants.

As for dentists, their grade had been included in the Second VR Scheme and thus subject to the five-year open recruitment freeze. The freeze period expired on 21 March 2008. The DH is conducting an open recruitment exercise to recruit 43 dentists on civil service probationary terms. Selection interviews are now underway. In this exercise, a total of 49 NCSC dentists have applied for the posts. In addition, the DH also plans to convert 16 NCSC dentist positions to civil service posts in 2009-2010.

- (c) The existing government policy is to fill civil service vacancies through open recruitment to ensure fair competition. Generally speaking, NCSC staff who have met the basic entry requirements of a post and possess working experience relevant to the job will have a competitive edge over other applicants in the selection process. To help NCSC staff fulfill the language proficiency requirements for civil service appointment, the DH organized language proficiency training courses in mid-2006 with a view to familiarizing them with the use of language papers in the Common Recruitment Examination.
- (d) Under existing government policy, the 65 doctors and 43 dentists being recruited by the DH in 2008-2009 will be on civil service probationary terms. As for the next two years, the number of doctors and dentists to be recruited on civil service terms will depend on the number of new posts secured in future resource

allocation exercises and on staff wastage. In addition, the DH will continue to employ doctors and dentists on NCSC terms to cope with demand for short-term or time-limited services or those services under review.

Restrictions on Height of New Buildings

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

- (a) *of the number of building plans approved by the Building Authority (BA) between 1 January 2004 and 31 December 2007, in respect of which the permitted maximum building height prescribed in the relevant outline zoning plan (OZP) was given in metres only, with no reference to the Hong Kong Principal Datum (mPD); and the following regarding such building plans:*
 - (i) *the departmental guidelines regarding the base elevation from which the permitted maximum building height was calculated; and*
 - (ii) *whether the plans have included usable floor area below the base elevation; if so, for each of them, the street address, the permitted building use, the permitted maximum building height prescribed in the relevant OZP, the height of the approved building both above and below the base elevation and, if the total height (including that both above and below the base elevation) of the approved building exceeds the permitted maximum building height under the relevant OZP, the specific conditions in the guidelines referred to in (i) under which the building plans were approved; and*
- (b) *given that the OZP approval process involves substantial public consultation, whether the Government has any plan to require that any building proposal, under which the total height of the building exceeds the permitted maximum height under the relevant OZP, should be published in an appropriate format for notification prior to approval, in order to put the calculation of the base elevation on the public record?*

SECRETARY FOR DEVELOPMENT: President, building height restrictions on OZPs may be stipulated in terms of number of storeys, metres or metres above the mPD. In determining how the building height restriction in an OZP should be given, a number of factors would be taken into account, including the local character of the area, existing building height profile, urban design policy, findings of relevant studies or assessments (such as visual impact assessments and air ventilation assessments), as well as objectives of the restriction and development intensity permitted or to be permitted under the OZP.

In cases where there are particular planning concerns such as protection of ridgelines/peaks and preservation of public views, the height restrictions would usually be stipulated in terms of mPD so as to clearly state the absolute maximum heights of the buildings. In the recent reviews of OZPs, we stipulate most building height restrictions in terms of mPD instead of metres so as to establish different height bands for a stepped height profile.

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

Regarding part (a) of the question, of the building plans approved by the BA between 1 January 2004 and 31 December 2007, the sites in 125 building plans are located within zones in OZPs subject to a maximum building height given in metres or metres and number of storeys without reference to the mPD.

According to the existing practice of the Planning Department (PlanD), the concept of "mean site formation level" instead of "base elevation" is adopted in these cases in calculating the height of buildings in an OZP. "Mean site formation level" is terminology commonly adopted by the industry. In general, it means the average formed level of a site ready for development, and the height of buildings is measured from the "mean site formation level" on which a building stands up to the main roof level, unless otherwise specified in the statutory plans. In other words, no matter the floor area is above or below the ground level, as long as it is above the "mean site formation level", it will be counted towards the height of the building. Of the abovementioned 125 building plans, none of them has exceeded the permitted maximum building height under the relevant OZP or planning permission.

Regarding part (b) of the question, under sections 16(1)(d) and 16(1)(da) of the Buildings Ordinance (Cap. 123), the BA may refuse to grant approval to a building plan if it contravenes the requirements under the relevant OZP. To

ensure co-ordination in processing, the departments have established a centralized processing system, under which the BA will liaise with the relevant departments and seek advice from the PlanD during the building plan approval process to ensure that building projects are in compliance with the requirements and parameters stipulated under the relevant OZPs or planning permissions. In light of this control regime under which building plans are approved in accordance with the development controls in statutory OZPs, there is no need for building proposals to be separately published for public consultation.

Regulation of Dealing in Devices and Provision of Services Which Aim to Circumvent Technological Measures Applied in Protection of Copyright Works

15. **MR SIN CHUNG-KAI** (in Chinese): *President, the provisions in the Copyright (Amendment) Ordinance 2007 that regulate the dealing in devices and provision of services which aim to circumvent technological measures applied in the protection of copyright works have come into operation since 25 April this year. In this connection, will the Government inform this Council whether:*

- (a) *the enforcement department has proactively inspected various shops for the purpose of enforcing the above provisions, or actions will be taken only upon receipt of complaints; if it has proactively conducted inspections, of the number of inspections so far; if it has not, the reasons for that;*
- (b) *the enforcement department has instituted any prosecutions or other enforcement actions since the relevant provisions have come into operation; if it has, of the relevant figures; and*
- (c) *measures have been adopted to intercept the import of circumvention devices into Hong Kong for sale or hire; if so, of the details?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): *President, to guard against copyright infringement, some copyright owners use technological measures, including encryption of data or special chips which prevent unauthorized digital copying, as a means to better protect their copyright works. In order to effectively combat those infringing activities that*

involve circumvention of the technological measures applied to protect copyright works, we introduced new anti-circumvention provisions vide the Copyright (Amendment) Ordinance 2007. Under the Amendment Ordinance, any person who makes, imports, exports or deals in circumvention devices or provides circumvention services for commercial purposes renders himself/herself liable to civil and criminal liabilities.

To prepare for the pursuit of enforcement actions, the Customs and Excise Department (C&ED) had engaged copyright owners since late last year to gain a fuller understanding of technological measures (including access control and copy control measures) that are commonly used to protect individual copyright work and how these measures operate.

With regard to parts (a) to (c) of the question, our reply is as follows:

- (a) Since the new provisions came into effect on 25 April, the C&ED had been closely monitoring activities in the market, through intelligence gathering, to watch out for products and services that may entail circumvention of technological measures used to protect copyright works. Separately, up to 21 May, the C&ED received six complaints from the public about "circumvention devices". The Department had started investigation on each and every one of these cases. Since much of the evidence that needs to be adduced for successful prosecution is rather technical in nature, the C&ED is in close liaison with the relevant copyright owners. Upon completion of the evidence gathering work, and depending on the circumstances, the C&ED will take appropriate enforcement actions including raiding and arrest.
- (b) As at 21 May, no case of formal arrest or prosecution action has been recorded. As has been highlighted in part (a) above, for cases under investigation, the C&ED will take further action once sufficient evidence is available.
- (c) The C&ED will proactively carry out intelligence gathering work and take stringent enforcement actions at various control points, with a view to stemming the import of circumvention devices into Hong Kong for commercial purposes. The C&ED will also follow up every case to clamp down the supply and sale of such devices.

Rationalization of Usage of Three Road Harbour Crossings

16. **MS EMILY LAU** (in Chinese): *President, at present, traffic is unevenly distributed among the three road harbour crossings. In this connection, will the executive authorities inform this Council whether:*

- (a) *they have assessed the economic loss incurred by society as a result of the traffic congestion problem arising from the above situation; if so, of the assessment results;*
- (b) *they have assessed the amount of money needed for the Government to buy out the franchises of the Eastern Harbour Crossing (EHC) and the Western Harbour Crossing (WHC); and*
- (c) *they have drawn up specific measures to rationalize the utilization of the three crossings; if so, of the details?*

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

- (a) We are very concerned about the problem caused by the congestion at road harbour crossings, and have been studying in earnest possible measures to improve the distribution of traffic at the three road harbour crossings. However, any assessment to calculate actual economic loss should be premised on the comparison of viable alternative options of traffic distribution. Otherwise, we could only proceed with such assessment on the basis of many technical assumptions, and the result may not accurately reflect the actual situation. We consider that no matter which option is to be adopted, it must be able to bring about overall benefit to the public, be fair to taxpayers and help to achieve reasonable distribution of traffic.
- (b) Buying out the franchises of the WHC and EHC would require substantial public funds. We have to consider its feasibility carefully based on the principle of "small government, big market". Calculation of the buy-out price involves forecasting future traffic flow, finding a means to measure the effectiveness of traffic

distribution, determining the franchisees' expected toll revenue and other technical problems. It is therefore very difficult to assess the amount of public funds involved at this stage.

- (c) The Government agrees that the current traffic distribution among the three crossings is uneven, and there is room for improvement. We have all along attached importance to resolving this problem. The uneven traffic distribution is mainly due to the differences in locations and toll levels of the three crossings. We have been keeping an open mind and studying in earnest possible measures that may improve the distribution of traffic at the three harbour crossings.

In the meantime, we also need to consider whether the road network connecting the three crossings has sufficient capacity to absorb the increased traffic flow arising from a reduction of tunnel tolls. This is because insufficient capacity of these connecting roads would undermine the objective of rationalization of cross-harbour traffic flow by adjustment of tunnel tolls. In this connection, accelerating the construction of planned connecting roads, in particular the Central-Wan Chai Bypass, is an important element in improving the distribution of traffic amongst the three crossings.

Review of Policy on Control and Licensing of Hawking Activities

17. **MR FREDERICK FUNG** (in Chinese): *President, at the meeting of this Council on 14 November last year, the Secretary for Home Affairs said that the Food and Health Bureau was reviewing the hawker licensing policy, and the outcome of the review was expected to be available in the middle of this year. In this connection, will the Government inform this Council:*

- (a) *of the progress of the above review and the preliminary outcome, as well as the specific date for making public the outcome of the review;*
- (b) *of the respective current numbers of licensed fixed-pitch hawkers and licensed itinerant hawkers, broken down by District Council (DC) district;*

- (c) *if it has assessed whether or not facilitating hawking activities helps the work of the Government in alleviating poverty; and*
- (d) *whether it will consider reissuing hawker licences, and entrusting the work on hawker control in various districts to the DCs concerned, so that the work in this respect may better address the needs of different districts?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, I hereby give a consolidated response to the four parts of the question.

At the break-out session on environmental hygiene and public health of the Summit on District Administration held on 10 May 2008, I have made a suggestion to the more than 100 District Councillors and district personalities attending the session about strengthening the role of DCs in local hawker licensing and hawker bazaar management issues. DCs should advise the Government on issues relating to hawker licensing and management, having regard to the specific circumstances and aspirations of the local communities. Attendees of the break-out session generally welcomed the suggestion. Subsequently, when the DC Chairman serving as the moderator of the break-out session summarized the session's discussion for the more than 800 Summit attendees, the suggestion was also explained.

The Food and Health Bureau and the Food and Environmental Hygiene Department will brief the Legislative Council Panel on Food Safety and Environmental Hygiene on the progress of the hawker licensing review next month (that is, June 2008), and consult Panel Members on the preliminary proposals. The review will address various issues of hawker licensing, including the issue of hawker licences, the transfer and succession arrangements for hawker licences, and the efficient use of vacant fixed hawker pitches.

While hawking activities can no doubt bring about some employment and small business opportunities, the policy on hawker licensing did not in itself originate from welfare concerns or that of alleviating poverty. In this policy review, we mainly approached the issues from the perspective of environmental hygiene. The policy review primarily aimed to enhance the effectiveness and

flexibility of hawking regulation and hawker licensing, without adversely affecting environmental hygiene and catering for the specific circumstances and aspirations of local communities at the same time.

After the Legislative Council Panel has been consulted, we will seek the views of hawker associations and DCs.

The distribution of fixed-pitch and itinerant hawkers in Hong Kong is at Annex.

Annex

Distribution of fixed-pitch and itinerant hawkers in Hong Kong
(As of 31 March 2008)

(i) Fixed-Pitch Hawkers (excluding cooked food stalls in public estates)

<i>District</i>	<i>Number</i>
Central and Western	687
Wan Chai	499
Eastern	503
Southern	60
Kowloon City	140
Wong Tai Sin	27
Kwun Tong	220
Sham Shui Po	1 083
Yau Tsim Mong	3 046
Kwai Tsing	31
Tsuen Wan	139
Tuen Mun	14
Yuen Long	34
North	9
Tai Po	12
Sha Tin	4
Sai Kung	3
Islands	2
Total	6 513

(ii) Itinerant Hawkers

<i>District*</i>	<i>Number</i>
Urban	329
New Territories	261
Total	590

* Itinerant hawkler licences are subdivided into urban licences and New Territories licences. With the exception of prohibited areas as specified by the Director of Food and Environmental Hygiene, licensees are authorized to conduct hawking activities anywhere within the designated hawking areas (that is, urban area or the New Territories).

HKSAR Passport

18. **MR LAU KONG-WAH** (in Chinese): *President, regarding the issue of Hong Kong Special Administrative Region (HKSAR) passports by the Immigration Department (ImmD), will the Government inform this Council of:*

- (a) *the respective numbers of relevant applications received and HKSAR passports issued by ImmD in the past three years;*
- (b) *the trend of the number of relevant applications in the past three years;*
- (c) *the main grounds on which the applications concerned were rejected by ImmD; the number of applications rejected in the past three years, together with a breakdown by the grounds of rejection; and*
- (d) *the foreign passports the holders of which are eligible for the issue of a HKSAR passport and the reasons for that; whether HKSAR passport applicants are required to indicate if they are holding any foreign passport when they submit applications, and the number of persons currently holding both HKSAR and foreign passports?*

SECRETARY FOR SECURITY (in Chinese): President,

(a) and (b)

In the past three years, the numbers of and increase in HKSAR passport applications and HKSAR passports issued are as follows:

<i>Year</i>	<i>Application</i>	<i>Issue</i>
2005	479 685	437 790
2006	496 736 (+3.6%)	448 576 (+2.5%)
2007	538 723 (+8.5%)	459 413 (+2.4%)

The trend of the annual increase in this period is denoted in () at the above table.

(c) Pursuant to section 3(2) of the Hong Kong Special Administrative Region Passports Ordinance (Cap. 539), the Director of Immigration shall not issue a HKSAR passport, unless the applicant is:

- (i) a Chinese citizen; and
- (ii) a permanent resident of the HKSAR and a holder of a valid Hong Kong permanent identity card.

If the applicant has not satisfied the above conditions, the Director of Immigration will refuse his application. In the past three years, the number of HKSAR passport applications refused by the above reasons are as follows:

<i>Year</i>	<i>The applicant is not a Chinese citizen</i>	<i>The applicant is not a permanent resident of the HKSAR and a holder of a valid Hong Kong permanent identity card</i>	<i>Others (For example: identity cannot be established)</i>	<i>Total</i>
2005	106	10	1	117
2006	104	6	2	112
2007	40	2	1	43

- (d) Pursuant to the Nationality Law of the People's Republic of China (Nationality Law) and the explanations by the Standing Committee of the National People's Congress on 15 May 1996 concerning the implementation of the Nationality Law in the HKSAR, Chinese citizens of the HKSAR holding the "British Dependent Territories Citizens passport" or "British Nationals (Overseas) passport" or with right of abode in foreign countries may use the relevant documents issued by the British or foreign governments for the purpose of travelling to other countries and territories. If there is a change in the nationality of a Chinese citizen of the HKSAR, he may, with valid documents in support, make a declaration at the ImmD. In other words, Chinese citizens holding a Hong Kong permanent identity card, even if holding passports issued by foreign governments, may still apply for HKSAR passport.

When applying for a HKSAR passport, the applicant is required to declare that he is a Chinese citizen and has not made any declaration of change of nationality to the ImmD. He is not required to indicate whether he is holding any foreign passport. Therefore, the ImmD does not maintain the statistics on persons holding both the HKSAR and foreign passports.

Providing Medical Consultation Service and Nursing Advice Using Video Conferencing Systems

19. **MR JASPER TSANG** (in Chinese): *President, it has been reported that at present, public hospitals in the Hong Kong West, Kowloon West, New Territories East and New Territories West Clusters are using video conferencing systems to provide medical consultation service and nursing advice for the elderly in residential care homes for the elderly (RCHEs). Regarding this scheme, will the Government inform this Council whether:*

- (a) *it knows the current numbers of public hospitals, RCHEs and elderly centres taking part in the aforesaid scheme;*
- (b) *the Government and the Hospital Authority (HA) have plans to:*

- (i) *encourage and assist more hospital clusters, public hospitals, RCHEs and elderly centres to take part in the scheme; if so, of the details; if not, the reasons for that;*
- (ii) *extend the scheme to elders living alone; if so, of the details; if not, the reasons for that; and*
- (iii) *extend the above scheme to residential homes operated by the Social Welfare Department (SWD) and non-governmental welfare organizations; if so, of the details; if not, the reasons for that?*

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

- (a) At present, five hospitals in the four clusters of the HA are using video conferencing systems to provide medical consultation service for the elderly of 18 RCHEs. The HA started to provide medical consultation service through video conferencing on a limited basis in 1998, primarily because outreaching service for the elderly was still at its early stage of development with limited coverage at that time. Provision of medical consultation service through video conferencing is, to a certain extent, a convenient way to offer simple diagnosis and advice to the elderly and health care personnel in RCHEs. However, this diagnosis method mainly serves to provide a video communication channel to help the doctors to communicate with nurses in RCHEs and to comprehend patients' conditions; this does not involve other diagnoses and transmission of patients' pathological information.

- (b) (i) and (ii)

The use of video conferencing systems for medical consultation is promoted in some overseas countries because their medical facilities are often far away from patients' homes and medical services are not readily accessible. Given the small size of Hong Kong and its convenient transportation network, the public can get easy access to

medical facilities near their homes to receive necessary medical treatment.

The HA has made active efforts to develop its community and ambulatory services in the past decade. Through regular visits arranged by the Community Geriatric Assessment Teams (CGAT) and Community Psychogeriatric Teams, the Visiting Medical Officers are able to closely observe the clinical conditions of the elderly patients in RCHEs and provide them with immediate treatment, prescription, medical referral, and so on. In addition, a range of visiting services have been provided through community nurses, community psychiatric nurses and community allied health professionals so as to give appropriate and timely support to elderly patients and ensure that they get continued care and treatment in the community. We consider that such service arrangements better suit the needs of the elderly. As such, we have no plan to develop video conferencing systems to provide nursing advice and consultation service to the elderly. Besides, the provision of medical consultation service through video conferencing is subject to a number of constraints, such as the need to sort out issues in relation to equipment installation, routine maintenance, repair, and so on. It is therefore not appropriate to extend the video conferencing systems to elders (including singleton elderly) at their own residents at this stage.

- (iii) The HA does not have any plan to extend the video conferencing services to the residential homes operated by the SWD and the non-governmental welfare organizations at the moment. At present, medical consultation services are provided to residents in these residential homes through various channels. For example, the CGAT, the Visiting Medical Officer/CGAT Collaborative Scheme and the Visiting Medical Practitioner Scheme of the HA provide outreach medical consultation services to residents in RCHEs; and the Visiting Medical Practitioner Scheme provides such services to residents of subvented Residential Care Homes for Persons with Disabilities.

Loss of Computer Server Containing Personal Data of Customers by a Bank

20. **MS EMILY LAU** (in Chinese): *President, the Kwun Tong Branch of the Hongkong and Shanghai Banking Corporation Limited (HSBC) lost a computer server containing the data of 159 000 customers on 26 April this year when it was undergoing renovation. HSBC did not immediately make public the situation, and it was not until 7 May, which was several days after the media had made the relevant reports, did it issue a brief statement to confirm the matter. In this connection, will the executive authorities inform this Council whether:*

- (a) the authorities will investigate the causes of this incident; if so, of the details; if not, the reasons for that;*
- (b) they will strengthen monitoring the work of banks in protecting the privacy information of customers; if so, of the details; and*
- (c) they will stipulate that all banks, in the event of similar incidents in the future, shall immediately contact the customers affected and give an account to the public, and shall expeditiously make arrangements for the loss which may be incurred by the customers as a result; if so, of the details; if not, the reasons for that?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President, our responses to the questions raised by the Honourable Emily LAU are as follows:

- (a) The HSBC has already referred the case concerning the loss of a computer server to the police for investigation. The Hong Kong Monetary Authority (HKMA) has also required the HSBC to submit a report on the incident and will decide the relevant follow-up actions after considering the content of the report in detail.
- (b) Banks should comply with the Personal Data (Privacy) Ordinance and the code of practice and guidelines issued by the Privacy Commissioner for Personal Data. In view of this incident, the HKMA has required the HSBC to conduct a thorough review of its management and control measures implemented during the period of

branch renovation and enhance effort to protect the personal data of customers, with a view to preventing similar incidents from occurring again in future. The HKMA will assess whether the measures implemented by the banking industry to protect the personal data of customers are adequate and effective from time to time.

- (c) According to the HKMA's requirement, in the event of any incidents that may have an impact on the protection of the personal data of customers, banks ought to notify affected customers as soon as practicable after ascertaining the extent of impacts on the customers' data, the level of risk of information leakage and the number of affected customers. Also, banks ought to clearly explain the impacts of the incidents on customers, the follow-up actions implemented by banks concerning the incidents and the steps ought to be taken by customers. The HKMA will review the relevant arrangements in a timely manner in order to ensure adequate protection of the personal data of bank customers.

BILLS

Second Reading of Bills

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): Bills. We now resume the Second Reading debate on the Dutiable Commodities (Amendment) Bill 2008.

DUTIABLE COMMODITIES (AMENDMENT) BILL 2008

Resumption of debate on Second Reading which was moved on 7 May 2008

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 Dutiable Commodities (Amendment) Bill 2008 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Dutiable Commodities (Amendment) Bill 2008.

Council went into Committee.

Committee Stage

CHAIRMAN (in Cantonese): Committee stage. Council is now in Committee.

DUTIABLE COMMODITIES (AMENDMENT) BILL 2008

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Dutiable Commodities (Amendment) Bill 2008.

CLERK (in Cantonese): Clauses 1 and 2.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 1 and 2 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 3 to 10 and cross-headings immediately before clauses 8 and 10.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Madam Chairman, I move the amendments to the Dutiable Commodities (Amendment) Bill 2008 (the Bill) and the deletion of clauses 3, 4, 5, 6, 7(1), 8, 9 and 10, and the technical amendments to clause 7(2), as set out in the paper which has been circularized to Members.

The original inclusion of clauses 3, 4, 5, 6, 7(1), 8, 9 and 10 by the Government is intended to tie in with the transitional administrative arrangements, providing for temporary retention of the licensing/permit arrangements for wine and other related alcoholic liquors, and temporary removal of the arrangements for small commercial shipments of alcoholic liquors or alcoholic liquors for personal use of in-bound passengers.

The relevant administrative arrangements are retained in the interim to avoid pre-empting the Legislative Council in respect of the proposed rate reductions. Under section 7 of the Public Revenue Protection Ordinance (Cap. 120), the original duty rates will have to be reinstated retrospectively from the Budget Day should the Legislative Council choose not to approve the proposed rate reductions. Under such a scenario, the administrative

arrangements that are retained in the interim would provide a trail for recovering any duty that becomes payable.

The immediate suspension of the administrative arrangements for small commercial shipments of alcoholic liquors or alcoholic liquors for personal use of in-bound passengers is proposed for the two reasons below:

- (i) the administrative costs needed to recover any duty that becomes payable would be disproportionate to the relatively small amount of duty to be collected; and
- (ii) suspension of the administrative arrangements will minimize the delay that may be caused to in-bound passengers carrying small amounts of the selected alcoholic liquors.

The above transitional administrative arrangements will no longer be necessary once the Legislative Council endorses the duty rate reductions. Unless duty on alcoholic liquors will be reinstated in the future, we will propose the indefinite suspension of the relevant licensing/permit arrangements when the Second Reading debate on the Dutiable Commodities (Amendment) (No. 2) Bill 2008 is resumed later today.

If the deletion of clause 7(1) is endorsed by the Legislative Council, we will propose a consequential amendment to clause 7(2).

I now propose these amendments to delete the transitional provisions of the Bill and the consequential amendment to clause 7(2).

Thank you, Madam Chairman.

Proposed amendments

Clause 3 (see Annex I)

Clause 4 (see Annex I)

Clause 5 (see Annex I)

Clause 6 (see Annex I)

Clause 7 (see Annex I)

Clause 8 (see Annex I)

Clause 9 (see Annex I)

Clause 10 (see Annex I)

Cross-headings immediately before clause 8 (see Annex I)

Cross-headings immediately before clause 10 (see Annex I)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): As the amendments to clauses 3 to 6, 8, 9 and 10 and the cross-headings immediately before clauses 8 and 10, which deal with deletion, have been passed, such clauses and cross-headings are deleted from the Bill.

CLERK (in Cantonese): Clause 7 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the clause as amended stands part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council will now resume.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

DUTIABLE COMMODITIES (AMENDMENT) BILL 2008

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

Dutiable Commodities (Amendment) Bill 2008

has passed through Committee with amendments. I move that the Bill be read the Third time and do pass.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Dutiable Commodities (Amendment) Bill 2008 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Dutiable Commodities (Amendment) Bill 2008.

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): We now resume the Second Reading debate on the Dutiable Commodities (Amendment) (No. 2) Bill 2008.

DUTIABLE COMMODITIES (AMENDMENT) (NO. 2) BILL 2008

Resumption of debate on Second Reading which was moved on 7 May 2008

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 Dutiable Commodities (Amendment) (No. 2) Bill 2008 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Dutiable Commodities (Amendment) (No. 2) Bill 2008.

Council went into Committee.

Committee Stage

CHAIRMAN (in Cantonese): Committee stage. Council is now in Committee.

DUTIABLE COMMODITIES (AMENDMENT) (NO. 2) BILL 2008

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Dutiable Commodities (Amendment) (No. 2) Bill 2008.

CLERK (in Cantonese): Clauses 1 to 7.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 1 to 7 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

DUTIABLE COMMODITIES (AMENDMENT) (NO. 2) BILL 2008

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

Dutiable Commodities (Amendment) (No. 2) Bill 2008

has passed through Committee without amendment. I move that this Bill be read the Third time and do pass.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Dutiable Commodities (Amendment) (No. 2) Bill 2008 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Dutiable Commodities (Amendment) (No. 2) Bill 2008.

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): We now resume the Second Reading debate on the Prevention and Control of Disease Bill.

PREVENTION AND CONTROL OF DISEASE BILL

Resumption of debate on Second Reading which was moved on 19 December 2007

PRESIDENT (in Cantonese): Mr Vincent FANG, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report.

MR VINCENT FANG (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on Prevention and Control of Disease Bill (the Bills Committee), I shall now report on the main deliberations of the Bills Committee.

The object of the Prevention and Control of Disease Bill (the Bill) is to replace the Quarantine and Prevention of Disease Ordinance (Cap. 141) (QPDO) by a new Ordinance that is designed to bring the legislative basis for measures to control and prevent disease up-to-date and into line with the requirements of International Health Regulations (IHR) (2005) of the World Health Organization (WHO). The IHR (2005) seek to prevent, protect against, control and provide a public health response to the international spread of disease. The IHR (2005) are a set of legal regulations for WHO Member States (China being one of them) in relation to global response to public health threats. Pursuant to Article 153 of the Basic Law, compliance with the IHR (2005) extends to Hong Kong.

The Bill contains fundamental and enabling provisions, such as those providing for the health officers' power of seizure, forfeiture and arrest, the making of the Public Health Emergency Regulation (PHE Regulation) by the Chief Executive-in-Council under clause 8 of the Bill.

Provisions that are operational in nature, such as the notification of cases of infectious disease, disease prevention, isolation and quarantine of persons will be included in the Prevention and Control of Disease Regulation (the PCD Regulation) which will be made under clause 7 of the Bill after its enactment.

Clause 12(1) provides that the Director of Health may order just and equitable compensation to be paid for any article that is damaged, destroyed, seized, surrendered or is submitted to any person. Clause 12(2) further provides that any dispute as to whether compensation is payable or the amount of compensation may, in default of agreement, be resolved or determined by arbitration in accordance with the Arbitration Ordinance (Cap. 341). A provision similar to clause 12(2) will also be included in the PHE Regulation to be enacted under clause 8 of the Bill.

Both the Hong Kong Bar Association (the Bar) and the Law Society of Hong Kong consider the mechanism for resolving disputes over compensation claims unsatisfactory. The Bar points out that clause 12(2) does not mandate arbitration in default of agreement, that is, the Director of Health may refuse to

agree to submit the dispute to arbitration, thereby leaving the person aggrieved with recourse to an application for judicial review of the legality of the Director's order. On the other hand, the Law Society is of the view that clause 12(2) of the Bill should be deleted since arbitration is subject to agreement by both parties and it is unclear why a voluntary process can have statutory force.

At the requests of Members of the Bills Committee, the Administration subsequently met with the two legal professional bodies on 30 April 2008 to discuss their abovementioned concerns. To address the concerns of the two legal professional bodies, the Administration has proposed to amend clause 12(2) to the effect that claimants may choose to resolve disputes on compensation claims in a way they see fit, that is, by arbitration or by instituting civil proceedings.

The Administration has also accepted the Bills Committee's advice, agreeing to provide that the Director of Health shall serve an order of compensation amount on the claimant, either personally or by post, and that the claimant may serve a notice on the Director of Health notifying the Director of Health that the dispute will be referred to arbitration or civil proceedings will be instituted within six months after the Director of Health makes the order. The methods for resolving disputes on compensation claims shall also be included in the PHE Regulation.

The Administration has advised that since the relevant isolation or quarantine orders will only last for a short period of time to enable the health authority to carry out disease control measures or medical surveillance to prevent the spread of disease, no compensation shall be provided for financial loss suffered by owners of premises or conveyances ordered to be isolated, as well as people ordered to be isolated or quarantined. The reason is that it is unlikely that the premises and conveyances under isolation or affected by the quarantine are suitable for usual economic use, such as carrying out business activities.

The Administration has, however, pointed out that in the case of a public health emergency where large number of people may be affected, it does not preclude the introduction of relief measures on compassionate ground. A recent example is the Trust Fund set up after the SARS outbreak in 2003 to provide special *ex gratia* relief payment or financial assistance.

Given the significant impacts of making the PHE Regulation in Hong Kong, some examples being the Government's requisition of private properties

such as vaccines, medicine, personal protective gears, vehicles and vessels during a public health emergency, members of the Bills Committee are of the view that the Administration should provide for a definition of "requisition" in the Bill and specify the end date of the state of public health emergency in PHE Regulation.

After consideration, the Administration has agreed to provide a definition of "requisition" by adding a new subclause (5) to clause 8 of the Bill. Although it is the Government's intention to continuously review the public health emergency situation and repeal the PHE Regulation by way of a notice published in the Gazette once the state of public health emergency has ceased, the Administration will provide in clause 8 of the Bill that the Chief Executive-in-Council will review or cause to be reviewed the public health emergency situation from time to time, so as to reassure the public that the PHE Regulation will not remain in force longer than necessary.

While agreeing to the need for empowering a wider scope of public officers/persons in addition to health officers and police officers, such as members of the Auxiliary Medical Service (AMS), the Civil Aid Service (CAS) and hospital staff, with arrest power, some Bills Committee members have expressed the concern that conflict between employers and employees will arise as some employees may be reluctant to exercise the general arrest power given to them. Besides, it has also been pointed out that unlike members of AMS and CAS who wear uniform while on duty, hospital staff may not in all instances. This may impede the exercising of arrest by hospital staff provided under clause 5(2) and clause 6(1).

On review, the Administration will amend clauses 5(2) and 6(1) to provide for the power of arrest of health officers, police officers, public officers appointed under the Ordinance, for instance, Immigration Officer, and members of AMS and CAS only. As for hospital staff, they will only be given the power to stop and detain a person who is committing or has committed an offence in relation to isolation or quarantine in the PCD Regulation to be made under clause 7 of the Bill. The Department of Health will work with the Hospital Authority to prepare operational guidelines on the exercise of the power by hospital staff.

The Bills Committee has scrutinized the draft provisions of the PCD Regulation provided by the Administration. Members generally find the draft PCD Regulation in order. At the request of the Bills Committee, the Administration has undertaken to spell out in Legislative Council Brief on the

PCD Regulation to be gazetted any provision contained therein which is substantially different from that contained in the draft amended PCD Regulation.

The Bills Committee supports the resumption of Second Reading debate on the Bill today and urges the Administration to appoint the commencement date as early as possible.

Madam President, in the following part of my speech, I shall express my personal views on the Bill.

Madam President, the Liberal Party and I both support the Second Reading and Third Reading of the Bill. It is not only because Hong Kong must comply with IHR (2005) as a member of WHO. More importantly, what we feel most deeply about are the bitter experiences of Hong Kong during the outbreaks of two highly contagious diseases — avian flu and SARS. We therefore agree that Hong Kong must enact a set of comprehensive and effective legislation on the control and prevention of contagious diseases. Such legislation is especially necessary in Hong Kong because as a densely populated city frequently visited by international travellers, it faces a high risk of infectious disease outbreaks. If the problem is not properly handled, there may be further outbreaks of contagious diseases like SARS.

In regard to the Bill, I am especially concerned about clauses 3 to 8, which deal with the power of seizure, forfeiture and arrest, the prevention of the spread of contamination, the requisition of property and matters relating to compensation for such requisition. The reason is that once the Government is vested with the power of forfeiture and requisition of private property with no obligation to make compensation, the affected persons or operators will be plunged into difficulties. In the case of the outbreak of avian flu in chicken farms in Hong Kong, for example, the virus was simply not deliberately "introduced" by any chicken farm operators. Rather, the virus was actually spread by wild birds, so chicken farmers themselves were in fact victims. The Government doubtlessly had no alternative but to slaughter the chickens in all Hong Kong chicken farms, so as to stop the spread of the infectious disease. But in cases like this, if the Government does not pay reasonable compensation, all farmers will suffer total losses and face immediate livelihood difficulties. In that case, another type of tragedy may be resulted. Therefore, I hope that when the Government deals with other types of cases involving the seizure and forfeiture of anything that may do harm to public health, it can also follow the

practice under the Bill and provide the affected persons and operators with appropriate compensation.

We can appreciate that the Bill today aims mainly to update the QPDO, which was formulated with reference to IHR (1969), so as to bring it into line with the updated IHR (2005). Actually, having been battered by the outbreaks of two infectious diseases, we should still update the relevant legislation even without any IHR updating. What is more, since the legislation is so significant and its impacts so far-reaching, the Liberal Party and I will certainly still render our support even if the "negative vetting" legislative approach is adopted. It is because there is an urgent need to enact the legislation. However, some bills put before the Legislative Council simply do not carry any commencement date, and the date is to be appointed later by the Secretary for Food and Health. We may look at some bills which are comparatively not so urgent to enact. For example, we may look at the next legislation we have to deal with, that is, the Regulation relating to nutrition labelling for prepackaged food and also the Product Eco-responsibility Bill on a basket of related measures. In these cases, the authorities have set down a timeframe. One of them must be passed today, and the other must be passed within this legislative session. The authorities even adopt an attitude of "absolutely no change" towards the commencement dates. I believe Members will also agree that the Bill should be more significant than these two pieces of legislation by whatever standards.

Moreover, under clause C1(4) of the draft PCD Regulation to be made under the Bill, a magistrate may issue a warrant authorizing any health officer to enter or break into any premises. In view of the significance of the Bill, we do agree that law-enforcement personnel should be empowered to enter the premises concerned, because we are all clearly aware of the loss of human lives caused by a patient in Amoy Garden. But I would think that there are serious problems if the same provisions are included in the Product Eco-responsibility Bill because the misuse of plastic bags simply cannot be compared with the sources of infectious diseases.

Many people criticize that the Liberal Party is a "political party of the wealthy" which pays no heed to the interests of the common masses. I wish to point out that such a viewpoint is totally incorrect. How can we make money? To make money, we must make sure that all people in Hong Kong can remain healthy and society is prosperous, so that everybody can live happily and is willing to spend money. During the outbreak of SARS, the retail industries in

Hong Kong were worst-hit and plunged into the doldrums. Members should still remember all this. Therefore, although we may disagree with the Government on some issues, we still totally support all bills beneficial to Hong Kong and the people, including this Bill. I so submit. Thank you, Madam President.

DR KWOK KA-KI (in Cantonese): Madam President, I believe no one in the world knows better than Hong Kong people as to the destructiveness and scourge of serious infectious diseases, for the loss of human lives and financial losses of Hong Kong as a result of avian flu and SARS are still vivid in our minds. Therefore, this is actually a bill long-awaited by this Council. We should honour the pledge in the International Health Regulations (IHR) (2005) to expeditiously implement this Prevention and Control of Disease Bill (the Bill). Despite that the Bill is long overdue, I believe we are still very eager to have it come into force as early as possible.

A number of colleagues who joined the Bills Committee have given their views on the Bill, and expressed grave concern over the requisition of private property. Members may recall that in the course of discussing the anti-smoking bill earlier, the Government had set very high thresholds and stringent requirements for *de facto* deprivation of property and private property. The standard was so high that well-known trademarks and even trademarks that are considered by us or are generally considered as apparently misleading under the ordinance concerned would be accepted and retained, and this was able to get through. However, insofar as this Bill is concerned, it seems that a different standard is adopted by the Government, as it thinks that the requirements of compensation in relation to *de facto* deprivation caused by infectious diseases should neither be too stringent nor too clear. Many colleagues (including me) have reservation about this point.

As we all know, the effect of infectious disease is territory-wide. The situation that some people may suffer loss of property or private property due to a particular disease in compliance with the law (including that which deals with an emergency situation) is understandable. The point is whether or not there is a clear, simple and reasonable mechanism to make reasonable and fair compensation to people who have suffered losses. This is very important. Although numerous discussions had been made, no specific amendment has been made and a consensus has yet to be reached. Nonetheless, I still hope that the Government will bear in mind that, in the course of implementing the Bill, or

negotiating the terms of compensation, or even in the event of future controversies, when claims for reasonable compensation have to be settled through legal actions, the principle of the Bill is joint responsibility, rather than asking an individual to bear unaffordable loss.

The second point that I wish to talk about is the mechanism for invoking the Public Health Emergency Regulation (the PHE Regulation). In fact, a lesson is learnt from the outbreak of SARS. I can still remember clearly that the professional sectors or the medical profession generally considered that there was already an outbreak of infectious disease. Members should also remember quite clearly that the Government together with its principal officials then had repeatedly stated that there was no outbreak of infectious disease at all, and that no corresponding action (including isolation) was necessary. When I look back, I still find this deeply regrettable. If we did not act in this way, it would be a different story and what happened then might have to be rewritten. Lives would not have been lost and the damages would not have been so serious, and the financial losses incurred by Hong Kong should not be as serious as they were back then.

Nonetheless, in the course of the implementation of this Bill, the formulation of the PHE Regulation in particular, reference could actually be made to overseas experience. For instance, in other countries, officials or professionals in the medical and health care professions would be assigned to posts authorized to exercise the powers conferred by the relevant emergency regulation. This is important because as we may be aware, no protection has been provided to the framework of the Chief Executive in Council. Protection in this sense means the full inclusion of the impartial judgment made in the light of the actual scientific or medical situation into the decision made at the time. I think this might delay the promulgation of the emergency regulation in the future, and even result in the recurrence of the SARS tragedy. The Government certainly does not consider this important, but we are gravely concerned about it.

The last point is about enforcement officers. I am very glad that an amendment was made by the Government in response to the Bills Committee's advice that hospitals or staff of the Hospital Authority (HA) might encounter enforcement difficulties (in making arrests or enforcing the law). Clause E5A is amended to the effect that hospital staff are only given the power to stop and detain, but not arrest the person concerned as previously proposed. This amendment is made to address the concern of staff members, who considered that they do not have the necessary support and background for enforcement.

In fact, what is of their utmost concern is the possible allegation of dereliction of duty in case of their failure to exercise their power to detain or arrest. For this reason, the Government has finally taken on board the Bills Committee's views and amended this part of the Bill. I am very grateful to it. Nonetheless, the problem in front of us is how the Bill can be implemented as early as possible and the refinement of certain procedures. I think these are what should be done.

Lastly, I wish to respond to the viewpoints expressed by Mr Vincent FANG just now. I agree that both hygiene and health should be a top priority on the agenda of all political parties, and I believe it is the wish of all businessmen and employers to foster a healthy environment for their customers and employees. In fact, the implementation of the nutrition labelling law should also follow this direction. While every person and even every businessman has his own interest, it does not seem appropriate for any society or responsible politician to place these interests in a position which overrides public health.

Everyone may suffer loss because I believe there are always people who find it difficult to adapt to a certain piece of legislation. This Bill is no exception. But we must bear in mind our principle that as long as the nutrition labelling law to be discussed later can enable this generation, and most importantly our next generation, to have the right to know, such that they can choose the most suitable and genuinely nutritious and healthy products for consumption, not only can they enjoy good health, I believe this will also bring long-term and far-reaching implications on the provision of health care services which is an arduous task. At this moment, even though this has no direct relevance to the Bill under discussion, I hope that Honourable colleagues will do their best to endorse the nutrition labelling law in its entirety with all the original provisions retained without amendment.

I so submit. Thank you, Madam President.

MR LI KWOK-YING (in Cantonese): Madam President, Hong Kong is a major Asian city with advanced medical standards and facilities. However, with a high population density, crowded living environment, coupled with the ever-increasing exchanges with the surrounding places including the Mainland, Hong Kong has become a breeding ground for infectious diseases. In order to safeguard the health of the public, the SAR Government must do well in the prevention of epidemic in Hong Kong. Being a Member State of the World

Health Organization (WHO), it is also an unshirkable duty of the SAR Government to contribute to the global combat against infectious diseases. The enactment of the Prevention and Control of Disease Bill (the Bill) will update the existing legislation on quarantine and prevention of disease and provide the legal basis for disease control and prevention measures, with a view to bringing the local law on prevention of disease in line with the WHO's International Health Regulations (IHR) (2005). For this reason, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) supports the Second Reading of the Bill as early as possible.

In fact, this Bill plays a vital role in the prevention and control of infectious diseases by the SAR Government, especially the handling of major public health crisis. The Bill confers additional power on the Chief Executive, so that the Chief Executive in Council can make the Public Health Emergency Regulation (the PHE Regulation) for the requisition of private property (including vaccines, medicine and vehicles) during an outbreak of epidemic. Meanwhile, the making of such regulation under the Bill enables the Director of Health (DH) to conduct blood and urine tests of in-bound visitors, and deny the exit of any person who is infected by SARS, avian flu and drug-resistant tuberculosis, so as to step up disease prevention.

This conferment of powers is decisive for the Government in taking prompt actions to combat epidemics. For instance, an essential measure to contain the spread of epidemics is to deny the exit of any infected person and introduce a stringent quarantine system. As Members may recall, during the SARS outbreak in 2003, the Government had denied the exit of people having close contact with atypical pneumonia patients from Hong Kong during isolation, and required that anyone leaving Hong Kong by plane should measure body temperature so as to further prevent the exit of suspected patients. At that time, these arrangements and measures did help to rebuild the confidence of the international community in the SAR Government's effort to combat the epidemic, thereby addressing their concern that people from Hong Kong might spread the disease.

In the face of a sudden outbreak of an epidemic of a large scale, the Government has to resort to administrative means in implementing many temporary measures of isolation and disease prevention. The enactment of this Bill helps consolidate the legal basis of these measures by providing clearer and more comprehensive provisions, based on which the authorities may introduce

various prevention measures in the event of a serious public health crisis in future.

On the other hand, just as I said earlier, given the crowded living environment in Hong Kong and frequent flow of travellers, we are still vulnerable to infectious diseases though the standard of our health care services has greatly improved. Coupled with the fact that Hong Kong is a Member State of the WHO, we are duty bound to stop persons infected with infectious disease from leaving Hong Kong so as to prevent the spread of diseases around the world. Take tuberculosis as an example. It is still the number one infectious disease in Hong Kong. Every year, there are 6 000 reported new tuberculosis cases on average, and about 270 people died of it. Among them are patients of multi-drug-resistant tuberculosis (who are resistant to both first and second line anti-tuberculosis drugs), and this disease is of grave worldwide concern. We have 30 accumulated cases in the past decade, and half of them were incurable.

Since these tuberculosis patients are multi-drug resistant, treatment is therefore extremely difficult. If the disease spreads around the world, the consequences will be beyond imagination. In view of this, the WHO issued a guideline as early as at end 2006, requiring serious tuberculosis patients not to leave their place of residence on flight. At present, there are about 10 such highly-infectious patients on the list of Hong Kong. The introduction of this Bill is a response to the WHO's guideline by empowering the authorities to make regulation to prohibit the exit of these highly-infectious tuberculosis patients, and provide for the punitive measures for non-compliance. It is believed that the new regulation will effectively step up local prevention and control of highly infectious diseases, with a view to protecting the rest of the world against the threats posed by local patients of infectious disease.

Apart from prohibiting the exit of some patients of infectious disease, doctors must also report tuberculosis cases in the future on the premise of public health by providing more details about the patients. Failure to do so may subject them to legal sanction. This will help the authorities expeditiously trace the source of the disease, so as to contain the spread of the disease and enhance their abilities in combating the epidemic.

Madam President, undeniably, the new powers given to the authorities are vital to the timely control of epidemics. And yet, adequate protection should also be provided to persons affected by this new Bill. The proposed measures

in the Bill to prevent and control the spread of disease, such as the requisition of private property, may prejudice the right to private property as protected by the Basic Law. Therefore, the DAB supports the introduction of a relevant compensation scheme under the Bill, which by the affected parties can obtain just and equitable compensation in accordance with the law.

Madam President, the outbreak of SARS in 2003 has taught the local community a valuable lesson about epidemics. With the passage of the Bill, the SAR Government will be able to further enhance its ability to prevent and control public health crisis. It will safeguard local public health on the one hand, and perform its duty as a Member State of the WHO on the other, making contribution to the global prevention and control of infectious diseases and also consolidating the international image of the SAR. Therefore, I hope that the Bill can be passed as early as possible.

Madam President, I so submit.

MR ANDREW CHENG (in Cantonese): Madam President, the Quarantine and Prevention of Disease Ordinance (QPDO) has been enacted for more than 70 years. Despite that some simple amendments have been made before, the QPDO as a whole seems to be not in keeping with the up-to-date social conditions and modes of infectious disease. During the outbreak of SARS, not only did the Secretary fail to enforce the law directly, the Director of Health, being the enforcement authority, also failed to respond accordingly. Coupled with the different problems that had arisen, all these clearly demonstrate that the law cannot exercise effective control in times of a major epidemic.

It is believed that the law is outdated simply because it has been in force for a very long time, and that we thought the outbreak of an epidemic is only possible in backward places. It was only until the outbreak of SARS when people had to be isolated that we realized the need for legislative amendments.

At present, the greatest threat of infectious disease faced by the world is avian influenza virus mutation. Both epidemic and economic experts said that an influenza pandemic will create immense financial pressure and cause serious financial losses. According to the past experience, there are three to four influenza pandemics in every century, and the last one occurred 37 years ago.

Judging from this cycle, the outbreak of an influenza pandemic seems inevitable. It is just a matter of time.

It is believed that the sudden outbreak of SARS, which swept through Europe and the United States within a short period of time and caused serious fatalities, has prompted the WHO to amend the International Health Regulation (IHR) so as to prevent and control the spread of different infectious diseases worldwide, as well as to extend its coverage. Being a Member State of the WHO which has frequent contacts with the international community, Hong Kong is duty bound to review the QPDO in response to the WHO's request.

In fact, the Prevention and Control of Disease Bill (the Bill) is very important but controversial. For instance, it provides the Director of Health with the power of arrest, so that he may arrest any person who attempts to escape from detention in a hospital or isolation ward. In a state of public health emergency, he may even order requisition of private property, as well as seize and forfeit any article. These measures might be in conflict with the right to protect private property as stipulated in the Basic Law. For this reason, the enactment of the relevant law must be very cautiously so that infectious disease can be contained without prejudicing the basic human rights of the general public.

Madam President, a number of issues being raised during the deliberation of the Bill warrant our attention. Among them are the regulation of the requisition of private property by the Government and the compensation arrangement, on which lengthy and thorough discussions have been conducted.

The Bill proposed by the Government did not provide for a specific definition of the requisition of property at first. Detailed provisions on the requisition of property will only be spelt out in the Public Health Emergency Regulation (PHE Regulation) to be made by the Chief Executive in Council in a state of public health emergency.

We have many reservations about this arrangement. Firstly, the situation in the whole community must be very critical in a state of public health emergency, so it would be very impracticable for the Legislative Council to examine the provisions concerning the requisition of property and compensation at that juncture. Furthermore, in order not to cause delay in the combat against an epidemic, the PHE Regulation would come into effect upon gazettal before it would be scrutinized by this Council. In so doing, a regulation that may

contravene the right to property as protected by the Basic Law, and involves such major arrangements as the requisition of private property and the determination of compensation, might come into force before the scrutiny of this Council. This is highly insecure for members of the public. After thorough discussions, the authorities finally agreed that amendments would be made to include the definition of "requisition" in the Bill, and the Democratic Party supports this amendment of the Government.

Madam President, as to the question of how compensation to a person being deprived of property would be assessed, the Bill only provides that the amount of compensation should be just and equitable. The need to lay down more concrete guidelines has been discussed, but in view of the fact that there are precedents in Hong Kong's statute book and after discussions with the two legal professional bodies, we consider the existing arrangement acceptable and no objection will be raised on it. Nonetheless, it is hoped that the Government will enhance its consultation with the public and the Legislative Council on the compensation issue in the future.

Measures to combat an epidemic also include isolation and arrest, which would deprive a person of his personal freedom. According to clause 6 of the Bill proposed by the Government, people who are authorized to arrest the detained persons include staff member of hospitals and places of isolation, as well as members of the Auxiliary Medical Service (AMS) and Civil Aid Service (CAS). This provision will definitely impose immense pressure on staff members of hospitals and places of isolation, particularly the elementary staff, and is incompatible with their job nature. What is more, the elementary staff who work at these places do not generally wear uniform, thus making it more difficult for them to enforce the arrest order. The Government finally decided to make an amendment to minimize the work of the staff working on the relevant premises, as well as members of the AMS or CAS in enforcing the arrest order. We consider this amendment reasonable and will therefore support it.

Madam President, isolation and quarantine give rise to the issue of compensation. As we have seen from the experience of the SARS outbreak, people who had accidentally contacted a SARS patient were also required to stay at home in isolation. Some of them worked from hand to mouth and faced problems in making ends meet. We therefore hope that the Bill may provide for financial compensation for those in isolation. But given that only people who have been subjected to arbitrary detention can claim compensation under the Hong Kong Bill of Rights, amendment could not be made in this regard. I hope

that the government official who is going to speak later on will undertake to provide relief payment for those under isolation or quarantine, with a view to relieving their financial pressure.

Madam President, I so submit.

MS AUDREY EU (in Cantonese): President, while both the Prevention and Control of Disease Bill (the Bill) under discussion and the Food and Drugs (Composition and Labelling) (Amendment: Requirements for Nutrition Labelling and Nutrition Claim) Regulation 2008 (the Regulation) to be discussed later on are under the purview of Secretary Dr York CHOW, they are indeed very different from one another.

President, the prevention and control of disease under discussion is not without controversy. Just as Mr Andrew CHENG and Mr Vincent FANG said earlier, it involves plenty of very important issues, including our rights as protected by the Basic Law, and the protection of personal freedom and property.

Admittedly, the Government must have the appropriate powers to control the spread of a disease. So, the question of how to strike a balance often involves more detailed analysis and consideration of the relevant provisions. And when the Government is given the authority to make regulation, consideration should also be given to whether the power is adequate or excessive. All these warrant detailed discussions and also views from other experts, including the two legal professional bodies.

Looking back on the deliberation of the Bill, it was a very smooth process and discussions were conducted time and again. In other words, we did not just listen to the views once when we examined the Bill. I had asked the government officials to discuss with the experts or the two legal professional bodies in between meetings when a problem arose to see if a consensus could be reached on the wordings or the policy concerned with an objective of enhancing the efficiency of discussion and facilitating discussions in the ensuing meeting. The Government took heed of my advice and exchanged views with Members through channels other than the meetings, which is quite effective. Certainly, one of the reasons is that we were given ample time to scrutinize this Bill, which is tabled in the form of a blue bill.

However, President, the Regulation to be discussed later on is a completely different case. As it is subject to the negative vetting procedure, we have only 40-odd days to discuss the Regulation on which there were divergent views. We do not even have time for meetings, let alone discussion with the Government, unless I could duplicate myself and attend the meetings being held in Rooms A, B, C or the Chamber. I wonder where I should go.

President, I wish to point out here that Members are not lazy; and there is no question of whether they are pro-government or opposing the Government. Members also wish to understand every issue and handle it properly. However, the Government always brought up complicated issues in the last session without making preparation properly but hoping that Members would vote blindly for its proposals. This is impossible, and is also unfair to both Members and the community.

President, I speak on this Bill today simply to inform Members that I am very pleased to render my support to the Second Reading of this Bill today after so many controversial issues had been resolved in the way that I have just mentioned.

Certainly, this is a very important motion in that it really concerns the provision of sufficient powers for the Government to make regulation in emergency situations. We have discussed a very important issue during the deliberation of the Bill, and that is, the making and repealing of the Public Health Emergency Regulation (the PHE Regulation). Just as I said, the spread of infectious diseases can be very critical, it is therefore necessary for the Government to have a sufficient degree of flexibility. For this reason, President, we support the proposal to adopt the negative vetting procedure.

The Chief Executive in Council is also requested to make statutory declaration of public health emergency to inform the public of the emergency situation. The Government was unwilling to do so at first, but it finally agreed reluctantly that the Chief Executive in Council will make the statutory declaration in compliance with the International Health Ordinance (2005) and the requirement to notify the World Health Organization.

Furthermore, a colleague mentioned the question of compensation earlier as clause 12(2) of the Bill provides that any dispute as to whether compensation is payable or the amount of compensation may, in default of agreement, be resolved or determined by arbitration in accordance with the Arbitration

Ordinance (Cap. 341). However, clause 12(2) does not mandate arbitration in default of agreement; in other words, the Director of Health may refuse to agree to submit the dispute to arbitration, thereby leaving the person aggrieved with recourse to an application for judicial review of the legality of the Director's order. Given that the Law Society and the Bar Association have different views on this issue, government officials were requested to discuss with these two bodies outside the meetings. They finally agreed to amend clause 12(2) to the effect that the decision would rest with the claimant, who may choose to resolve the dispute by arbitration. If it is so decided, the Government would have to submit the dispute to arbitration. President, I am very pleased with this process and the fact that the Government has finally adopted the views of Members and those of the professional bodies in particular.

Insofar as the duration for compensation claim is concerned, it is normally six years for civil claim. However, the proposed inclusion of a provision by the Government has the effect that the normal arrangement will not be followed. At first, the proposed period for making claims was three months, but we considered it too short. So, after discussion for some time, the Government decided to extend it to six months.

President, another point of contention is the definition of "residential premises" and the issue of warrant. Section C1(4) only provides that a magistrate can issue a warrant to a health officer for entering or breaking into a "residential premise", which we call "home". Health officers have been given too great a power as the definition of "residential premises" is not clear. So, how can we protect privacy and every one's home on the one hand, while enabling the Department of Health to exercise its power in execution of its duties to safeguard public safety on the other?

A consensus was reached in the end and the Government agreed to amend section C1(4) to the effect that a health officer must have reason to suspect that the premise concerned is a "residential premise" and admission to it was refused before applying for a warrant from the Court to break into it. As you can see, President, the consensus on many of these problems and issues raised by Members just now was reached after a long process of consideration, discussion and consultation.

We in the Civic Party support all the amendments that the Secretary is going to propose later on. President, we hope that any bill to be tabled at this

Council in the future will allow ample time for the discussion of the Legislative Council and for different bodies to give their views, just like this Bill. I believe if all the bills can be handled in this way, President, they will not end up as regrettable as the Regulation to be discussed later. Thank you, President.

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

(No other Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Food and Health to reply.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Madam President, first of all, I wish to express my gratitude to the Chairman of the Bills Committee, Mr Vincent FANG, and other Bills Committee members for their efforts of scrutinizing the Prevention and Control of Disease Bill (the Bill). I also wish to thank the various sectors of society for putting forward their valuable advice.

The object of the Bill is to replace the Quarantine and Prevention of Disease Ordinance (Cap. 141) (QPDO) by a new Ordinance that is designed to bring Hong Kong's disease control and prevention legislation into line with the requirements of the most recent International Health Regulation (IHR) (2005), so as to prevent, protect against, control and provide a public health response to the international spread of disease, and strengthen the ability of local disease control and prevention, in order to ensure that all diseases affecting public health can be properly handled, both in normal times and during a public health emergency.

The Bill only contains fundamental and enabling provisions, such as those providing for the power of arrest, seizure and forfeiture; the making of regulations (including those for handling a public health emergency), expanding the scope of infectious diseases controlled by the QPDO and the inclusion of a list of infectious agents that are to be controlled by the Bill.

Provisions that are operational in nature, such as the notification of cases of infectious disease, disease prevention and control, isolation and quarantine of persons and control of laboratory's handling of infectious agents will be included

in a new piece of subsidiary legislation to be enacted after the enactment of the Bill. The new subsidiary legislation will provide a holistic plan of measures for the prevention, surveillance and control of infectious diseases and cross-boundary spread of disease in respect of Hong Kong residents, travellers, goods and cross-boundary conveyances. Following the passage of the new subsidiary legislation in the Legislative Council through the "negative vetting" process, the new Ordinance and the new subsidiary legislation will commence on the same appointed commencement date.

Madam President, I am very glad that the Bills Committee is in support of the object and direction of the Bill. Having listened to the advice of the Bills Committee, the Hong Kong Bar Association and the Law Society of Hong Kong on the Bill, we have decided to introduce amendments to certain clauses. Later on, at the Committee stage, I shall move these amendments. For the time being, I shall give a concise account of the relevant amendments.

Although the Bills Committee agrees to the need for empowering a wider scope of public officers/persons in addition to health officers and police officers with arrest power, it is nonetheless concerned about vesting non-public officers or elementary hospital employees with arrest power. It is worried that such employees may not be capable of exercising the arrest power, and conflict between employers and employees will arise as some employees may be reluctant to exercise this power. After reviewing the role of such staff in the entire disease control structure, we propose to introduce an amendment to the Bill to the effect that such staff will not be vested with arrest power. But they will be empowered under the subsidiary legislation to stop and detain a person who escapes from a place where he is isolated or quarantined and to convey him to the place from which he escaped, with a view to ensuring the effective enforcement of disease prevention and control measures. When necessary, such employees may seek assistance from health officers or the police. The Department of Health will work with the Hospital Authority and other relevant organizations to prepare operational guidelines for their staff on exercising the power of stopping and detention. As for public officers/persons other than police officers who are to be vested with arrest power under the Bill, we will provide them with appropriate training, with a view to ensuring that they can understand the proper arrest procedures and the rights of the arrested.

The Bills Committee is also concerned about the effective period of the Public Health Emergency Regulation (PHE Regulation) made during a public

health emergency. The Bills Committee realizes that when it is necessary to make the PHE Regulation in response to a public health emergency, it may be impossible to foresee when the public health emergency will end. However, the Bills Committee is also of the view that since the PHE Regulation will give special emergency powers to the Government, such as the requisition of private property and disclosure of information, the Bill should provide that the authorities shall review from time to time the public health emergency situation, so as to ensure that the PHE Regulation will not remain in force longer than necessary. We have no objection to this, and we now propose to introduce amendments to the relevant clauses.

Besides, since the PHE Regulation shall provide that the Government may provide compensation in respect of the requisition of private properties during a public health emergency, the Bills Committee is of the view that the Bill should contain a clear definition of "requisition", so as to ensure that the Government will make just and equitable compensation both for any permanent and temporary requisition of properties. Since this proposal is in line with our original policy intent, we now propose to include appropriate provisions in the Bill to make clear the definition of "requisition".

At the request of the Bills Committee, we have met with the Hong Kong Bar Association and the Law Society of Hong Kong the mechanism for resolving disputes over compensation claims. Our original policy intent is to use wording which allows greater flexibility to the claimant in the Bill, so that he may choose different modes of dispute resolution, such as arbitration and court proceedings. Having considered the views of the Bills Committee and the two legal professional bodies, we have decided to amend the relevant clauses to provide clearly that the claimant may choose either arbitration or civil proceedings as a mode of dispute resolution, and also to set out the procedures concerned.

Apart from the abovementioned amendments, we will also move a number of technical amendments to certain clauses of the Bill. All these amendments are included in the relevant Committee stage amendments.

Just now, some Members mentioned the issue of compensation for the financial loss suffered by persons isolated or quarantined. We have studied the public health legislation of other jurisdictions in the world, including Australia, Canada, New Zealand and the United States, and we notice that their public

health legislation all do not contain any special provisions on paying compensation to persons isolated or quarantined. As a matter of fact, any person who is believed to have been infected with or is a contact of a specified infectious disease shall have the general obligation of not exposing others to the risk of infection. Health officers' power to isolate and quarantine such persons is one important measure to safeguard public health. In order to minimize the impacts on persons isolated or quarantined, the quarantine period will not be too long. Once a health officer is satisfied that the person concerned is no longer infectious, or the isolation or quarantine can be replaced by medical surveillance, the person can be immediately released from isolation and quarantine. Therefore, we are of the view that it is not necessary to pay any compensation to cover the financial loss suffered by persons lawfully isolated or quarantined. This position is in line with the legislation of the various jurisdictions we have studied.

However, in the case of a public health emergency where a large number of people may be affected, the fact that the Government is not liable for their financial loss does not preclude the introduction of relief measures on compassionate ground. A recent example is the Trust Fund set up after the SARS outbreak in 2003 to provide special *ex gratia* relief payment or financial assistance.

In the following part of my speech, I shall say a few words on the two pieces of subsidiary legislation to be made under the Bill. First, when the Chief Executive in Council deems that there is a public health emergency in Hong Kong, it may make the PHE Regulation for the purposes of preventing, combating or alleviating the effects of a public health emergency and protecting public health. The Chief Executive in Council shall make the PHE Regulation after considering the advice of the Secretary for Food and Health. And, the Secretary for Food and Health will in turn seek the professional evaluation and advice of the Director of Health. When the PHE Regulation is made, the Chief Executive in Council will declare a state of public health emergency in Hong Kong. Furthermore, the Government will notify WHO of the state of public health emergency as required by IHR (2005). And, the public will also be notified of the emergency through various channels. Under such circumstances, the Government will invoke its powers under the relevant legislation and make use of all available resources, so as to control the spread of the disease within the shortest possible period of time. Following the making of

the PHE Regulation, we will report to the Legislative Council expeditiously and provide it with the latest information about the implementation of the Regulation until the Chief Executive in Council repeals it. As soon as the public health emergency comes to an end, the PHE Regulation will be immediately repealed. I must emphasize that in view of the significant impact involved, the Government will make the PHE Regulation and exercise the related powers only under very special circumstances.

The Prevention and Control of Disease Regulation to be made under the Bill will seek to enhance the surveillance and control of cross-boundary conveyances and boundary crossings, with a view to preventing cross-boundary spread of diseases. We can appreciate the industries' worry that these measures may affect their business operation. As I already pointed out when first submitting the Bill to the Legislative Council last year, the Government attaches very great importance to maintaining the smooth flow of Hong Kong's international passenger and cargo transport. The IHR (2005) provides that when implementing any measures to protect public health, care must be taken not to cause any unnecessary disruptions of international traffic and trade. For this reason, we will strive to minimize the impacts of disease prevention and control measures on the industries concerned. We will also formulate guidelines on the implementation of such measures for the industries concerned, in addition to communicating and co-operating fully with them, so as to ensure the smooth implementation of the various measures.

Madam President, the IHR (2005) already came into force on 15 June 2007. We hope that the Bill can be passed as early as possible, so that the SAR Government can discharge its obligations under the IHR (2005) and strengthen our legal basis of disease prevention and control. I sincerely call upon Members to support the Bill and the amendments I am moving shortly. Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Prevention and Control of Disease Bill be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Prevention and Control of Disease Bill.

Council went into Committee.

Committee Stage

CHAIRMAN (in Cantonese): Committee stage. Council is now in Committee.

PREVENTION AND CONTROL OF DISEASE BILL

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Prevention and Control of Disease Bill.

CLERK (in Cantonese): Clauses 1, 3, 4, 9, 10, 11 and 13 to 18.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the clauses stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 2, 5 to 8 and 12, and heading of Part 4.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Madam Chairman, I move that the clauses and heading read out just now be amended as set out in the paper circularized to Members.

We propose to make a number of technical amendments to the interpretation under clause 2. Firstly, the phrase "other than a human being" will be deleted from the definition of "article". Despite that the definition of "article" under the Bill includes animal, the term will not be interpreted as including human being either in the Bill or the subsidiary legislation. No specification is therefore necessary. Furthermore, we propose to delete the definitions of "isolation" and "quarantine". These two terms are respectively applicable to an infected person and a contact in the public health domain. However, it is not necessary to make reference to the difference in the definitions of the two terms in order to understand the meaning of the clauses containing them. We will provide for the conditions which a health officer may place a person under isolation or quarantine in a subsidiary legislation separately.

Amendments to clauses 5 and 6 aim to confine the public officers or persons being given the arrest power to police officers, health officers, members of the Auxiliary Medical Service or Civil Aid Service, and officers appointed under the Ordinance.

We propose two amendments to clause 8. The first amendment is the inclusion of a provision to provide that the Chief Executive in Council will review from time to time, or cause to be reviewed from time to time, the public

health emergency to ensure that the Public Health Emergency Regulation made for this purpose will cease to have effect in due course. The second amendment aims to provide for the meaning of requisition of property, which covers temporary and permanent requisitioning.

We also propose an amendment to clause 12 to clearly provide for the mechanism for resolving disputes over compensation claims. If the claimant, in the absence of agreement, disputes the compensation ordered by the Director of Health, the claimant may, within six months after the order is made, serve a notice notifying the Director that the dispute will be resolved by arbitration or civil proceedings.

Since I have explained the background and content of the Bill in my speech on the resumption of the Second Reading debate on the Bill, I am not going to repeat them now.

Furthermore, minor grammatical amendments have been made to the heading of Part 4 and the sub-heading of clause 7 in the English text of the Bill.

The Bills Committee has discussed the above amendments and expressed support to them. I implore Members to support and endorse the above amendments.

Thank you, Madam Chairman.

Proposed amendments

Clause 2 (see Annex II)

Clause 5 (see Annex II)

Clause 6 (see Annex II)

Clause 7 (see Annex II)

Clause 8 (see Annex II)

Clause 12 (see Annex II)

Heading of Part 4 (see Annex II)

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for Food and Health be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 2, 5 to 8 and 12, and heading of Part 4 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the clauses and heading as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Schedules 1 and 2.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That schedules 1 and 2 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

PREVENTION AND CONTROL OF DISEASE BILL

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

Prevention and Control of Disease Bill

has passed through Committee with amendments. I move that this Bill be read the Third time and do pass.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Prevention and Control of Disease Bill be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Prevention and Control of Disease Bill.

MOTIONS

PRESIDENT (in Cantonese): Motions. Five proposed resolutions under the Interpretation and General Clauses Ordinance to amend the Food and Drugs (Composition and Labelling) (Amendment: Requirements for Nutrition Labelling) (Amendment: Requirements for Nutrition Labelling and Nutrition Claim) Regulation 2008.

PRESIDENT (in Cantonese): Both the Secretary for Food and Health and Mr Vincent FANG have separately given notice to each move two motions to this Amendment Regulation. Mr Fred LI has also given notice to move a motion to this Amendment Regulation

The five motions will now be debated together in a joint debate.

I shall first call upon Mr Vincent FANG to speak and move his first motion. I shall then call upon Mr Fred LI and the Secretary for Food and Health to speak, but no motions are to be moved at this stage by the Secretary and Mr Fred LI.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR VINCENT FANG (in Cantonese): Madam President, I got some calls from friends in the media yesterday, asking about matters concerning nutrition labelling. They asked me whether I had counted the number of votes I would get in support of my amendment and whether or not the amendments made by the Government would have enough votes to pass. What they did made the situation very tense. I cannot help but think, how come the law that we are to pass today has caused so many disputes and made the atmosphere in this Council so stiff and strained? Honourable colleagues from various political parties and groupings all make their positions and stands known on this subject.

As a matter of fact, what is to be debated today is only a law on making it a mandatory requirement for prepackaged food to provide some nutrition information. As far as I understand it, the legislative intent is to guide consumers in their choice of healthier food through the provision of nutrition

information. Since this kind of information does not have any position by itself, it cannot be of any help to the consumer in choosing which pack of food or which kind of food to buy — the final decision rests with the consumer. Therefore, the most important thing is whether or not the consumer can understand the information found on the nutrition label.

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

But why should a law which does not have any position and which does not lead to any life and death situation receive such extreme and irresponsible criticisms made by some Members? They say that this is like a war waged by several countries in alliance, that the Government and Members are eating their words in total negligence of the life of the people of Hong Kong, and so on. For a piece of legislation whose legislative intent is benign, why has it caused so many controversies in this Council?

Both the Liberal Party and I, as well as trades related to food, are always in support of the nutrition labelling system. But the major premise is to let the trades have enough time for preparation and do not lead to any rise in food prices as a result of the introduction of this new law, making food unaffordable to some consumers. We do not want to see food, especially those kinds of food which are considered healthier, withdraw from the Hong Kong market, hence depriving Hong Kong people of more choices.

During the past three years, our sector has engaged in frequent discussions. However, the proposals we have made to the Government certainly do not carry any objection to the introduction of this measure. We only hope that the standards in our law can align with the major food supplier countries as much as possible. This means we should accept the labelling standards of the developed countries or make reference to the standards of the mainland China, or the Codex Alimentarius Commission (Codex) under the World Health Organization. This is because Hong Kong is only a very small market and it is impractical to require international food manufacturers to produce food especially for Hong Kong.

However, officials tasked with liaising with the trade neglect the practical and constructive views voiced by the operators and insist that a "one plus six plus

one" scheme which is unlike all other countries be introduced. Such a nutrition labelling scheme is to label energy plus six core nutrients plus trans fat. Also, control will be imposed on "nutrition claims", that is, the standards for low sugar and low salt. The result is during the past one month or so, there were fiery debates in this Council.

The Administration stated during the discussions of by the Subcommittee that the food renewal rate is about 14% for each year. In general, before a certain food product gains a market share, the producer would import a small amount of it to test market response or it would take part in some trade fairs or promotion events. When added to the fact that Hong Kong is an international city, there are all kinds of people from all over the world living here. People from each country have their special demand for their ethnic foods. Therefore, after I have discussed with the trade, we propose to the Government that products with a low annual sales volume should be exempted from the Hong Kong labelling standards. At that time, we pointed out that we recognized the importance of nutrition information and so we hoped that the Government could accept the labelling standards of the producer countries. But the Government said that this suggestion was a contravention to the sovereignty of Hong Kong. Then the trade proposed that reference could be made to Codex standards, but the Government still refused. At the time, trans fat was not included in the information released by the Government.

Why is trans fat so crucial? This is because there are only a few main food-exporting countries which have imposed requirements on trans fat. These countries include the United States, Canada and Malaysia. Taiwan joined their ranks only this year.

As a result, Hong Kong is to launch some nutrition labelling requirements that are unique in the whole world. Foods from our main supplier China, or well-developed countries in the European Union, or countries like Australia, New Zealand and Japan which have stringent requirements on food control, are all required to be tested for obtaining information on these eight nutrients if they do not have any nutrition claims. However, even for products with nutrition claims, the following three scenarios may happen because they fail to meet our requirements on nutrition claims. First, changes may have to be made to the formulation of food in production to meet our requirements. But this leads to high costs of production. Would international food manufacturers be willing to input such a great amount of investments and efforts for a small market like

Hong Kong? Second, another label will be affixed to cover the existing claim. I do not rule out the possibility that after the law has come into force, there will be many kinds of food with labels affixed on to them. Foods with nutrition claims would in general fetch a higher price and if these claims are covered up, can the products be sold any more? So the third scenario will take place and that is, those products with a smaller sales volume would rather give up the Hong Kong market. And these foods are chiefly imported for those people with special needs in food or those who are more health-conscious. If these foods cannot be imported, then the market will be dominated by the so-called mainstream products. Would this not run counter to the original legislative intent of gradually introducing healthier types of food?

This is why this amendment has aroused the concern of people from all sectors across the community, especially those foreign nationals who have made Hong Kong their home. The result is that the Government is willing to make some adjustments at this stage. A label can be affixed to foods with nutrition claim, stating that the nutrition claim in question may not be able to meet the legal requirements in Hong Kong. Another adjustment is that with respect to trans fat, the producers may comply with relevant requirements in jurisdictions other than Hong Kong.

Both the Liberal Party and I welcome these amendments from the Government and we agree that a review of these should be conducted one year afterwards. This is the best approach to minimize the impact on the public of a piece of law passed in haste.

We understand that many Honourable colleagues have some views on these amendments. They think that this would provide a loophole for substandard foods from overseas to be imported into Hong Kong. But as I have said in the beginning, if this is the case, these countries would have done so much earlier on. Another thing is that such an exemption is only to give some lead time to food products with an annual sales volume of under 30 000 units. If their sale increases and goes beyond that amount, these foods must meet the requirements imposed by Hong Kong laws.

The most important point is that on behalf of the trade I represent, I make a pledge to the Government, the Legislative Council and the public at large that we will not refuse to provide any nutrition information. I will urge the sector to introduce food labelling on these exempted foods on a voluntary basis and at least

they should meet Codex standards. This is also the pledge I made this morning on a radio programme.

The amendment proposed by Mr Fred LI in fact amounts to restoring the Government's amendment into the original amendment, which means removing this flexibility in imports which will lead to the disappearance of a large number of foods in the Hong Kong market. Therefore, I am sorry to say that both the Liberal Party and I cannot support this amendment.

As for the amendments which I make, the first is to postpone the commencement date by one year to 2011. I propose this amendment not because the trade is deliberately procrastinating. I am aware of the fact that some Honourable colleagues are saying it over and over again that the issue of nutrition labelling was raised for discussion as early as in 2003. It is true that that it has been discussed for a long time. But the Government has never come up with any finalized plan. Had we accepted the "one plus six" requirement proposed by the Government in the first place before mid-November last year and introduced nutrition labelling, we will have to redo the whole thing, or to sell all the foods before 2010.

So before the Amendment Regulation is passed and before the Government issues formal technical guidelines, there is no way the trade can change its production formulations or notify the foreign manufacturers. More so there is no way to bring their products for testing. It is because no testing can be carried out without the consent of the manufacturer or the packager concerned. It is an estimation made by the trade that at least two and a half years' time is needed to notify the manufacturers of the 100 000 prepackaged foods on sale in the Hong Kong market of the Hong Kong standards. Even if there is no need to change the production formulations, there will be a need for testing. Besides, work on packaging design, printing and so on has to be done.

On the other hand, a retailer would in general require no less than six to nine months for the food they import to be stored in their centralized warehouses. Before new packaged foods can be put on sale in the market, the supplier will need to import the products constantly to ensure a stable supply. Otherwise, there will be short supply and even panic in the market. This is because we are talking about foods with an annual sales volume of more than 30 000 units. So the fact that the trade asks for three years is not to make it a grace period but it is actually the period of time required by operation needs.

For the second amendment, it is hoped that the Government can lower the application fee for small volume exemptions from the currently proposed \$345 for each food item to \$80 and the renewal fee from \$335 to \$50.

There are many SMEs in Hong Kong which owe their existence to importing niche products not imported by some large authorized dealers. The annual sales of some of these products may really be as small in number as 1 000 or 2 000 units. I think Members have received some information for internal use from a small company. This company imports 600 to 700 kinds of products each year and if application is required for all of these products, the application fee alone will be more than \$200,000. Just imagine how can a SME like this afford it?

On every occasion the Government uses cost recovery as the justification for determining the charges. But the fact is that government fees and charges are often higher than those charged by private organizations. As I am in the garment manufacturing business, the application fee for a certificate of origin is \$120 as charged by the chamber of commerce, but it is \$140 as charged by the Trade and Industry Department. The trade and I have got that quotation and we know that in the first year, investments in software and hardware are about \$650,000, and the annual operation expenses are \$450,000. Therefore, the registration fee can certainly be lowered. If the Secretary would like to have it, we can give this quotation to the Secretary or Secretary Mr HUI can make reference to the certificate of origin for textiles and assign one or two chambers of commerce to handle such matters.

Deputy President, Secretary, Honourable colleagues, the two amendments which I propose are sensible and well-justified. Many Members have listened to these explanations before. We do not want to see after the ordinance has come into effect, there is any food run in Hong Kong, more so we do not want to see SMEs fold as a result. Therefore, I implore Honourable colleagues to support my two amendments which will not affect the legislative intent of the nutrition labelling scheme.

I so submit. Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): Mr Vincent FANG, you have to move your motion.

MR VINCENT FANG (in Cantonese): Sorry, I move the motion under my name.

Mr Vincent FANG moved the following motion:

"RESOLVED that the Food and Drugs (Composition and Labelling) (Amendment: Requirements for Nutrition Labelling and Nutrition Claim) Regulation 2008, published in the Gazette as Legal Notice No. 69 of 2008 and laid on the table of the Legislative Council on 9 April 2008, be amended, in section 1, by repealing "1 July 2010" and substituting "1 July 2011"."

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

MR FRED LI (in Cantonese): Deputy President, originally I did not have to move this resolution because from the beginning of the deliberations on this Regulation, I had been in full support of the Government. So during the deliberations, Members from the Liberal Party poked fun at me and said that I was a pro-government Member. However, I was only doing what I thought was right.

But on 9 May, that is, during the final stages of the deliberations of the Bill, the Government made a sudden turn and abandoned the principles that it had been insisting on and said that food products would not have to comply with the "one plus seven" requirement provided that a label was affixed. And these products are all foods with nutrition claims and they all boast about their good effects. Since the Government is doing that, I am compelled to return to the ranks of the opposition again. It is really a strange turn of events for they are now the pro-government faction again. In this way, Members are still what they are after all.

The contents of my amendment may seem to be very complicated, but in fact they are not. What I have done is chiefly to copy all the related provisions of the Government once again, except the last amendment item. Procedurally, this is what I have to do, for I cannot leave this loophole there and pretend not to see it. Besides, my amendment is actually a response to the views expressed by

many parents, teachers, students, the Hong Kong Medical Council and the three nutritionist bodies in Hong Kong. They represent all members of their trade. And there are the chronically ill. There are more than 500 000 people suffering from diabetes in Hong Kong and there are also many people with kidney problems. People with high blood pressure are far greater in number. Unfortunately, the number of diabetics in Hong Kong ranks very high in the world. It is precisely these patients and their parents who would like me to reflect their concern in this amendment. All along they have been in support of the Government. When they came to the Legislative Council to voice their concern, they were in full support of the Government. It was only in the very last moment that they became as disappointed as me. And so they have made a drastic turn in their stand. This is why I propose this amendment.

In 2003, the Government began a consultation exercise on the nutrition labelling scheme. Actually, discussion on the subject started as early as in 2001 and 2002. It was only in 2003 and 2004 that the consultation paper was formally issued. As a matter of fact, the details there were revised repeatedly. At first nine nutrients were included and the scheme was to be implemented in two phases. But in the end it was changed to "one plus seven". If I remember correctly, it was cholesterol, calcium and dietary fibre that are left out and instead, trans fat is included. This is a credit owed to the efforts of "Taipan", for he has proposed the relevant motion debate. He should be given the credit. He has done a good job. We should be a step ahead of others and why do we have to do something only after the whole world has done it? Do we have to be like this? Therefore, all along we are in support of the Government in commencing such work, for the very fact that compared with other countries, we are really very backward. To date we still do not have any nutrition labelling scheme, whereas our neighbours have all adopted one. It is only that these schemes are not entirely similar, so this explains why there are numerous problems. It is also because of the lack of a consensus reached across the world that so many problems have surfaced.

Food can be a very political thing. If export countries have large quantities of a certain product, they will certainly hope that the import countries can give in and compromise. This is obvious. One example of such export countries is the United States. There are many obese people in the United States, but it has also got a lot of health foods. This is a very funny thing. American products contain trans fat, but the United States has very loose standards on trans fat to the extent that they are sloppy. So the United States is

funny in this respect. I do not know why it is like this. Please allow me to say this, when it comes to protecting the health of its citizens, the United States does not have any concrete measures like what our Government is doing on the "one plus seven" labelling scheme.

The chronically ill want to have detailed information on the foods. There was a case of a chronically ill patient who chose some foods that claimed to be low in sugar and he ended up in a hospital. It turns out that such foods are not really low-sugar. It is only that there are no laws regulating such matters and so these products are allowed to claim to be low-sugar or high-fibre. It is because of this that we have to amend the laws as soon as possible. Why do we have to drag on for a further three years? I am sorry to say that I cannot accept it.

I agree with the view that if the nutrition information is not clear enough, then we have to engage in more publicity work. The Government, the Consumer Council (CC) and we Members all have the responsibility to educate the public. But please do not forget, if we do not do it now, there is no way the public can get hold of such information. Seen from another perspective, if the nutrition labelling scheme and the related educational efforts are done well, this in fact will serve to reduce our health care burden. The health care system in Hong Kong is under great stress because of the large number of people with diabetes and kidney problem. I am in full support of the original legislative proposal from the Government and I also defend its original legislative intent. It is strange, is it not? Secretary Dr CHOW, I am really in full support of the original version which you first proposed.

Many people from the business sector — more notably there are those from the Hong Kong Suppliers Association and the Hong Kong Retail Management Association who have put in the most efforts to place advertisements in the newspapers. I have read all these advertisements. Please do not say that I do not listen to their views or read their articles. I have read all of their advertisements and I have met them. But I do not just listen, I make my own analysis. In addition, foreign consuls are also very concerned about this piece of legislation. The trade always say that 15 000 healthier foods will disappear from the market. This is a serious challenge to pose. First, the method of coming to this figure of 15 000 is based on the 65 000 kinds of prepackaged foods available in Hong Kong, of which 23% do have nutrition claims. This is how the figure of 15 000 is derived. This is tantamount to saying that all the foods with nutrition claims will disappear. Is it not an

exaggeration? Does the Liberal Party not believe in market economy? What market economy boils down to is that there will be supply whenever there is a demand. Is this not so? If American companies stop coming into Hong Kong, other companies can do so. Any company which complies with Hong Kong laws may come in. Provided that the demand is here, even though the prices may be somewhat higher — this is not surprising because even now the health foods are very expensive — there is always a market for them. We got to believe in the market. Why should we not believe in it? The situation now is like once the law is passed, this market will vanish into thin air and it is the consumers who will suffer. And even the foreigners will suffer too because they can no longer buy these things. Will the situation really be like that?

As we always heard when the anti-smoking law was being discussed, not only the Chinese restaurants would close down, even those Hong Kong-style cafes would run out of business. Once this law was passed, there would be grave effects and so it was absolutely out of the question. But we see that these Hong Kong-style cafes are still doing their business and so, is the passage of the anti-smoking law really not desirable? People were trying to scare off others at that time. They are also trying to scare people off now when they say that 15 000 kinds of health foods will disappear. For me, I will never be taken in by these tricks. I hope my Honourable colleagues will not either. We should never back off when the trade is trying to scare us. Unfortunately, the Government has backed off. But I have not backed off. I am still holding on. I am still fighting for our next generation. According to statistics, 20% of our students are unfortunately fat like me. And this figure comes dangerously close to the figures of 25% to 26% in the European Union and in other European countries and the United States. Are we going to catch up with these countries? People who suffer from diabetes, high blood pressure and other chronic diseases are becoming larger and larger in number. All this is due to the diet. Part of the reason is that the food labels are not clear enough and the citizens are misled. The information must first be rectified before we can carry out any consumer education and such education is futile if the information is not accurate.

I hope that Honourable colleagues can see the point that I do not propose this amendment on the spur of the moment. The amendment is proposed by me to reflect the views of many parents and teachers. Actually, what they support is merely that the Government should do what it should do in the first place. As there is an absence of regulation, many of these so-called low-sugar food

products are not necessarily low in sugar. This is because there are no relevant standards and laws. Everyone is doing what they like in their own way.

The trade says that there are laws in place to regulate false statements and misleading claims. We have studied this and consider that this will not work. The CC has carried out many such surveys. They find that a certain product may claim to be high-fibre, but after testing, it is found out that its dietary fibre content is not remarkably higher than world standards. However, we cannot say that it is a false statement, for we do not have any relevant laws, nor do we have any definition for high fibre. Therefore, it is wrong for the trade to say that consumers are protected under the existing laws. I am sorry to say that this is wrong. So do not try to cheat us like this. We are Members of the Legislative Council, we know very well how the laws are to be enforced and those among our Honourable colleagues who are lawyers by profession will know even better.

I wish to mention specifically the case of the United States. Its standard is "one plus 14". This may look a large number, but actually it is selective. For example, the Government proposes another amendment and it is on section 10 which deals with trans fat. The provision says that this is to be relaxed to meet the standards of other jurisdictions. I wish to say that with respect to the American standards, I do not think we can ever concur with them. This is because they are worked out according to each serving. On servings, first of all, that for salad spread can be as little as 15 g and 30 g for cookies. We know that one serving for canned soup is quite large and it is 245 g and it is 240 ml for milk. So the difference can be very great. If only the actual content of trans fat does not exceed 0.5 g per serving, then the product can be called zero trans fat. In other words, a food product can claim to be zero in trans fat if it is found to contain less than 0.5 g per serving. This is really outrageous. How should the trans fat content in different servings be worked out? The approach taken by the Hong Kong Government is correct. It uses 100 g as a basis and stipulates that only food products with a content of trans fat below 0.3 g/100 g can be called zero trans fat. What is wrong with that? The trade opposes and says that this is unacceptable because foods from the United States would fail to meet the standards. Therefore, we have to compromise and give in to the United States. The amendment proposed by the Government now is a compromise tailor-made for the United States. Does the Hong Kong Government not have its own well, I am tired of snapping at the Hong Kong Government. All in all, I am disgusted with the whole thing. Only trans fat is singled out. The United States only allows food packages to state that the

product has zero trans fat, but it does not permit the words "trans fat free" be written on it. On the contrary, we allow that. This is what the food trade is asking us to do. Is it not setting double standards when the products are the same ones from the United States? Does Hong Kong have to yield to such a humiliating extent?

In addition, the United States is the only country in the world that gives exemption to nutrition claims to a small number of products on sale. These products are not required to show any nutrition facts and they are not required to list the "one plus 14" information. The United States is the only country in the world that allows products with an annual sales volume of less than 100 000 units to be exempted from the "one plus 14" nutrition facts requirement. I would accept it grudgingly if Hong Kong is to follow this practice. But now things have gone overboard and a demand for exemption from the "one plus seven" facts is made for products with an annual sales volume of less than 30 000 and which have nutrition claims. All that is required is that the products should be affixed with a label. Members, such a requirement is not found even in the United States. It is true that the United States gives exemption to certain products, but not to such an extent as giving exemption to products with nutrition claims and with an annual sales volume of less than 100 000 units so that these products are not required to list their "one plus 14" facts. In other words, if health food products with an annual sales volume of less than 100 000 units do have nutrition claims on their package, they are required to have the "one plus 14" nutrition label. Why is this not required in Hong Kong? I hope Members can understand why Fred LI is so indignant. Although the United States Consul-General has spent great efforts in persuading us and I respect very much his attitude and hard work, why are things not done in the United States be done in Hong Kong? I hope friends from the food trade or their representatives can offer an explanation to that. Is it because the American market is huge and a lot of products can be sold there, or it is because our market is so small that nothing is done to accommodate our requirements? I hope Members can think about this.

Lastly, I hope Members can support my amendment. As my amendment will put to separate voting, I think votes in the functional constituencies group will be very tight and for the voting result in the direct election group, I am not worried about it. If my amendment is not passed, and when votes are to be cast on the Government's amendments, I hope Members can oppose them. This is because the Government has added a condition to its amendments and that is, it

will be alright if a label is affixed to the foods. If the Government loses, then it will be alright. Because we will only be coming back to the original motion and that is all. This game is as simple as that. Things will return to the legislative intent which I support. As for the last part about trans fat, I hope Members can oppose that, for if not, the definition for trans fat will be too wide and loose.

I so submit.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Deputy President, I propose two Resolutions to amend the Food and Drugs (Composition and Labelling) (Amendment: Requirements for Nutrition Labelling and Nutrition Claim) Regulation 2008 (the Amendment Regulation).

The Amendment Regulation was published in the Gazette on 3 April 2008 and tabled in the Legislative Council on 9 April 2008.

The nutrition labelling scheme seeks to assist the public in making suitable food choices by satisfying their right to information, and regulate misleading or deceptive nutrition labelling. Over the past few years, the Administration has had extensive consultation and communication with various stakeholders, including the general public, the food trade, the medical sector, Consulates General in Hong Kong and consumer groups. The views collected have, as far as practicable, been incorporated into the Regulation we submitted to the Legislative Council. In December last year, the Legislative Council Panel on Food Safety and Environmental Hygiene discussed in detail and supported our proposal on the nutrition labelling scheme.

I would like to thank the Chairman and Members of the Legislative Council Subcommittee for their efforts in scrutinizing the Amendment Regulation in the past few weeks. The Subcommittee has convened a number of meetings and provided valuable advice on the Amendment Regulation. Having regard to the views of the Subcommittee, we now propose a number of amendments as follows.

In the first Resolution, we propose to amend the new section 4B of, as well as Part 2 of Schedule 6 to the Amendment Regulation. The amendments propose to exempt all prepackaged food sold in small volume and set out clearly the requirements for separately identifying food products that are exempted

under the small volume exemption scheme. During discussion in the Subcommittee, Members were particularly concerned that the Amendment Regulation might reduce food choice for the public. The trade considered that the number of affected food products would be up to 15 000 but we note that the figure had not been substantiated with evidence. We also note that this number is some five to 10 times the number as estimated in the study conducted in 2005 by a consultant appointed by the Government. Hence, it is doubtful as to whether the number of affected products would be as high as 15 000 as suggested by the trade. Furthermore, relabelling is a one-off cost and the cost impact on the trade is believed to be limited. That said, in order to implement the nutrition labelling scheme as soon as possible, and on the basis that the important principle of the public's right to information will not be affected, the Administration agrees to allow some flexibility in the technical aspect of the scheme. We propose to exempt food products with low annual sales volume with nutrition claims as well. However, we will require that these food products be displayed for sale with a warning label informing consumers that the nutrition information and nutrition claims of these products may not comply with Hong Kong laws. With the warning label, consumers should be able to make their own decision on whether to buy these products on an informed basis. This arrangement will be reviewed in one year's time after implementation of the nutrition labelling scheme.

The Resolution also proposes to add a new subsection (1A) to the new section 1 of Part 2 of Schedule 6. The new subsection provides that in determining whether certain prepackaged food is of the same version for the purpose of small volume exemption, regard shall be paid to all relevant factors including the ingredients of the food; the volume, weight and packing size of the food; the flavour of the food; the manufacturer and packer of the food; and the container of the food.

The new Part 2 of Schedule 6 sets out the application procedures for small volume exemption. The Resolution proposes to amend sections 1 and 2 of this Part to make it clear that when a new exemption is granted for food products, the Authority may impose such conditions as he thinks fit. In respect of a renewed exemption, the Authority may impose any condition in addition to or instead of any condition previously imposed.

The new Part 1 of Schedule 6 lists out the types of food which are exempted. The Resolution proposes to amend sections 6 and 10 of this Part, so

that prepackaged fruits, vegetables, meat and fish containing other ingredients are also exempted from the nutrition labelling requirements, provided that these ingredients are packed in a separate container which has a total surface area of less than 100 cm².

In addition, we have made technical amendments to the interpretation of "nutrition claim" in section 2 of the Amendment Regulation, as well as to sections 5, 8 and 10 of the Amendment Regulation.

The second Resolution proposes to amend the new section 1 of Schedule 5 by adding a new subsection (6), which provides that for the labelling of the content of trans fat in the list of nutrients, food traders may comply with the labelling requirements of jurisdictions outside Hong Kong which require the labelling of the content of trans fat. As there is not yet a standard for trans fat under the Codex Alimentarius Commission, having considered the matter from the food choice angle, we propose to accord some flexibility in the labelling of trans fat during the first year of implementation of the nutrition labelling scheme. We will review the arrangement thereafter.

I hope Members would support these two Resolutions.

Thank you, Deputy President.

MR BERNARD CHAN: Deputy President, in my capacity as the Chairman of the Subcommittee on Food and Drugs (Composition and Labelling) (Amendment: Requirements for Nutrition Labelling and Nutrition Claim) Regulation 2008 (the Amendment Regulation), I shall highlight the main deliberations of the Subcommittee.

The object of the Amendment Regulation is to introduce a "one plus seven" nutrition labelling scheme for prepackaged food and to impose controls over certain nutrition claims made on the label of, or in any advertisement for, prepackaged food. The Amendment Regulation provides for a small volume exemption scheme under which the Director of Food and Environmental Hygiene may grant an exemption from the nutrition labelling requirements in respect of any prepackaged food without any nutrition claims if the Director is satisfied that the annual sales volume of food of the same version in Hong Kong would not exceed 30 000 units. The nutrition labelling scheme also does not

apply to infant formula, food for infants and young children and other food for special dietary uses.

Deputy President, provision of nutrition information on food labels is an important public health tool to promote a balanced diet. The Subcommittee in general supports the introduction of a mandatory nutrition labelling scheme for prepackaged food to facilitate consumers to make informed food choices. Members, however, have very diverse views on the standard to be adopted for "zero trans fat" claim, the exemption status of prepackaged food with nutrition claims under the small volume exemption scheme, and the duration of the grace period before the commencement of the scheme.

Some members have questioned the Administration's rationale of requiring the labelling of energy plus seven core nutrients, including trans fat, given that a nutrition label is only required to include energy, protein, carbohydrates and fat under the current Codex Guidelines on Nutrition Labelling. They have also queried the need to adopt a more stringent standard for "zero trans fat" claim in Hong Kong, that is, not more than 0.3 g per 100 g of solid food. These members have pointed out that as the relevant standard of the United States (US) is 0.5 g of trans fat per serving, all prepackaged food products from the US stating "zero trans fat" and those manufactured on the Mainland for export to the US will face problems when imported into the Hong Kong market, unless they are relabelled. They are particularly concerned about the difficulties of the small and medium enterprises in complying with the labelling requirements.

The Administration has explained that according to the Codex Guidelines on Nutrition Labelling, a nutrition label should include energy, protein, carbohydrates and fat, and any other nutrients which are relevant for maintaining a good nutritional status in the population concerned. Therefore, different countries could adopt different requirements having regard to their own public health needs. The Administration has further explained that the adverse health effect of trans fat has been recognized internationally, and the "one plus seven" scheme is in line with the recommendation put forward by the World Health Organization (WHO) to the Codex Committee on Food Labelling meeting in April 2007. The Administration has also taken into account the daily intake amount of 2.2 g of trans fat recommended by the WHO in setting the standard of 0.3 g per 100 g in the Amendment Regulation.

For the labelling of the content of trans fat in the list of nutrients, the Administration has agreed to amend section 1 of Schedule 5 to the Amendment Regulation to allow food traders to comply with the labelling requirements of jurisdictions outside Hong Kong which require the marking and labelling of trans fat.

Some members, however, disagree with any further relaxation of "zero trans fat" claim and the suggestion of accepting the US's standard of 0.5 g of trans fat per serving. They have pointed out that as the WHO's recommendation of a daily trans fat intake is less than 2.2 g, any further relaxation would compromise public health. Moreover, the body frame of Hong Kong people on average is different from that of the Americans.

Some members have expressed serious concern about the adverse impact on food choices and the trade if any food product with an annual sales volume of 30 000 units or below is excluded from the small volume exemption scheme once a nutrition claim is made. They have echoed the trade's concern that it would affect about 15 000 healthier food products with nutrition claims which represent more than 20% of the variety of all prepackaged food items currently available in the market. As Hong Kong is a small market, these members are worried that some exporters may simply stop supplying these products to Hong Kong.

While disputing the estimated figure put forward by the trade, the Administration has agreed to exempt food products with annual sales volume of 30 000 units or below and with nutrition claims, provided that these products are displayed for sale with a warning label.

Some other members have reservations about the small volume exemption scheme in the first place, as they are worried that it may create a loophole in the mandatory nutrition labelling scheme. These members have pointed out that the small volume exemption scheme is already a compromise to address the trade's concerns and the US is the only other country which implements a small volume exemption scheme under which food products with nutrition claims are also not exempted. They object to extending the exemption status to food products with nutrition claims.

To address members' various concerns arising from the discussion of the legal and drafting aspects of the Amendment Regulation, the Administration has also agreed to introduce amendments to improve the clarity of the relevant

provisions. The reasons for introducing these amendments have been explained by the Secretary for Food and Health earlier at this meeting. The Subcommittee raises no objection to these amendments.

The Honourable Fred LI will move a resolution later at this meeting to retain the nutrition labelling scheme originally put forward by the Administration, while the amendments to be introduced by the Administration to improve the legal and drafting aspects of the Amendment Regulation will be incorporated.

Lastly, some members feel strongly that the duration of the grace period should be extended from two to three years in order to allow sufficient time for the trade to comply with the nutrition labelling requirements. The Honourable Vincent FANG will move a resolution later at this meeting to extend the grace period to three years. Some members, however, consider that as implementation of the mandatory nutrition labelling system has been discussed for years, further extension of the grace period is not acceptable. The Honourable Vincent FANG will also move another resolution to reduce the registration fees for new application and renewal of exemption from \$345 and \$335 to \$80 and \$50 respectively.

Deputy President, these are my remarks on the deliberations of the Subcommittee.

I would now like to make some further points in my capacity as an individual Member of this Council.

We should all remember that public consultation on nutrition labelling went back to 2003. The whole idea was to help people choose a healthier diet, although the Consumer Council, the Hong Kong Medical Association, the Hong Kong Nutrition Association Limited and the Hong Kong Dietitians Association strongly supported the labelling of all foods, there were strong oppositions from the retail interests and several foreign countries' consular officials.

In my view, it is unfortunate that the Government's proposal ran up against these commercial interests. The opponents of labelling did a very clever public relations job, and they convinced some consumers to support them. Some of these campaigners believed that particular products they liked or needed would disappear from the shelves. Most of these people were westerners, who

worry that particular foods they liked with small volume sales would disappear. At the same time, there had been emotional responses from all the parent groups and parent-teacher associations. I am sure many of us here, my fellow legislators here, have today received the message accusing us of committing the seven crimes if we support the current Amendment Regulation. After five years, we really need to get moving on this, and it makes sense to make some minor concessions. It is clear that whichever way we go, somebody is not going to be happy.

Many people have asked why we need a labelling system of our own, when many imported products already come with nutritional information. As I have explained in my earlier remarks, there is no single correct system. The issue of trans fat, as I have mentioned, is a good example. In Malaysia, the label must declare the presence of trans fat if it makes up more than 0.1 g per 100 g. In Canada, it is 0.2 g. For Hong Kong, we are considering 0.3 g, in line with the WHO. In the US, it can be 0.5 g. Yet, none of these labels will actually tell you that; they will all say zero.

In the US, they measure it on a per-serving basis, not per 100 g. So, if we define a serving is a small amount, they can say that there is zero fat, when there is actually fat in it.

On top of that, I found an American product in a local health food store which would not have been allowed on the shelf in the US. The product was packaged for export. You could say it was packaged to mislead consumers. I am a businessman, of course a Member of the Legislative Council, and I am not a fan of bureaucracy or regulation, but I think we do need one consistent reliable standard of labelling.

Deputy President, this is never just an expatriates' issue. Many of us throughout the community are caring more and more about food and health. I am sure I am more health-conscious than any Member of this Council. I have had three bypass operations, I am taking five medicines daily, and I have to watch my diet carefully. I sometimes shop at the same stores which many of our western community use. I want good labelling because I care about what I eat, and I care about what my family eat. Many processed packaged products contribute to obesity, diabetes, heart problems, and other growing health problems. So, this issue is related to the whole issue of health care.

Some of these products make big profits, yet, they carry misleading claims. For example, they are high fat products which are packaged but are said to be "sugar free". People think they are healthy when actually they are bad for them. Under the revised amendment, these products, if they are sold in small volumes, will carry stickers advising consumers that they do not meet Hong Kong's labelling standard. It will be interesting to see what happens. If these stickers remain fairly uncommon, it would suggest that the warnings about the products disappearing from our shelves are scare stories. On the other hand, if these stickers are on almost every single product in Citysuper or other specialty stores, it could mean there are loopholes. After the first year of the scheme, in mid-2011, the public will be able to see if this has happened, and it may be the public's opinion wanting to open up this issue again.

Deputy President, I will vote for this Amendment Regulation, reluctantly. It is not ideal, but at least we will know that 95% of the packaged food sold in Hong Kong will have the nutrition labels when the scheme starts in two years' time. I hope the presence of these labels will encourage more people to study what they are eating, what it might be doing for them.

Still, I am concerned about those other small volume products which will not have nutrition labels. I appreciate that some residents in this international city feel comfortable with products from their own countries, and no one wants to keep those products out. But we have heard some exaggerations here, and probably some scaremongering, and that has led to concession which could create a loophole.

I would like to say one thing in particular to the expatriate consumers who have fought so hard to win exemption for low-volume products from their own countries. You obviously feel very strongly about having access to these products, and you have got what you want. The Government has listened, but I would urge you to be careful. The nutrition labels on these goods will not conform to Hong Kong's standard. In some cases, they do not conform to American or other standards either, even if the goods are manufactured there. As a result, the packaging of these products may be misleading. You think they are healthy, the packaging implies that they are healthy, but take my word as Chairman of the Subcommittee: really open your eyes to just how misleading some of these products can be.

Processed packaged foods are not the most healthy things to eat. They say they are low fat, low sugar, but they can be really bad for you (*The buzzer sounded*)

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

MR BERNARD CHAN: Thank you. By the way, I lost up to 50 pounds having stopped eating all these junk foods. Thank you. (*Laughter*)

MR WONG KWOK-HING (in Cantonese): Deputy President, the topic of nutrition labelling has been under discussion for a very long time. From the time when the Administration began public consultation in November 2003 up to the briefing given to the Legislative Council Panel in 2005, and then up to the present moment in May 2008, it is already four and a half years. The Government should have decided a long time ago on imposing such regulation which is beneficial to public health. It is already late for legislation to be enacted only now. But it is always better late than never.

Deputy President, heart disease is the number two killer that leads to most deaths besides cancer. Each year more than 5 000 people in average die of heart disease. An organization conducted a survey not long ago and found that of the more than 2 000 respondents, 17% are in high risk of a heart attack. That is to say, they have as much as 10% to 20% chance of developing coronary heart disease and have a heart attack within 10 years.

Diabetes is another disease with the number of patients rising all the time. Now there are about 700 000 people suffering from diabetes in Hong Kong, accounting for 10% of the total population. This means, one in every 10 persons in Hong Kong is a diabetic. Of these, 25% are aged below 35, the youngest ones being just 10. According to estimates made by the World Health Organization (WHO), in 2025, the number of diabetics in Hong Kong will reach 1.2 million, or 13% of the total population. By the time, Hong Kong will rank among one of the 10 places in the world with the highest incidence rate of diabetes. Apart from this ever-increasing number of patients with diabetes, there is also a grave situation in that the age of the patients is getting younger.

Deputy President, heart disease and diabetes are closely linked to the diet. People who are not wary of their diet may develop such diseases or lead to the deterioration of these health problems. Therefore, nutrition labelling of food is very important. Apart from the patients, the public is also becoming more conscious of a healthy diet. We agree that a nutrition labelling scheme should be introduced to prepackaged foods because nutrition in food is closely related to our health. And the information found in the nutrition labels can help us understand the ingredients of the food concerned and thus enable us to choose healthier and more suitable foods.

Earlier on, the Consumer Council (CC) released the second report on a survey conducted on the content of trans fat in locally available foods. The survey tested a total of 85 kinds of food available in the supermarkets, chain fast food stores, convenience stores and retail shops. The findings show that of these products, only four do not contain any trans fat while 81 products do contain trans fat. The latter kind of products include those snacks that we like to consume, such as biscuits, potato chips, instant noodles, chocolates and so on. Trans fat will increase the presence of bad cholesterol in the blood while at the same time reduce the presence of good cholesterol in it. Excessive intake of trans fat will increase the risk of developing coronary heart disease. The WHO recommends that the daily intake of trans fat should not be more than 2.2 g. The report reminds us once again that there are numerous traps of trans fat existing in our daily life. Therefore, it is of great importance that we should choose healthy foods and implementing nutrition labelling is something we cannot afford to put off.

Actually, cholesterol content and trans fat both deserve our attention. In the "one plus nine" proposal made by the Government initially in 2005, cholesterol content was included. But in the new "one plus seven" proposal, even as the Government has accepted public opinion to include trans fat content, it is unfortunate that cholesterol content is removed. This is much to be regretted. The Government should be supported when at last it has drummed up enough courage to propose this regulation scheme, but during the deliberations, as the trade had voiced its strong concern, the Government yielded to the pressure and compromised in many aspects. The result is that the Regulation has now lost its original meaning.

At first the Government proposed a small volume exemption scheme to give exemption to prepackaged foods which had an annual sales volume of not

more than 30 000 units and whose packaging did not have any nutrition claim. I had reservations for this exemption scheme from the outset because I agreed more with the views put up by the CC, the nutritionist profession and the medical profession that prepackaged foods should also come under regulation and there should not be any exemption. As the medical and nutritionist professions have pointed out, the public should not be allowed to consume many kinds of junk food. I have a vivid memory of this remark. On that day, we gathered here to listen to these views, and this was the remark that left the most lasting impression on me. We must consider the health of the citizens and do not let them consume junk food. Therefore, I agree very much with the position of the CC and that is, the consumer must be given the right to know and the right to choose. Now the amendments proposed by the Government only require that a warning label be affixed to those prepackaged foods with a low sales volume, telling the public that the nutrition label and claim of the product may not comply with the laws of Hong Kong. The effect is those small volume prepackaged foods with a nutrition claim can be exempted after such a statement is made. It is hard for people to accept this. The statement is like, "I am telling you now that I am illegal". It is absurd to the extreme that something can be sold on the market freely provided that a statement is made that the product is illegal. Right? Dr CHOW, or Secretary Dr CHOW rather, what kind of logic and what kind of sense is this? What then is the legislative intent of this?

Deputy President, let me further elaborate on the flexible approach taken on the indication of trans fat content. Now there are some differences between the standards adopted in Hong Kong and the United States. Provided that foods can meet foreign standards, they can be accepted and can be handled in a flexible manner. But the effect of this is that the public will get confused and in the end, it is the public who will suffer. It is precisely because of the different standards adopted in various countries that there is a need for Hong Kong to establish a uniform set of standards to regulate imported foods and enable the people to have clear standards to follow.

Apart from helping consumers choose healthy foods, another aim of introducing the labelling scheme is to regulate nutrition labels and claims which are misleading and deceptive. The trend in recent years is a growing consciousness for healthy diet and there are many prepackaged foods available in the market these days that have claims related to the nutrients to attract the

consumers. We should regulate such claims to ensure that the public will not be misled. Deputy President, the aim of legislating this scheme is to protect the people so that they can feel free to buy healthier foods. But now the Government is yielding to pressure and it gives in. This is like passing the buck to the public and telling them to bear the risk themselves. What then is the meaning of this Regulation?

Deputy President, with respect to the amendment proposed by Mr Vincent FANG to extend the grace period, I do not think I can lend my support to it. As I have mentioned in the beginning, this Regulation on nutrition labels has been discussed and under preparation for a long time and now it is so pressing that no delays can be allowed. Any further delay will definitely be detrimental to the public.

The Government keeps on saying that health care expenses are always on the rise and it wants to push for health care financing. But the Government should understand very well that the best approach to reduce health care expenses is to step up primary health care service, promote public health and lower the chances of their contracting diseases. Deputy President, there is a famous ancient Chinese saying that all diseases enter the body by way of the mouth. It follows that a clear-cut and unambiguous nutrition labelling scheme is very crucial and the Government cannot shirk its moral responsibility as well as its responsibility in governance to ensure that when the people are choosing food, they will not be misled into consuming junk food unknowingly. This is the responsibility incumbent on the Government. This applies especially to the large number of chronically ill patients, because their health is inextricably linked to their living and diet habits. Nutrition labels can help the public select healthier kinds of food and the chronically ill are more so in need of such information. Deputy President, the health of the public is always the most important thing and all other political considerations should never be allowed to override it. There is no reason for the Government to compromise and ignore the health of the people.

Deputy President, I am utterly dismayed at the Government because it first proposed the resolutions, but only to revise them later at its own initiative. Although Secretary Dr CHOW now is saying no to himself of yesterday, I will support the Secretary Dr CHOW of yesterday and not the Secretary Dr CHOW of today. With these remarks, I support the original position and proposals of the Government as well as the amendment proposed by Mr Fred LI.

MR LEE CHEUK-YAN (in Cantonese): Today I speak on behalf of the Hong Kong Confederation of Trade Unions in support of Mr Fred LI. Although I have not joined the relevant Subcommittee, I could bear no more the unjust things I see and I have to speak up. Mr Fred LI has said earlier that many people brand him as pro-government. Now the people are so oppressed that they rise up against the Government. Mr LI is to be pitied, for he has changed from being pro-government all of a sudden to a member of the opposition. However, we are actually "pro-people" because we think that the most important thing is to protect the health of the people.

I have a feeling that Secretary Dr York CHOW has become a trickster, for he makes a U-turn to propose an amendment to trick the people. He betrays the people by ignoring their health and denying them the right to know. Dr CHOW said when he spoke at the beginning that the aim of this piece of legislation was to protect the health of the people, give them the right to know and eliminate deceptive foods. Then why is a floodgate open to let in those products with a sales volume of less than 30 000 units and not require them to provide clear nutrition labels? Why should this floodgate be opened? Once this floodgate is open, it would mean the same as making a compromise and doing away with the aims of the entire piece of legislation and stripping the public of the right to know.

Perhaps I was not being fair in calling the Secretary a trickster, for he himself may be tricked by other people. It could be Donald TSANG who has tricked him because he was first given a free hand in this but some time later he was called to stop. So if he has got any grievances, he may as well pour them out later, for he may have silently taken all the blame. Mr Frederick FUNG has just said to me that he wanted to come in to hear how Secretary Dr CHOW makes his U-turn. But he failed to make head nor tail of how he made that U-turn. He really wanted to hear what kind of ways or rationale he would use to justify his move.

To be frank, I think Secretary Dr CHOW does have some grievances but he cannot air them and this may be the reason why it seems that he has not said anything earlier on. He only said that the views of the trade have been heard. That is all. Then what does the Government think of those views? Why does it have to make such a U-turn? Why is it that at first the Government sounds so bold and assertive, but now it is backing off? He fails to give a convincing explanation to all these. Although I call him a trickster today, actually he has

my sympathies. I believe he has been tricked by other people. He tricks other people but he is tricked by others. I think this is something the Government should reflect upon. Why does the Government say it is people-centred but now it has changed to be business-centred? Why is it that the legislation used to make health a first priority but now it has made money a first priority and health is given the lowest priority? I think this is something we should all ponder over.

I think that the Secretary does not want to see this storm over a U-turn happen. This is because what is done on this occasion is vastly different from his style. Members would notice that in the past, Secretary Dr CHOW also pointed out that prevention was important, so was primary health care, like when he talked about health care financing. So prevention had to be done properly and it was when primary health care was sound that the burden on the health care system could be eased.

As for nutrition labelling, the kind of prevention that it gives is also vital, for it can enable the consumers, especially the chronically ill to know what can be eaten and what cannot be eaten after they have read the labels. Such labels must be true and accurate and they must never be deceptive. This is a crucial way to safeguard health. It makes the chronically ill and the consumers know what they are eating and avoid being misled by false claims which may put their life at risk. Therefore, I regret very much that in the end the Government opens the floodgate to products with a sales volume of less than 30 000 units.

Health foods sold on the market are already high-priced. I remain unconvinced that after the enactment of the labelling law, they will disappear from the Hong Kong market altogether. This is because these products are sold at a relatively higher price and now what is to be done is just a further step ahead. I think this is better than the situation now in any case. What is so ridiculous now is that the food labelling scheme which the Government seeks to set up may not comply with the laws of Hong Kong.

Then I might as well ask the Citizens' Radio to stick a label to declare that it may not comply with the Hong Kong laws or in the case of speeding, one can stick a label saying that what he is doing may not comply with the laws of Hong Kong. Will sticking a label like this give full exemption? If that is the case, then does it mean that anything can be exempted? The Government has made the legislation a laughing stock. Therefore, I think the Secretary is being very unwise in doing so.

Lastly, Deputy President, we can see from this incident how formidable the power of the functional constituencies is. On this issue, we can see that all Members from the functional constituencies oppose the scheme on behalf of the trade and this compels the Government to make this U-turn. And under this distorted system of separate voting, although there is bound to be more people in support of Mr Fred LI, his amendment still does not stand any chance of getting passed. From this it can be seen that the functional constituencies are so formidable and domineering. This applies especially to those functional constituencies from the business sector.

I have told many Honourable colleagues a while ago that there is a word which makes the entire world, especially the political circle of the United States, frown upon. This is the word lobbyists. The lobbyists give much money to the government, in the hope that it can obtain some advantages for the trade. However, in Hong Kong these lobbying groups are institutionalized and they become part of the establishment. I think this is a mockery. A political assembly should be representing the people and it should never be infiltrated and subverted by groups and individuals with vested interest. In my opinion, this is a tragic thing about the political assembly of Hong Kong.

Deputy President, finally, I wish to say that I support the amendment proposed by Mr Fred LI. Thank you, Deputy President.

MR WONG YUNG-KAN (in Cantonese): Deputy President, on legislating to implement the nutrition labelling scheme for prepackaged food, it began as early as in 2003 when the Government first proposed a two-phase scheme to label the "one plus nine" nutrients. Then the scheme was revised to the present "one plus seven" nutrients proposal with a one-off transition period of two years to complete the setting up of the scheme. A lot of discussions were made during these five years past. The Government has really taken in the views from various sectors across the community, not just the related trade but also the medical profession and the concern groups. So the whole consultation process has undergone several ups and downs and I have taken part in all of them. I would like to make use of the opportunity today to put forward my views on the issue.

As with other food labels, the greatest function of nutrition labels is to let the public obtain the information to choose the kind of food most suited to their personal needs. I do not think anyone will dispute this. The Democratic

Alliance for the Betterment and Progress of Hong Kong (DAB) believes that the provision of nutrition labels can generate a greater concern in the public for a healthy diet. Therefore, in the discussions over the past several years, the DAB has all along supported the early introduction of nutrition labels in Hong Kong.

However, another fact is that although 90% of the food imported into Hong Kong come from overseas, Hong Kong is only a city with a population of 7 million and compared with the volume of food imports on the Mainland, in Europe and North America, Hong Kong is, as we know, only a very small market. Labelling requirements can be a very trying test for the food importers. From the point of view of the businessmen, especially for those who import foods by a small volume, they may really abandon the Hong Kong market because of cost considerations. So at this moment when discussions on the nutrition labelling scheme have reached a final stage, we need to balance and compromise between the right to know of the citizens, the impact on the operation of the trade and the food choice of the citizens.

Deputy President, we are now discussing foods imported in small volumes and are given exemption because of that reason, not those famous brands or foods imported in large quantities like soft drinks and potato chips. And these small volume foods are those which have an annual import volume of less than 30 000 units. These foods are well-received among foreign nationals residing in Hong Kong and they may be niche foods that cater for some ethnic minorities or religious people. These foods may not be imported by big companies and business may be run by some small and medium enterprises (SMEs).

The DAB held several rounds of discussion on the question of giving full exemption to foods imported in small volume. There were divergent views expressed. Of course, we insist that the people should have the right to know, but we are worried about the impact of the Amendment Regulation on the trade, especially the SMEs which will find running a business difficult. Many importers and businessmen trading foreign foods have talked to us about the practical difficulties they face. There are also foreign nationals living in Hong Kong who are concerned about the possibility that foods that they can buy in Hong Kong will not be able to be imported into the territory because of the labelling problem. So with respect to this issue, we have divergent views and Mr WONG Ting-kiung is particularly worried about the impact on the trade if mainland foods cannot be imported into Hong Kong. Thus we have studied and explored into the issue.

The new revised proposal put up by the Government now is to regulate small volume imported foods with nutrition claim. Such foods must be affixed with a warning label. To a certain extent, this warning label is like the warning on the cigarette packs we have now. In practice, I would think that this is a rather negative label. I do not know how the importers would think of this. They may find it acceptable. But I think that this would not be of too much help in sales, because Hong Kong people will see clearly that the products may not be of any good to them. When these 30 000 units of food have a warning label attached to them, I think Hong Kong people will know how to make a choice. I believe if there are other forms of packaging that can comply with the law, the importers would not choose to affix such a negative label to the packaging. I also believe that once the law has come into force, if there are enough publicity and education on the nature of this label, the consumers can certainly make a choice that suits their interest.

(THE PRESIDENT resumed the Chair)

Some people may think that the government amendments are a compromise. But we do not think that importing these small volume foods will enable the trade to reap any actual benefits. However, since the trade has already accepted this amendment, there is no need for us to carry on any disputes over the issue. What we should do is to consider this amendment from a practical perspective. Also, considering the fact that the authorities have made a pledge to the DAB that the relevant arrangement will be reviewed in two years, I would like to say here that we hope that the Government can play an active role together with the trade in overseeing the implementation of this warning label system so that problems can be identified when a review is made. If problems are found, the Government should try to tackle them as soon as possible.

I am aware that in the international community, and as Members also noticed during our recent visit to Europe, the European Union is prepared to conduct a review of the nutrition labelling system. We hope that the Codex Alimentarius Commission can draw up a formal system and when a new labelling system is introduced in the European Union, the Hong Kong Government should bring up the matter to the Subcommittee for discussion. Then we can review the situation and see how things can be done better in order

that this nutrition labelling scheme can really benefit the trade, the community, the citizens and the Government. Hence a solution can be found to the present problems. It remains of course that when Members hold divergent views now, it should not be considered as something strange. I would think that something done is always better than nothing done. So the DAB supports this amendment and also the amendments proposed by the Government, but for the two amendments proposed by colleagues and Mr Fred LI respectively, the DAB is against them.

DR JOSEPH LEE (in Cantonese): Madam President, I remember in 2004 when I was returned to this Council for the first time, right at the very beginning, in fact, my first speech in a motion debate was on nutrition labelling. I remember at that time we were saying that the sector requested that 14 items be included. This was the demand that we made. Of course, a lot of responses and reverberations ensued. Then the matter dragged on and another proposal came up and it was suggested that "one plus nine" should be adopted. After that, it was pointed out that "one plus six" would be better by comparison. Afterwards, many voices were heard and numerous suggestions were made. At last, after much exasperated and prolonged waiting, the "one plus seven" proposal was put up. If I remember correctly, this is a proposal that the Government made at the end of last year or round about the beginning of this year which suggested that trans fat should be added. Mr Fred LI has also said that thanks must go to Mr Albert CHENG for proposing to include trans fat. So in the end it is not just "one plus six" but "one plus seven". I recall vividly that the Government said that it was a very good proposal, for it was able to incorporate all the merits of the various proposals and it would be very good for Hong Kong. Hong Kong is a territory and this proposal is a balanced one. Before the scheme is devised, the proposal has taken into account the health needs of the Hong Kong people and other relevant commercial needs. Moreover, it has made reference to the standards of the World Health Organization, the Codex Alimentarius Commission and the experience of other countries.

No doubt we consider this proposal a good one. People from my sector once said to me, "Joe, you should be in favour of the 14 items". I said no because this proposal was a very good one and it was able to meet the basic needs of both the businessmen and the public. The most important thing is that there are a number of fundamental elements in food or nutrition labelling. First, we

are talking about informed choice, which means that when I am to buy a product, I am able to know when I see it what I am buying and what I am eating. This is informed choice. Of course, we are talking about food and that means we know what kind of food we have bought to eat.

To quote an expression used by Mr WONG Kwok-hing — he is not here now, but it does not matter — we should know what we have eaten. That is to say, we should know whether we have eaten junk food or good food. This is one of the advantages of nutrition labelling which I have just talked about. This is informed choice. Of course, we also think that the "one plus seven" idea is also very good and the same effect can be expected.

The second advantage of nutrition labelling is that it has education purposes. We can see from the labels which things are important to our health, or which things are what we need, or which things are good for us. These are the education purposes I am talking about. Because of this reason, I think the proposal made by the Government was very good. I recall at the initial stages, the Government or the media once said to me, "Joseph LEE, you have made a U-turn and changed your position. Now you are in support of a certain political party." I replied that I was not and I also explained what the proposal was like. My basic position is that, as a representative of the health services sector, this proposal from the Government is good to our sector as well as to the health of the public. There is no reason I should not support it. There is no reason I should change my position. I have never changed my position, not under any circumstances. Finally, the proposal was submitted to the committee for deliberation. I would talk about that aspect later.

Going back to the topic of food labels and nutrition labels, we have mentioned a number of their advantages. Why do we give our support to these? The most important thing is that why do people like nutritionists and nurses who work in the health services sector want to support these? The reason for this is precisely the meaning of the Chinese word "壯" which is found in the breast pocket pin of the Secretary which means "strength" or "health". This is a very important link in primary health care. Why? The things we eat and our health and eating habit and so on are closely associated with our primary health. As nurses we know perfectly well that what people eat means what their bodies will take in. Of course, there are people who do not take in the nutrients so easily. The good things we take in are good to our body, but if we take in the bad things, the effect is harmful. This is something we know for sure.

Since we can see that the "one plus seven" proposal is so good, if the people are able to know what they are buying and what they are eating and what choices are open to them, these will fit perfectly the health care reform that the Secretary is pushing. When it comes to health care reform, many people would talk about the question of money. But besides money matters, we should also look at the other side and that is primary health care and nursing. This is a pivotal point which ties in well with the proposal which the Government or the Secretary is putting up. The basic philosophy of health care reform is that everyone should work from the basics. If the diet of the people at the level of primary health can be improved, they will become healthy. If this is added to the concept of family medicine which the Secretary is proposing, there will be improvements in primary health as a whole. When things improve, as people visit the doctor or are hospitalized, the demand for secondary and tertiary services will be reduced. This is an excellent idea. We will give it our full support and we have never changed our position on that. All along we throw weight behind such a good proposal.

It was almost right at that time that I heard unexpectedly in a meeting that there seemed to be some changes. Changes are natural and I fully understand the views expressed by Mr Vincent FANG. I fully understand and I do respect these ideas expressed from a business perspective. This is like, for example, increasing the grace period from two years to three years, reducing the fees and charges, changes are to be made to the labels at the beginning, and so on. I fully understand and I respect these opinions from the angle of commercial or business operation. However, what I think so strange is that, the Government said all of a sudden that exemption could be granted to small volume imported foods, that is, those with a sales volume of less than 30 000 units. These foods can be granted an exemption even if they have a nutrition claim. All that is required is to stick a warning label on the product. I am very surprised to learn about this. If this is really the case, I think it would be in conflict with the principles on which the scheme is based. What are these principles? These are the original intention of the labelling system that I mentioned earlier. Forgive me for being long-winded in repeating these. There are two major benefits of the labelling system as it was first intended. The first is informed choice and the second is education function. If products are affixed with labels, claiming that a certain ingredient is high, low or medium in concentration or present in large or small amount, and so on and so forth, what the manufacturers can do is to exploit this loophole and they do not have to specify anything in a positive sense. How then can the spirit of nutrition labelling be upheld? It is

because of this point that I am surprised to find the Government acting on its own and making a sudden U-turn. The entire nutrition labelling scheme and its spirit are overturned and torn into pieces. I am not referring to technical issues, and it does not matter if more labels or fewer labels are to be affixed. It is precisely this point that surprised me. If the product does not have any claim stuck on it and it belongs to the small volume category, we do not have to go into detail to discuss the scenario because we know that exemption can be given. But if a product carries a nutrition claim, such as salt-free, just how much salt does it really contain? Is it totally salt-free? We have no idea. But I can tell Members that this product may not comply with the law. Then how can the first objective of a nutrition labelling scheme, that is, consumers making an informed choice, be achieved?

The Secretary has said earlier that if a warning label is affixed to a certain product, then we will have an informed choice. That is correct. But only in a tricky way. Why? It is true that the product tells us that certain things are included in it, but when we want to know what exactly are included, we cannot know. We have to find out ourselves. If there are no labels, we will have to make a telephone call, send a fax or email and ask the manufacturer. But I do not think any of us will do it. That pack of potato chips may be priced \$30. It is expensive, is it not? I talked with Fred outside a while ago on the question of healthy potato chips — this runs counter to the spirit of nutrition labels. Another thing, how can any educational effect be achieved? I fail to see any at all. When we see the words on the warning label, saying that there are problems with the product, but so what? I do not know. An ordinary member of the public will not pick up the phone and call Joe or a nutritionist to make an inquiry. This will never happen. It is a contravention of the spirit of nutrition labelling. It strikes me as very odd. Why is the Government doing that? I am sure even the Secretary cannot answer my question. I am not trying to pursue and probe into the question. I am just trying to make it clear. All along I have been very supportive of the "seven plus one" proposal put up by the Government. It is because the proposal can achieve the two basic requirements of nutrition labelling that I have just said. As the representative of the health services sector, I think this is something we can lend our support to.

The changes made by the Government this time around leave me with despair and also surprise. I do not know how I am going to explain the whole thing to my sector. I remember when I held a meeting with the nutritionists, and they asked me about this. I said that I did not know and I suggested that

they should go and see the Secretary and ask him about that. Having said this, perhaps the Secretary does not know about this himself. In these circumstances, it is impossible for me to support this drastic change made by the Government. It strikes me as odd enough. The Government is saying, "Never mind, the label has warned us that what we are eating is junk food." Of course, we can decide whether to buy the product or not. I can decide not to buy it. But if I buy it but I do not know what kind of junk I am eating, then what can be done? I will not say that this is a question of supply and demand, that is to say, since Hong Kong is a free market, there is bound to be the problem of supply. This argument is too far-fetched. I will just talk from the point of view of health. I fail to see how I can support such a practice. This is a weird practice indeed.

Being the representative of the health services function constituency, I really hope that the functional constituencies can have bigger muscles to flex, as Mr LEE Cheuk-yan has just put it. It would be great if this is the case, for our proposals should be able to get passed. It is unfortunate that the proposals made by my sector will not get passed. So in this matter and as the representative of a sector, I come to know that there is not much functional constituencies can do.

Lastly, for the main reasons that I have mentioned — other minor details being left aside — I am deeply disappointed with the Government for making a shift in its position. From the point of view of health, I cannot see any justification at all for my supporting this drastic change made by the Government in its position. Therefore, I am in complete support of the amendment made by Mr Fred LI on the revised proposal from the Government because Mr LI's amendment can serve to make the proposal well-suited to the needs of Hong Kong people and which can meet our requirement in informed choice and in education, hence upholding the basic spirit of nutrition labelling.

Madam President, I so submit.

MISS TAM HEUNG-MAN (in Cantonese): Madam President, Hong Kong people attach paramount importance to food and I believe there is no one who does not like eating. However, more and more people have become sophisticated in what they eat; they want to eat well and they also want to eat healthy.

I have become more watchful of my weight lately and so I would eat light. I have become more conscious of foods that are low in sugar and fat and high in calcium. But will one really get fitter by eating these?

The Consumer Council also says that many of these so-called high-calcium, low-fat, low-sugar or even sugarless foods are not really what they claim to be. An example is that a green tea drink which claims to be low in sugar is in fact having the almost same sugar content as the regular green tea drink. If someone thinks that low-sugar green tea drinks are really low in sugar and so he drinks a lot of them, he would take in a lot of sugar. The person cannot become healthier and worse still, in serious cases, his health may be affected. In view of the fact that the packaging of many foods is misleading, it is imperative to have a sound nutrition labelling scheme in place for consumers.

Madam President, I am glad to see that finally the Government has decided to implement a food nutrition labelling scheme. I also hope that this can be done soon. However, right before the scheme is to commence, the Government is making an amendment which is retrogression. This is so disappointing.

Originally, the Government has said that for those foods which claim to be low-sugar and low-fat, if the volume of their import is small, that is, with an annual volume of less than 30 000 units, it would be alright if a nutrition label is printed on the package. But now the Government has gone to such an extent that food labels are not required and producers can make whatever claims they like about the food provided that special labels are put on them to state that these items are exempted from nutrition labelling and they may not comply with the legal requirements of Hong Kong.

An analogy is that someone may continue to claim that he is a university graduate, but he cannot produce any certificate for your inspection. He may even state that he may not meet the requirements of an interview. If that is the case, would the boss accept it? This is exactly what the Government is willing to accept. If the Government can do this, would the situation be like when I push a cart and hawk on the street and provided that I have a sign which says "this is an unlicensed hawker who may not comply with the legal requirements of Hong Kong", then I will not be prosecuted by people from the Food and

Environmental Hygiene Department? If this is what the Government is willing to tolerate, then I do not think many people will need to run when enforcement actions on unlicensed hawkers are carried out, right?

When the Government is proposing this amendment, is it a sign that it is yielding to the business sector? Is the Government really scared of what the business people are saying, that after the commencement of the new law, as many as 40% of prepackaged foods in Hong Kong will no longer be sold here? Even if this is really the case and even if consumers are left with fewer choices, I would think that it is worth it. It is because at least we have eradicated the problem of deceptive sales practices of selling goods not measuring up to their claims and goods with false claims.

Madam President, I am really happy to see that the Government has accepted the views expressed by the Civic Party and the community to include trans fat into the scope of the labelling scheme. However, I really do not understand why Mr Vincent FANG would for no reason suggest that the restrictions on trans fat should be relaxed. We should know that there are many medical studies that have proven the numerous adverse effects of trans fat to the human body. To keep myself healthy, I have stayed away from trans fat in my breakfast for a very long time already.

To be honest, if a food product states that it contains no trans fat, the food concerned should really have no trans fat in it. Now the Government allows foods with a low trans fat content to claim that they contain no trans fat, this is already lenient enough. Then why do we still have to further relax this restriction? If consumers see that the food labels say that no trans fat is contained, they will not hesitate to consume the food. Then does it not mean that they are taking in large quantities of trans fat without knowing it? When they develop health problems, who is to be held accountable?

Madam President, I think that the nutrition labelling scheme which the Government has formulated initially is good enough and even if the Government rejects the proposal made by Mr Fred LI to further tighten the restrictions, it should never take any retrogressive step.

I so submit. Thank you, Madam President.

MR ALAN LEONG (in Cantonese): President, disease finds its way from the mouth. Many research studies show that obesity has become more and more serious among children in Hong Kong, and there is also the trend that people with coronary heart disease or high cholesterol level or trans fat-induced diseases are getting younger and younger. Therefore, the Civic Party has all along supported that a food nutrition labelling scheme be introduced expeditiously to tell Hong Kong people what they are eating, so that they do not have to wait only until they are old to make remedies, which would be too late.

President, the Government actually did not include trans fat in the legislation under its original proposal, but the Civic Party had consistently and vigorously campaigned for the inclusion of trans fat into the legislation. We certainly welcome the Government taking on board constructive advice this time around. Having said that, the standard that we proposed is actually harsher than that set by the Government, as we proposed a standard of 0.2 g per 100 g but the Government is only willing to accept 0.3 g. So, we can only persist with our fight.

President, I have participated in the entire scrutiny of the Regulation which was conducted by way of negative vetting, and this experience is indeed an eye-opener to me. I first thought that the Government was doing a great job, that it had firmly stood by its principle and that it had really worked for the benefit of public health, unlike what happened when the anti-smoking legislation was enacted as the Government eventually had to rely on Members in order to strike out those misleading references such as "mild" or "extra mild". I thought that the Government's position on this Regulation was different from that last occasion, as it had shown to be very determined at the outset. President, I still recall that it was just before the Buddha's Birthday holiday, and the officials who attended the meeting of the Subcommittee said in express terms that insofar as products with a low sales volume were concerned, under no circumstances could exemption be granted to these products if they would carry claims, for this was the Government's bottom line in legislation, and that the Government absolutely could not give in. They said that any concession made in this respect would shatter the entire legislative intent and hence prevent the legislation from serving its purpose.

At that time the Government was saying this very clearly and unequivocally. Who would have expected that while these words were still ringing in our ears, the Government would say at the first meeting after the

Buddha's Birthday holiday that having considered and consulted the views of various parties, the Government would permit the sales of small volume products even though they would carry claims, provided that they would be willing to display a warning label. I really think that the Government was like a schizophrenic. How could it make a 180-degree change only after a few days of holiday?

The original logic was well-founded and unyielding. This is true. For example, if a manufacturer of prepackaged food will produce 500 000 packs of potato chips and the potato chips apparently cannot meet the proposed "one plus seven" standard, but if the amendment proposed by the Government is passed today, the manufacturer can produce these 500 000 packs of potato chips in 20 different flavours, such as tomato, garlic, sea salt, pepper, and so on. He can produce 25 000 packs for each flavour and President, these can add up to a total of 500 000 packs. The manufacturer only has to display on the packaging a warning label as proposed in the amendment submitted by the Government for our approval today and these 500 000 packs of potato chips can be put on the shelf for sale, and there will not be any problem even if the manufacturer puts on the packaging such claims as trans fat free, low sugar, low sodium or low fat, because this is simply not under any regulation.

We Members have been very much stressed, because over the past couple of weeks we have been bogged down in many very tiring tasks. In addition to attending meetings with the public, there were also numerous emails and correspondence to deal with. But government assistance has been inadequate. For example, some food importers told us that a grace period of two years is definitely not going to work, not only because of a shortage of laboratories, but also because the test standards for many products imported from overseas are different from those of the Hong Kong Government. We, being Members, must strike a balance in various aspects, in order to ensure that the legislation made by us now would not give cause to any criticism in future, because if that happens, we will be blamed ultimately for not being cautious in enacting the legislation.

For this reason, we asked the Government whether it is true that 15 000 products would disappear from the market shelf and whether there are adequate laboratories and whether there are really great discrepancies in the test standards. However, the Government can never give us a clear, straightforward answer to reassure us that 15 000 food products disappearing from the market would never take place and at most, the number of such products would be 5 000 only. The

Government just would not give us this answer and up to this moment, we have not yet been given such an answer. The Government always said that the number would not be as high as 15 000. Then how many will disappear? The Government said that it had no idea.

We Members are indeed put in a dilemma, President. If we are forced to cast a vote today, we will certainly go for a safer option, or to choose the lesser of the two evils. What are the two evils in my mind? The first is that 15 000 food products will really disappear. Of course, this would happen only in two years the earliest and they would not disappear immediately. The other is the loophole that I talked about earlier on, and this loophole can be so big that so long as there are people intending to take advantage of it, Hong Kong people would become totally unprotected in respect of the prepackaged food consumed by them. To choose the lesser of the two evils, certainly we would prefer taking the risk of seeing 15 000 products disappear from the market. Members should really not be blamed, because all that we wish is to be safe and prudent.

But President, let us further think about this carefully: Will there really be 15 000 products disappearing from the market? Despite a small population in Hong Kong, we still outnumber that in New Zealand, and the number of consumers in many other markets may not be much higher than that in Hong Kong. Under the present proposal, a two-year grace period will be provided which, I think, is long enough for importers and manufacturers to make preparations accordingly. Besides, President, a more important and basic point is that we are not banning the import of prepackaged food with a small sales volume into Hong Kong. We only do not allow them to make unsubstantiated claims. If they do not carry any claims, they can come to Hong Kong even with a sales volume of below 30 000.

Why are these claims so important? This is similar to the controversy over cigarette packets. When people see the words "extra mild", they would think that the cigarettes are really milder, not knowing that this is far from true. These claims are obviously a means to attract consumers to buy the product. A person who sees "trans fat free" on a pack of potato chips but does not see such a claim on another pack will certainly buy the one with the "trans fat free" claim. I think our objective in making legislation is to eliminate these practices to entice business, which are grossly unsubstantiated. I mentioned earlier the change in the Government's position just before and after the Buddha's Birthday holiday and this indeed strikes me as very strange. Added to this is that the

Government's argument is flimsy. We consider that this is indeed very awkward and an "about-turn" made quite disgracefully.

President, I understand that many colleagues would suggest that a one-year review be conducted, holding that a revival of the Government's original proposal might be necessary after the review. While they did not actually say so, this may be what they mean according to what they said. But President, up to this moment, we have not yet heard any undertaking concerning this one-year review from the authorities or the Secretary. We are now talking about 2011. What evidence will the Government collect during this year? What information and statistics will be collected? What conclusion may be reached? What conclusion will be made? We have no idea at all. Under such circumstances, I think it is hardly convincing to use this one-year review as a shield to defend this grossly unreasonable "about-turn" made by the Government.

President, I would also like to say that after reading today's newspaper, I have some very deep feelings. A columnist said that this nutrition labelling law in Hong Kong may really be the first in the world. But in spite of all the difficulties, we should still march onward for a meaningful cause. He is right. This is like the case of the Octopus card. It was invented and developed by Hong Kong and now, all parts of the world are swarming to follow us. Some people may say that those food products are imported from the United States and the United States has adopted their practices for a long time with great success. However, I share the view of Mr Fred LI who said earlier that the United States is a strange place as statistics show that half of its population have the problem of obesity and many people suffer from chronic diseases. Do we really wish to copy everything from the United States? Certainly not. Therefore, I think it is entirely reasonable for Hong Kong to be oriented towards Hong Kong people and take into account the needs of Hong Kong people in setting our food nutrition objectives and standards. This, I think, is also worthy of support. So, I think we must not be overworried, because if this is a good thing, let the other parts of the world gradually learn from us.

President, last week, I attended a seminar organized by the Committee on Home-School Co-operation where many parents expressed grave concern about how they can make informed choices of healthy food for their children to ensure that they have no regret when they have grown up or when they are old. I said at the seminar that if they really wish to make their voices heard, they might have to organize community campaigns. Later, this group of parents really organized a "5+2+2" campaign and sent letters to all Members of the

Legislative Council. To put it simply, they asked us to support the original proposal of the Government and oppose the Government's unreasonable "about-turn". I understand that many Members have signed the letter, and I have been asked to remind Members to truly honour the undertaking signed by them in casting their vote.

Thank you, President.

MR TOMMY CHEUNG (in Cantonese): Madam President, I wish to declare once again that the Liberal Party and I support the Regulation on nutrition labelling for prepackaged food, in case Members may have forgotten this. The Liberal Party hopes that while the public can enjoy the right to know, they can also have the right to healthy choices.

As I have always said, the devil is in the details. Regrettably, the Food and Health Bureau, as what they did in the past after knowing that they had secured enough votes, tabled the nutrition labelling regulation to the Legislative Council even though the "devil" or the details were not properly addressed, making the Subcommittee set up to study the Regulation complete its scrutiny work speedily in 49 days. Even though the Government had proposed new amendments, it was impossible to invite the public to attend a public hearing again to consult their views due to the constraint of the statutory timeframe for scrutiny.

Indeed, the entire process of how the authorities had handled this Regulation is very disappointing. The authorities misleadingly said that a mandatory nutrition labelling scheme is a world trend but they did not make it clear that there has been no uniform and internationally accepted standard on nutrition labelling.

Hong Kong, being a cosmopolitan, is not the major producer of our food, and about 60% of prepackaged food is imported from overseas. Such being the case, if a nutrition labelling scheme is to be put in place in Hong Kong, it is necessary to consider how we can facilitate the import of food from places all around the world. Like Hong Kong, Singapore is also a cosmopolitan with similar developments, and they have made reference to the "one plus three" core nutrients scheme recommended by an international organization, namely, the Codex Alimentarius Commission, while we can make reference to the "one plus four" scheme in the Mainland which is a major source of food consumed in Hong

Kong. However, Hong Kong has stringently adopted the "one plus seven" core nutrients labelling scheme.

We must not forget that Hong Kong is just a small market for food, and many products exported by overseas only come to Hong Kong in a small quantity as they pass by the territory. If repackaging is required to specifically cater for the unique nutrition labelling scheme in Hong Kong, the cost will be increased substantially. The trade has cautioned that 15 000 food products are estimated to withdraw from the Hong Kong market because of the consideration of cost-effectiveness.

However, the Government has all along refuted this figure, stressing that the number of products expected to disappear from the Hong Kong market should only be 3 000 according to the Regulatory Impact Assessment (RIA) commissioned by the Government in 2005. But the authorities must not forget that when the RIA was conducted, the authorities had not yet proposed the inclusion of trans fat for regulation and the listing of nutrients was not as stringent as that being proposed now.

In fact, the authorities have more than once attempted to conceal the adverse effects caused by labelling regulations. For instance, in the regulation on the labelling of allergens in food which came into effect last year, the authorities had consistently refused to accede to our request for information on how many kinds of food products had withdrawn from Hong Kong since the enactment of that regulation.

I have talked to the Chairman of Supervalu, a United States importer, Charles WITZLEBEN, who personally came to the Legislative Council to express his views. He gave me some supplementary documents afterwards. He said that two years ago in May 2006, his company was the distributor of 4 802 food products in Hong Kong. In May 2007, that is, two months before the regulation on the labelling of allergens came into force, the number of food products was reduced to 3 630, a drop of 24% or 1 200 products less. In May 2008, the number of food products distributed by his company in Hong Kong further decreased to 2 647, representing a reduction of 27% than in the past. Let us do some calculation here: The number has dropped from 4 800 to 2 647, which means that a company has lost 2 200 products in its distribution business as a result of the labelling of allergens.

So, with regard to Mr Fred LI's queries about the accuracy of this number or whether the number is overestimated or miscalculated, I think while 15 000 does not seem to be a small number, it is not too large a number, considering that there are about 600 to 800 food suppliers, including small and medium enterprises (SMEs), in the territory. It is already most conservative to estimate that 15 000 food products would disappear from the market, not to mention an estimate of 3 000 products.

Madam President, let me further talk about the grace period. Mr Vincent FANG made a proposal concerning the grace period. In fact, the Administration normally states just part of the truth but not the whole truth. They always said that a two-year grace period is given to the trade after making reference to recommendations of the RIA, but the report actually recommended to implement the nutrition labelling legislation in a gradual and orderly manner by first providing a two-year grace period before commencing phase I of the scheme with the "one plus five" labelling requirement. But given Hong Kong's unique condition that food is mainly imported from overseas, it was recommended that one year after the implementation of phase I, that is, three years after the enactment of legislation, a review be conducted, having regard to the development in nutrition labelling regulation in overseas countries, to ascertain whether mandatory regulation by way of "one plus nine" under phase II of the scheme should be implemented two years later as scheduled. In other words, from the enactment of legislation to phase II of the scheme, the trade can have a transitional period of at least five years. The purpose is to minimize the adverse impact of the Regulation on the trade, especially the SMEs.

Since the authorities consider the RIA worthy of reference, why do they not follow its recommendations to implement the scheme in a gradual and orderly manner and take timely and appropriate measures in the light of the actual circumstances?

Some Members consider that as this nutrition labelling legislation has been discussed for five years since 2003, the trade should have adequate time to make preparation and so, it is unnecessary to follow the recommendations of the RIA that I mentioned just now, and it is also unnecessary to support a three-year grace period as proposed in Mr Vincent FANG's amendment. But Members must bear in mind that during this period of five years, the Government has time and again wavered in its position, changing the goal or target so often that not even colleagues in government departments knew the changes made. It was "one

plus nine" in the beginning; then it proposed to implement the scheme in two phases with "one plus five" and "one plus nine"; then there was "one plus six" at the end of last year. In September last year, hints were given out again as "one plus six" was brought up at a lunch with members of the media. It was said to be "one plus six" when the secretary discussed this with Fred LI, and two months later in November or December, it was changed to "one plus seven".

The Administration had held nine rounds of technical meetings with the trade and on each of these occasions new proposals and issues were brought up. For example, in the last meeting or the ninth round of meeting, over 50 representatives of the trade heard the representative of the Government say that even for small volume products without claims which are covered by the exemption, they would be required to comply with the definitions of nutrients under the "one plus seven" labelling scheme in Hong Kong. Finally, some members of the trade who were furious after the meeting telephoned me on that very night. I then made enquiries with the Government the next day, but the Government replied that they had not said such things at the meeting.

If even the authorities' explanation on the legislation is so confusing, how can the trade make preparations for it? In fact, a three-year grace period is necessary not only for making preparations. There is also another reason and that is, a large number of the products currently available for sale in the market would have to be taken away from the shelf if they cannot be sold in two years and the cost to be incurred would be enormous. This is why the trade considers that a three-year grace period should be provided. This is actually a practice adopted internationally in respect of nutrition labelling requirements. But what happens in Hong Kong is strange. At first, it was "two plus two" and later, consideration was given to "plus one"; then consideration was given to changing it to "plus two", and now it is proposed to be two years. To the trade, this is hardly acceptable.

On the question of trans fat, many colleagues think that Vincent FANG is against the labelling of trans fat. In fact, the Liberal Party and Vincent FANG as well as myself all support that the trans fat content be specified in the label, for we are aware of the hazards of trans fat. According to the information of the Government, legislation has been enacted to impose regulation on trans fat now in nine countries or territories, including the United States, Canada, Brazil, Argentina, Australia, New Zealand, Taiwan, Malaysia and Korea. Hong Kong is just a city and we will be the 10th on the list, but we are not a food producer

and yet, we still cannot wait to follow suit and even do it in our own way instead of following the practice of anywhere else by setting our own standard for trans fat at 0.3 g per 100 g in order to make a claim of "zero trans fat". This is not only catching up with the United States and surpassing Britain. We are even surpassing many countries in the world.

The Government always said in all righteousness that the regulation of trans fat is for the sake of public health. But according to the recommendations of the World Health Organization, the daily intake of trans fat must be limited to no more than 2.2 g. So, Mr Fred LI said earlier that insofar as regulation of food is concerned, it is difficult to calculate the content as the serving size may vary. Even if the content is zero, a person who consumes four servings may still exceed the intake limit. According to Hong Kong's standard of 0.3 g per 100 g, while a person who consumes 800 g of food thinks that his intake of trans fat is zero, the truth is that his intake may have exceeded the limit. Therefore, it is undesirable to attack other people on this ground. It is also undesirable to set the standard at 0.3 g per 100 g. Certainly, the Liberal Party is not against this standard. All we are saying is that with regard to those products with a very small sales volume of below 30 000 units, how should they be dealt with if they have claims or do not carry claims or carry nutrition labels?

The Government has accepted good advice and introduced an amendment to permit food products to carry the "zero trans fat" claim if the labelling of "zero trans fat" on the list of nutrients complies with the definition used in other jurisdictions. This, I welcome, as it can at least ensure that prepackaged food with zero trans fat can come to Hong Kong.

However, if Mr Fred LI's amendment, which proposes to revert to the original scheme, is passed, we must think about what would happen. If his amendment is endorsed, not only would there be problem with products imported from the United States to Hong Kong. Even the canned mud carp or canned luncheon meat manufactured in the Mainland in accordance with the "one plus 14" labelling requirement of the United States cannot be imported to Hong Kong as before because the list of nutrients shows that the trans fat content is zero and as their labelling standard is no more than 0.5 g per serving, this will exceed the standard in Hong Kong of containing no more than 0.3 g per 100 g of food.

As we all know, canned mud carp and canned luncheon meat are major types of non-staple food of Hong Kong people. In the future, they have to be

repackaged to display a new label specifically for sale in Hong Kong because of a slight difference in the labelling standard of trans fat content and as a result, the price of each can may increase by tens of cents and the public will then have to pay more for canned mud carp and canned luncheon meat. I hope Members will think twice before they vote.

Moreover, the authorities have finally taken on board the views of the Liberal Party and adopted a middle-of-the-road approach by introducing an amendment to expand the small volume exemption scheme, allowing prepackaged food with an annual sales volume of below 30 000 units to enjoy exemption disregarding whether or not they carry nutrition claims. I think this is a way to ameliorate the adverse impact on the SMEs when there is no other alternative, and I have no choice but to accept it.

I understand that some Members are concerned that this would open up a loophole. For instance, some products may claim to contain low sugar with the content of sugar being displayed on the label but they may at the same time contain high sodium and the sodium content may not be displayed on the label. They think that this will mislead the public into consuming food which claims to be healthy but are not truly so.

However, Members must note that many overseas countries do have in place a nutrition labelling scheme, just that their schemes are different from the "one plus seven" scheme in Hong Kong. In the United States, for instance, their "one plus 14" scheme requires the inclusion of even more nutrients than in Hong Kong. So, it is actually quite unlikely for that to happen.

Lastly, Madam President, I would like to talk about the registration fee. Mr Vincent FANG considers it very expensive to charge the registration fee at \$345 and asked whether the Government should consider lowering it. Regrettably, in the Subcommittee set up to scrutinize the Regulation, we repeatedly asked the Government how this level of fee was calculated but the Government has not given us an answer so far. It only said that it is necessary to charge a fee at some \$300 and asked us to trust them. I think this is most undesirable. The Government has tabled a subsidiary legislation and proposed the charging of a fee and asked us to give our approval and yet, it refused to provide us with the actual figures and it still has not given us an answer.

I hope Members will understand that Hong Kong is not a food producer. We are only a food importer. In order to develop as a cosmopolitan and a harmonious society, we should ensure that people of different ethnic origins do feel at home in Hong Kong. Could we, in the future, tell the Japanese who wish to eat their ethnic food to go back to Japan and bring back the food as grey goods?

We must be very careful in legislating to impose regulation on food. We must strike a balance between the right to know, the right to choose, the operational cost, food prices, and so on. Instead of imposing control endlessly, which will increase the operational cost of the SMEs, it is better to step up public education, so as to encourage the public to live a healthy life by choosing healthy food wisely, maintaining a balanced diet and exercising regularly.

Madam President, I so submit.

DR KWOK KA-KI (in Cantonese): Madam President, it is a very distressing day today. Members may have noticed that an advertisement entitled "Save the children and support the 'five+two+two' nutrition labelling bill" is published in a Chinese language newspaper jointly by a few dozens of parents, teachers' associations, medical organizations, dieticians' associations and patients' groups.

In fact, it is very rare for representatives, parents and members of teachers' associations, who are so calm and gentle, to come forward to express their opinions this way. Situations like this seldom happen. However, I think we appreciate why they have done so and what they are fighting for.

This Labelling Bill is amended by the Government. However, with the amendment, it is no longer the Bill it sets out to be. The Nutrition Labelling Bill was first discussed here in March 2003. The authorities have all along been advising that it will be a "one plus nine" scheme. Of course, it will be implemented in two different phases. Later on, it began to make concessions in a gradual manner by proposing a "one plus seven" scheme and then it further regressed by proposing that products with sales volume below 30 000 units, that is, products with low annual sales volume will be exempted. In the United States, where there is a population of 300 million, the sales volume for exemption in general is 100 000 units. There are just about 7 million people in Hong Kong, yet the sales volume for exemption is 30 000 units. Actually, this

sales volume is already over the top. However, there is yet more to it. Commercial organizations representing the business sector and large retailers wish to push it to the extreme. Instead of just asking for such a sales volume for exemption, they have even requested exemption for products with claims, including those with misleading claims, with the sales volume below 30 000 units, and allow them to continue to mislead the public. Subsequently, they said that more than 15 000 food items would be withdrawn from the market because they would not be allowed to be imported into Hong Kong. I think these requests are really excessive.

If Mr FANG can still remember, when we discussed the ordinance on the prevention of communicable diseases, everyone agreed that Hong Kong is a small community. Only when we protect each other will the community be able to enjoy better health. In fact, nutrition labelling is a development towards this direction. Madam President, we can find that nowadays, a lot of children have many health problems. In fact, these problems are not noticeable now but will only emerge in a certain years' time. Their health problems will include diseases we do not want to see, such as diabetes, hypertension, heart diseases, and so on. Only when we trace the history of these people's food intake from childhood to adulthood will we find that they have taken a lot of junk food, a lot of food with misleading labels and a lot of food which should not have been taken. The business sector and the import and export sector have provided a lot of misleading information. They have claimed that certain products will not be allowed for import into Hong Kong, or they will be prohibited in Hong Kong. However, such information is of course factually incorrect.

It is because obviously we think that setting the sales volume for exemption at the level of 30 000 units is already too much of a concession to make. It is already outrageous that these food products without any claim can be allowed for import into Hong Kong. They are even asking for the whole lot of things. Not only are they asking for exemption, they are also requesting permission to make irresponsible claims. For example, when it is claimed that the food product is low in sugar, it is in fact not so; when it is claimed that no trans fat is contained, actually trans fat is contained; when it is claimed to be low in salt, it is not low in salt; when it is claimed to be low in cholesterol, it is possibly not low in cholesterol, and so on and so forth. Such food products whose claims are untrue will still exist. Regarding the requirement, it is actually not specified on the label which types of food are not allowed for import into Hong Kong. The requirement is only to provide a label on the nutrient

contents. It is only a label, the cost of which may only be 10 to 20 cents. However, they simply do not agree with it and said that it is unacceptable. Why do they have to go to such an extreme? Why do they have to make profits to the utmost? They have indicated that they will definitely make profits to the utmost and will not give up even a little bit of it. They insist on maximizing profits at the expense of the health of children, our next generation. Perhaps, this is characteristic of businessmen in Hong Kong. I do not blame them for such conduct, and I am used to it after so many years. They make every effort to reap whatever available. Maybe, the Government has also been tolerating them and allowing them to do so.

However, just like other Honourable colleagues, I am baffled by one thing. In the process of scrutinizing the Bill, the Government itself was divided. Previously, it had indicated to us that it would remain adamant and would look at the matter from the public's perspective and hold fast to a certain bottomline. Later on, it suddenly changed its stance. Of course, everyone knows what has happened, and a lot of lobbying has been involved. I have also said jokingly that there was the invasion of the Eight-Power Allied Forces, as all consulates, including the American Consulate and all business associations have been charging their attack, and political parties have changed their stance as well, and all of these have been happening at the same time. However, the Government has actually failed to perform its duties. We have put our trust in the Government, thinking that it would adhere strictly to the health-oriented principle in establishing the nutrient labelling scheme, but we have all been betrayed by the Government because when it comes to the last minute, the authorities have bent their knees. When the public is expressing support to the authorities, and when many Members of the Legislative Council are expressing support to the authorities, the authorities are bending their knees on their own initiative. They are bending their knees in front of the business sector. They are bending their knees for short-term benefits. How is the Government going to explain this to the next generation? How can it tell them that the truth is like this: This piece of legislation has to be abided by for sure, yet all we have to do is to attach a label to the food product with an annual sales volume below 30 000 units to indicate that the product may not comply with the legislation in Hong Kong? It is tantamount to telling the others that legislation has been put in place in Hong Kong, but anything can be done as long as a label is attached, as if a mark is etched on one's forehead indicating that there is no need to abide by the law.

Which school of law is this? Madam President, as there are so many barristers in the Chamber, I wish to seek their advice on which countries have introduced legislation stipulating that justice can be escaped by putting on exemption labels? Are the benefits of the business sector influential to such an extent? Who is there to safeguard the health of those members of the public, particularly children, who have been misled? What about patients with heart conditions? What about chronic patients? Who will care for them? No one will. Of course there is no one to care for them. How can they receive help from the Eight-Power Allied Forces? How will there be advertisements costing millions of dollars to support them? How can they appeal to 400 000 people for their signatures? They have no way out, no money, no resources, not anything at all. They can only gather together, hoping that something can be done, which include sending us emails and putting up some advertisements. How is the Government going to explain to the next generation? How can it tell them that these are actually all lies, and there is in fact no need to bear any responsibility? But the Government is allowing this to happen, the Government is tolerating it, and the Government is giving up its stance on its own initiative.

The discussion on nutrition labelling has begun since 2003. It has been going on for a long time till now. However, a lot of people from the business sector still consider that there has been inadequate time for it. In fact, there will not be adequate time even if they were given 10 more years because basically they do not want to introduce any legislation on it. Besides, they are also requesting the adoption of a standard comparable to that adopted all over the world. This is actually impossible. There are 14 in Canada, 15 in the United States, eight in the European Union, seven in Australia and New Zealand, and no identical standards are available in other countries. However, the standard adopted in Hong Kong is based on the principle on food labelling passed in 2007 by the Codex Alimentarius Commission. This is an accurate practice. The definition we have adopted for trans fat is in line with the work of the Codex Alimentarius Commission. To adhere strictly to this principle, we have to follow it through. How can the Government talk to us like this? How can we support the Government?

Besides, I am very disappointed at the conduct of some of our Honourable Members. I am aware that some of our Honourable colleagues used to be engaged in teaching. Madam President, for example, Mr Jasper TSANG has been a teacher, and a school principal as well. I do not know whether he has

noticed that I entered the Chamber late. Madam President, however, I still wish to know how he will treat students and parents and educate the next generation, and how the political party he belongs to will bear the responsibility regarding the children's choice of nutrition in the future. Of course, someone opines that legislation is required, and no matter how, legislation should be enacted first. This is not a bad idea after all, at least it is better than nothing. However, the problem is that there are some very bad examples. Just now, some Honourable colleagues have cited some examples on products with sale volume below 30 000 units, or 29 000 units. For example, they have mentioned 29 000 units of low-fat potato chips. After slightly changing the colour for low-fat high-calcium potato chips, the sales volume is still considered to be within 29 000 units. With another slight change, there comes 29 000 units of low-fat high-calcium high-energy potato chips. After making each change, another 29 000 units will be allowed. In fact, they can say whatever they like and they are allowed to say anything whatsoever. In that case, how will enforcement be carried out? I really do not know how the legislation will be enforced in the future.

Why should a label be considered such a big deal, as if it is more important than everything? The business sector cannot even allow for a label, how can they put up such a request? How are they going to explain to the next generation? Everyone has his or her own offspring, and businessmen have their own children. Will they really teach them that benefits matter the most, while all other things do not matter at all, and the most important thing is to be able to make profits?

Actually we do not welcome products with irresponsible and factually incorrect claims. Frankly speaking, if there can be less of these food products which are harmful to people's health, I do not even mind if they are withdrawn from the market. Let me cite an example. For instance, in anti-drug campaigns, some organizations might say that they are engaged in drug trafficking, pleading that drugs should not be taken away. They might even say that a lot of people have been engaging in this trade, or they might say that if drugs and "Special K" are taken away, they will be withdrawn from the market. Will we agree with the opinion of such organizations? Will we be very concerned about the withdrawal of such drugs from the market and then say that it is not desirable and legislation should not be enacted because they will be withdrawn from the market? We will not respond in this way, and we have to maintain our minimum standard.

Secondly, regarding claims, in fact products with an annual sales volume below 30 000 units and without any irresponsible and misleading claims will be exempted. But now they wish to enjoy this exemption on the one hand, and exploit this loophole on the other hand. They even try to make the most out of it by requesting permission for factually incorrect claims. How can we allow this to happen? We have all along been discussing a very simple thing. We have never said anything about disallowing the import of these food products into Hong Kong. Therefore, do not mislead the public. We have not said so, not anything like this at all. If the public wishes to have more choices, then as long as there is clear information on the nutrition contents of the food products to enable the public to make their choice, it is still considered fair. However, the present requirement is not at all clear. As long as a label is attached with the claim that the product may not comply with the requirements or laws of Hong Kong, it does not matter what contents it contains, and it is allowed to be imported into Hong Kong. Why is there such a serious loophole? Why do we still find this acceptable?

I do not know how the Government will conduct evaluation in the future. At present, the Government has advised that a review will be conducted one year after implementation. I also wish to hear what the Government will say later on about how enforcement and the review will be carried out. Initially, there are only right and wrong in everything, but now they are saying that it does not matter, there is no need to state clearly whether it is right or wrong, or there is no need to tell right from wrong, and it is alright to leave it grey as it is, or even keep on expanding the grey area. The Government is taking the lead to create the grey area, and create the conditions for people to exploit the legal loopholes, so that we or our next generation will continue to purchase these food products with these factually incorrect and misleading nutrition labels all over.

Today, I can foresee that with the composition of the Legislative Council, we are unable to resist the amendment proposed by the Government. We cannot resist the amendment proposed by the Government with its knees bent while ignoring the people's request. It is very likely that this regrettable amendment proposed by the Government with concessions made will be passed. Today, no one will taste any victory and joy because in the end, we are unable to achieve what we intended. We intended to protect the public, but now a serious loophole has been opened up. I do not see any point in supporting the Government's amendment in this way because I think in introducing legislation, it is vital to uphold the spirit of maintaining a minimum standard. The

Government is schizophrenic, and it is beyond our control. But I hope that Honourable colleagues are not schizophrenic. We have to know our own principles and know how we should cast our votes, affirm what is right and what is wrong instead of confusing black and white. I so submit. Thank you, Madam President.

MS EMILY LAU (in Cantonese): President, I support the enactment of legislation by authorities to mandate nutrition labelling, and also hope that the health of the public will be adequately protected.

President, being appointed by the Government as Deputy Chairman of the Business Facilitation Advisory Committee, I very much hope that there is a good business environment in Hong Kong. I do not believe that all the people in the business sector are bad guys who only care about making money. Therefore, when proposing this arrangement, the authorities should strike a balance between the two parties.

A lot of Honourable colleagues have mentioned that the discussion of this subject has started since 2003, and it is now 2008. However, some people from the business sector have pointed out that the authorities have not provided them with the relevant details until the beginning of this year. I agree with some colleagues that very often the devil lies in the details. The business sector has its reasons for opposition, although I may not agree with them all. However, President, I think you also agree that in enacting legislation and establishing public policies, one of the most important principles is to seek to reach a consensus in society. Some compromises may have to be made, but I very much believe that the great majority of the people of Hong Kong are not hell-bent on putting up resistance, nor are they going to set the vehicles on fire and throw stones at others. They only wish to express what they think deep down in their heart and listen to the other party's opinions in order to see if any compromised option can be proposed for discussion.

This Council has also dealt with some very tough issues, some of which were dealt with by the Secretary himself. They include the anti-smoking law, which has aroused much controversy back then. We spent a long time on it and also visited different places such as karaoke establishments to listen to different opinions and see if any change could be made. Another subject which has

aroused much controversy is the issue of rent increase for public housing. Initially, Secretary Michael SUEN thought that this issue could not be resolved even with the effort of a lifetime. However, after discussing for months and even for years, the existing approach has been worked out.

The authorities may have underestimated the controversy of this matter. Just now, someone has mentioned "one plus nine", "one plus seven", and so on, but we are going to adopt the "four plus three" approach to deal with it, that is, to adopt the negative vetting procedure which involves a period of four weeks followed by a period of three weeks. The Secretary published it in the Gazette on 3 April and laid it on the table of the Legislative Council on the 9th. From 18 April to 19 May (that is within one month), we conducted nine meetings, some of which lasted for as long as four hours. President, the meetings did not come to an end until 8 pm in the evening.

However, President, what have we achieved? The last meeting was held on the 19th. On that day, we also had to observe a three-minute silence at the carpark. The meeting started at lunch time, and it was the last meeting. Prior to the meeting, I had also raised the issue of — because the authorities have, as Mr Alan LEONG has said, changed its stance after worshipping the Buddha on the Buddha's Birthday — as the Government has made such a major change, whether any consultation should be conducted in order to gauge further views, because an enormous amount of views was received. However, many Members considered that there was no need to listen to these views. Why? It is because time was running out. President, although a few dozens of members of the public would attend the meetings whenever they were held, with scenes as striking as those in the film "Ben-Hur", Members were still saying that there was no need to listen to their views, and these members of the public were told to submit their views in writing if they so desire. Given that the authorities had not answered many questions raised by Members, I asked whether further examination was required. On the 19th, what did some of the Members say? They said that there was no need to hold any meeting and replies could be provided in writing. Then, the Government provided its written replies to all the questions and listened to public views in writing.

President, ever since I have been a Member of the Legislative Council in 1991, I have never joined any committee which deals with matters in such a manner, especially when the subject being scrutinized is so controversial.

I am not intelligent enough to advise the Government what the perfectly correct approach is. Actually, I think that no one can be perfectly correct. However, I think we should sit down and discuss it again to see if any option along the medium line could be drawn up. I also said that after all it was no big deal as it only involved the issue of gazettal. We could withdraw and repeal the notice in the Gazette and then publish it again so that more time would be available, and in this way, we could buy some time. However, Honourable colleagues opposed again. Therefore, all my efforts came to no avail, and all the approaches I have put forward were not taken on board. The idea of withdrawing the notice was not accepted, nor was that of gauging different views and convening meetings to listen to the Government's explanations. We had to finish the scrutiny work on the 19th and we must pass this Bill today (that is, on the 28th). I find this attitude in the legislative exercise infuriating.

President, no matter what the voting result today will be, there is no winner but three losers. The Government and the legislature have lost, and consumers have lost, and the business sector has lost as well. There is no way for the relatively calm discussion going on here to hide the dispute outside. The authorities have torn this society apart and intensified the divergence in society. No matter who wins — you may say that the business sector has won — do you think the dieticians, teachers, students, doctors, and so on, will give in? If they win, neither will the business sector give in. Their consulate generals will not give in either. President, why should Hong Kong be put to such a situation? I really have to protest against it with every effort. President, I personally maintain that whatever will be passed today, it should be repealed and this Council should then be given some time for discussion. However, Members said no and insisted that a final decision has to be made on the 28th. I really consider this situation ridiculous.

Even if a final decision is made today, President, you may recall that before long, the Copyright Ordinance has been enacted, but the enforcement actions have triggered off a widespread public outcry. What then did the Government do? The authorities immediately came to the Legislative Council and advised that they were unable to deal with the situation and requested the Legislative Council to freeze the ordinance. The Government was already rebuked at that time; if it is criticized again because of this Bill, President, who do you think will be among the first ones to be criticized? By then you, President, will no longer be in office, and therefore the criticism will be targeted

at the Legislative Council. The others will criticize that the Legislative Council only held nine meetings within one month to pass the ordinance in a hasty manner. When the ordinance is not enforceable, everyone will be complaining that not only is the ordinance unable to protect public health, it will also undermine the interests of the business sector and has to be frozen as well. By then the Secretary may have already been promoted. However, President, I think that the adoption of this approach is really regrettable.

Just then, some colleagues have said that they wish to hear the Secretary's explanation on why he has changed his stance in just a few days. What has the Secretary said? He said that actually, regarding the withdrawal of 15 000 food products with small sales volume from the market, he noticed that no justification has been provided by the industry and he did not know where that figure had come from. He also said that as there was a five-fold to 10-fold difference between this figure and the one suggested by the consultant commissioned by the Government, the Government was therefore skeptical about this figure of 15 000 food products. Besides, even if the labels have to be changed, the costs involved are only one-off in nature. The industry said that implications will occur, but he thinks that there will only be limited implication. He has been talking to himself. However, all of a sudden, he said that the Government has to adopt such an approach in order to pass the Bill on nutrition labelling expeditiously so as not to affect the public's right to choice and their right to information.

In fact, bills introduced by the Government will be passed anyway. Some people are rubber-stamps. Only with the Government's mild lobbying, they will put their stamp on them. I have counted the votes — plus the fact that government bills are not subject to separate voting — this government Bill will be passed. Therefore, I find the Government's course of action really intriguing.

I do not wish to speculate whether it is the Secretary, the Chief Executive or whoever that has brought about such a deplorable state of affairs. Anyway, the Government owes the public an explanation. I think we should sit down and calm down. Just now, he has mentioned the situation of some foreigners. They are very worried and have come to the Legislative Council with more than a dozen prepackaged food products saying that they would never be able to buy them in the market. They also said that there has been incessant propaganda which really scared them. It is true that someone has been doing this.

However, I think if the authorities wish to activate its propaganda machine, it will be 10 times more effective than that of the business sector. With every four advertisements put up by the business sector, the Government can put up 60 of them. Nevertheless, the authorities have not done anything at all.

I do not know what the authorities wish to achieve. At that time, everyone was looking at this food product and that food product, and was at a loss as to what to do. The Chairman, Mr Bernard CHAN, was also speechless, and he was also not sure what was going on. I believe that the majority of us — or the minority — of the members of the Committee did not know what was going on. President, it is because the situation at that time was extremely chaotic.

We are now going to implement a food labelling scheme. Ms Audrey EU has made a good point and said that matters discussed by the bills committee chaired by her regarding energy efficiency labelling — it is labelling again, President — have already been discussed repeatedly for four to five times before they were brought up again for discussion, and there was also graphics display in colour for reference. Members were even concerned whether it was feasible to put on the graphics display. What about this Bill? In the end, perhaps only something like a medicinal plaster will be put on, and that is all.

If the Legislative Council adopts such a cautious manner in dealing with a certain piece of legislation on labelling, while adopting such a hasty and reckless manner in dealing with another one, how are we going to explain to the public? Although energy efficiency labelling is very important, the subject of regulation is not something to be eaten and then passing through our stomach. We do not eat air conditioners. However, on this subject which is related to the food we take, the Secretary has only spoken for three minutes, and that is all. Actually, when things have come to such a state, I really have to quote a famous line by the Secretary to make myself clear — "This is the last thing I want to see".

Two people have called me today, of course, to ask me to support the Government. President, then I told them what I have just told Members. President, after they have heard what I said — obviously, they are not Members of this Council — they were also dumb-founded. Ordinary people may not know that this is the approach adopted by the authorities in dealing with controversial matters.

I have put in a lot of efforts in the Business Facilitation Advisory Committee. I appreciate the difficulties faced by the business sector, and I also think that some interests of the business sector in Hong Kong have to be protected and a good business environment has to be created. It is because without the business sector, President, how can there be any job opportunity? Therefore, we have to listen to their opinions. I am not saying that they are the best, and I have also laid blames on them. Under certain circumstances, there has been collusion between business and the Government and the phenomenon in which the Government is heavily biased towards one side does exist. However, we have to listen to their concerns, and we also have to listen to public concerns. The major responsibility lies with the authorities.

I have also mentioned in the Committee that we are no King Solomon. If someone comes to us with a baby in her arms, we do not know whether we should split the baby in two. However, the authorities should not, time and again, submit a proposal and then say that we can do whatever we wish, causing even Mr Fred LI to indicate that he would be totally pro-government, but subsequently acted in the contrary to such an extent as to discard even the carpet on the floor. Fortunately, however, this does not matter as his intention is not really to support the Government. He said that he is only protecting the rights and interests of the public in accordance with a principle.

In this matter, I may not have the same opinions as Mr Fred LI. I think that the business sector is a bit concerned. This is something Honourable Members should know and listen to. However, I cannot see that the authorities have made any effort on it. Even the Retail Task Force of the Business Facilitation Advisory Committee has also received numerous complaints. Are all the complaints groundless? Did people lodge the complaints because they had nothing better to do? I do not think this is necessarily the case.

Therefore, President, it is hard for me to support the Government today, neither will I support Mr Fred LI. Why? It is because I think this matter should be further examined, and some more time should be allowed for further discussion. However, now that we have adopted this approach of "four plus three", and it has to be passed today. The Regulation cannot be repealed either. I myself find this unacceptable. I think people of Hong Kong, honestly now we are talking about two years — if the amendment proposed by Mr Vincent FANG is passed, it will become three years — do you really think that this legislation will be enforced tomorrow? We must have confidence in the

public. However, the major problem is we do not have confidence in the authorities.

All the public is asking for is that the Government will give them some time for discussion, and a compromised option should be able to be worked out. However, it is not possible now. Now, the argument is very heated, either you will win or I will lose, but in fact all the three parties will lose, and it is the authorities who have created such a situation. When this party wins, it tries to explain to that party; and when that party wins, how is it going to explain to this party? Why does it have to tear the society apart? Why does it have to do so? I do not know what has happened during those few days.

On the day of our meeting, given the rigid stance the public officers have adopted, some Honourable colleagues have asked whether they need to go back and ask their supervisors if they know the situation. The public officers said that this is their stance. Regarding those holding high positions, we have held meetings with them and asked them again whether anything had happened behind the scene. It is because someone has suggested this at the meeting. Then, the public officer answered in the negative and said that the situation was as it was. However, a few dozen hours later, the Government has already made an about-turn. President, should we perform our duty in this way? Sometimes, I think that not just Members, but also some public officers may find the situation helpless, and their morale may also be hard hit.

In fact, the approach adopted by the authorities is that on one day, they said that their stance was firm, but those people who are politically accountable, so to speak, did not attend the meetings but only pushed public officers to attend the meetings and made them do all the explanation. Subsequently, after a few dozens of hours, they made those public officers say something completely opposite. Therefore, when the public officers were here that day, President, do you know how it was like? The public officer said that something like this had happened and asked what Members thought. He was immediately criticized by some Members that he should have expressed support this subject. At that time, the public officer could only say that it would depend on what Members think. When the situation has come to such a deplorable state, what else can be said?

Therefore, with these remarks, I protest against (the approach adopted by) the authorities.

MR LEUNG YIU-CHUNG (in Cantonese): President, no matter what results the resolution will achieve, the labelling system may not necessarily be able to protect the health of the public, but will only be able to remind us of the contents of the relevant food products. Most importantly, the authorities will definitely have to educate the public so that they will understand how the contents of the food will affect their health. Therefore, I now call on the Secretary to make sure that education and publicity be carried out properly in the future so that the general public will have a clear understanding of how the label works. We should not be mistaken to think that after the labelling system has been implemented, health problems will be rectified. I think this is only a wishful thinking as well as a wrong idea.

However, I am not sure whether it is useful to say this to the Secretary. I find that after the implementation of the accountability system, the Secretary has been ignoring a lot of our views. He is simply not listening to us, or he only listens to us selectively, thereby causing a lot of matters to disappear into obscurity. For example, when we tell the Secretary that the approach he has adopted is undesirable, he just remains his same old self. Another example is that when we have noticed that some other places have found out that there have been problems with their food safety, while we were a few steps behind and were unable to find out the problems, the Secretary has simply ignored the problems as a matter of course. Besides, during the outbreak of the avian flu, sometimes he said that school had to be suspended, and at other times, he said that it was not necessary to do so. It is a common phenomenon for him to revise his decisions constantly. Therefore, I can understand why Ms Emily LAU was so exasperated just now. This constant revision of decisions does not only happen once but is happening again and again.

Despite our criticisms, the Secretary has simply turned a deaf ear to them without feeling anything at all. This can be said to be characteristic of accountable Bureau Directors. No matter how, I have to continue to speak on the labelling system in question today.

Mr Alan LEONG has reminded me just now that before the Buddha's Birthday, some government representatives made an appointment to discuss the matter with me. Although I am not a member of the Bills Committee on the Labelling Bill, they still made an appointment to discuss the matter with me, which made me wonder why they attached so much importance to my views. I am neither a member of the Bills Committee nor a member of a major political

party, and we have only a few of us, yet they still arranged to meet with me, and I was really flattered. However, as the discussion would be on labelling, I would of course turn up as I also wished to know where the problem lies. But deep down, I was wondering what the discussion would be about.

Eventually, the official told me that as a lot of people had received a wrong message, there was something they would like to clarify to me. What wrong message is it? The official said that someone had been collecting signatures at supermarkets and claiming that if the labelling legislation was passed, nearly 15 000 food products would be withdrawn from the market. When I asked them to provide more detailed explanation, they replied that it was not true and their claim was completely misleading. Then I asked them, given that this was misleading, why the Government had not clarified this to the public. They replied that they had done so. Then I suggested that the most effective clarification was for the Government to hold a press conference because the Government has the highest level of "credibility" — this "credibility" has to be put between quotation marks. The best approach is for the Government to clarify whether 15 000 food products will be withdrawn from the market, so why did the Government not make such a clarification? I also suggested that the Government should hold a press conference because press conferences held by the Government will surely attract coverage, unlike press conferences held by us, which could attract nobody to come. *(Laughter)* The Government undertook to consider this suggestion. However, the Government has taken no action after considering it for a long time. On the contrary, I was subsequently aware of a new version, and found that it has actually changed its stance.

I have paid great attention to the speech delivered by the Secretary just now. The Secretary has still been insisting that according to the result of the survey conducted by the consultant commissioned by the Government, the figure of 15 000 food products represents a five-fold to 10-fold increase compared with that in the survey result. In that case, why has he not disclosed this earlier? This can dispel the misleading information and thus precluding other people from collecting signatures at supermarkets, right? There has been panic among members of the public because they are worried that a lot of food products will be withdrawn from the market. If the Government can point out that this is false and misleading, why has it not clarified it? I really do not understand. President, when the Government has this good chance to make clarification, it should have quieted down the rumour. This is of vital importance. However, it has not done so. In this matter, I think Mr Fred LI has been trying to persist

to the end. On the contrary, the position of our Secretary has begun to soften and he is not able to persist any more. I am really disappointed. President, someone has been trying to mislead the public, yet the Bureau has ignored this in the discussion of this subsidiary legislation. It has been looking at it but not seeing it, hearing it but not listening to it. Is this how a responsible Bureau Director should perform his duty?

Besides, an Honourable colleague has told me that there is in fact another major issue, that is, the issue related to trans fat. In the past, I was not familiar with this issue and was totally ignorant of it. I had once bought some food products in foreign countries and was very glad to find the word "zero" fat on the package because Mr Albert CHENG has told us before that trans fat will do damage to our good cholesterol and cause the bad cholesterol to develop, which can seriously affect our health. From then on, I have been paying attention to whether there is trans fat in the food. I was certainly overjoyed to find the word "zero" on the package and then I told him how good the food products from foreign countries were as there was "zero" trans fat. I said to him that we could buy such products with ease of mind. He warned me not to buy them. He said that although it was clearly written on the package that it contained "zero" trans fat, perhaps there was "zero" when we took one piece of it, but when we took two pieces, the limit might have already been exceeded. I asked whether packaging in foreign countries could be so deceptive, and he answered in the positive. He said that the situation in Hong Kong is different because a standard has been established. Although the standard may be very low, the health of the public is protected. When such a standard has been established, we certainly will support the Government.

However, what is the current situation like? President, there is nothing at all. Just now I noticed that the Secretary has said two things right at the beginning of his speech during the debate. He said that the authorities gazetted it on 5 April, and began the scrutiny on 9 April in order to provide the public with the right to information and combat deceptive practices. What kind of right to information do we still have? How does it combat deceptive practices? We can do nothing but put up with the fact that we are deceived. President, how can this be? I do not agree with the idea expressed by Dr KWOK Ka-ki and many other Honourable colleagues in their speeches just now that we have to think for our next generation. Why do we have to think for our next generation but not our own generation? (*Laughter*) Honourable Members should think for the people in this Chamber too. We are of similar age, and if we take in too

much trans fat, we may have diseases such as congestion or blockage in the arteries. Therefore, I think we should not only think for the next generation.

Dr KWOK Ka-ki asked Mr Jasper TSANG how he would explain to the parents. In fact, not only parents, but also you and I will face this situation, and everyone will face this situation as well. Why do we only think for the next generation? Actually, this concerns each and every member of the public. Therefore, the Secretary is right in saying that we should protect the public's right to information and combat deceptive practices. I fully support this attitude adopted by the Government. Unfortunately, however, what has the result turned out to be? President, as you have smiled, you should know it. You and I have strongly sensed that we have been deceived and our right to information has been deprived as well. As exemptions are provided, what are they like? Our Government has turned out to be saying one thing but doing another, which has let me down.

The discussion I had with the government representative the other day can actually be said to be held in the most lively and relaxed atmosphere ever. Why? I had never supported the Government that much. I was happy to hear what he said, which made me think that I could be rest assured in shopping in the future. This is very important because my health would be protected. However, it has turned out to be a totally different thing. Ms Emily LAU has said just now that the Government has torn this society apart. I do not know whether this will really be the case, but I think the Government is schizophrenic to have made a 180-degree turn within such a short time. This is totally disappointing. The public has trusted their health with the Government, yet the Government has manipulated its powers in such a way and kept changing its stance arbitrarily. What can we trust? I am really worried.

Mr Tommy CHEUNG has kept saying that if we take the Government's original proposal on board, there will be an increase in cost. For example, canned mud carp and luncheon meat that we have been eating will be much more expensive. Even so, I call on the public not to be short-sighted. Even if the price will be raised by a dollar or so, but what will happen if we have to go to the doctor because we do not feel well after having eaten too much of it? The Secretary may say that the cost of health care financing in the future will go up. If all the people will be advised to undergo an angioplasty when they go to the doctor, there will be inadequate medical insurance to cover the costs, and the situation will be even more pathetic by then. When I said we should not be

short-sighted, I mean that we should not express opposition just because it will cause food products to be more expensive. It is vital that we should look at it from a long-term perspective. Health is a long-term issue, President, right? If we buy these products simply because they are inexpensive while ignoring our own health, grave consequences will arise. I think the Government has the responsibility to inform the public that even if the products may be more expensive, we have to pay attention to our health, and this is the most important thing. Besides, will products necessarily be more expensive? There is a mechanism which governs market operation. The Government has been saying all along that the market is operating under its own mechanism, which is something we cannot interfere.

Therefore, why do we not allow the market to operate on its own? Why do we insist that the products will definitely be more expensive? Besides, will they necessarily be much more expensive? I believe this may not necessarily be the case. The Government has not provided clear information on the cost for adding new labels. The cost incurred may not be too huge. Even if tests have to be conducted, the Government has advised that it will only cost about a few thousand dollars. I really do not understand. When the amount of canned food sold is more than 30 000 units, they just take it as 29 000 units; when the cost of the tests is a few thousand dollars, how much does each unit cost on average? The most important thing is: How much does it cost per unit? Why will there be a large increase in cost? I really do not understand.

Besides, every country in the world has established its own nutrition labelling standard. When products are exported, they have to meet the requirement of the countries concerned. There is no reason why we should meet the requirement and adopt the practice of the exporting countries. I think this approach is putting the cart in front of the horse. In fact, the motion today is also putting the cart in front of the horse because initially this labelling bill was initiated and led by the Government, but now the Government has taken on a passive role and is being led by the nose. I do not want to make this comment, but I have to. What does it show? It shows that the Government is incompetent.

The way that this matter is handled, as Ms Emily LAU has put it, is a complete mess. If the Government thinks that its idea is correct, why has it not insisted on it? If it thinks that it has not done anything wrong, why has it not insisted on it? If it thinks that what it believes is true, why has it not explained to the public? This is the most important thing. To solicit support, it has to

clarify what is misleading the public, but the Government has not done so. If the Government really thinks that this can protect the health of the people in Hong Kong, why has it not put in all its efforts to achieve this result? Is this not the duty of the Government? How should the people-oriented principle be implemented? If only the business-oriented principle is adopted, how can he duly play the role of an accountable official? Can accountable officials eat their words and revise their decisions constantly? Can they say something opposite every day?

The major issue today is how the health of Hong Kong people can be safeguarded. I very much hope that government officials can look at the issue from this perspective instead of being so timid as to give up their stance and value at such a critical moment. President, I so submit.

MS AUDREY EU (in Cantonese): President, before speaking on this Regulation, I wish to raise a number of general issues.

President, the first issue I wish to raise is that legislation is mandatory. As it applies to all the people, the impact will be far-reaching. It is just reasonable for those being affected to come to the Legislative Council to express their views. President, I do not think that anyone of those who have approached and lobbied us has done so with bad intentions. I think we have to respect whoever approaches the Legislative Council, as they have their own concerns, whether they be large consortiums, small enterprises or consumers. They may be used to using a certain brand of olive oil or they may have preference over a certain brand of biscuits, and when they hear the news that these products will no longer be available in the market, they just come and reflect this to us. They have the right to do so, and we have to listen to them. The large consortiums may say, "This will affect us and it may cause our company to close down." Or the small and medium enterprises (SMEs) may say, "This is our lifeline, and we may not be able to sell these food products in the future." When they come and reflect this to the Legislative Council, Members have the duty to listen to them.

Therefore, President, before introducing any legislation for scrutiny, the Government should have done all the preparation work, lobbying support from and explaining to all the parties concerned in order to avoid misunderstanding. After introducing the legislation into the Legislative Council, adequate time

should be allowed for discussion. However, regarding this Regulation, President, it is very, very regrettable that the Government has not given us enough time at all, and not enough preparation work has been done either. During the process of scrutiny, the relevant public officers were very often unable to provide convincing answers to questions raised by Members. Therefore, President, this Regulation is inherently inadequate, which has put us in a very difficult situation.

President, the second point I wish to make is that legislation is a yardstick applicable to all in general. People who lobbied us for support have, very often, looked at it from their own perspective. The American Consulate General has focused on American products; the Australian Consulate General has focused on Australian products; SME operators who sell seven to eight food products have focused on those seven to eight food products; and consumers who are used to using a certain brand of olive oil are only concerned about the situation of that particular brand of olive oil.

However, President, in passing a piece of legislation, we as Members, should not do so only for the Americans or Australians. We have to introduce legislation for the society of Hong Kong as a whole. Therefore, we should not restrict ourselves to a confined perspective. Very often, we really have to choose the lesser evil because we are unable to please everybody. However, President, at least adequate time is needed. I also wish to take this opportunity to explain to those who have come to us for lobbying that it is not that I have not listened to your views; I have already listened to them. However, in enacting legislation, we cannot simply say that the American products are very good and then the problem can be settled. It is because upon enactment of the legislation, products from any place and even local products, and those without any wrapping, logo or label will also be subject to this Regulation. Therefore, when we examine this issue, we have to adopt a broader perspective than that of those people who have approached and lobbied us for support. This is the second point I wish to make.

President, the third point I wish to make clear is that I have just mentioned that legislation is a general yardstick, but it does not mean that exemptions should be not provided. We fully understand that in passing a piece of legislation, appropriate exemptions have to be granted. However, President, the exemptions should not be so lenient as to affect the nature and purpose of the legislation itself, and the exemptions should not be so lenient as to render the

legislation meaningless or allow for the exploitation of legal loopholes. You may have helped a certain consumer so that he is able to go on consuming a certain brand of biscuits which he has been consuming. However, another group of people may be affected as a result of this because a lot of goods which do not comply with the legislation at all have been imported. For these imported goods, as long as there is a label clearly indicating that they do not comply with the legislation in Hong Kong, they can be imported even if information on the contents has not been provided at all. This cannot protect the health of the others and worse still, this may even cause harm to their health. When striking a balance, we have to appreciate that in the process of making our choices, one of the consumers may really be unable to eat biscuits of a certain brand in the future as a result, while he will choose this brand of biscuits when he is fully informed. Such a situation may really occur.

Therefore, President, when making such difficult decisions, we hope that enough time will be allowed for us to explain to those being affected. Unfortunately, however, the Government has not provided us with this opportunity as far as this legislation is concerned. Nevertheless, as the Government has required us to vote today, as Members, we have to make a choice after all.

Besides, President, there is still one more point I wish to make. Like other colleagues, I have paid great attention to the speech delivered by the Secretary just now. Is the Government credible? Will it receive public support? Even if the Government made a U-turn, it has to provide the public with its explanation. President, it is not that the Government cannot make a U-turn, it can do so, and I remember Secretary Michael SUEN has once said that those who do not know how to do a U-turn when driving will hit the wall. This is true, and I agree that making a U-turn is an option, but the Secretary has to give an explanation before doing so. The Secretary just came and repeated what has already been said, all the justifications, all the rationale and all the arguments made by others which he considers wrong. He just kept on saying all these, but he has in fact made a U-turn. As a member of the public, we were unable to understand what he said. On the day before the Buddha's Birthday, President, I was still discussing with the relevant public officials the original proposal put forward by the Secretary, and we said that some websites would be established and so on and so forth. However, after the holiday, the situation has completely changed.

Ms Emily LAU has also mentioned just now that we have all along been discussing the issue of labelling. Just forget about the energy efficiency labelling for the time being. The discussion on the label containing the health warning on cigarette packets, including the discussion on its size, its position on the packet, and so on, had taken a very long time. Regarding the energy efficiency labelling, there had been some discussion on its size, the different effects it would create, what would happen if it has fallen off, and so on. How about this time? The Government said that an amendment has to be made and it is made right away.

President, I wish to come back to the Regulation. The first most controversial issue is on trans fat. Mr LEUNG Yiu-chung has said just now that initially he did not know what trans fat was, and a member of the Civic Party has joined the party just because he would like to call for the introduction of legislation on trans fat. He said that it is something really bad, so bad that legislation must be enacted against it. However, this is a relatively new subject, and it is true that not all countries have imposed regulation on trans fat.

President, I do not smoke or drink in the evening as some people do, but I have a very bad habit, that is, I enjoy snacking. I will also eat some potato chips which is harmful to health. President, I wish to show you the packet of potato chips I am holding here in particular. This is an American product, and it is indicated that zero trans fat is contained. Do not think that it is very safe when zero trans fat is contained and think that we can eat it with ease of mind. It is actually not the case. Under the American legislation, whether it contained the so-called zero trans fat depends on the serving size. When there is less than 0.5 g of trans fat in each serving, it can be regarded as containing zero trans fat. For this packet of potato chips, each serving contains 15 potato chips, that is, every 15 potato chips may contain 0.5 g of trans fat. According to the World Health Organization (WHO), we should not take more than 2.2 g of trans fat per day. According to the definition given by this packet of potato chips, there are seven servings per packet. In other words, if I eat the whole packet, my trans fat intake will definitely exceed the daily limit.

However, President, what is the Government doing now? Initially, it said that for every 100 g of food, not more than 0.3 g of trans fat should be contained. In fact, we think that this threshold is already on the high side, and the Civic Party hopes that the threshold can be not more than 0.2 g. However, when the Government set the standard at not more than 0.3 g, we indicated that it was not a problem, so just set it at not more than 0.3 g. However, the

Government has changed it again. What has it turned out to be? It has advised that regarding trans fat, traders may comply with the relevant requirements of jurisdictions outside Hong Kong. What does it mean? It means they can adopt different standards, that is, when the products are from the United States, they have to comply with the requirements of the United States; when the products are from Australia, they have to comply with the requirements of Australia; for products from France, they have to comply with the requirements of France; for those from Germany, they have to comply with the requirements of Germany; for those from Malaysia, they have to comply with the requirements of Malaysia. President, as a consumer, I happen to know that the requirement of the United States is set at the level of 0.5 g, but how should I know the requirement of Malaysia, France, Canada and other places?

President, how can the Government require us to pass a piece of legislation which tells consumers that it does not matter, and that they can take a look at the requirements of other jurisdictions, which have nevertheless adopted their own practice? Therefore, I wish to say to the Alliance in particular, especially those who have signed the "5+2+2" consensus that trans fat is something bad.

It is not simply about making choices, we have to enable consumers to make informed choices. The passage of such an amendment would mean that even if we do not know where a certain product is from, wherever it is from, or even if it is from an unknown place, we have to accept it. May I ask whether it is really a choice made in an informed manner? President, I think this is very important.

Besides, there is one more point. President, regarding trans fat, what I also wish to say is that we have discussed VOC (volatile organic compounds) before. When it was introduced into the Legislative Council so that a standard can be established, we did better than places all over the world because we were one of the pioneers. We have followed the example of Canada. Why? It is because the problem of hazy mist is very serious in Hong Kong, and hazy mist is generated by VOC. Therefore, we have to be especially stringent. Since trans fat is something bad, being more stringent is just the right thing to do.

Besides, President, I also wish to talk about the issue regarding products with a sales volume above or below 30 000 units. Regarding products with a sales volume above 30 000 units, Members agree that the "one plus seven" requirement should be passed. However, for products with a volume below

30 000 units, if there are nutrient claims, nutrient comparative claims or nutrient contents claims, they have to comply with our "one plus seven" requirement. Many consumers are worried that in this way a lot of health food we are consuming will no longer be allowed for import into Hong Kong. President, I wish to make myself clear. Not that those food products are not allowed for import; no food product is prohibited from being imported into Hong Kong under the law, just that when they are imported, they have to put on a "one plus seven" label if nutrition claims are made. President, regarding any of such prepackaged food products, manufacturers should know the contents of the food, and they should inform us about it.

Of course, different places may have different legislation. However, when importing these food products into Hong Kong, and when there is such a market in Hong Kong, especially when all these health food products are not inexpensive at all, in order to strike a balance, manufacturers should also comply with the "one plus seven" requirement in Hong Kong besides choosing to make nutrition claims, nutrient comparative claims and nutrient contents claims. Even if the price of the food product will be relatively higher, as Mr LEUNG Yiu-chung has said just now, because of the need to produce a label to be put on the product, in the long run, and for the health of the public and to enable consumers to make informed choices, even if the price of the food products will become higher because of the need to put on an additional label, it is absolutely worth it.

President, I still wish to speak on the issue of whether two years or three years should be given. I have listened carefully to the views of the industry, especially the views reflected to me by small and medium enterprises (SMEs). President, I understand very clearly that although we have started our discussion on nutrition labelling in 2003, the Government has not completed its work on the technical requirements until January this year. Therefore, as members of the industry, especially the SMEs, they are really very concerned. They have indicated that for the labelling of allergenic substances, the Government has provided them with a period of three years for preparation. Therefore, regarding the timeframe, that is, the so-called grace period, President, originally I strongly support the granting of a longer period. However, judging from the present situation, and as the Government has also counted the votes, I predict that some Members will change their stance, and the final result will be that this new stance adopted by the Government will receive support. That is, as long as

a label is put on the food product indicating that it does not comply with the legislation, it will be regarded as being in compliance with the legislation. In this case, why is a grace period of three years still necessary? It will only take half a year to meet the requirement.

Therefore, President, as the so-called "back off" proposal will be passed, that is, the import of a small volume of products does not have to comply with the "one plus seven" labelling requirement, and only a label, a sticker, a "medicinal plaster" has to be put on the product to indicate that it does not comply with the legislation in Hong Kong, then it will already be regarded as being in compliance with the legislation in Hong Kong. I think that under such circumstances, there is no need to consider extending the grace period from two years to three years.

President, on the issue of nutrition labelling, I clearly understand the view of Ms Emily LAU. I also think that it is better to have enough time for consideration. However, as the Government has refused to withdraw it and will insist on it, as a Member, I think I have to make a choice in this matter. Therefore, President, regarding these three controversial issues, that is the issue of trans fat, the "one plus seven" requirement and the import of small-volume products with nutrition claims, and the issue of grace period, we have elucidated the stance of the Civic Party, and we hope that the Government will continue to provide consumer education irrespective of whichever amendment is passed. President, regarding this motion, I wish to express my gratitude to the Consumer Council and many people who care for the health of the people of Hong Kong. They will continue to explain the "5+2+2" proposal to the people of Hong Kong.

President, here I hope that Honourable colleagues will cast their votes according to their original stance of the "5+2+2" proposal which they have signed.

MRS ANSON CHAN (in Cantonese): Madam President, the question on legislating on nutrition labelling has been discussed for years. It is indeed a rare move for the Government to have made up its mind this year to propose a food labelling law to enable a law intended for safeguarding consumers and public health to finally come into being.

Regrettably, there is a lack of thoroughness on the part of the Government. In a matter of several weeks, the Government has changed from lobbying for Members' support for the food labelling legislation to taking the initiative in proposing two amendments, without giving a full explanation for making such a "180 degree U-turn". Under such circumstances, the public can only think that the Government is bowing to people with vested interests under the influence of the trade and chambers of commerce.

It is pointed out by the trades, in a misleading and intimidating manner, that many brands of food will disappear from Hong Kong if imported foods sold in small volumes are not exempted under the new Regulation, and this will deprive the public of their choices. This is simply not true. Experience tells us that, in free markets, non-complying or poor-quality foods will be naturally eliminated and replaced by better-quality products which care for public health in the long run. Therefore, under the laws of the market, the emergence of a labelling law will not reduce people's choices.

A clear and correct nutrition label is a basic right of consumers as well as an unshirkable responsibility on the part of suppliers. Why are suppliers, importers and retailers reluctant to meet even such a basic requirement? Given their claims that their products contain "low sugars" or "high calcium", manufacturers should produce evidence because consumers cannot possibly find out what is considered "low sugars" or "high calcium" if nutrition labels are not required due to exemptions.

Suppliers have cited only two reasons for opposing the labelling law. First, financial considerations. Additional costs are unavoidable for the reprinting of labels and the analyses of some of the nutrients of the products. However, it is estimated by professionals that the cost for conducting a test for each nutrient is only around \$4,000 to \$7,000, while it costs only \$0.3 to \$0.5 for reprinting a label. To the trade, these costs are indeed negligible. Furthermore, in the Government's amendments, the trade is also requested to add "warning" labels to their products. Will this not incur additional costs? Therefore, the increase in cost, a reason frequently cited by the trade, is merely an excuse.

Another reason for their opposition is that some prepackaged foods do not comply with the labelling law originally proposed by the Government. For instance, according to the standard adopted in Hong Kong, foods claiming to

contain "no trans fat" are actually not free of trans fat. Another example is that certain foods emphasizing their "low sugar" content are actually not low in sugar. It is precisely because the nutrition contents and claims of these products are false that they are afraid of telling consumers the truth. Manufacturers would abandon the Hong Kong market not because they have to spend more money; on the contrary, they are afraid of being abandoned by consumers after they are informed of the truth.

Despite that the Hong Kong Retail Management Association claimed to have collected 450 000 signatures from the public, did the people give their signatures under the circumstances that they fully understood the Regulation or were they being misled? The community is actually being misled by the trade which has not only disregarded the opinions of the professionals and the health of consumers, but also shamelessly requested us to support the Government's amendments.

The food labelling legislation was originally intended for safeguarding the public's right to know and the rights and interests of consumers. As its target is the masses, the legislation should start from the angle of the general public. Come to think about this. In general, elderly people, housewives, children or the chronically ill buying food (such as milk beverage, biscuits, cake, and so on) from supermarkets will believe it is true when they see the products with claims of "low sugars", "zero trans fat" or "high calcium", and they will not go further to examine if the claims are true. It is precisely for this reason that there is even a greater need to legislate to protect the rights and health of the public.

The labelling legislation originally proposed by the Government provided for the implementation of a small volume exemption scheme for food products without claims and with a sales volume of 30 000 units or below per year. Such an arrangement already represented a compromise made in the interest of the trade. Why should the Government further sacrifice the rights and interests of consumers by compromising even the integrity of the original legislation?

The amendment proposed by the Government today merely requests the trade to add warning labels to food products to inform the public that the product may not meet Hong Kong's nutrition labelling requirements. These so-called flexible measures are actually redundant and will easily confuse consumers. Faced with foods bearing warning labels, consumers will naturally ask, "Why

can foods not meeting the labelling requirement be allowed to be sold in Hong Kong?" This approach of the Government actually goes against the original spirit of the entire legislation, and this is grossly irresponsible.

What is even more worrying is that the Government's amendment will enable manufacturers to exploit legal loopholes easily. Even if the product contains a high level of trans fat, they can come up with ways to indicate "zero trans fat" on the nutrition labels by reducing the serving size. In doing so, the consumers' right to know will retrogress, and public health can hardly be safeguarded.

I can hardly agree with the amendments proposed by the Government and Mr Vincent FANG because they are contrary to the original proposal and cannot safeguard the public's right to know. With these remarks, I support Mr Fred LI's amendment and the Government's original amendment.

Thank you, Madam President.

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

MR LEUNG KWOK-HUNG (in Cantonese): Just now I heard Mr LEUNG Yiu-chung say that some officials had been lobbying support from him. Although no officials came to lobby me, I was lobbied by Fred LI, who asked me over the telephone how I am going to vote today. This is why I have been keeping this matter in view, though originally I did not pay much attention to it.

Members are unanimous in criticizing the Government for backtracking and "making a U-turn" at the last minute. For me, I am not a bit surprised by the Government's behaviour. The situation turned out to be the same when I met with a group of owners from Wan Chai District this morning over the Government's permission for a certain consortium to build a 90-storey mega hotel. The Government was accused of failing to live up to its promise. Actually, this Council will encounter the same situation from time to time. The tension, or balance of power, in this Council will also change as a result of lobbying by different people. Actually, I did not have any idea about the harmful effects of trans fat until I learned of them from "Tai Pan".

Where is the crux of the problem? The Government seems to consider the comments made by other people or comments made by people lobbying the Government at the last minute more important, whereas its previous pledges or the previous bill unimportant. This Government is actually adopting a double standard.

Let me cite an example. I am a smoker. During the deliberation of the legislation on a smoking ban, a lengthy discussion was held on the extent of the harm caused by smoking and places where warning slogans should be posted. Originally I was not interested at all, but I remember I did participate in the discussion. Nowadays, when I buy cigarettes, I would see "SMOKING KILLS" clearly displayed on the cigarette package, stating that smoking is fatal. Some cigarette packages read "smoking may cause festering skin". Actually, as a smoker, I can say that I have only myself to blame because I know only too well that smoking kills or causes festering skin, and yet I am still smoking. However, the Government's current approach is different from the one taken by it in dealing with smoking. Not only has it failed to spell out clearly that consumption of trans fat kills, it has even allowed some people to genuinely make false declarations and exempted them from the responsibility of making false declarations.

Actually, insofar as the entire problem is concerned, the more consumers know the better. However, the Government is telling us that this is not the case, and consumers do not need to know too clearly owing to many considerations, such as rising costs for importers of small volume products, the need to take care of consumers since the supply of the goods in the market will be discontinued once labelling is implemented. As a result, the Government is now contemplating of giving up by telling us that the labelling law actually does not work. Of course, you may say that the Government is actually very cunning for it has pointed out the ambiguity of the labelling legislation. A person who has died as a result of the consumption of certain substances should therefore be held totally responsible for his or her own death.

So, what are we asking for? The answer is to bring home to consumers the actual situation. Our colleagues have quoted a large number of examples to clearly point out that there is a way for manufactures and traders to cover up the actual situation. In other words, consumers merely know that the food products are substandard without knowing the extent of the harm caused. This is the crux of the problem.

Hence, from my point of view, the legislative intent of the legislation, to which an amendment has been proposed by the Government on its own, is to fulfil the Government's pledge to Hong Kong people to bring home to them what components they have consumed, which components are harmful, the extent of harm, and so on. However, subsequent to the amendment to the legislation, none of these pledges will be honoured.

I have come up with another idea. How about if the Government acts the other way round by distributing information labels to manufacturers free of charge? It would take only a month for the labels to be printed for them to put on the food products. Perhaps they may be in the process of designing the label. I do not know if some people will do this. I may probably do so. I may print labels for the exempted foods and post the labels everywhere, such as 7-Eleven convenience shops, Wellcome and Park'n Shop. Would such an act — members of the public or consumers would volunteer to post the information labels everywhere if no action is taken by the Government — be considered unlawful? Actually, the most important spirit of my speech today is to remind colleagues and everyone else that, as citizens, we have the power to take action on our own, that is, posting labels, when no action is being taken by the Government.

Actually, upon the passage of the Government's amendment today, we will have only one choice, that is, to exercise our civic rights when we feel unconvinced by visiting places where these products are likely to be sold, such as supermarkets, to post information labels in order to compel the Government to take action, though the goods originally belonged to those operators. But since our Government is unkind and unjust — LEUNG Yiu-chung described it as "impotent", and while it may probably be "impotent", I think it is actually "shameless" — we are then duty-bound to post the information labels on our own. I wonder if the consumers in Hong Kong are mature enough to implement measures which should originally be implemented by the Government.

Under the circumstances, I think that Fred LI will definitely lose when it comes to counting votes. Therefore, it served no purpose for him to call me yesterday. Actually, after the passage of the legislation, he should take further action by joining us in printing labels to be posted. Only through acting in this way can we compel the Government to face the reality. Should suppliers or traders stop us from resorting to civil disobedience to remind everyone, law enforcement actions must be taken. However, such actions would definitely

give rise to public concern and the question concerning whether the Government's act *per se* is reasonable and constitutional.

President, I will stop here. I hope Honourable colleagues can act according to their conscience and honour what they have said before, for this can prevent any possible actions of civil disobedience in the future. Thank you, President.

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung, do you wish to elucidate the part of your speech that has been misunderstood by Mr LEUNG Kwok-hung?

MR LEUNG YIU-CHUNG (in Cantonese): Yes, President. Thank you.

I would like to make it clear that when I said that I was lobbied by the Government, I meant that I was requested by the Government to accept its original proposal, not the amended one. I would only like to clarify this. Thank you.

MRS SELINA CHOW (in Cantonese): Having listened to the speeches delivered by Members, I feel that Members should have a clear understanding of some background information. According to a number of colleagues, the discussion on the matter started back in 2003, but no action has yet been taken. They questioned: How could that be? They also said that actions must be taken promptly. As was frequently pointed out during the discussion over the past several years, the devil is in the details. I believe the message is clear that no one in this Council opposes taking steps to better nutrition labelling so that consumers know exactly what they are eating. However, it is imperative for further discussion to be held because some difficulties have indeed arisen in respect of certain fundamental circumstances.

To cite one example, there is no international standard in the world for the formulation of nutrition labelling, with such places as the United States, Europe, Australia and New Zealand having their own standards. I believe we would not be in such a painful situation had there been an international standard. The problem is that Hong Kong itself has come up with its own set of standards.

Therefore, problems will arise when foods imported into the territory are required to meet its labelling requirements. Some colleagues will certainly suggest that the importers simply have to comply with our requirements. But the problem is that many of our foods are imported, and our market is very small.

Some people said that there has been sufficient time since the discussion already started in 2003. However, if we look at the commencement date of the discussion on the "one plus seven" nutrition labelling scheme, we will find that the discussion did not commence until December last year, or January this year in the Retail Task Force of the Business Facilitation Advisory Committee. However, it was already pointed out right away that problems would arise, and that nutrition labelling would not work. Actually, the Government pointed out during the meeting that trans fat was already discussed by Codex in April last year, but the Government did not inform Members that no conclusion was drawn and no consensus was reached. The problem is that there is simply no consensus in the international community. Hence, the proposal of implementing nutrition labelling in January this year was met with a major obstacle because it was very difficult for food products imported from various places to meet our requirements. Therefore, we are not just talking about the right to know. While discussing the right to know, another right possessed by consumers, namely the right to choose, will probably be affected too. This is a fact, and we must not muddle through. It is untrue that the right to know matters most, as suggested by some people, because insofar as consumers are concerned, the right to know and the right to choose are equally important.

It is well understood that we certainly need to and are obliged to safeguard the health of Hong Kong people. Insofar as health is concerned, people selling food products must take into consideration the health of Hong Kong people. However, when we have a good understanding of the unique circumstances of Hong Kong, we will know that, in this small market of Hong Kong, quite a large number of consumers request that certain food products be supplied in small quantities for their consumption, even though they do not comply with our "one plus seven" nutrition labelling scheme. This has nothing to do with their right to know, for they still want to find out what those food products contain. Even if the products do not necessarily comply with the "one plus seven" nutrition labelling scheme, consumers still hope that those food products can be imported, only that they do not meet the requirements of the nutrition labelling scheme.

In this connection, we have come up with a compromise proposal by introducing a small volume exemption scheme. However, it is found to be not serving the purpose either. It was only in December last year that we realized that food products labelled with nutrition claim would not be exempted.

Many Members suggested earlier that a vast majority of food products seem to disregard the health of Hong Kong people. This is not true. Actually, food products with a large sales volume or an annual sales volume of above 30 000 units must meet the requirements under the "one plus seven" nutrition labelling scheme. But the problem is that there is no way for food products under the small volume exemption scheme to comply with the requirements. According to the Consumer Council (CC), the problem can be easily resolved, so long as consumers are willing to pay. I have no idea on what basis the CC asserts that the problem will be solved if consumers are willing to pay. In some cases, it concerns not only whether or not consumers are willing to pay, but also the fact that the importation of those food products will be disallowed. Let me cite trans fat as an example. Owing to different definitions, the requirements of the markets in the United States and Hong Kong are entirely different. The situation that food products not consistent with Hong Kong's definition cannot be imported has absolutely nothing to do with the right to know. Despite that consumers do have the right to know, they have no right to choose. This is how things have developed.

The situation has been described by many colleagues as the trade's interest or an act by the trade to intimidate or mislead the people. Can these remarks be considered misleading and intimidating too? We have also heard a lot of voices, including those from doctors or dieticians, saying that this is to change the dietary habits of Hong Kong people in order to make them eat healthy. However, we are now talking about nutrition labelling, and it is not the case that relying solely on labelling can completely alter the eating habits of the people and prevent them from eating unhealthy food. Labelling is part of the efforts in educating consumers to choose their food. I absolutely agree that people must have the right to know. In the meantime, however, other essential education work must also be carried out to give people the true picture of Hong Kong's situation so that they understand why Hong Kong cannot be considered in isolation and, with particular reference to small volume exemption, why we cannot rely solely on the standard in Hong Kong, and the standards of other places should be considered as well.

I think that some people are scaremongering. In their opinion, the Government's approach of readily accepting good advice the Liberal Party has all along believed that we must seek a way out to allow food products with a small sales volume to be imported to satisfy people in need — not only expatriates. Many of the people we are now talking about are local people. Though they may not have sent us emails, a large number of local people are being affected. If this is the case, we should listen to not only the voices of the trade, but also the voices of Hong Kong people. If the Government can readily accept good advice, why should it be criticized and cursed so viciously? At the very beginning, some Members felt that the Government might not have made adequate effort prior to the gazettal; nor has it explored ways to make a compromise. However, when the relevant regulation is tabled to this Council for discussion by Members in public forum, and when a way out can be identified, why is the Government not allowed to take this path? This is very puzzling to me. Why does it seem to me that the matter is described in such a lopsided manner that public health is at great risk, as if this is intended to do harm to members of the public? We must bear in mind that we have not been provided with such information until now. Our mere request is that the importation of food products with a small sales volume should be allowed to continue.

Some colleagues would argue that, given the exemption, the food products can be labelled in whatever way. However, this is not the case. Why is there such a situation? Because there is no international standard. However, suppliers have already told us that they would endeavour to meet the requirements of nutrition labelling of the places of origin. Some people will ask: Will they really do this? While people might be cheated by fung shui masters for eight or 10 years, Members will surely be able to see how the situation will develop if we start working now. Actually, they are very willing to do so. However, it is because their labelling requirements, such as "one plus 14", "one plus three" and "one plus six", are different that they cannot meet the "one plus seven" nutrition labelling requirements in Hong Kong. Hence, they would certainly hope that this issue can be handled with greater flexibility.

As regards trans fat, it is not deliberately made by the United States to harm Hong Kong. They do have a certain standard adopted in the entire country, just that it is not internationally adopted. Nor is it accepted by Hong Kong. With the implementation of nutrition labelling, we have adopted a relatively flexible approach to enable us to balance between the right to know and the right to choose. To put it plainly, it is actually not a big issue, and I very

much hope that Members can understand this. We all actually know about this, and I only hope that Members will not be too emotional in considering this issue. I do not think that when we have taken the first step the vast majority of food products would already meet our requirements. If we as an inclusive society can take into account food with a small sales volume we should actually behave in this manner. It is indeed evident to all of us, though Members insist that these food products will not disappear. However, we can tell from a lot of information that costs and specifications would lead to the disappearance of such food products.

Just now, a Member asked why I did not believe in the information provided by the professionals. Similarly, it appears to me that they do not believe in the information provided by the trade. In my opinion, mutual respect is essential, and leeway should be provided. If we are satisfied with this approach and give consideration to the needs of various sides after all, it is not our intention to make use of the labelling scheme to restrict consumers' choices. We hope the labelling scheme can, besides providing consumers with choices, enable them to exercise, to a certain extent, their right to know. I am convinced that the existing compromise proposal can absolutely achieve this goal.

I very much hope that in the coming year if the amendment proposed by the Secretary today is not passed, the Liberal Party is definitely of the view that a very, very negative impact will be produced on consumers because their right to choose will retrogress substantially. However, if the amendment is passed, then I think the education and monitoring work should continue. We should call on the trade to continue to provide more information but refrain from allowing the cost to rise to an exceedingly high level beyond the affordability of the consumers. Furthermore, I do hope that other areas of education work can continue. Each one of us is obliged to do so, and so are this Council and the Bureau. I hope we can make joint efforts instead of describing this as a fierce fight between you and me. I do not believe the situation should come to such a state. Thank you, President.

MR ALBERT CHENG (in Cantonese): President, earlier in the meeting, a number of Members, including Fred LI, Audrey EU, Emily LAU, Joseph LEE, WONG Kwok-hing, KWOK Ka-ki, LEUNG Yiu-chung and Anson CHAN, have already spoken. I have no intention to waste my 15 minutes on repeating what they have said. I have also listened to the justifications given by Members

opposing the right to know. Just now, Mrs Selina CHOW reminded us not to be emotional. I think she was right. I will try not to be emotional. I just hope more information can be provided to enable Members to understand why the public's health and right to know must be respected.

Many people argue that operating costs will rise if the so-called "one plus seven" labelling legislation has to be complied with. However, such an argument is illogical, because even products with an annual sales volume of below 30 000 have to be affixed with labels. And to do so, one must pay, first of all, for printing charges. So, why do manufacturers not print labels in compliance with Hong Kong's "one plus seven" requirement? The cost involved will be exactly the same, except that an additional cost will be incurred for the purpose of conducting tests. According to the Government, it will cost \$3,000 at the most for a test. If the sum is divided by 30 000 items, each item will cost only 10 cents more. In other words, it will cost only 10 cents more to buy a packet of potato chips mentioned by Audrey EU earlier or such expensive stuff as virgin olive oil. What is more, this additional cost of 10 cents can be amortized over a period of eight to 10 years, because the test needs to be conducted only once. Since the products must be affixed with labels anyway, what we are talking about is just a few cents.

If the Government does not make this proposal, my argument would have become untenable because this will increase the cost as it costs 30 cents for each label and it is very troublesome when manual labour is involved. Given its small sales volume, the goods might as well skip Hong Kong. However, labels must be affixed according to the Government's current requirement. President, it will only incur an additional cost of \$3,000 in order to meet the "one plus seven" requirement. What is this \$3,000, compared to an annual sales volume of 30 000 units? It is simply negligible if the cost, one cent for each item, is amortized over a period of 10 years. If people do not buy it for this reason, let them do so; if these products do not come to the territory for this reason, let them do so. Mrs Selina CHOW has just left this Chamber. Never mind. Anyway, I am not speaking to her. She will definitely follow the Government's preference in casting her vote. I am only speaking to the public.

The public is simple; they are market-led. Just now, Mrs Selina CHOW argued that there is no international standard I thank Mrs Selina CHOW for coming back President, I agree with her that there is no international standard — I am saying this to you, and to Mrs Selina CHOW, and also to people who are watching the television. Mrs Selina CHOW is perfectly right

that there is no international standard, or a uniform standard. However, we must bear in mind that there is opportunity cost in doing business. There are always local regulations and customs to be followed. Businessmen cannot defy local laws when they start up a business somewhere. The "one plus seven" requirement, which is implemented in Hong Kong, must be met. Speaking of small-scale markets, just now Mr Alan LEONG cited New Zealand as an example. Let me introduce to Members an even smaller market, the Chinatown.

President, I have brought with me a bag of props with me today. Upon my request, a good friend of mine in Canada bought the stuff in the Chinatown for me, and mailed it to me last week. This one, Lee Kum Kee Ma Po Tofu, is already affixed with a label in full compliance with the Canadian law. Its sales volume definitely cannot compare with that of products consumed by the so-called middle class people or foreigners in Hong Kong. This one is crunchy turnip, produced by Weijute Food Limited Company in Sichuan Province, the place which was hit by earthquake earlier. It is also affixed with a label in full compliance with the Canadian law. There is no such law in China. This is a packet of peanuts. I wonder if it is a Japanese product, but it is also affixed with a label. All these products were bought from the Chinatown, where the population is very small. This one is authenticated Laoban shred vegetables, produced by the Laoban vegetable factory in Yuyao County on the Mainland. President, the label is affixed to the product, and it even carries the Canadian law. This one is a packet of small fish. I have no idea what it is, but it must not be anything unhealthy. It is also affixed with a label printed in French and English. This packet, containing dried black beans, is what foreigners will not eat. It is also affixed with a label showing Xinfeng as its place of origin. We can learn from the label on the packet that it is a Hong Kong product supplied by a company called the Xinfeng Trading Company, situated at no. 163, Queen's Road West.

Therefore, I would like to make a rational comment. Why are products shipped from China and Hong Kong to the small markets in the Chinatown of Canada, the United States and other places are required to comply with local laws while goods imported into Hong Kong from such places as the United States, Britain and Europe are allowed to enjoy special privileges upon their entry into the territory? Currently, racism and nationalism appear to be favourite topics of discussion on the Mainland, and even under secretaries are not allowed to hold foreign passports. So why can these overseas products be

exempted while our products cannot be exempted when they are exported overseas? In my opinion, this is not an excuse.

Another point I would like to raise concerns the public's right to know. Some Members said to me, "'Tai Pan', I love eating those foods. There is nothing to do with you even if I die after eating them." Right, it has nothing to do with us. However, let us look at this advertisement. Why should we spend large sums of money promoting health care financing (this is one of the items to be discussed in our next motion debate) but not enacting proper legislation on healthy diet? The number of diabetics in Hong Kong is among the highest in the world, costing the Government \$5.3 billion annually. Heart disease and stroke are also number one killer diseases in the territory, costing the Government billions of dollars annually. As 15 000 types of foods are supplied by those businessmen, even if 5 000 types are not shipped to Hong Kong for sale or fail to meet the relevant requirements, it would only cost them \$30 million if \$3,000 is incurred for conducting a test for each of the remaining 10 000 types of products. Compared with billions of dollars, how would Secretary Dr York CHOW do the calculation?

I have great sympathy for Secretary Dr York CHOW because he is the target of all Members, which is actually quite unfair. It is tough to be a government official. If he is a doctor sitting with us on this side or outside but not in that position today, I bet he will say, "'Tai Pan', go ahead! If it is wrong, knock it down." President, just now, Fred LI expressed his wish to be a "royalist", while LEUNG Yiu-chung felt overwhelmingly flattered all of a sudden when he had become a target of lobbying. Both Members should have experienced the difficulty of being "royalists". This is what both of them cannot manage. Royalists must waver in their position all the time. They have to go east if they are told to do so today, but turn to the west if they are told to do so the next day. This is what the two Members cannot manage. Fred LI, do not be silly. There is no way for you to be the President in the next term. Do not worry.

President, we are actually discussing the right to know and public health. Why can the Government not offer the public choices in a fair manner by informing them of the existence of such substances as trans fat? Currently, even cholesterol is not labelled. Cholesterol is actually very important; on the contrary, trans fat is less important since the vast majority of Hong Kong people know nothing about it. However, public concern was aroused by a motion

debate proposed by me last year. I really have to thank the public for "attending the lecture". Actually, cholesterol is of paramount importance to the public. With regard to labelling, cholesterol is labelled in Canada, but not in Hong Kong. Therefore, the Resolution today is actually very mild, for it represents only the first step. It is very unfair if even this very first step has to be stifled.

As many Hong Kong people may not be aware that Vitasoy sold in the United States and Canada has all its components labelled clearly on its package, let me take this opportunity to publicize its contents. It has 5% of total fat, 5% of saturated fat per gram and zero trans fat (according to the standard adopted in the United States). But cholesterol, sodium, total carbonate, and so on, are also clearly spelt out. However, no information is provided for this packet of Vitasoy sold in Hong Kong. Moreover, Vitasoy reportedly behaved most badly when the Government came to lobby us, for it even opposed the idea of listing out its components clearly. However, Vitasoy sold in the United States has provided such information as required. Why?

I think Mr LEUNG Yiu-chung is right in saying that we are doing this not only for the sake of the next generation, but also our personal health and right to know. How can my right to know be exploited? I will not eat anything if I am told that it is poisonous. It is my own business if I insist on eating it. This is like smoking. Even if smoking can be fatal and lead to impotence and heart disease, and if LEUNG Kwok-hung still insists on smoking, never mind. We should not stop him. However, I do not entirely agree with him. Smokers should sign an undertaking promising that they will not use the services provided by public hospitals. (*Laughter*) If they are admitted to public hospitals, they should pay the fees as if they are private patients. In the case of this motion, if some people like to eat foods containing cholesterol and trans fat, they should be allowed to eat as much as they like. However, they should not be admitted to public hospitals should they suffer from a stroke.

I think this has something to do with public interest because last week — time really passes quickly; it seems to be last week — during the motion debate proposed by me last week, I proposed that 1 sq ft should be equal to 1 sq ft when we purchase property. As the interests of major consortia are involved, there is no room for discussion. Though I can understand this, it was unacceptable to me and so I raised objection. The minimum wage proposed by LEE Cheuk-yan also involves the interests of consortia. There was nothing I could say, and so I

could only swallow it. Whose interests are involved insofar as this motion is concerned? Major consortia would not care. Only the interests of very few people, that is, some importers, are involved. According to the importers, tens of thousands of items of goods, or 10 000-plus items of goods, are being imported annually. When the Government first came to lobby me (I should not use the word "lobby"), it said, "'Tai Pan', trans fat was invented by you. Now I am going to explain this to you, but you have to give us support." I said I would surely support the Government for I would support anything the Government does, but the point is that the Government said that 15 000 types of goods would disappear immediately and asked me if I was aware of this. Of course, I had no idea. I was told that the Government had conducted a survey and found that there were more than 40 000 types of goods on the shelves of Park'n Shop and Wellcome, and this would mean that half of them would be gone if 15 000 types of goods disappeared. I was asked if I believed it. Of course, I did not believe it, for this was actually unbelievable.

I have no idea why Emily LAU would have been endowed with such wisdom. Both she and Audrey EU have suddenly mentioned the Buddha's Birthday. I have not paid attention to this point. But why would there be changes before and after the Buddha's Birthday? Perhaps it has something to do with the "Bathing Buddha" ceremony, which was apparently officiated by the President. I attended the ceremony last year, but I could not attend it this year because you were there. *(Laughter)* Perhaps Buddha and I were brought together by fate, or I may just take my fate as it is. In other words, these are just trivial matters. Buddhist philosophy is most passive. Just take one's fate as it is. If one is going to die, he will die anyway, whether he has or has not eaten. Everything is destined. Therefore, we should not make so much fuss. To foster social harmony, we should raise our hands unanimously in this Council. We should endorse anything proposed by the Government. Will it work if we support the Liberal Party's amendment as well as Fred LI's amendment? I have no idea. I suppose it is not going to work.

However, I really hope that Members Members have seen the advisement already. It appeals to all people of Hong Kong — I will read it out because I have time — Save the children by supporting the "5+2+2" nutrition labelling bill. As workers of the health care sector, and representatives of dieticians, patients' groups, parents and teachers in Hong Kong who care about our next generation, we express our strong dissatisfaction to Members of the Legislative Council and urge them not to betray public health and respect consumers' right to know, and support the original bill, also known as the

"5+2+2" proposal, which represents the consensus reached by the Government and the health care sector. It includes: First, do not exempt foods claiming to be healthy foods but failing to provide comprehensive nutrition information and do not allow them to be sold on the market. Note 1: A lot of foods claiming to contain high calcium, low sugars and low fat do not live up to their claims. Note 2: Diabetic patients' conditions may worsen as a result of consumption of high-calcium soya drink which contains five spoons of sugar. Note 3: High-fibre biscuits are high in fat, with a five-piece packet containing one spoon of oil. We must not allow foods claiming to contain zero trans fat but actually containing as much as 0.5 g of trans fat per serving to be sold on the market. Note 4: Trans fat would greatly increase the risk of heart disease and high blood pressure. Third, do not allow the grace period to be extended from two years to three years. Note 5: The grace period in all countries around the world, including China, is two years at most. Some Members from the business sector have even proposed that the period be extended to three years, and that the discussion be postponed for one year. This is (it is not entirely pleasing, so it is better for me not to say it). This is food for thought for the people. First, why are foods claiming to be nutritional not exempted all over the world (including the United States) while Hong Kong has to be an exception? Why should we believe in the claim made by businessmen that health foods can no longer be imported? Fact 1: A two-year grace period is already granted. Fact 2: A nutrition label can be affixed to the product and it costs less than \$0.2 each. Fact 3: Food manufacturers can give up claims not supported by data. Third, why should we believe in the claim made by businessmen that choices of health food will be reduced? Actually, objections were raised by businessmen for exactly the same reason when nutrition labelling was implemented in many countries, and yet there has been a year-on-year increase in the volume of health food. Fourth, while businessmen say that warning labels can be attached, they are reluctant to affix additional nutrition labels. Did they already obtain the data a long time ago? Is it the case that they can no longer conceal the food data from the public? Fifth, the business sector has spent large sums of money and made a great deal of effort on publicity. If only a small volume of food can be sold on the market, will businessmen make such a great effort? Some businessmen have attempted to get away through the "back door" by declaring in hearings that there are different flavours and packages for their products. Sixth, why do we spend large sums of money on health care financing but not properly promoting healthy diet?

President, the message conveyed by the advertisement is clear. It has the support of professional bodies, teachers, parents, including all people of Hong

Kong. The Regulation being discussed today is actually concerned with public interest, not the interest of the trade. We will not allow the interest of the trade to override public interest. Hence, would Members please cast your own vote according to your conscience, whether with your left hand or right hand.

Thank you, President.

MR ANDREW CHENG (in Cantonese): Madam President, on behalf of the Democratic Party, I am going to speak on the several debates held in this Council since 2003 on motions relating to this resolution.

Madam President, during the past motion debates on nutrition labelling and the meetings of the Panel on Food Safety and Environmental Hygiene, Fred LI and I had often heard some colleagues (especially colleagues from the Liberal Party) make this comment — it has also been repeated many times today — "the Liberal Party supports the nutrition labelling scheme but" with numerous examples cited afterward to demonstrate that the existing scheme was flawed and problematic.

As with universal suffrage, Madam President, many political parties express support for universal suffrage, only to be followed by "but" and a lot of justifications. While we have no intention to give other political parties an opportunity to accuse us of frequently politicizing motions but, Madam President, the point is that I believe the people's livelihood and politics are inseparable. The current composition of the Legislative Council and its ridiculous voting methods simply demonstrate that public interests and the well-being of the people's livelihood are basically hijacked by the interests of the functional constituencies.

According to our information, three debates on the nutrition labelling scheme have been held in this Council. The votes cast by Members of the Liberal Party are inconsistent with what they told the public and what the public asked for.

The first motion debate on nutrition labelling was proposed by Fred LI on 17 December 2003. As I have only 15 minutes, I will read it out quickly. As a colleague said just now, I would also like to put it on record since we have all contributed to this motion. The motion proposed at that time read:

"That this Council urges the Government to expeditiously introduce a mandatory labelling scheme on nutrition information for prepackaged food and draw up a legislative timetable to implement, in three years' time, the first and second phases of the scheme as proposed in the consultation paper, so as to facilitate consumers in choosing foods that are beneficial to health; besides, as the international community has not yet arrived at a consensus on how to regulate foods for infants and foods prepared for people with special dietary needs, this Council also asks the Government to carry out a study as soon as possible, to explore the feasibility of including these food products in the scheme."

Madam President, this motion was proposed on 17 December 2003, and now it is already 28 May 2008. What was the outcome? At that time, an amendment was proposed by Mrs CHOW to delete "expeditiously", request that a regulatory impact assessment be conducted before formulating the scheme, and delete "carry out a study for foods for infants and explore the feasibility of including these food products in the scheme". The Liberal Party did not even allow a study to be conducted. But both Mrs CHOW and Tommy CHEUNG, the then representatives of the Liberal Party, had not, according to the record, explained in their speeches why the study should not be allowed, apart from insisting that no study should be conducted. They then cited a lot of examples to illustrate why it was not a good idea to implement the scheme expeditiously. However, they even objected to the idea of conducting a study. Madam President, is this an anti-intellectual society? Fortunately, the motion was supported by the majority of colleagues at that time. It was passed even in separate voting. Madam President, this was indeed extremely rare.

The second motion debate on nutrition labelling was proposed nearly three years ago on 8 June 2005. The wordings of the motion, proposed by Dr Joseph LEE at that time, were very long. Madam President, I will not read out the motion in its entirety. I will only read out several relevant points:

"(a) expedite the legislation on a mandatory labelling scheme, and allow a grace period of three years after enactment of the legislation for full implementation of the 'one plus nine' option, which covers energy and nine core nutrients, in one go;

(b) work out a long-term plan and timetable for bringing into the regulatory ambit another four nutrients which have a bearing on the level of

healthiness, namely potassium, monounsaturated fatty acid, trans fatty acid and soluble fibre."

Though there are several other points, I am not going to read them out. Regarding this motion proposed by Joseph LEE, Vincent FANG of the Liberal Party proposed an amendment to delete "expedite the legislation on a mandatory labelling scheme", the "one plus nine" option, and the inclusion of trans fat, and substitute with the most conservative "one plus five" option. Another amendment was also proposed by WONG Yung-kan of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) to include regulation of labelling of food for infants and people with special dietary needs. What was the voting result at that time? As expected, the Liberal Party continued to vote against the feasibility of commencing a study for infant food and opposed Dr Joseph LEE's original motion. Fortunately, the motion, as amended by Mr WONG Yung-kan, was eventually passed. Madam President, the motion was again passed.

The third debate on nutrition labelling was conducted last year on 14 March 2007. The motion was proposed by Albert CHENG, who spoke just a moment ago. Though his motion is not short, I consider it quite important because it is very similar to the topic under our discussion today. I will read it out very quickly:

"That, as cardiovascular disease is the second leading cause of deaths in Hong Kong, and medical research also reveals that consumption of food containing trans fats will increase the risk of contracting coronary heart disease, and given that some countries such as Denmark have legislated as early as 2003 to prescribe the permissible maximum level of trans fats in food, the use of artificial trans fats in food production in restaurants will also be gradually banned in places such as New York, Chicago and Massachusetts to safeguard public health, this Council urges the Government to follow the practice of these places to expeditiously legislate against the use of artificial trans fats in food production in local restaurants, to prescribe the permissible maximum level of trans fats for all imported and locally produced food, and to require the trans fats contents in food to be listed on the package labels for identification by consumers."

At that time, an amendment was proposed by Mr Fred LI of the Democratic Party to call on the Government to "expeditiously legislate for the Labelling Scheme on Nutrition Information require the trans fats contents

in food to be listed on the package labels when implementing Phase I of the Scheme". Another amendment was proposed by Mr Vincent FANG of the Liberal Party, calling on the Government to study the international practices, local factors and eating habits of the public, to consider whether there is a need to legislate against the use of artificial trans fats. According to the voting results, the Liberal Party opposed Fred LI's amendment and the original motion. Fortunately, Vincent FANG's amendment was withdrawn subsequent to the passage of Fred LI's amendment.

Madam President, the reason why I have spent more than seven minutes reading out these three motion debates is to demonstrate from the facts as to whether voting preference and public interest will continue to play a role in non-binding motions in this Council though this resolution is binding, Madam President. How will Members cast their votes? If Mr Fred LI's idea of legislating expeditiously was supported at that time just now, Mr Albert CHENG said that Mrs CHOW would vote according to the Government's preference. We are actually aware that Mrs CHOW is not listening to the Government this time around. On the contrary, the Government is listening to Mrs CHOW. It is really distressing to see that the Government is listening to the Liberal Party. I cannot see the Secretary's facial expression at the moment, but Mr CHENG has said that it is very difficult to be "royalists". Madam President, the Democratic Party had played the role of royalists in opposing smoking and passive smoking, and sometimes we did feel very angry. Yet, it is not so difficult that we must act against our conscience.

Besides colleagues of the Liberal Party, I am saying this also to Members of the DAB who supported Mr Fred LI years ago. According to my understanding, only one Member from the DAB spoke at that time, and I forget whether he was Mr LI Kwok-ying or Mr WONG Yung-kan? Mr LI Kwok-ying was the spokesman for health issues. I very much hope to see how colleagues of the DAB would cast their votes because the Government's amendment could not be passed without the support of half of Members of this Council. In other words, in addition to the pan-democratic Members and independent Members, we also very much need the votes of Members from the DAB, who were standing on the side of the public in the debates on the non-binding motions back then, in order to vote against the Government and support Mr Fred LI's amendment, thereby truly implementing a labelling law which is conducive to public health. I am really expecting this, Madam President.

It is evident from the debates held since 2003 on the nutrition labelling scheme that the Liberal Party has continued to adopt an opposition stance. As pointed out by a colleague earlier, no explanation is required because of the underlying business interest, which is so heavy that even the Government has to listen to them. The Liberal Party has all along been adopting a delaying tactic since the first motion debate was proposed in 2003. Madam President, it was nearly five years ago. Even a study was not allowed. The Liberal Party has all along been procrastinating.

Yesterday, I learned from the *South China Morning Post* that, according to Vincent FANG, public health was the Liberal Party's top priority in its consideration. However, judging from the three motion debates, is public health really the Liberal Party's number one consideration? I very much hope so. Whenever I saw Mrs CHOW deliver her speech, I very much hoped that she really thought this way. But deep down in my heart I really cannot believe her smile. Her underlying motive runs counter to public interest. Hence, I hope Members can understand that anyone who really accords top priority to public health should not procrastinate. One who continues to procrastinate is apparently putting business interest in a number one position.

Madam President, the resolution proposed by Fred LI is actually consistent with the spirit of the three motions passed in this Council previously. Upon the passage of each motion, the Government was requested to submit a report to this Council on a regular basis. Even though a report has now been submitted, it runs contrary to the spirit of our previous motions. As a result, Mr Fred LI has no alternative but to propose an amendment. It is hoped that Members who previously supported Mr LI would cast the same vote today.

The content of Mr Fred LI's amendment is actually very simple. Actually, the same requirements can also be found in the United States. Hence, I must point out that the United States Counsel has kept lobbying support from Members of this Council for exemptions of products with nutrition claims. Apart from taking care of the business interest of the food manufacturers of the United States, we simply do not see other reasons for his doing so. Therefore, Members should stop criticizing us for introducing foreign influence and not chiding the United States Consulate. Here I would like to put this on record.

Today, an article by Mrs CHOW was published in *Ming Pao* pointing out that there is a growing tendency for Hong Kong society and the Government to

act like "dominating parents". With reference to the labelling requirements of various countries, Mrs CHOW said in the article, "As it is 'one plus 14' for the United States, 'one plus 13' for Canada, 'one plus six' for Australia, 'one plus four' for Japan Such being the case, why should we insist on acting uniquely in putting forth the "one plus seven" option and deny all the feasible options implemented by others altogether?"

According to Mrs CHOW's logic, the "one plus five" option proposed by Vincent FANG in his amendment, as mentioned by me earlier, to Dr Joseph LEE's motion can be described as the most exceptional in the world, if not unique. While the Liberal Party allows itself to put forth the "one plus five" option, which is different from the options adopted by other countries, it does not permit the Government to propose the "one plus seven" option. Except for attributing this to "business interest", I really cannot understand this logic.

Madam President, in addition to the grace period, Mr Vincent FANG has also proposed another amendment calling for a substantial reduction in the registration fee for small volume exemption from \$345 and \$335 to \$80 and \$50 respectively. According to my understanding, the registration fee is levied on a cost-recovery basis. Should it be reduced, we taxpayers would be required to subsidize the business sector. The Democratic Party cannot approve such an act of welfarism in subsidizing the business sector. Members from the pan-democratic camp or the labour sector have frequently been described by the Liberal Party as welfarists, but what is this concept upheld by the Liberal Party? This is why Mr Vincent FANG's amendment is unacceptable to the Democratic Party. Actually, according to Mrs CHOW's logic, if she is against the Government acting like a dominating parent, why did she resort to seeking benefits from this dominating parent?

Madam President, I hope there will be other Members of the Liberal Party speaking on this resolution. I hope Members of the DAB will speak too. However, they have all left already. They act in the same manner on every occasion. At this final stage of the debate, it is actually most necessary for Members to express our viewpoints. I have not been following up this policy. However, as pointed out at the beginning of my speech, during the meetings of the Panel on Food Safety and Environmental Hygiene, the Liberal Party had time and again expressed their support for the nutrition labelling scheme when they faced our spokesman, Fred LI. But why were there so many voices of opposition in the end? I really cannot figure out why. Notwithstanding this, just as we were discussing why we cannot obtain our Home Visit Permits on a

previous occasion, we all know this only too well. How can we not know why? We know it even better this time because the benefits of the businessmen are calculable.

Today, I emphasize again that apart from the Liberal Party — I do not think there is any way for me to convince them — I hope that the DAB can support Fred LI's amendment. Thank you.

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

MR JAMES TIEN (in Cantonese): Madam President, I think the focal point of Members' speeches today is about ensuring food safety for Hong Kong people and people's right to make choices. This is very important, and I would further analyze this point. All of us in Hong Kong including the Liberal Party consider food safety as highly important. How can the safety standards be reached? Labelling all food products can certainly ensure safety. How do I know about the composition of food products if the products are not labelled?

Mr Andrew CHENG said that regarding many policies in the past, the Liberal Party objected to legislating when the proposal was first made. But we keep abreast of the time and we would agree that progress must be made if, a few years later, the community has such needs and public opinions also confirm such needs, and we are not only saying that something which we considered not feasible a few years ago has now become feasible. On this point, Mr Andrew CHENG referred to the situation back in 2003 and 2004. Everybody was discussing food labelling at that time but many things that did not exist are found today. We are discussing today the problem of many other misleading food products which we had not discussed before. Taking trans fat as an example, nobody expressed concern over it in 2003 but all of us are concerned about it today. We must have such information listed on the labels and we must look into how such information can be listed out in a reasonable way.

However, the biggest difference between the views of the Liberal Party and the Democratic Party is that, as shown in the discussion on anti-smoking legislation or switching off the engines of idling vehicles in the past or the topic today, the Democratic Party tends to act ruthlessly to the extreme while the Liberal Party would consider whether, in a harmonious society, we can give some leeway to the minority groups, races and strata, so that they can have the

right to choose, since over 90% of the people support the legislation. Is everybody as naive as the Democratic Party has thought? Do we think that they know nothing and would all be in great troubles and misled without the relevant legislation?

Madam President, we are not talking about drugs (which is, of course, another thing) but food products. I do not think that food products being put on sale in the market would poison many people. In response to the comment that we uphold the interests of the business community, in all fairness, I would say that the interests of small and medium enterprises in the business sector are more or less the same as people's right to make choices. Mr Vincent FANG has bought a whole basket of food products including potato chips and other food items from a supermarket in Tin Shui Wai, with each item only costing a few dollars. If exemption can be granted to these small volume products with an annual sales volume of 30 000 units, how much can the business community benefit? If each item only costs a few dollars, 30 000 units will only cost tens of thousand of dollars, and the total amount is not much even if a packet of potato chips costs some \$10. From another angle, even though each product type is only sold for hundreds of thousand of dollars a year, the total sales volumes would be substantial if there are 10 000-plus product types. Yet, that is not the case, for the exempted products only take up a very small proportion of all prepackaged food in Hong Kong.

Some have also remarked that people in the United States and Britain have expressed their views by writing to newspapers, and they might have written to *South China Morning Post*. I find that other people in Hong Kong, for instance, domestic helpers such as those from the Philippines or Thailand, seldom express their views even though they certainly have their views, probably because they cannot write to *South China Morning Post* to lodge their complaints, so it seems that we have not received their views. Nevertheless, our discussion today is not about luxurious cheese from the United States, Canada and Europe or certain brands of Italian olive oil. In fact, Hong Kong is a culturally and racially pluralistic society and there are many food products from other countries such as fish sauce from Vietnam or chilli from Thailand. If these products have an annual sales volume of less than 30 000 units, we think that most of them will not have significant impacts on the general public.

Concerning the 30 000 units just mentioned, if two to three bottles are bought by a small number of people each year, it may affect only 30 000 persons or families, unless we suppose the 7 million people in Hong Kong will consume

one such item each. To these 7 million people of us, must we remove all such products and hence deprive them of the right to make choices? I do not think so. People who can read Vietnamese will have an idea of the composition of fish sauce listed out on the labels, though we Chinese may not be able read it. I really cannot figure out why granting exemption to food products with an annual sales volume of less than 30 000 units will have significant impacts on people's health. Does it mean that people will not go on reading other information once they see the word "zero" on the reverse side of the packaging of products with such disclaimer labels? People's right to know is important but they should also have the right to make choices.

Insofar as the topic of our discussion is concerned, we should not regard everybody as ignorant or gullible believers of the Government. We would also like to protect people's interests in areas other than prepackaged food, but there have been problems with fish or meat from time to time and in fact, the Government has already made great efforts in the area of food safety for various reasons.

About prepackaged food, the case of trans fat is very special and we think that it is not necessary for the Government to "surpass Britain and catch up with the United States" and instead, we should adopt the standard of 0.5 g per serving of the United States. We can consider adopting such a standard since it can work in a foreign country, though the standard may not necessarily be set by the United States which has for many years attached much importance to personal health. If we in Hong Kong adopt a lax standard which shows a big difference from the definition of 0.3 g per 100 g as originally proposed by the Government (the difference is actually not very big), will this really affect people's view? On the whole, the Liberal Party thinks that the so-called consortium interests or the absolute interests of the business community are basically not involved, and we only wish to balance people's right to know and their right to make choices.

I would like to speak in my capacity as Chairman of the Hong Kong Tourism Board. Hong Kong is often described as a Gourmet's Paradise and there are so many inbound tourists every year. We want a wider range of food products for tourists to choose to buy and consume. If the labelling scheme will stop the import of many types of food products, food choices will be greatly reduced in the market. Although many tourists will patron restaurants in Hong Kong rather than buying a lot of food products from supermarkets, many of them still buy food from supermarkets or other shops for consumption once in a while.

Hong Kong is a multi-cultural, multi-racial world city in Asia offering a variety of choices. If the overwhelming interests of 7 million Hong Kong people can be substantively protected, can we not spare one single food item, give it exceptional treatment and make it available to consumers? The Liberal Party and the Democratic Party have quite different views on all legislation. Thank you, Madam President.

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

MR CHIM PUI-CHUNG (in Cantonese): President, theoretically, I absolutely support the labelling of food and even drugs. As social advances, consumers should be informed of what they will get in return after spending money. As Hong Kong is a world-class city, the SAR Government should be particularly careful in this regard.

As I have said before, there is definitely no problem for Legislative Council Members to have different political views because "one country, two systems" is implemented only in Hong Kong but not in other places in the world. It is worthwhile for Members with different aspirations and political views, stances, backgrounds, viewpoints and standpoints to spend time gearing-in with each other, to arrive at a consensus in future so as to serve Hong Kong and the country with which we are identified.

It is rather ridiculous and pitiable that the SAR Government has to entice votes from Members on this motion about food labelling today after failing to reach a consensus with Members. It is ridiculous because I do not know why we cannot reach a consensus even on an issue which will benefit the public and various sectors. Why do Members have to be opposing each other as they are over political issues? This is ridiculous. And it is pitiable because the Government has never regarded this Council as important, only thinking that the executive has absolute superiority. Although we have an executive-led government under the Basic Law, I have always emphasized that it does not mean the executive controls everything. An executive-led government is not tantamount to a hegemonic government that can do whatever it likes.

The Government had the audacity to ask me if I supported or opposed this motion. When has it been given the power to do so? This is an insult to the

powers of Legislative Council Members. The Government should immediately conduct a review to find out who should be responsible for this. Legislative Council Members have the power not to express their voting preference until the time to vote. Although Members can indicate their intentions, how can the executive authorities of the Government make such enquiries in advance? This goes against the principles of the separation of powers. Even though the Central Government may not recognize the separation of powers, it is still practised at the moment, so the Hong Kong Government in so doing is meddling with the executive and legislative spirit and authority. The executive should conduct a serious review. I have got another note asking a follow-up question and I have certainly thrown it into the rubbish bin (*Laughter*), for the Government cannot keep me within its bounds.

As a Legislative Council Member, I think I should make decisions on the basis of my understanding of matters, and this will need courage — do not nod, for I may not support you — (*Laughter*) we should understand that a responsible government should really uphold people's interests and we Legislative Council Members should try our best to make the Government understand this better. Frankly speaking, I have not attended the meetings of the Subcommittee and I do not understand the matter very well, which is pardonable. Likewise, many Members may not be familiar with or have sufficient understanding of economic and financial affairs.

It is a pity that the Government's efforts in this area are inadequate. I am a businessman and I need to have understanding of many current changes and difficulties. It is essential to have mutual understanding among members of the community and uphold global interests which are inviolable; nobody should think that he has absolute superiority under the pretence of democracy. In fact, there are different rules and circumstances in different places.

I am a constant critic of the SAR Government. In respect of financial services, the Government has promoted Hong Kong as a world financial centre. But is there any country or region in the world which will sacrifice all its interests and hand them over to large-scale international financial institutions and brokers? This point alone makes the SAR Government a target of criticism. I absolutely do not have direct interests but we all may have indirect interests. In that case, the SAR Government as a responsible government should make bold commitments in all aspects.

Viewing from Secretary Dr York CHOW's handling of matters, I know he is a man with aspirations but at the same time, he has to modify his attitude and opinions when pressurized by the higher echelons, which is actually not very fair to him. But what can he do? He has to consider things from a broader perspective, and many people will frequently be reminded of this in future.

President, I did not intend to talk too much and I will decide how to vote after listening to the Secretary's concluding remarks. Despite the fact that many people have told me that my vote counts, I think it is most important to respect the facts.

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

MS MIRIAM LAU (in Cantonese): Madam President, some Members have severely criticized a while ago the Liberal Party for not supporting the food labelling legislation. I would like to remind Members who have criticized us that none of us has proposed a resolution in opposition to this subsidiary legislation today. In other words, we all support the spirit of this subsidiary legislation. The Liberal Party has only pointed out certain difficulties in light of the actual situation and made some suggestions for Members' consideration. Members can consider if these suggestions have been reasonably made or are worth their support, and they can choose whether or not to support them. But Members cannot say that we do not support the food labelling legislation and hence put public health at risk because we have proposed possible improvements to the Regulation. That is an excessively harsh criticism, and it is escalating the issue to a higher plane of principle.

Ms Audrey EU's speech is interesting, as she cheerfully grabbed a packet of potato chips and criticized that while "zero trans fat" is listed on the packet, it does not mean "zero trans fat" under the system of the United States. There is 0.5 g of trans fat in the packet which is actually very unhealthy, and as there are seven servings in each packet, consuming all the seven servings would exceed the standard trans fat intake. It is all the more interesting when I saw many pan-democratic Members enjoying the packet of potato chips in the Ante-chamber after Ms Audrey EU has spoken. (*Laughter*) This reminds me that the most important point to note in discussing the food labelling legislation is the right to know.

Ms Audrey EU is very "well-informed" as she knows that "zero trans fat" as listed on the packaging of food products may not be describing the actual contents; it may be less than 0.5 g; it may really be zero; it may be healthy; and it may be unhealthy, and it is up to an individual to choose whether to eat these products. I hope Members would listen carefully to the proposal made by the Liberal Party today. We ask for exemption to be given to those products with an annual sales volume of less than 30 000 units; there are food labels on the packaging of these 30 000 units of products, reminding and warning the public that it is their own choice if they choose to eat it. These are warning labels. So, consumers have the right to make informed choices based on the food labels, and they know that food products without nutrition information on food labels are not protected under the local legislation and consumption of such food products is the choice made by consumers themselves, just like Members choosing to eat the potato chips. I believe we all have the right to know and there are warning labels to avoid confusion. In the days to come, there will only be a small proportion of pre-packaged food which do not carry nutrition information on food labels, and I believe most food products would have food labels in compliance with the "one plus seven" scheme. Food labels must be affixed on products with larger sales volume while warning labels should be affixed on products with smaller sales volume. Consumers have the right to make choices after all and when they see the label, they can choose to buy it or not buy it; and they can choose to eat it or not eat it. Nobody is misleading them, for they have the right to know and they know that this pre-packaged food without a label is not in compliance with the local legislation. I think in respect of the right to know and the right to make choices, the needs of the public have been attended to.

Mr Albert CHENG has said enthusiastically that for a \$3,000 increase in the costs, the cost of each of the 30 000 units will only be increased by \$0.1. I am not sure if Mr Albert CHENG is engaged in the food packaging business and whether the \$3,000 increase in costs that he mentioned is accurate. If these food manufacturers are willing to affix labels on their products, Mr Albert CHENG asked why they do not put on the "one plus seven" labels. As far as I understand it, the "one plus seven" label is much more complicated and sometimes impossible because a lot of difficulties will be encountered. The products have to be tested and this involves complicated procedures and so, it is more than just putting a label on the product. These two labels are different and I do not think that so much concern of the trade would be aroused if the relevant cost is only \$0.1.

If food manufacturers are willing to affix warning labels, they will bear the risks that consumers may not purchase the products after seeing the label. The trade has the right to make this choice. Of course, they have the right to choose not to affix warning labels but to test the products and affix "one plus seven" labels afterwards. That is also their choice. But we are talking about the right to make choices and the right to know in various aspects. I do not find it excessively lenient to grant exemption to products with an annual sales volume of less than 30 000 units. We can look for ways to improve the arrangement if it is proven ineffective after being tested for some time, but the current proposal can indeed meet the needs of the trade and the trade also hopes to provide support to the nutrition labelling legislation proposed by the Government.

In respect of cost recovery, Mr Andrew CHENG's remark about subsidizing the business community is unpleasant to the ears. The business community has never asked for subsidies and I believe they are only asking for a reasonable level of fees. My studies on government charges reveal that the Government charges dozens of dollars on a lot of permits such as the Certificates of Origin just mentioned by Mr Vincent FANG or certificates of endorsement; it charges some \$100 for most permits and some \$40 for others.

Do people have to pay \$300-odd as proposed by the Government to recover costs? Should they not question it? Should we not make queries or ask the Government to reduce charges because it only involves the business community? For sure, the Government can tell us that it charges \$300-odd to recover costs. I would like the Government to tell us why it has made such a proposal, for we do not have the relevant information.

I find it strange that the Democratic Party is so generous towards the charges of the Government this time. Before, they would vigorously pursue the matter and ask the Government for analysis in relation to all charges collected by the Government. But the Democratic Party seems to be particularly generous this time in allowing the Government to charge \$300-odd. It is unnecessary to look into the matter seriously because the charges would be borne by the business community. They think that we should not make queries or ask for reductions, otherwise, we will be subsidizing the business community. I consider that a one-sided view. If we look at this from a more balanced viewpoint, when charges are proposed by the Government, Members have the responsibilities of finding out if the charges are too high and if so, we should reflect it to the Government. If the Government insists that the amount is appropriate, it can surely provide some information and data to convince us that the charges are

reasonable. Nobody would raise opposition if such information has been provided by the Government and the charges are reasonable. However, the charges appear to be really excessively high when compared with other charges. Why should the Government pitch the fees at such high levels? We have to know the reasons, and if the Government cannot tell us the reasons, it is only reasonable for us to ask that the fees collected by the Government should be comparable to other general fees.

Thank you, Madam President.

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

MS MARGARET NG (in Cantonese): President, I have been instructed to lend a helping hand. It seems that Ms Miriam LAU has some misunderstanding about the remarks made by the Chairman of the Civic Party, Ms Audrey EU. We are therefore obliged to make clarification.

First of all, what Ms Audrey EU intended to say was that even though the potato chips contained trans fat, eating just one piece of it would not be fatal. As she was smiling when she distributed the chips to us, we could only accede to her request at the expense of our lives. When Ms Miriam LAU saw us eating the chips smilingly, she had the impression that we did not see any problem eating the chips, but actually we were terrified. (*Laughter*) We could not refuse to eat it because Ms EU was smiling. However, we will not do it again. I hope Ms EU will not bring any more potato chips into this Chamber again.

Let me return to the topic of our discussion. What are we discussing? We are discussing the right to know. According to the Government's original proposal, "zero" can be used if every 100 gm — not MG race car — contains less than 0.3 g of trans fat. Regarding this point, everyone knows what it means, and the public will make their own choice. However, the amendment does not mention the standard of Hong Kong. In other words, the products will be permitted if they can comply with the relevant requirements of any jurisdictions outside Hong Kong. Ms Audrey EU knows very well how the serving size in the United States. She knows that "zero" is equal to 0.5 g for every 15 pieces. She knows that every 15 pieces contains 0.5 g. As she knows this is the United States standard, she can do the calculation. But is she

fully aware of other standards? Perhaps she is familiar with international laws, but is she familiar with international labels as well? Some potato chips may come from Russia, while some may come from New Zealand. As such, are we aware of each and every origin of the packet of potato chips that we are holding in our hands? Not necessarily.

Another point that I wish to make is this: As mentioned earlier, "zero" in the United States applies to a serving size of 15 pieces. However, it may not always be 15 pieces for every packet or every type of food so that consumers can tell the contents on the basis of 15 pieces, because one serving may contain 10 pieces, not 15 pieces, if the level of trans fat is higher. Hence, "zero" is equal to 10 pieces in some cases. Therefore, when you are eating happily thinking that you are consuming zero trans fat, "zero" is actually not equal to "zero". This point is very simple. So long as we know how it is calculated, people who know how to do simple arithmetic will be able to protect their own health. However, the Government's existing amendment will deprive us of our right to know. Therefore, this is of paramount importance to us.

I hope that after my clarification, no Member will make comments similar to those made by Ms Miriam LAU earlier.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, Mr Fred LI, you may speak again before I call upon Mr Vincent FANG to reply.

MR FRED LI (in Cantonese): Madam President, I have listened to almost all the Members who have spoken. I nodded earlier on not because I thought Mr CHIM would support me, but to indicate that I agreed to what he had said. So, please do not be mistaken, Mr CHIM.

Regarding what Ms Miriam LAU has said, I hope that she understands what is going on, because this Regulation is rather complicated. Although nine Members of the Liberal Party participated in the Subcommittee, they did not

always attend the meetings. I think only Mr Vincent FANG and Mr Tommy CHEUNG have a better idea. Even Mr James TIEN has got many concepts wrong. I will clarify them one by one later.

Products with an annual sales volume of below 30 000 to be exempted from the "one plus seven" labelling scheme refer to those products without nutrition claims. Incidentally, I wish to respond to Mr James TIEN who always mentioned fish sauce from Vietnam and Thailand. I have actually explained this to him before. Why does he never get it? These are foods of ethnic minorities imported from Thailand, the Philippines or Indonesia, and there is no nutrition claims on their packaging. For products without nutrition claims, which means that they are not labelled as low sugars, low fat — has anyone seen fish sauce from Thailand carrying labels of low fat, low sugars, low sodium or trans fat free? No. For products without nutrition claims, according to the requirement concerning a sales volume not exceeding 30 000 as I mentioned just now, they are not required to meet the "one plus seven" standard. This is very clear and so, please do not confuse it.

What we are discussing now is products with nutrition claims and a sales volume not exceeding 30 000. Why are we so concerned about them? Because these products have made nutrition claims to attract consumers. Low sugars — We must be careful, as we would go for food that is low fat, low sodium, high in fibre, and so on. These products seek to attract consumers with these claims on the packaging but there is no labelling of "one plus seven" on the back. What is the logic? The Government said at first that this is not right and that the nutrients must be labelled but now, it has made an about-turn and given up, saying that they only need to display a warning instead of a label of "one plus seven", or to list out just some of the information, and the Government simply does not care. The basic attitude of the Government is that so long as a warning label is displayed, it does not care about what is listed on the back. This is exactly what we are gravely concerned about. Those products with nutrition claims and an annual sales volume not exceeding 30 000 are neither fish sauce from Thailand nor products consumed by Indonesian ethnic minorities. So, would Mr TIEN please do not get this wrong. Mr TIEN is not in the Chamber now. He did not listen to me however hard I tried to explain it to him, but he is saying this again and again to cause confusion although he does not understand what the Regulation is targetting. I think Mr FANG understands this point, and I hope that he can teach his party's Chairman a lesson.

Besides, he has put it in a way as if we are going to prohibit the sale of these products. Mr TIEN said that we imposed a ban on the import of these products, describing the Regulation as if it would ban the sale of the products. I think the truth is just the opposite. In fact, the Government intends to enact a piece of legislation for Hong Kong people, setting standards according to the physical conditions of Hong Kong people and requiring imported products to meet the standards. This requirement can be found in other legislation. Why is it a problem in the case of this Regulation? And he criticized that once our proposal is implemented, food would cease to come to Hong Kong. He even said that we would be banning these products from coming to Hong Kong. I think these comments are misleading. We are said to be ruthless to the extreme. This is certainly untrue. The thing is that we are concerned about our own health. This is not even a question of food safety. Earlier on Mr James TIEN talked about food safety but this has nothing to do with food safety at all. We are not discussing food safety. We are discussing health and again, he got the concept wrong. So, it is because he did not closely follow the scrutiny of the Regulation that he has this misconception. I hope that he can really work hard. I may not dare to argue with him over other issues, but I certainly know this Regulation better than he does.

On the question of fee, Ms Miriam LAU talked about the fee earlier on and discussed whether it should be pitched at \$50 or \$80. It was in the letter from the Hong Kong Retail Management Association (the Association) to Members of this Council that I first saw the proposal of reducing the fee to \$50. They did not explain the reason. They just proposed a fee level of \$50. I would think that this is a proposal put forward by the commercial sector and to the commercial sector, the lower the registration fee the better. Today, they explained that it is because other types of registration fees are also pitched at a level of tens of dollars that they queried the fee level proposed by the Government. It is correct to query the fee level. We have to query how this \$300-odd is calculated. But I also query how this level of \$50 is calculated. They did not explain it. This proposal was first put forward by the Association, not by Mr Vincent FANG only today. The Association wrote to Members a long time ago, proposing to pitch the fee at \$50. I think this is arbitrary; this is also rigid, and making us provide subsidies. The Government or the Secretary should explain later whether \$50 is sufficient for cost recovery and if so, Mr Vincent FANG's amendment should be supported.

I also wish to respond to a view expressed by colleagues of the Liberal Party. They said that as "one plus seven" was proposed only at the end of last year and the question of claims was raised only recently, more time would therefore be required for discussion. Honourable colleagues, a few years ago we were discussing "one plus nine" and the "nine" included the "seven" nutrients, with the exception of trans fat, as it is only after "Tai Pan" made this point in a motion in 2007 that the Government started to conduct studies and included trans fat. So, do not say that "one plus seven" is new, and that it appears out of thin air just in the past few months. The case is that this is all included in "one plus nine". But then, you proposed "one plus five"; in the motion debate a few years ago you proposed that "one plus nine" be reduced to "one plus five". You think the less nutrients to be included the better. What is it if not commercial interest? To the commercial sector, the less nutrients to be included the better. The commercial sector would consider it best to adopt "one plus three" and follow the practice of the Codex Alimentarius Commission (Codex), right? This cannot be clearer. The less nutrients to be included the better, in order to follow the practice of Codex and in that case, many things can remain unchanged. But "one plus three" is inadequate.

I wish to point out that our Subcommittee had sent a deputation to Europe. The European Union (EU) is now conducting a comprehensive review of the standards of nutrition labelling. The statutory requirements of the EU are basically very lax as they adopt "one plus three", but for products with nutrition claims, the requirement is "one plus seven" or "one plus eight" — I do not quite remember it. If the products carry nutrition claims, the requirement will be "one plus seven" with the exception of trans fat. What difference is there between us? As for trans fat, experts of EU countries told us in London that they do not include trans fat in "one plus seven" because they already banned the use of margarine and so, the use of artificial trans fat has basically been reduced. So, they have dealt with the problem at root by prohibiting restaurants and manufacturers from producing trans fat by artificial means. It is impossible to ban natural trans fat, but artificial trans fat is most hazardous. The public must never consume margarine, for it has the highest trans fat content because it is artificially hydrogenated. So, the EU countries have been conducting a comprehensive review in this respect.

Moreover, why am I disappointed with the trade? Why am I disappointed with the trade, the Association and the suppliers' association? In Britain, where the EU standard is adopted, the food trade has voluntarily

included eight nutrients for labelling purposes. The "one plus seven" labelling standard has accounted for 80%, which means that 80% of the food products have provided information on these nutrients voluntarily even though the law does not require them to do so. On the contrary, our food trade has merely kept on waiting and procrastinating and so, they deleted all the wordings that suggested expediting the scheme in the amendments. In the three motion debates before, the Liberal Party proposed an amendment to delete all the proposals to "expedite" the implementation of the labelling scheme. Their purpose was to delay its implementation, in order that the scheme will not come into operation very soon. They are unwilling to do it until the very last minute, and even if they do it, they seek to defer it to one year later by proposing to extend the grace period from two years to three years. This is precisely what they have been doing over the years. They have been very consistent in what they do. It is not the case that we are so ruthless as to drive people out of business. The case is that they have consistently sought to delay the implementation of the law. They have indeed upheld their principle. This is very clear. This has remained unchanged.

The speech made by the Secretary, or the script that he read out at the outset, was entirely weak and flimsy, completely failing to address the problem.

I would like to respond to the points made by Mr Tommy CHEUNG concerning canned mud carp and canned luncheon meat. I do not know what these have to do with us. Do canned mud carp have nutrition claims? Will it claim to be low in the content of anything? We all know that canned mud carp is high in sodium and high in oil content. Anyone who likes it may make his own choice, and there is no problem with this, right? Canned mud carp does not have nutrition claims. Products with an annual sales volume not exceeding 30 000 are not required to include "one plus seven" in the label, but if their annual sales volume exceeds 30 000, they have to meet the "one plus seven" requirement disregarding whether or not they carry claims. This, you do agree and have no objection. Why should canned mud carp and canned luncheon meat be brought up for discussion? I do not know what their intention is. Could it be that they intend to scare the public by making them think that there will no longer be canned mud carp and canned luncheon meat for them to consume if this legislation is enacted? So, I must clarify this point. In Hong Kong, those who love canned mud carp and canned luncheon meat do not have to worry, for these products will continue to be imported to Hong Kong. For products with an annual sales volume of below 30 000, they do not even need to comply with "one plus seven" and they only need to put on the product a small

label to show that they are covered by small volume exemption. For products with nutrition claims, unfortunately, they have to carry a warning label and this is what we oppose. So, many colleagues may not be aware of these and I wish to make them clear, so that Members will understand them. I think insofar as some facts are concerned, we must not allow the public to be deceived and we must not allow people muddling through and misleading the public.

No matter what I said, colleagues may have decided how they are going to vote. As Mr CHIM Pui-chung has said, he already decided how he is going to vote and so, what I said would make no difference at all. But nobody can tell the outcome until the end. Some people may leave the Chamber and cast no vote.

So, I have followed up the issue of nutrition labelling for eight years and I only wish to tell the truth. During this period of time, why has the Government been dragging its feet over and over again and making so many changes? It is all because of the trade. It is all because the trade was asking for small volume exemption. This was not included in the original proposal. There was not this threshold of an annual sales volume not exceeding 30 000 in the original proposal. It is because they kept on asking for this that delays were resulted. Legislation should have been enacted expeditiously, but they had been delaying it. The Government finally agreed and made concession. It even sought to convince me, saying "Mr Fred LI, please support it, so as to make things easier for everyone." I said, "Alright, I will make a concession." But who would have thought that the Government would further give in concerning the claims on the food products? This, I can make no concession. I so submit.

PRESIDENT (in Cantonese): Secretary for Food and Health, do you wish to speak again before I call upon Mr Vincent FANG to reply?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Madam President, during their speeches earlier, most Members focused on the small volume exemption scheme and trans fat in their discussion. These issues were also debated thoroughly by Members in the Subcommittee of the Legislative Council during the scrutiny of the Regulation. Here, I would like to explain again the position of the Government and our reasons for introducing amendments to the Regulation.

Hong Kong people have in recent years attached more and more importance to a healthy diet and food nutrition. The "one plus seven" core nutrients labelling requirement was proposed according to the dietary habits, health conditions and common diseases of Hong Kong people while making reference to the guidelines of the Codex Alimentarius Commission and international practices. Since 2003, the Government has had extensive consultation and communication with various stakeholders, including the general public, the food trade, the medical profession, Consulates General in Hong Kong and consumer groups, and their views have been incorporated into the proposal submitted to the Legislative Council as far as practicable. In December last year, the Legislative Council Panel on Food Safety and Environmental Hygiene also discussed in detail and supported our proposal on the nutrition labelling scheme.

Today, we can see that the views of various political parties and most Members in the Legislative Council are broadly consistent with the general principle of labelling core nutrients under the nutrition labelling scheme, and there should not be any divergence of opinion on this point. In scrutinizing the Amendment Regulation, the Subcommittee had all along focused on the details of implementing the nutrition labelling scheme in its discussion, and views were diverse particularly in respect of food products with a small sales volume.

The implementation of the nutrition labelling system may have a certain impact on the cost of the food trade as well as food choices. To strike a balance between safeguarding public health and food choices, the proposal submitted to the Legislative Council had, as far as possible, taken into account the actual *modus operandi* of the food trade by allowing flexibility in the labelling requirements and granting exemption to some food products. We have also accepted the view put forward by the trade to the Government and put in place a small volume exemption scheme for products without nutrition claims but with a low sales volume. This is mainly to provide exemption to ethnic food and niche food products that are imported in small volume and to cater for the staging of food fair and trade promotion events as well as the need for market testing. Moreover, this arrangement has also taken into account the operation of local small and medium enterprises engaging in the manufacturing of food items with a small sales volume. As for products with nutrition claims (such as low fat and high calcium), the Government agrees with the position held by the trade last November when campaigning for small volume exemption that these food

products should not enjoy exemption, in order to ensure consumers' right to know.

However, some members of the trade subsequently changed their position on these products. Members from various political parties in the Legislative Council also held different views on this issue. Some political parties and members of the trade said that the nutrition labelling scheme, once implemented, would result in a large number of small volume products with nutrition claims ceasing to be imported to Hong Kong because of the cost.

The Government had given detailed consideration to the views expressed by the medical profession, parents' organizations and the trade. From the information provided to us by Consulates General in Hong Kong and the trade, food items with a small sales volume account for 5% of all prepackaged food items, half (or 2.5%) of which carry nutrition claims. According to the information collected from the trade during the Regulatory Impact Assessment commissioned by the Government in 2005, there were about 22 000 prepackaged food products in the entire prepackaged food market, and it was estimated that the total number of food products to be affected by the nutrition labelling scheme would be in the range of 1 500 to 3 000. At the end of last month, the trade put up an advertisement in newspaper and collected signatures at retail sales points, claiming that 15 000 small volume products may disappear from the market shelf because small volume products with claims are not given exemption. The estimate of the trade is as many as five to 10 times more of the findings of the study commissioned by the Government, and the accuracy of the trade's estimate is open to question. However, we noticed that the difference between the two estimates has indeed caused some confusion and nuisance to some members of the public and consumers.

We consider that it would not help resolving the matter if we further engage in any more argument over the estimates. To facilitate the passage of the new nutrition labelling scheme by the Legislative Council and its implementation as soon as possible, the Government agreed to make a compromise by adopting a pragmatic approach in dealing with the details of implementation. We propose that exemption be granted to all small volume products with or without claims. However, to safeguard the rights and interest of consumers, all small volume products to be exempted are required to display a label to show consumers that they are exempted products. Food products with claims are further required to display a warning label informing consumers that

the nutrition information and claims on the product may not comply with Hong Kong laws, in order to protect the public's right to know while enabling the public to make informed choices. This arrangement is meant to provide a flexible solution to address a very small difference in opinion. I hope and believe most consumers will not buy food with the warning label, although a small number of consumers, especially foreigners or people who are accustomed to consuming a certain kind of food, may continue to buy such products

The Amendment Regulation will officially come into operation on 1 July 2010. By then, we should have more concrete statistics on food items truly affected by the nutrition labelling requirement in the market. We will review whether small volume exemption should continue to cover products with claims in one year's time after the implementation of the new requirement.

Earlier on some Members expressed opposition to the proposed amendments. I admit that this may not be an ideal option but we hope that through this arrangement, we can strike a delicate balance between consumers' right to information and food choice. I believe that after the nutrition labelling scheme has come into effect, the public will choose to buy prepackaged food products with all the nutrition information provided in compliance with Hong Kong laws because they wish to obtain more comprehensive information on food nutrition. Compelled by market force, a great majority of the food trade will take steps to comply with the nutrition labelling law in Hong Kong as soon as possible, rather than keeping those wordings of the warning label on their products. I think the number of these food items with a warning label will gradually shrink in the market.

A number of Members mentioned during the debate the labelling of trans fat content. Some Members considered the current proposal too harsh, while some Members supported the labelling of trans fat content to protect public health.

The adverse health effect of trans fat has been internationally recognized. Trans fat elevates low-density cholesterol ("bad" cholesterol) and lowers high-density lipoprotein cholesterol ("good" cholesterol). Excessive intake of trans fat may lead to clogging of arteries and increase the risk of coronary heart disease and strokes. The World Health Organization (WHO) has recommended that trans fat intake should be limited to less than 1% of overall daily energy intake. We understand that an increasing number of countries such as the

United States, Canada, Brazil, Argentina, South Korea and Israel have also required the labelling of trans fat in food. The Legislative Council passed a motion in March 2007 urging the Government to enact legislation to prescribe the maximum level of trans fat in food and expeditiously legislate for a labelling scheme on nutrition information.

While internationally authoritative medical studies and the WHO have established the adverse impact of trans fat in the diet and suggested to the public that the less intake of trans fat the better, there has not been a common standard adopted internationally for making a claim of "trans fat free" for food products. We have considered in detail the different standards adopted in overseas countries and decided to set the standard of making a "trans fat free" claim as containing not more than 0.3 g per 100 g of food and meeting the condition for "low saturated fat claim".

However, regarding the labelling of trans fat content on the nutrition label on food products, we noted the concern of some Members that as different countries have different arrangements concerning the conditions for labelling trans fat at "0 g", food products which are manufactured for export to overseas but with a small quantity imported to Hong Kong may not meet Hong Kong's labelling requirement for "0 g" of trans fat. In view of this, we considered that flexibility can be given purely to the conditions for labelling "zero" trans fat content on the food label, and this has to be achieved through legislative amendment. We propose that for the labelling of trans fat content in the list of nutrients, food traders may comply with the labelling requirements of jurisdictions outside Hong Kong which require the inclusion of trans fat. But I must stress again that this flexibility only applies to the labelling of trans fat content in the list of nutrients and in order to make a "trans fat free" claim, a food product must meet the requirement of the Regulation, including a content level of not more than 0.3 g per 100 g of food.

We will review this flexibility in one year's time after the implementation of the nutrition labelling scheme having regard to the international development in the setting of standard for trans fat, the public's view on the labelling of trans fat in prepackaged food and the actual market situation in the labelling of trans fat.

During the two-year grace period before implementation of nutrition labelling, we will engage both the public and the trade in a series of promotional

programmes which will include educating the public on the reading of food labels and how the labels can be put to best use, and also facilitate the trade in providing nutrition labels, including the labelling of trans fat.

My proposed amendments in the Resolutions concerning the small volume exemption scheme and the labelling of trans fat content are made after detailed consideration and they represent a balance of the different views expressed by stakeholders. I hope that these proposals will help allay the concerns of Members, the public and the trade.

Mr Fred LI proposes an amendment to oppose giving exemption to small volume products with claims. I have already explained the position of the Government earlier. Mr Fred LI's amendment also proposes that under a small volume exemption scheme which applies only to products without claims, the exemption label on the product should include an exemption number. Under the Government's proposal, food traders or manufacturers may make an application to the Director of Food and Environmental Hygiene for small volume exemption for food products that are imported or manufactured in small volume. A successful applicant will be given an exemption number by the Food and Environmental Hygiene Department. The exemption number serves mainly to help the Government monitor the exempted products and trace their information and to facilitate law enforcement actions. To the consumers, the most important thing is to know that the food products concerned are exempted from the labelling requirement. The exemption number is nevertheless not of much help to consumers in making choices in purchasing. For this reason, we propose that the exemption number be marked on the exemption label of the product or displayed on the shelf where the product is placed. We, therefore, oppose the amendment proposed by Mr Fred LI.

Mr Vincent FANG has proposed two amendments. One is to defer the date of implementation of the nutrition labelling scheme by one year from 1 July 2010 to 1 July 2011. We are opposed to this amendment.

The Government has since 2003 conducted public consultation. We have listened very carefully to the views of the trade, and conducted detailed analysis and assessment of the impact on the trade and food choice. We have, where the circumstances allow, provided as much flexibility as possible in the scheme in terms of the labelling of nutrients and by granting exemption, with a view to reducing the cost of re-labelling for the trade.

Members have stated various reasons earlier to support a longer grace period, including the need for the trade to re-test the products and their concern about private laboratories in Hong Kong not being mature enough to take up this role. We must not forget that manufacturers of most imported food products already conducted detailed tests on the products before they are launched for sale in the market, and many imported food products also have nutrition labels. So, it is not the case that all food products will have to be re-tested. As for the local laboratories, there are now at least four private laboratories capable of conducting nutrient tests for the trade. Following the implementation of the nutrition labelling scheme, the demand for laboratory test service will increase and the private market will make adjustments accordingly to cope with the demand. As for locally-manufactured food products, manufacturers should know clearly the types and quantity of the ingredients of their products. Other than carrying out laboratory tests on their products, they can consider calculating the nutrients of a product from the types and quantity of the ingredients. The Chinese University of Hong Kong has formulated a database which can be a reference to manufacturers.

I wish to point out that the support of the trade is vitally important to the implementation of the nutrition labelling scheme. It has been the wish of the public that the scheme can be implemented early, so that they can obtain more objective and accurate information on food nutrition. We do not wish to see its implementation being put off, which would be disappointing to the public. I hope that Members and the trade will understand this.

As regards the fee for small volume exemption, Mr Vincent FANG proposes to revise the fee for new application and renewal application as set out in the Regulation from \$345 and \$335 to \$80 and \$50 respectively. The Government also opposes this amendment.

I must point out that the proposed fees are calculated in strict accordance with the established formula approved by the Financial Services and the Treasury Bureau. Full cost recovery has been an established policy of the Government, and the same formula is also adopted for calculating all government fees and charges. Under the small volume exemption system, charging the fees at a level lower than the cost would mean that food importers and manufacturers are subsidized by public money in the sale of these small volume food items, which is unreasonable. The fees under our proposal, namely, \$345 for a new application and \$335 for a renewal application annually, are indeed insignificant

vis-à-vis the operational cost of the trade. That Mr Vincent FANG has proposed this amendment is, in my view, regrettable.

Madam President, the Government's proposal to implement a nutrition labelling system in Hong Kong has aroused heated discussion in various sectors of the community. While Members hold diverse views on the implementation details of the scheme, most of them agree to our major policy direction of providing accurate and comprehensive nutrition information to consumers for them to make informed food choices. I hope that Members will support the amendments proposed by the Government on the principle of safeguarding public health and interest.

Finally, I wish to thank the Subcommittee under the leadership of Mr Bernard CHAN for giving us many valuable opinions in the course of the scrutiny of the Amendment Regulation. Subject to the passage of the Amendment Regulation, we will immediately proceed to extensively promote the new nutrition labelling scheme to assist the trade to meet the new requirements and enable the public to benefit from the scheme as soon as possible.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now call upon Mr Vincent FANG to reply.

MR VINCENT FANG (in Cantonese): Madam President, I believe Members would not be unfamiliar with the issues and arguments raised in Members' speeches because these points have already been discussed in the Committee stage and many have been mentioned by me in my speech at the beginning of the debate. So, I am not going to respond to them one by one.

Concerning the market economy and number of food items to be withdrawn mentioned by Mr Fred LI, I believe we in the Liberal Party have a better understanding of market economy than Mr Fred LI. Market economy is led by quantity and profit. If Hong Kong has a market scale like China and consumption power like the United States, I believe food manufacturers all over the world will swarm to sell their products here. However, we have a very small market to the international food business, so we have always suggested that the Government should make reference to the mainland standard. A "one plus four" labelling scheme is the existing standard on the Mainland, whereas a voluntary scheme is implemented for food products without nutrition claims.

This reflects that the Mainland with such a market scale has not ignored the practical operation of the market. I think Mr LI should not mind too much about being "royalists" or the opposition as we should balance the interests of all sectors of the community in legislating. Also, the Government will conduct a review a year later and we might as well keep the situation under observation for a year.

Regarding the number of food items to be withdrawn, at least 100 000 types of food products are currently available for sale in the market according to the information given by the trade. The number may be more than 100 000 given that different types of food products are sold in different supermarkets and people of different nationalities have operated their own shops, for instance, spice from Thailand is sold in shops on the Stone Nullah Lane, commodities from Indonesia are sold at the Indomarket in Causeway Bay, and Japanese and Korean food is sold in Tsim Sha Tsui shops.

According to our estimation, more than 15 000 food items may be withdrawn from the Hong Kong market if flexible arrangements are not made. For some food products with nutrition claims and an annual sales volume just exceeding 30 000 units, they may not be willing to spend considerable amounts on changing their production modes or re-packaging. As for food products with an annual sales volume of only 40 000 units, I think there is hardly any principle of market economy which can prove that the business is going to work. For sure, the gap in the market will be filled up by certain food products but the key point is whether they are what we want.

In connection with the number of food items to be withdrawn, as Members consider the trade's estimate an exaggeration, I especially ask the Secretary to conduct an investigation into the types and prices of pre-packaged food supplied in the market six months before the legislation takes effect as well as the number of traders concerned. After the legislation has taken effect, another investigation should be conducted into the number of food products remained in the market so as to figure out the changes in the prices and number of traders during this period. We would then understand the actual situation without guesswork.

A lot of Members said repeatedly that as discussions on nutrition labelling started in or even before 2003, it is unreasonable for the trade to ask for a three-year grace period again. I stress once again that I believe nobody can tell international food manufacturers at this moment the details of the nutrition

labelling system to be adopted in Hong Kong. I am running a factory and I dare not commence production until I have received samples approved by a client even though he keeps telling me that he is going to place an order.

The Government conducted a Regulatory Impact Assessment in 2005 and proposed implementation in two phases, and the report ultimately suggested not to implement the proposal. But the current decision of the Government has basically run counter to the original proposal.

Insofar as the grace period is concerned, many Members consider the two-year grace period sufficient; I eagerly want to know why they thought so because the information provided by the trade showed that many food producing countries allow a grace period of more than three years to facilitate preparation by the trade. For instance, the European Union, which is reviewing their standard, gives a three-year grace period and two more years are allowed for small enterprises of less than 10 persons, while Australia gives a grace period of two years from the manufacturing date. Therefore, if the Secretary can successfully convince Members to oppose my amendment, I hope he would grant exemption to products that have entered the Hong Kong market before the commencement date, so that the trade can sell them in the market, otherwise, all these food items with nutrition claims would have to be discarded.

Some Members pointed out that many people would become ill or the consequences would be more serious if products are exempted from meeting the labelling requirements of Hong Kong. As I have just said, nutrition information is only information and it cannot assist consumers in choosing whether to eat something or not. There was a comment made a few days ago that not providing nutrition information is actually a message. I fairly agree with this comment. If all Hong Kong people, like Members who have just spoken, are very concerned about nutrition information or worried about the import of a lot of "junk food" from foreign countries into the local market, they will certainly not choose food products without any nutrition information or those labelled as not in compliance with the labelling requirements of Hong Kong. In that case, these products will naturally be eliminated from the market as there will not be any buyer. Hence, I have always stressed the paramount importance of teaching the public to read labels and choose suitable food.

With regard to the function of nutrition labels, some Members have said that food with nutrition labels is healthier, and this is very misleading indeed.

Lastly, on behalf of the trade, foreigners who live in Hong Kong and people with special needs for food, I thank the Secretary for flexibly handling food products with nutrition claims in small volume. The Liberal Party and I very much agree with Mr Bernard CHAN that the Government's amendment is not an ideal proposal, so we agree that a review should be conducted a year later. I so submit. Thank you, Madam President.

PRESIDENT (in Cantonese): Before I put to you the question on Mr Vincent FANG's motion concerning section 1 of the Amendment Regulation, I wish to remind Members that, irrespective of whether the motion is passed or negated, it will not prejudice Mr Fred LI and the Secretary for Food and Health in moving their motions, and Mr Vincent FANG in moving his other motion.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Vincent FANG concerning section 1 of the Amendment Regulation 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 Vincent FANG rose to claim a division.

PRESIDENT (in Cantonese): Mr Vincent FANG 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:

Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM and Mr Andrew LEUNG voted in favour of the motion.

Dr Raymond HO, Dr David LI, Dr LUI Ming-wah, Ms Margaret NG, Mr CHEUNG Man-kwong, Mr Bernard CHAN, Mr SIN Chung-kai, Mr WONG Yung-kan, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Prof Patrick LAU, Mr KWONG Chi-kin and Miss TAM Heung-man voted against the motion.

Geographical Constituencies:

Mr James TIEN and Mrs Selina CHOW voted in favour of the motion.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr Andrew CHENG, Mr TAM Yiu-chung, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr LI Kwok-ying, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr CHEUNG Hok-ming and Mrs Anson CHAN voted against the motion.

Ms Emily LAU abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, 11 were in favour of the motion and 16 against it; while among the Members returned by geographical constituencies through direct elections, 27 were present, two were in favour of the motion, 23 against it

and one abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

MS MIRIAM LAU (in Cantonese): President, I move that in the event of further divisions being claimed in respect of motions on subsidiary legislation remaining on the Agenda, this Council do proceed to each of such divisions after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms Miriam LAU be passed.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members who are present. I declare the motion passed.

I order that in the event of further divisions being claimed in respect of motions on subsidiary legislation remaining on the Agenda, this Council do proceed to each of such divisions after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Mr Fred LI, you may move your motion.

MR FRED LI (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

Mr Fred LI moved the following motion:

"RESOLVED that the Food and Drugs (Composition and Labelling) (Amendment: Requirements for Nutrition Labelling and Nutrition Claim) Regulation 2008, published in the Gazette as Legal Notice No. 69 of 2008 and laid on the table of the Legislative Council on 9 April 2008, be amended -

- (a) in section 2(3), by repealing the new definition of "nutrition claim" and substituting -

"nutrition claim" (營養聲稱), subject to paragraph (3) -

- (a) means any representation which states, suggests or implies that a food has particular nutritional properties including -
- (i) the energy value;
 - (ii) the content of protein, available carbohydrates, total fat, saturated fatty acids, trans fatty acids, sodium and sugars; or
 - (iii) the content of vitamins and minerals; and
- (b) includes nutrient content claim, nutrient comparative claim and nutrient function claim;"

(b) in section 2, by adding –

"(4) Regulation 2 is amended by adding –

"(3) For the purposes of these regulations, the following do not constitute a nutrition claim –

- (a) mention of any nutrient content in a list of ingredients required by section 2 of Schedule 3;
- (b) any quantitative or qualitative declaration of any nutrient content specified in section 2(4E)(a) of Schedule 3;
- (c) other quantitative or qualitative declaration of energy value or any nutrient content required by law;
- (d) any quantitative or qualitative declaration of change in nutritional value due to genetically modified process;
- (e) any claim forming part of the name, brand name or trade mark of a prepackaged food; and
- (f) any quantitative declaration of energy value or any nutrient content contained in a prepackaged food which –

- (i) is expressed –
 - (A) as an actual amount; or
 - (B) in any manner specified in section 2 or 3 of Schedule 5; and
 - (ii) does not place any special emphasis on the high content, low content, presence or absence of energy or that nutrient contained in the food."."
- (c) in section 4, in the new regulation 4B(2), in the Chinese text, by adding "的規定所" before "規限";
- (d) in section 4, by repealing the new regulation 4B(4)(a) and substituting –
 - "(a) any item in respect of which an exemption has been granted under Part 2 of Schedule 6 is displayed for sale in contravention of section 2A of that Part; or";
- (e) in section 5, by adding –
 - "(7A) Regulation 5(3) is amended, in the Chinese text, by repealing "依照上述方式" and substituting "符合上述規定"."
- (f) in section 8(1), by adding "2," before "4A &";
- (g) in section 10, in the new section 4(3) of Schedule 5, by repealing "Schedule" and substituting "Part";

- (h) in section 10, by repealing the new section 5 of Schedule 5;
- (i) in section 10, by repealing the new section 6(a) of Part 1 of Schedule 6 and substituting –
 - "(a) packed in a container which contains –
 - (i) no other ingredient; or
 - (ii) ingredients packed in a separate container which has a total surface area of less than 100 cm²; and";
- (j) in section 10, by repealing the new section 10(b) of Part 1 of Schedule 6 and substituting –
 - "(b) packed in a container which contains –
 - (i) no other ingredient; or
 - (ii) ingredients packed in a separate container which has a total surface area of less than 100 cm²; and";
- (k) in section 10, in the new section 1 of Part 2 of Schedule 6, by adding –
 - "(1A) In determining whether certain prepackaged foods are of the same version for the purposes of subsection (1), regard shall be had to all relevant matters including –
 - (a) the ingredients of the foods;
 - (b) the volumes, weights and packing sizes of the foods;
 - (c) the flavours of the foods;
 - (d) the manufacturers and packers of the foods; and
 - (e) the containers of the foods.";

- (l) in section 10, by repealing the new section 1(4) of Part 2 of Schedule 6 and substituting –

"(4) When an exemption is granted under subsection (1), the Authority may impose such conditions as the Authority thinks fit.";

- (m) in section 10, in the new section 2 of Part 2 of Schedule 6, by adding –

"(3A) The Authority may, in respect of a renewed exemption, impose any condition in addition to or instead of any condition previously imposed under section 1(4).";

- (n) in section 10, in the new Part 2 of Schedule 6, by adding –

"2A. Displaying for sale

No prepackaged food in respect of which an exemption has been granted under section 1(1) shall be displayed for sale unless –

- (a) the food bears a label which is securely affixed to or forms part of its container and contains the following text in both the English and Chinese languages in a conspicuous and easily legible manner –

"Nutrition labelling exempted

此乃豁免營養標籤產品";

- (b) the label referred to in paragraph (a) (including the text on the label) is –

- (i) of a design, form and size (including font size of the text) as specified by the Authority in the conditions imposed under section 1(4) or 2(3A); and

- (ii) used in compliance with those conditions; and
- (c) the exemption number assigned by the Authority is clearly marked on the label referred to in paragraph (a).";
- (o) in section 10, in the new section 3(1)(a) of Part 2 of Schedule 6, by adding "or 2(3A)" after "section 1(4)";
- (p) in section 10, in the new section 3(2) of Part 2 of Schedule 6, by adding "or 2(3A)" after "section 1(4)";
- (q) in section 10, in the new section 3(3)(a) of Part 2 of Schedule 6, by adding "or 2(3A)" after "section 1(4)"."

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

PRESIDENT (in Cantonese): Before I put to you the question on Mr Fred LI's motion, I wish to remind Members that if the motion is agreed, the Secretary for Food and Health may not move his motion concerning section 2 and other provisions of the Amendment Regulation, but he may move the motion concerning section 10 of the Amendment Regulation. If Mr Fred LI's motion is negatived, the Secretary for Food and Health may move his two motions. Irrespective of whether Mr Fred LI's or the Secretary's motion(s) is passed or negatived, Mr Vincent FANG may move his motion concerning section 10 of the Amendment Regulation.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Fred LI 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 Fred LI rose to claim a division.

PRESIDENT (in Cantonese): Mr Fred LI has claimed a division. The division bell will ring for one minute, after which the division will begin.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the motion.

Dr David LI, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM and Mr Andrew LEUNG voted against the motion.

Dr Raymond HO, Dr LUI Ming-wah and Prof Patrick LAU abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr

LAU Chin-shek, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr LEUNG Kwok-hung and Mrs Anson CHAN voted for the motion.

Mr James TIEN, Mrs Selina CHOW, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr LI Kwok-ying and Mr CHEUNG Hok-ming voted against the motion.

Ms Emily LAU abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 26 were present, 10 were in favour of the motion, 13 against it and three abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, 16 were in favour of the motion, nine against it and one abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

PRESIDENT (in Cantonese): Secretary for Food and Health, you may move your motion.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I move that the motion under my name concerning section 2 and other provisions of the Amendment Regulation be passed.

Secretary for Food and Health moved the following motion:

"RESOLVED that the Food and Drugs (Composition and Labelling) (Amendment: Requirements for Nutrition Labelling and Nutrition Claim) Regulation 2008, published in the Gazette as Legal Notice No. 69 of 2008 and laid on the table of the Legislative Council on 9 April 2008, be amended –

(a) in section 2(3), in the new definition of "nutrition claim", by adding ", subject to paragraph (3)" after "(營養聲稱)";

(b) in section 2, by adding –

"(4) Regulation 2 is amended by adding –

"(3) For the purposes of these regulations, the following do not constitute a nutrition claim –

(a) mention of any nutrient content in a list of ingredients required by section 2 of Schedule 3;

(b) any quantitative or qualitative declaration of any nutrient content specified in section 2(4E)(a) of Schedule 3;

(c) other quantitative or qualitative declaration of energy value or any nutrient content required by law;

(d) any quantitative or qualitative declaration of change in nutritional value due to genetically modified process;

(e) any claim forming part of the name, brand name or trade mark of a prepackaged food; and

- (f) any quantitative declaration of energy value or any nutrient content contained in a prepackaged food which –
 - (i) is expressed –
 - (A) as an actual amount; or
 - (B) in any manner specified in section 2 or 3 of Schedule 5; and
 - (ii) does not place any special emphasis on the high content, low content, presence or absence of energy or that nutrient contained in the food."."
- (c) in section 4, in the new regulation 4B(2), in the Chinese text, by adding "的規定所" before "規限";
- (d) in section 4, by repealing the new regulation 4B(4) and substituting –

"(4) If any item in respect of which an exemption has been granted under Part 2 of Schedule 6 is displayed for sale in contravention of section 2A of that Part, paragraph (1) shall apply in relation to such item.";
- (e) in section 4, in the new regulation 4B(5), by repealing "paragraph (6)" and substituting "paragraphs (5A) and (6)";

- (f) in section 4, in the new regulation 4B, by adding –

"(5A) Any item in respect of which an exemption has been granted under Part 2 of Schedule 6, except an item displayed for sale in contravention of section 2A of that Part, shall be exempt from the requirement of paragraph (5).";

- (g) in section 5, by adding –

"(7A) Regulation 5(3) is amended, in the Chinese text, by repealing "依照上述方式" and substituting "符合上述規定".";

- (h) in section 8(1), by adding "2," before "4A &";

- (i) in section 10, in the new section 4(3) of Schedule 5, by repealing "Schedule" and substituting "Part";

- (j) in section 10, by repealing the new section 5 of Schedule 5;

- (k) in section 10, in the heading of the new Schedule 6, by repealing "PART 1 OF";

- (l) in section 10, by repealing the new section 6(a) of Part 1 of Schedule 6 and substituting –

"(a) packed in a container which contains –

(i) no other ingredient; or

(ii) ingredients packed in a separate container which has a total surface area of less than 100 cm²; and";

- (m) in section 10, by repealing the new section 10(b) of Part 1 of Schedule 6 and substituting –

"(b) packed in a container which contains –

(i) no other ingredient; or

- (ii) ingredients packed in a separate container which has a total surface area of less than 100 cm²; and";
- (n) in section 10, in the heading of the new Part 2 of Schedule 6, by repealing "PART 1 OF SCHEDULE 5 UNDER REGULATION 4B(2)(b)" and substituting "SCHEDULE 5 UNDER REGULATION 4B(2)(b) and (5A)";
- (o) in section 10, in the heading of the new section 1 of Part 2 of Schedule 6, by repealing "**Part 1 of**";
- (p) in section 10, in the new section 1(1) of Part 2 of Schedule 6, by repealing "Part 1 of";
- (q) in section 10, in the new section 1 of Part 2 of Schedule 6, by adding –

"(1A) In determining whether certain prepackaged foods are of the same version for the purposes of subsection (1), regard shall be had to all relevant matters including –

- (a) the ingredients of the foods;
 - (b) the volumes, weights and packing sizes of the foods;
 - (c) the flavours of the foods;
 - (d) the manufacturers and packers of the foods; and
 - (e) the containers of the foods.";
- (r) in section 10, by repealing the new section 1(4) of Part 2 of Schedule 6 and substituting –

"(4) When an exemption is granted under subsection (1), the Authority may impose such conditions as the Authority thinks fit.";

- (s) in section 10, in the new section 2 of Part 2 of Schedule 6, by adding –

"(3A) The Authority may, in respect of a renewed exemption, impose any condition in addition to or instead of any condition previously imposed under section 1(4).";

- (t) in section 10, in the new Part 2 of Schedule 6, by adding –

"2A. Displaying for sale

No prepackaged food in respect of which an exemption has been granted under section 1(1) shall be displayed for sale unless –

- (a) the food bears a label which is securely affixed to or forms part of its container and contains –

- (i) (in the case where there is a nutrition claim made on the label of, or in any advertisement for, the food) the following text in both the English and Chinese languages in a conspicuous and easily legible manner –

"HKSARG WARNING
Nutrition labelling exempted
Nutrition label and claims for this
product may not comply with
Hong Kong laws

香港特區政府忠告
此乃豁免營養標籤產品
此產品的營養標籤
及聲稱未必符合香港法
律"; or

- (ii) (in the case where there is no nutrition claim made on the label

of, and in any advertisement for, the food) the following text in both the English and Chinese languages in a conspicuous and easily legible manner –

"Nutrition labelling exempted

此乃豁免營養標籤產品";

- (b) the label referred to in paragraph (a) (including the text on the label) is –
 - (i) of a design, form and size (including font size of the text) as specified by the Authority in the conditions imposed under section 1(4) or 2(3A); and
 - (ii) used in compliance with those conditions; and
- (c) the exemption number assigned by the Authority is clearly –
 - (i) marked on the label referred to in paragraph (a); or
 - (ii) displayed in close proximity to the place where the food is displayed for sale.";
- (u) in section 10, in the new section 3(1)(a) of Part 2 of Schedule 6, by adding "or 2(3A)" after "section 1(4)";
- (v) in section 10, in the new section 3(2) of Part 2 of Schedule 6, by adding "or 2(3A)" after "section 1(4)";
- (w) in section 10, in the new section 3(3)(a) of Part 2 of Schedule 6, by adding "or 2(3A)" after "section 1(4)".

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

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

(Members raised their hands)

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

(Members raised their hands)

Mr Fred LI rose to claim a division.

PRESIDENT (in Cantonese): Mr Fred LI has claimed a division. The division bell will ring for one minute, after which the division will begin.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Mr James TIEN, Dr Raymond HO, Dr David LI, Dr LUI Ming-wah, Mrs Selina CHOW, Mr Bernard CHAN, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr LI Kwok-ying, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHEUNG Hok-ming and Prof Patrick LAU voted for the motion.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Ms Margaret NG, Mr James TO, Mr CHEUNG Man-kwong, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Mr SIN Chung-kai, Dr YEUNG Sum, Mr LAU Chin-shek, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Dr Joseph LEE, Mr Alan LEONG, Mr LEUNG Kwok-hung, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr KWONG Chi-kin, Miss TAM Heung-man and Mrs Anson CHAN voted against the motion.

Ms Emily LAU abstained.

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

THE PRESIDENT announced that there were 53 Members present, 26 were in favour of the motion, 25 against it and one abstained. Since the question was not agreed by a majority of the Members present, she therefore declared that the motion was negatived.

PRESIDENT (in Cantonese): Secretary for Food and Health, you may move your motion.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I move that the motion under my name concerning section 10 of the Amendment Regulation be passed.

Secretary for Food and Health moved the following motion:

"RESOLVED that the Food and Drugs (Composition and Labelling) (Amendment: Requirements for Nutrition Labelling and Nutrition Claim) Regulation 2008, published in the Gazette as Legal Notice No. 69 of 2008 and laid on the table of the Legislative Council on 9 April 2008, be amended, in section 10, in the new section 1 of Schedule 5, by adding –

"(6) If the content of trans fatty acids set out in the list of nutrients of a prepackaged food is expressed in a manner that complies with the law of any jurisdiction outside Hong Kong which requires the marking or labelling of trans fatty acids on prepackaged foods, this section, in so far as it relates to trans fatty acids, is deemed to be complied with in relation to the prepackaged food."."

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

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

(Members raised their hands)

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

(Members raised their hands)

Mr Fred LI rose to claim a division.

PRESIDENT (in Cantonese): Mr Fred LI has claimed a division. The division bell will ring for one minute, after which the division will begin.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Mr James TIEN, Dr Raymond HO, Dr David LI, Dr LUI Ming-wah, Mrs Selina CHOW, Mr Bernard CHAN, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr

Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr LI Kwok-ying, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHEUNG Hok-ming and Prof Patrick LAU voted for the motion.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Ms Margaret NG, Mr James TO, Mr CHEUNG Man-kwong, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Mr SIN Chung-kai, Dr YEUNG Sum, Mr LAU Chin-shek, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Dr Joseph LEE, Mr Alan LEONG, Mr LEUNG Kwok-hung, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr KWONG Chi-kin, Miss TAM Heung-man and Mrs Anson CHAN voted against the motion.

Ms Emily LAU abstained.

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

THE PRESIDENT announced that there were 53 Members present, 26 were in favour of the motion, 25 against it and one abstained. Since the question was not agreed by a majority of the Members present, she therefore declared that the motion was negated.

PRESIDENT (in Cantonese): Mr Vincent FANG, you may move your motion.

MR VINCENT FANG (in Cantonese): President, I move that the motion under my name concerning section 10 of the Amendment Regulation be passed.

Mr Vincent FANG moved the following motion:

"RESOLVED that the Food and Drugs (Composition and Labelling) (Amendment: Requirements for Nutrition Labelling and Nutrition

Claim) Regulation 2008, published in the Gazette as Legal Notice No. 69 of 2008 and laid on the table of the Legislative Council on 9 April 2008, be amended –

- (a) in section 10, in the new section 1(3) of Part 2 of Schedule 6, by repealing "\$345" and substituting "\$80";
- (b) in section 10, in the new section 2(3) of Part 2 of Schedule 6, by repealing "\$335" and substituting "\$50".

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

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

(Members raised their hands)

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

(Members raised their hands)

Mr Vincent FANG rose to claim a division.

PRESIDENT (in Cantonese): Mr Vincent FANG has claimed a division. The division bell will ring for one minute, after which the division will begin.

PRESIDENT (in Cantonese): Will Members 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:

Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM and Mr Andrew LEUNG voted for the motion.

Dr Raymond HO, Dr David LI, Dr LUI Ming-wah, Ms Margaret NG, Mr CHEUNG Man-kwong, Mr Bernard CHAN, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr WONG Kwok-hing, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Prof Patrick LAU, Mr KWONG Chi-kin and Miss TAM Heung-man voted against the motion.

Geographical Constituencies:

Mr James TIEN and Mrs Selina CHOW voted for the motion.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr Andrew CHENG, Mr TAM Yiu-chung, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr LI Kwok-ying, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr CHEUNG Hok-ming and Mrs Anson CHAN voted against the motion.

Ms Emily LAU abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 26 were present, 11 were in favour of the motion and 15 against it; while among the Members returned by geographical constituencies through direct elections, 27 were present, two were in favour of the motion, 23 against it

and one abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

MEMBERS' MOTIONS

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

First motion: The 4 June incident.

I now call upon Mr CHEUNG Man-kwong to speak and move his motion.

THE 4 JUNE INCIDENT

MR CHEUNG MAN-KWONG (in Cantonese): President, this year is the 19th anniversary of the 4 June incident and I still insist on proposing the motion of conscience of the Chinese people to make an appeal in the Legislative Council of Hong Kong that "The 4 June incident be not forgotten and the 1989 pro-democracy movement be vindicated".

Nineteen years are a long time but it cannot erase the pain and memory of the 4 June incident among Hong Kong people, still less can it change the determination of Hong Kong people in insisting on the vindication of the 1989 pro-democracy movement. Nineteen years ago, the Chinese Government used tanks and machine guns to suppress young people campaigning for democracy in Tiananmen Square. This is a tragedy and a sin in history. Large though its meshes may be, the net of justice lets no criminal through. What is right and wrong is very clear. The Chinese Government must vindicate the 1989 pro-democracy movement and return unreserved justice to history and to those killed.

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

Before the anniversary of the 4 June incident this year, a catastrophic earthquake occurred in Sichuan in China with an estimated death toll of 80 000.

When this terrible piece of news came out, heaven and earth are both in grief. The Chinese Government had learnt lessons from the past, so it launched rescue and relief operations quickly. The information on the disaster is open and transparent. This stoked the patriotism of Chinese people, who make donations for the relief efforts. This also won the sympathy of people throughout the world, who also assisted in providing disaster relief. This shows that if a country values life and trusts its people, it will win the support of its people and respect of the world naturally.

The earthquake in Sichuan is a natural disaster but it also exposed the man-made disaster caused by the political system. Close to 7 000 jerry-built schools collapsed. Why did some people dare to put precious school children in jerry-built schools that could not withstand any earthquake, thus causing such a catastrophic toll among teachers and students? In how many cases were corruption, underhand deals and the embezzlement of school funds involved? In how many instances were abuses of administrative power involved, thus leading to a disregard for human lives due to a lack of supervision? I still remember that at the start of the 1989 pro-democracy movement, a vociferous demand of the people was to oppose corruption, official profiteering and bureaucratic decadence. However, after the suppression on 4 June, democracy was nipped in the bud, corruption and bureaucratic decadence spread to the whole country and this is the root cause of the man-made disaster underlying the natural disaster in Sichuan.

The man-made disaster exposed by the earthquake in Sichuan made the Chinese people reflect deeply on the preciousness of democracy. At the site of the collapsed schools, parents who had lost their children held up photos of their children who died in the disaster and strung up banners which said, "Natural disasters cannot be averted but man-made ones are the most detestable". This is shocking as well as pathetic. Had democracy as demanded during the 4 June incident become a reality, had the people been given the power to monitor the Government, would corruption and bureaucratic decadence have been so rampant? Could these jerry-built schools have got approval so easily? Would large groups of teachers and students have died so innocently? Therefore, on the 19th anniversary of the 4 June incident, our continued insistence on the vindication of the 4 June incident still has historical and realistic significance.

This year, the Olympic Games will be held in Beijing. When the Chinese Government bid to host the Olympic Games, it promised to the world that it

would make improvements to human rights. However, no improvement to human rights has been made in China. The most outraging example is that the opportunity of hosting the Olympic Games was taken to openly punish an individual in order to warn others by sentencing HU Jia, a web writer, to three and a half years of imprisonment on a charge of "incitement to subvert state power". HU Jia is just a gentle cultured person. He has been concerned about environmental protection and the rights of socially disadvantaged and marginal people, such as people whose homes were demolished, petitioners, AIDS patients and people maimed in the 4 June incident. He had only written five articles on the Internet and accepted two interviews and he was then charged with "incitement to subvert state power" and sentenced to three and a half years of imprisonment. Was this act by the Chinese Government a step taken to make improvements to human rights on account of the Olympic Games or was it trampling on human rights by exploiting the occasion of the Olympic Games? Is China honouring its pledge made for the Olympic Games or is it kicking down the ladder? Therefore, on the 19th anniversary of the 4 June incident, we have grounds to believe that if China wants to move towards safeguarding human rights and freedom, there is still a long way to go. Vindicating the 4 June incident is a starting point for China in moving towards democracy. The Chinese must carry forward the unfulfilled aspirations of the Tiananmen martyrs, so that the blood of the brave souls in the 4 June incident would not be spilt in vain.

China nowadays is not totally inflexible either. After the riots in Tibet, the Chinese Government was willing to hold peace talks with Dalai Lama. After Mr MA Ying-jeou was elected president, China was also willing to put aside its disputes with Taiwan, and Mr Vincent SIEW, Mr LIEN Chan and Mr WU Poh-hsiung of the Kuomintang were received with high profile protocol. Why can the Chinese Government put aside its historical antagonism with Tibet and Taiwan and adopt a rational and peaceful attitude to achieve reconciliation among the Chinese people, but it cannot achieve reconciliation with citizens who were suppressed and hurt in the 4 June incident? Nowadays, internally, HU Jintao advocates harmony and externally, he advocates peace. However, this policy of harmony, reconciliation and peace is not applied to survivors of the 4 June incident and those who perished in it. This kind of political double standard shows that reconciliation and harmony in China is still characterized by political utilitarianism and contradictions. They apply only to Taiwan and Tibet, which have independence tendencies, but not to the powerless people who died in Tiananmen Square and their mothers.

Nevertheless, I still wish to take this opportunity to salute the Tiananmen Mothers. For 19 years, they have persevered in compiling a list of those who died in the 4 June incident and gathering the power of the family members of victims to do justice for the death victims, as well as campaigning for the right to commemorate and pay tribute openly to those who died. Their tenacity and courage have become a lofty moral force that inspires all people in China and overseas who are striving to vindicate the 4 June incident. When the mothers who survived the earthquake in Sichuan could voice their grievances openly for their children who died innocently, we could not help but think of the Tiananmen Mothers, their pain and grievance in losing their children in the 4 June incident, and the fact that they can pay tribute to their beloved children only privately on the sensitive anniversary of their passing away on 4 June. Their bitterness and misery in the past 19 years are indeed beyond words. I yearn that the humanistic spirit displayed in the Sichuan earthquake can also be shown to the Tiananmen Mothers. The Government should offer them compensation for their living and give them the right to pay tribute to their dead children collectively and openly. More importantly, the 1989 pro-democracy movement should be vindicated, so that their children can be absolved politically and this case of injustice spanning 19 years can be solved.

I also wish to take this opportunity to salute our patriotic compatriots in Hong Kong. For 19 years, no matter how the weather was like, they would light up tens of thousand of candles in the Victoria Park to commemorate the young people who sacrificed themselves for democracy in the 4 June incident. Although the candlelight is soft, it epitomized the quiet but profound patriotic sentiments of Hong Kong people. When tens of thousand of lit candles are held high in the Victoria Park, that beautiful and solemn scene, those steadfast and unyielding convictions assumed an epical dimension, moving even heaven and earth. Someone once said that in Hong Kong, there were only the utilitarian values of the Central district. However, if one goes to the Victoria Park in the evening of 4 June, one would see tens of thousand of lit candles and true hearts and one would surely feel the sincerity coming from the hearts of Hong Kong people, the "Victoria Park values" which go far beyond utilitarianism. The candlelight vigil in Victoria Park has become the biggest public commemoration of the 4 June incident on Chinese soil. We look forward to the day when the 4 June incident is vindicated, when it will be possible to lay flower wreaths and commemorate the martyrs of democracy at the Monument to the People's Heroes in Tiananmen Square. Since the Prague Spring in Czechoslovakia could be

vindicated, since the Kwangju Incident in South Korea could be vindicated and since the February 28th Incident in Taiwan could be vindicated, why can the 1989 pro-democracy movement in China not be vindicated?

Next year will be the 60th anniversary of the founding of communist China and also the 20th anniversary of the 4 June tragedy. China nowadays has probably departed far from the dogmas and dictatorship of MAO Zhedong in the first 30 years after the founding of the nation and is moving towards reform and opening up, as advocated by DENG Xiaoping in the latter 30 years after the founding of the nation. The most important thing in reform and opening up is to develop the economy. However, political development in China is still lagging behind and the political reform incubated in the 1980s has become a taboo since the 1989 pro-democracy movement. As a result, economic development has colluded illicitly with corruption and decadence. Bureaucrats use their autocratic powers to prey on the public and do their utmost to retain such unchallenged power.

In the bygone era of the 1980s, democracy was only a subject for intellectuals. However, in China of the 21st century, democracy and economic development have become inseparable. A farmer who lost his land would ask why he was robbed of his land at low prices, so that bureaucrats and businesses can collude with each other to develop properties, then sell them at high prices to make inordinate profits. A mother who lost her only child in the earthquake in Sichuan would ask: Why were the schools jerry-built? Is this due to a failure in supervision or corruption and bureaucratic decadence? Who should be held responsible for the loss of lives? When countless people awoke from their own suffering and private interests, they would begin to ask: Why can we not replace corrupt officials, why can we not replace the Government and why can we not have democracy? Today, the Internet has linked up the world. With Chinese people travelling abroad and overseas students returning to China, people can look at a truer picture of the world, then reflect on and challenge the autocratic politics in China. Could it be that when the people look at the elections in the West or the elections in Taiwan and Hong Kong, they can remain forever apathetic about democracy and can stomach the outrages of the Government without a whimper?

For this reason, it is necessary for China to develop the economy as well as taking forward the laggard democratic political system, so as to turn its political and economic ascendance into reality. When China's attitude towards

Tibet and Taiwan can begin to change and a pragmatic and conciliatory policy can be adopted in dealing with disputes, when China's handling of the earthquake in Sichuan could show humanistic values and people-oriented spirit, why can these not be applied to the 4 June incident? To vindicate the 1989 pro-democracy movement is a process, however, at least, the Tiananmen Mothers should be treated well. At least, political dissidents should be released. At least, pro-democracy activists overseas should be allowed to return to China in the run-up to the vindication of the 1989 pro-democracy movement. Today, in proposing a motion of conscience on the 4 June incident in the Legislative Council, I hope that the Chinese Government can put a fullstop to the 4 June incident which hurts the hearts of the Chinese people thoroughly by vindicating it before the 60th anniversary of the founding of the nation, so that the souls of young people who sacrificed themselves in Tiananmen Square can rest in peace in heaven and democracy can finally come to our country.

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

Mr CHEUNG Man-kwong moved the following motion: (Translation)

"That this Council urges that: the 4 June incident be not forgotten and the 1989 pro-democracy movement be vindicated."

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

MR MARTIN LEE (in Cantonese): Deputy President, this is the last time that I express my views on the 4 June incident in the Legislative Council because at the same time next year, I definitely will not be in this Council. However, I will definitely be at the Victoria Park at eight o'clock on 4 June each year until the 4 June incident is vindicated.

Deputy President, a lot of people often remind us to put down the baggage of the 4 June incident. I wish to tell them that a baggage put down is still a baggage. So long as we do not open this baggage, it will still be a baggage. For this reason, I call on the leaders of our country to open this baggage personally as soon as possible and vindicate the 4 June incident. Only in this way can this problem be truly solved.

Deputy President, I have to leave this Chamber now. I have to hurry to the St. Margaret Church in Happy Valley because a mass commemorating the 4 June incident will be held there at eight o'clock. Thank you.

MR SIN CHUNG-KAI (in Cantonese): Deputy President, on the eve of the 4 June incident in 1989, the Director of the Party's General Office, Mr WEN Jiabao, accompanied the then General Secretary, Mr ZHAO Ziyang, to the Tiananmen Square to console students who were staging a hunger strike there. Several days later, tanks rolled into the Tiananmen Square. Although 19 years have passed, these scenes are still vivid in my mind.

The cause of the 4 June incident was the opposition to corruption and official profiteering. Nineteen years on, we could see Mr WEN Jiabao, now the State Premier, fly to Chengdu less than two hours after the earthquake occurred in Sichuan to direct the relief efforts and that the whole country even went into mourning for three days. The entire relief operation was launched swiftly. This showed the might and unity of our country, inspired admiration and awe among citizens and even won the praise of the international community. In fact, not only is it necessary for Premier WEN Jiabao to take command of the relief operation, it is more important for him to tackle corruption and decadence, which cannot be tamed in the past 19 years. In this disaster in Sichuan, there were countless instances of jerry-built schools that caused a lot of preventable casualties. In the past 19 years, instances of corruption still exist and are widespread. Despite substantial development of the economy in China, no speedy improvement could be seen. In the final analysis, this involves problems relating to the system. There is a lack of checks and balances on the Government in power in the entire system, and this problem will remain unless the ruling Communist Party has the wish to tackle corruption. However, in the course of economic development, the Government has overlooked something that caused the 4 June incident 19 years ago — the problem of corruption.

If we take a look at both sides of the Taiwan Strait, in 1989, Taiwan was still ruled by an autocratic regime. Since 1986, the party ban was lifted and elections at various levels were subsequently opened up gradually. In 2000, Taiwan held the first presidential election — rather, the first presidential election by universal suffrage took place in 1996, and in 2000, an election that led to a change of the ruling party for the first time was held. At that time, CHEN Shui-bian of the Democratic Progressive Party won by a small margin after

obtaining some 40% of the votes. After being re-elected in 2004, he lost in the election held in 2008, mainly because of issues relating to corruption. There are problems of corruption and decadence in both autocratic and democratic countries. However, in a democratic region and country, voters can remove corrupt presidents with their ballots.

Not only do we hope for a vindication of the 4 June incident, we also hope that as our country takes forward economic development, democracy can also be developed through a peaceful process. We can say that democracy can exercise certain checks and balance on graft, as each ruling regime or government has to answer to voters.

This year, our country will host the Olympic Games and this is something long awaited by Hong Kong people, the Chinese people and even all Chinese throughout the world. While this shows the strength of our country, in fact, we should also develop in various areas. Not only do we have to develop our economic strength and host the Olympic Games, in other areas of society, we also have to how can a civic society and democratic society be fostered? How can progress be made in the protection of human rights? One factor impeding the progress in this area is the 4 June incident. If our Government cannot face up to an incident in history, this will impede our progress. For this reason, there is in fact a need for us to continue to urge the Government in Beijing or the rulers in Beijing to conduct a thorough investigation of the 4 June incident and vindicate it.

Mr Martin LEE said just now that this was the last time that he debated the motion concerning the 4 June incident in the Legislative Council. I believe I will be following his footsteps, as this is also the last time that I debate the motion concerning the 4 June incident in the Legislative Council. However, I will still attend the candlelight vigil in the Victoria Park in the evening of 4 June every year until the 4 June incident is vindicated.

MR LEE WING-TAT (in Cantonese): Deputy President, I believe that many Chinese in Hong Kong and compatriots on the Mainland will not forget the 4 June incident. There are a lot of restrictions on the Mainland, making it impossible for them to openly commemorate those who died in the 4 June incident in 1989 as we have been doing in Hong Kong. Here, I also have to salute the people who started the Tiananmen Mothers Movement, in particular,

Prof DING Zilin, who has all along devoted a great deal of effort to this matter, because despite so many restrictions and oppressions on the Mainland, she still insists on commemorating her son and the young people who died back then in various ways as far as possible every year.

This year, two events happened in China and one of them was the riot in Tibet. After that event, the policy of the Central Authorities was to swiftly ban reporters from going there to cover news and of course, this drew criticisms from the local and international mass media. This also led to extensive discussions in many countries on whether delegations or the heads of these countries should attend the opening ceremony of the Olympic Games. Subsequent to that event, in the recent heartrending event, that is, the earthquake in Sichuan, it is undeniable that the open attitude taken by the leaders of our country or the leadership regarding news coverage and the swift actions taken to provide disaster relief have won the praise of local and even international communities. One can see from these two events that in fact, our society or country has to face one issue, that is, we have many common values and what is more, not only are they relevant to Hong Kong or our country, many common values are universally approved by all human societies, for example, basic human rights, freedom, the rule of law and the freedoms of thought and movement. If the leaders of our country also recognize that the magnanimity and speedy actions displayed in the relief operation are supported by the international community and our compatriots on the Mainland, I believe they should reflect again on whether their attitude towards the 4 June incident is correct.

It is a Chinese custom to attach great importance to paying tribute to their kin who have passed away. For this reason, we have sometimes heard that the Central Government would allow some so-called pro-democracy activists whom we know to go back to the Mainland privately to pay tribute to their relatives who had passed away there. Nowadays, since this incident happened 19 years ago, I still do not quite understand why a number of citizens who are living in Beijing or other provinces or municipalities and whose relatives passed away in that year are still barred from paying tribute openly to their children or relatives who passed away in that period. In fact, this runs counter to filial piety or moral propriety cherished by the Chinese people. I cannot understand what impact or threat will be created on the country if they pay tribute to their relatives openly. Ultimately, this is just showing basic respect to people.

Second, in the course of these 19 years, strictly speaking, there was not any top-down liberalization or democratization process which is initiated by the leadership and carried out down below. In the past few years, what we saw was mostly local disputes, including problems arising from labour issues, political problems, corruption or other problems. Moreover, regardless of whether they were major or minor problems, from minor incidents of migrant workers striving to get their wages back, forcible seizure of farmland, to suppression of civic right lawyers, we can see in all these cases that demands for the further opening up of the country were made by the bottom to the top. The pattern revealed is that if there were no such campaigning by the compatriots of our country or by pro-democracy activists or civic right lawyers from the bottom to the top, the pace of opening up may have even been slower.

We can see from what happened in Sichuan recently that due to advances in modern technology, one thing which I believe is irreversible is that many compatriots now have their own video cameras and there are many ways of accessing the Internet. The footages of corrupt local officials keeping, selling and profiting privately from the resources for disaster relief were all taken by our compatriots in the country, then handed over to local television stations for broadcasting. What I want to say is that, if the leaders of our country still do not think about this issue, when rising public anger reaches a critical point, it will no longer be possible to carry out reform even if they want to. Social progress is not just a result of economic development. Economic development can also breed a yearning for freedom among the people. After contacts with western societies, the yearning for the freedom of thought and other freedoms will also be growing.

As I said just now, due to technological advances, it is increasingly difficult to block information. Moreover, it is no longer possible for any regime with centralized power to keep a lid on an extensive array of methods such as filming and Internet activities. Therefore, as we commemorate our compatriots who died in the 4 June incident, I also hope that the leaders of our country can think about this issue and take the initiative to open up the system in a planned way, so that our compatriots on the Mainland can enjoy the freedom of assembly and other freedoms just as we do. This is always better than letting social contradictions accumulate continuously, and when the corruption problem also reaches a critical point, it will lead to some uncontrollable changes from the bottom to the top. This is something that no one wishes to see.

Therefore, today, taking the opportunity of today's motion, I again salute the young people who sacrificed themselves for democracy and in opposition to corruption. Thank you, Deputy President.

DR KWOK KA-KI (in Cantonese): Deputy President, first, I wish to thank Mr CHEUNG Man-kwong for carrying on this tradition by moving this motion a week before the anniversary of the 4 June incident for debate. This year is a very special year. It is the 19th anniversary of the 4 June incident and in China, one — I should say two — natural disasters occurred. This year is also the Year of the Olympic Games. However, I believe that no matter how many things have happened, be it the Olympic Games, for which our country has made a big fanfare of publicity earlier, or the recent earthquake in Sichuan, which resulted in heavy casualties and grieved us very much, we will not and should not forget the incident that happened on 4 June 19 years ago.

I believe the 4 June incident played a significant role in the development of our Motherland nowadays. If our compatriots, in particular, some students, had not come out and used their blood to rouse the Government and the people 19 years ago, what we find today with regard to the human rights and freedoms in our Motherland would have been even more retrogressive or unacceptable.

No one can forget the scenes 19 years ago. Everyone in Hong Kong will remember the scenes at that time on the night of 4 June. They can never be erased from our hearts. We saw one after another young person in the Tiananmen Square who hoped to use their blood to awaken their country.

Of course, it is unfortunate that 19 years on, when our Motherland wants to celebrate the Olympic Games with great fanfare now, it also did something that we found very regrettable. HU Jia, a powerless civil rights activist who published articles on the Internet, was arrested recently. What is interesting is that he mentioned Hong Kong in one of his articles and he also once said that he had analysed and found out what the greatest difference between Hong Kong and the Mainland was. He said that if anything happened or caused the death of even just one person in Hong Kong, our Government or Members or the like would have to come out and be accountable for it. However, in their place, that is, our Motherland, when some officials made mistakes and even caused the loss

of lives, often, people were already very indifferent and no one would pay any heed.

In the earthquake in Sichuan, Members can see that the toll in this natural disaster was heavy. One cannot help but recall that last week, many parents of students who had lost their lives were holding photos of their children and making allegations bespattered with blood in front of a jerry-built school. Although natural disasters cannot be averted, man-made ones are preventable.

I believe that if our country wants to be wealthy and powerful and rise further in the international community, so that Chinese citizens will all be proud of their Government and leadership, the leaders of our country has no reason not to carry out profound self-examination and vindicate the 4 June incident by making reference to history and the lessons learned from the 4 June incident. It should then finish the unfinished tasks highlighted in the 4 June incident and return to us democracy and freedom, which are the inherent rights of each and every Chinese national.

As Chinese, we in Hong Kong are finding ourselves in a very special position. In view of the closed society on the Mainland, in view of their human rights record and the difficulty of the people in expressing their opinions clearly and openly and in view of the inability of the people to voice their criticisms on the country, we have expressed our great concern.

Now, we still have the opportunity to enjoy the freedom of speech in Hong Kong. However, just think about our compatriots on the Mainland: They do not even have the opportunity to articulate any major criticism against the leaders of our country. Even if they have such opportunities, they will easily fall into the clutches of the law. Charges such as treason, subversion of the state, subversion of power can be slapped on them easily and this may even lead to the bane of imprisonment.

Vindicating the 4 June incident is the wish of most Hong Kong people and I believe this is also the wish of many people on the Mainland who experienced this incident 19 years ago. We can see that it is in fact possible to practise democracy in Chinese societies nowadays. The recent democratic election in Taiwan is a very clear example showing that Chinese societies have the ability and opportunities to effect a peaceful change of power through democratic elections. No one would wish that the blood spilt 19 years ago was in vain.

However, if our country cannot face up to history squarely, draw lessons from history positively, and make freedom, democracy and the protection of human rights the most important task or mission of the country, it will be very difficult to put down the baggage, as Mr Martin LEE said just now.

The only one who can fix the problem is the one who created the problem. Our Government, the Central Government, or the same Government who had the sole responsibility of causing this incident 19 years ago, is the only Government that can vindicate this incident and do justice, which can then enable the whole China to take a stride forward.

I so submit. Thank you, Deputy President.

MR FREDERICK FUNG (in Cantonese): Deputy President, the disastrous earthquake that occurred recently in Sichuan has tugged the heartstrings of all Chinese. Its severity and even the final toll are indeed too great for us to come to terms with. However, we were not deterred by fear and did not withdraw, rather, we have transformed our grief into power and all people of the entire country are united and devoted to the relief programmes, making contributions in their own way, whether in terms of money or efforts, and giving full play to national unity and the spirit of mutual care and help. In the earthquake, there were countless stories of people making selfless sacrifices and every of them was stirring and touching to the utmost. This is testimony to the saying that "Natural disaster may be ruthless but love still prevails in the human world.". Indeed, this reminds us of what happened 19 years ago, when the Chinese were also inspired by the same selfless unity in seeking a way out for the future of China. However, what they got in return was a different outcome.

Deputy President, the way in which the Central Government handled the entire disaster on this occasion, with its quick response, extensive mobilization and great transparency, indeed represents a very great progress. Not only did it win high praises from countries throughout the world and mass media of various places, it also put the Myanmar Government, which treated human lives like dirt, to utter shame. The Central Government was truly able to put into practice its pledge of being people-oriented and put humanitarianism above everything else by gladly accepting the assistance of rescue organizations of various countries and giving overseas mass media a free hand in covering news in the disaster zone, which is a great contrast to the news blockade imposed during the 4 June

incident. This time around, with the help of the mass media, information about the disaster was disseminated, so the outside world was able to understand the situation and offer timely and appropriate support to the disaster zone. Similarly, as pressure was exerted through the mass media on bureaucrats, there was not the slightest slackness in the relief operation. The collapse of countless schools in this earthquake, which led to heavy casualties among teachers and students, was also a focus of news coverage by the mass media. This made the outside world suspect that jerry-built projects were involved. As a result, the Ministry of Education of the state was compelled to promise that suspected cases of corruption would be investigated seriously.

Such a positive and open attitude of the Central Government really deserves plaudits from others. This reflects that as China becomes an economic power-house, it has also learnt to converge with the world in the free flow of information and crisis management. Last Sunday, the State Council also announced that the country would observe three days of national mourning for the earthquake victims. This measure of mourning for the sufferings of the people is even more unprecedented. This reflects how strongly the new generation of leaders in the central leadership defends humanistic values and how greatly it treasures the lives of its people.

To the future development of China, this marks the dawn of a new era. The approach of the Central Government in handling the disaster this time around can really serve as a model. I hope that the Central Government can really promote such an approach, so that a crisis can be turned into opportunities, and the same attitude can be adopted at the political level. There is really no need to be afraid of opening up. The development of the political system in the direction of greatest openness and diversification will be a decisive factor to the well-being of the Chinese people in the future. On the one hand, we have to strive to develop the economy; on the other, we also have to work for the establishment of a system underpinned by the rule of law, the implementation of a democratic system, proper checks and balance on the Government, a caring society for the disadvantaged groups, the upholding of justice and righteousness, and magnanimity in accommodating dissidents. Only in this way can there be truly long-lasting stability in society.

Deputy President, the 19th anniversary of the 4 June incident will come very soon. "Forget not the 4 June incident and vindicate the 1989 pro-democracy movement". It is now a turning point for the Central

Government to set an example by reflecting deeply on its painful past and remove the thorn planted deeply in the heart of every Chinese national. Only in this way can the humanistic values be truly and completely upheld. In addition, in relation to the atrocities committed by Japan during its invasion into China, we can be truly able to stand on the moral high ground and make them feel completely ashamed and totally repentant.

Deputy President, I still remember that when the State President, Mr HU Jintao, made an official visit to Japan in May, which was called the "warm spring" trip, he gave a speech in the Waseda University. In his speech, he made the following remarks, "History is a textbook rich in philosophical wisdom. We stress the importance of remembering history, not to perpetuate hatred, but rather to take history as a mirror, look forward, and cherish and uphold peace, so that the people of China and Japan will always live in friendship and the people of the world will always enjoy peace.". Similarly, in pursuing the vindication of the 4 June incident, our aim is not to stir up trouble, sow discord or incite hatred. Rather, we want to draw lessons from history, so that our people can recover from this historical wound and such bloody history will never recur.

With these remarks, Deputy President, I support the motion.

DR YEUNG SUM (in Cantonese): First, I have to thank Mr CHEUNG Man-kwong for moving this important motion with historical value on the 19th anniversary of the 4 June incident.

I have browsed through some recent writings, including some comments made by Professor DING Zilin and I believe all of us still have a deep impression of them. She said, "The Chinese people have been leading a life of obedience very much deprived of dignity. We have to go on working hard to change such a situation.".

(THE PRESIDENT resumed the Chair)

In fact, China has gone through many years of economic reform, and it is true that it is able to improve the lives of its people gradually. However, there

has been no political reform. Nothing is being done to take forward human rights, the rule of law and democracy. This makes people like us, who are concerned about China's democratization, feel greatly disappointed. Therefore, we have to continue to work hard in this regard. Of course, in the recent incident in Sichuan, the Chinese Government has given new hopes to people in China and overseas. In particular, by loosening its grips on news coverage, it enabled the mass media in Hong Kong and overseas to report on what happened extensively. It also observed three days of national mourning for those who died in the disaster in Sichuan and accepted some foreign aid. Such actions were rarely seen in the past. In addition, the mutual help in society also revealed the regeneration of morality. As we all know, after the Cultural Revolution that spanned many years, many traditional moral values were destroyed. Therefore, this disaster in Sichuan shows the unity of the Chinese people. It also shows that the Government is gradually working in a people-orientated direction. I hope very much that this liberalization in news coverage and the people-orientated spirit will be further promoted.

When China bid to host the Olympic Games, the Chinese Government promised that it would improve human rights in China. However, so far, it can be seen that the improvement in human rights is still only minimal. If China keeps its promise, I hope very much that it will allow people who are still in exile overseas due to the 1989 pro-democracy movement and people like us, who are blacklisted on account of our continual support for the students and thus barred from going back to the Mainland, return to the Mainland early, and allow dissidents overseas to reunite with their family members. I believe that all these moves will serve to fulfil the pledge made by the Chinese Government to gradually improve human rights when bidding to host the Olympic Games.

Recently, I asked the first-year students in the Faculty of Social Sciences of the University of Hong Kong how old they were when the 1989 pro-democracy movement took place. The students raised two fingers to show that they were only two years old at that time. In fact, most of these students had little impression of the 4 June incident because they were really too young at that time. Therefore, the candlelight vigil on 4 June and the activities of the Hong Kong Alliance in Support of Patriotic Democratic Movements of China must continue until we see the vindication of the 4 June incident one day. I believe it is only in this way that the blood of students who sacrificed themselves in the campaign for democracy and human rights for China and against official profiteering would not be spilt in vain. I think Chinese people should not forget

this piece of history and we should use our hearts and actions to insist on this kind of commemoration until the 4 June incident is vindicated.

Thank you, Madam President.

MS AUDREY EU (in Cantonese): Nineteen years have gone by since the 4 June incident occurred but it is now still a taboo to many people. We can see that each time this motion was debated, some Members of some political parties would disappear and some Members of some political parties would keep quiet. Some people think that since a lot of things in China cannot be changed immediately, it may be better to let the 4 June incident fade from our memory, so as to focus on developing the economy of our country and leave the 4 June incident to the judgment of history.

Some people said that since a serious earthquake had just occurred in Sichuan, we had better focus on disaster relief and stop talking about the 4 June incident this year. Others said that demanding the vindication of the 4 June incident seems to be not in keeping with the present situation in China and a mission impossible. President, a lot of things may initially seem impossible, however, I am always of the view that in our lives, it is impossible for us not to judge what is right and wrong. Often, our decisions on what to do depend not on whether something is possible or not but whether it is right or wrong. I remember that in the past, when Mr SZETO Wah was still a Member of this Council, he told us that we had to insist on what was righteous. In the face of a lot of facts, we will find that there is no big deal, for facts are still facts and what is right is still always right.

If we compare the way the Chinese Government handled the serious earthquake in Wenchuan in Sichuan, we can see how insular the approach adopted by the Chinese Government in the serious earthquake in Tangshan was back then. We can see that this time around, China respects the freedom of overseas media corps, including those in Hong Kong, to cover news, thus winning praises from all sides. In fact, this precisely shows that openness, frankness and courage in facing difficulties and even mistakes, including that of jerry-built projects, are nothing to be feared. We can often draw lessons from calamities, difficulties or challenges, turn a crisis into opportunities and even gather new forces. For this reason, I believe that the earlier the Central Government can truly face up to and vindicate the 4 June incident and right a

wrong, the greater the positive significance there will be. Moreover, it will also win the respect of people throughout the world.

At present, the entire nation is preoccupied with the disaster relief work but if Members look at the torch relay for the Olympic Games, except in the three days of mourning, the relay is in fact still going on. This manifests the confidence and determination of the Chinese people in hosting the Olympic Games successfully. Similarly, if we insist on vindicating the 4 June incident, this will also show the perseverance of the Chinese people on universal values such as human rights, freedom, democracy and openness and our determination in upholding righteous causes, as seen in our unrelenting loyalty to the compatriots who died in the 4 June incident.

In fact, there are many ways of being patriotic. To make donations to our people hit by disaster is a manifestation of patriotism; to point out the mistakes of the Government in the hope that it will not repeat them, so that the aggrieved can be vindicated and justice can be done, is also a kind of contribution to the country. For 19 years, the Central Government still owes the victims, survivors, their family members and all Chinese nationals a clear, sincere explanation. In fact, an explanation can repair the rift among the people. The 4 June incident exposed the problems with the system which still beset China nowadays. In the 1989 pro-democracy movement, the demands for freedom and democracy and voices against corruption were made but these shortcomings can still be found in the politics and the economy of China nowadays. We believe that it is necessary to put in place safeguards in the system by building a democratic, open and free China practising the rule of law, in order to prevent the recurrence of history and end the misery.

Lastly, I wish to thank Mr CHEUNG Man-kwong for moving this motion today so that we can continue to discuss the 4 June incident openly within the territory of China. Here, I also thank Members of the Democratic Party for moving this motion at this time of the year for many years and their perseverance in respect of the 4 June incident. In this connection, many Honourable colleagues in this Council have in fact paid a price for this issue. Some of them even had their Home Visit Permits confiscated and have been unable to return to the Motherland for years. At the same time, here, we have a large patriotic party, of which some members are dressed in red but whose hearts are with their home country — but their home country is Canada. President, the Canadian national flag is also red in colour. People who insist on the vindication of the

4 June incident may not be clad in red and may not have Canadian passports but I believe all of us can see the patriotic heart of these people.

With these remarks, President, I support Mr CHEUNG Man-kwong's motion.

MS MARGARET NG (in Cantonese): President, I wish to thank Mr CHEUNG Man-kwong and Honourable colleagues of the Democratic Party for moving a motion concerning the vindication of the 4 June incident each year, so that all of us can in this legislature proudly and formally pay the most heartfelt tribute to people who sacrificed their lives in campaigning for democracy and justice. It also gives us an opportunity to express our persistence in speaking the truth and upholding justice. I hope that no matter how many terms of the Legislative Council there will be, this tradition will still be carried on until we see the vindication of the 4 June Incident.

President, in the debate this evening, a number of Members mentioned the earthquake in Sichuan. In fact, whenever we saw a major incident happen, we would think of the 4 June incident. When we saw the earthquake in Sichuan, of course, we were also reminded of the 4 June incident because I remember that when the 4 June incident happened in that year, we also stayed close to the television, watching something unbelievable even though we were seeing in with our own eyes. We were deeply shocked.

Looking back on the 4 June incident, I remember that through the camera of television stations, we felt that our hearts were linked to those of our compatriots facing dire adversities. These days, when we saw the distress of the people hit by the earthquake in Sichuan, our hearts were also with them. We donated money and took to the streets in support of the 4 June incident. I remember that Mr LEE Cheuk-yan was a young man who knew nothing at that time. He had little understanding of the world. He went to Beijing with the money, hoping to donate the money and offer help. He also did all those things with the heart of an innocent young man. That was like the earthquake in Sichuan this time around. We came out onto the streets and there was in fact no need to say anything. We only had to say that we were here to help. I know that all of us wanted to show our goodwill and that was just the way in which we expressed our goodwill — people just flocked there to provide support and this could not be credited to any of us, only that we could see genuine feelings and sympathy between each other in times of adversity. This is so with regard to the earthquake in Sichuan and this is also the case for the 4 June incident.

President, in fact, what we found very shocking about this earthquake in Sichuan is very much in common with what we found shocking about the 4 June incident back then. One of the things that we always bear in mind is that although the pro-democracy movement on 4 June was apparently a campaign for democracy, what triggered the 4 June incident and the pro-democracy movement at that time was the opposition to corruption. At that time, corruption and bureaucratic decadence had reached a shocking state. Young students believed that the country was in dire straits and corruption would become a major obstacle for China. Therefore, their indignation, their indignation that drove them to campaign for democracy, originated from their opposition to corruption and bureaucratic decadence. Regarding the earthquake in Sichuan this time, after grieving for the pain and suffering, what can we see again? Among the debris, we can find signs or evidence of corruption and bureaucratic decadence again. Corruption and bureaucratic decadence have again taken young lives.

President, back in that year, WEN Jiabao had not yet become the Premier. He went into the Tiananmen Square and into the crowds together with ZHAO Ziyang. Today, he again went into the disaster zone to stay with the victims of the disaster. Could this not evoke any feeling in his heart? The country nowadays is certainly far richer and stronger than it was 19 years ago but what can we see before our eyes? Again, we see the shadow of corruption. For this reason, Premier WEN Jiabao — he is the Premier now — went to a school in the disaster zone and wrote the words "trials and rejuvenate a nation (多難興邦)" on the blackboard. Why? Why did he not say, "economic development rejuvenates a nation"? Why did he say that "tribulations" will "rejuvenate a nation"? Because when each of us sees that our nation encounters tribulations, everyone knows that he has to do his utmost and use the strongest will power to overcome the difficulties. Therefore, not only can we see the power of trials and tribulations to rejuvenate a nation, we can also see the power of unity. When there is a happy event, for example, when the Olympic Games are hosted, we will feel happy and a lot of people will come together and have fun. However, it is in times of adversity that we can see the genuine feelings. People who stand by us in times of adversity are the strongest basis of our unity. This power and this unity is the true force that will open up new horizons for China.

In hosting the Olympic Games, we can show our national strength and raise the eyebrows of the whole world. However, if we can vindicate the

4 June incident, the message conveyed will be far more powerful than hosting the Olympic Games. Should that day come, that would convince all Chinese people throughout the world that we really have a home to go back to.

With these remarks, I support Mr CHEUNG Man-kwong's motion. Thank you, President.

MR LEE CHEUK-YAN (in Cantonese): President, first, I thank Mr CHEUNG Man-kwong for moving this motion today to carry on this tradition of debating the vindication of the 4 June incident each year.

The 4 June incident has a very strong relationship with me that I will never forget because when the 4 June incident happened, I was in Beijing. I was also detained by the Chinese authorities for three days from 5 June onwards. I have to thank Mr Martin LEE in particular — he said just now that this was perhaps the last time he spoke in this Council on the 4 June incident — Mr Martin LEE often reminded me of one thing, telling me how he rushed into the Governor's House, demanding that the Governor rescue me and bring me back to Hong Kong. Of course, at that time, many other Members also joined hands in rescuing me.

I personally think that I am indebted to many people in Hong Kong because in fact, it was all because of Hong Kong people that I could come back to Hong Kong. Of course, compared to our compatriots, who have been afflicted with so many adversities, what I had experienced is only trivial. Compared with the compatriots who spilt their blood or died in the suppression on 4 June, what I had encountered is really trivial. Therefore, I believe all the time that I have to devote my life to repaying them. In seeking the vindication of the 4 June incident and the 1989 pro-democracy movement, my aim is to do justice to those who died and to those who sacrificed themselves, and this is the only thing that I must persist in doing with my utmost effort in my life.

We have gone down this road for 19 years and on this road, initially, we condemned in unison the massacre in Beijing. However, we gradually changed, saying that economic development is important and see how wealthy and strong China is now and how excellent the present development of China is. Should it be like this? Do we Chinese know only to pursue economic

development and do we think that the Chinese do not deserve such things as democracy, human rights and freedom? I think this is very pathetic. For 19 years, a lot of people seem to think that China does not need democracy or freedom. I am very disappointed.

The catastrophe in Sichuan this time made us see a positive side. We found that the restrictions on news coverage by the mass media had been greatly relaxed, and the entire nation and even all Chinese people on the Mainland and overseas were united in the relief and rescue work. The unity of our people showed the world once again that when a disaster strikes, Chinese people are united. However, it is not my wish to see Chinese people stand united only when there is a disaster. More importantly, how can we prevent this kind of disasters, particularly the man-made dimension, from recurring by means of the political system? I could see that the 4 June incident was an adversity and obviously a man-made one, as people died innocently. But in the natural disaster in Sichuan, dare Members say that there was no human factor contributed to it? Were some deaths not avoidable? The deaths in the 4 June incident were innocent. I believe that in the natural disaster in Sichuan, many of the deaths were also avoidable. Why do we not reflect on this, so that such instances of avoidable deaths will not recur in the future?

Mr CHEUNG Man-kwong also mentioned just now that some 7 000 schools collapsed because of shoddy jerry-built construction and the parents strung out banners at one school saying, "Natural disasters cannot be averted but man-made ones are the most detestable". The banner and the photo linger in my mind. This is an accusation and a kind of hatred (although I do not like to use this word). Should we not be fair to these parents and do justice to them? In addition, how can the recurrence of such incidents be prevented?

President, I remember very clearly that several years ago, there was the short-piling incident and this Council established a Select Committee which had worked for two years. When I look at those shoddily executed school projects, I was reminded of the short-piling incident. At that time, we attached great importance to it and we did our utmost to burrow through a big pile of papers in order to examine this matter. Now, 7 000 schools were involved and if a Select Committee were to be established to carry out an investigation, it would not be possible to look into each and every case. However, as a responsible government, the Chinese Government must carry out an investigation to return justice to these parents.

President, the ideals of the 1989 pro-democracy movement are still very important now. This reflects that the aspiration for democracy is still so very important. We hope that China can move towards democracy, human rights and freedom, and only in this way can man-made disasters be finally and totally eliminated.

To conclude, I wish to read out a part of a book that I read recently. It is a book entitled *Development as Freedom* written by a Nobel Laureate in Economics, Amartya SEN. In it, there was a section about the prevention of famines. He says, "the open and oppositional politics of a democratic country tends to force any government in office to take timely and effective steps to prevent famines, in a way that did not happen in the case of famines under non-democratic arrangement". I hope very much that it is pointed out very clearly that open discussion, public scrutiny and electoral politics are all very important. Thank you, President.

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

MR LEUNG YIU-CHUNG (in Cantonese): President, whenever the 4 June incident was discussed each year, I could see that the hearts of many colleagues were very heavy because if we recall this incident, it really grieves us very much. As for me, whenever I talked about the 4 June incident, the scenes in the Tiananmen Square would crop up in my mind one after another in spite of myself.

That year, from 19 May to 24 May, I was in Tiananmen Square. At that time, I saw many young people who came from faraway places to the Tiananmen Square, with only a backpack on their backs. They braved the rain and the cold weather and slept in the open in the streets and the entrances to subways. They only put newspapers on the ground and sleep on the wet and slippery ground. I asked them why they had come in view of all the hardship. They said that they were doing so for the country and its future, therefore, they went there to support the students in carrying on their campaign. This sentiment of theirs was really touching. At that time, on the one hand, I did not understand why the leaders of our country would adopt such an indifferent and heartless attitude towards the aspirations and ardour of this group of young people and torment them so cruelly; on the other hand, I thought that since China had such a group of young

people with such enthusiasm for the future of the country and who were so concerned about the situation of the country, it could be seen that our country would have a future. This group of young people was willing to come out to speak their minds about the future of China despite all the hardship and sacrifices. For this reason, I felt sad and yet happy. However, what grieved me were the unbelievable scenes on 4 June. All that the ordinary unarmed citizens demanded was a democratic system to fight official profiteering and corruption, yet they were treated in such a way. That was really heartrending.

Anyway, 19 years have passed since the 4 June incident, so should we put this matter down, forget about it and keep saying that we have to shift our focus to the present economic situation and look into the future?

President, I think one very important point is that what happened in history has indeed happened. We cannot adopt the attitude of an ostrich and bury our heads in the sand, thinking that this is a matter of the past and it exists no more. I believe we cannot think this way. Each incident in history tells us that there is a lesson and if we cannot draw on the lessons of history or learn from the mistakes, it will be difficult to develop in the future. As a number of colleagues pointed out today, one of the reasons that the earthquake in Sichuan has wreaked horrific havoc was that there was corruption. As a result, inferior materials were used in some projects, thus leading to heavy casualties. For this reason, if we only tell ourselves to look to the future and face the present but not to look back on the past facts, we will not be able to make changes, nor will we be able to make improvements or changes to some really deep-rooted problems in society.

For this reason, Mr CHEUNG Man-kwong is calling for the vindication of the 4 June incident today, and I believe vindication is important because without it, the problem cannot be recognized unequivocally and it will not be addressed seriously. However, some people may say that it will be extremely difficult for the Chinese Government to vindicate this incident, so why do we have to do it? Should we do something that is tantamount to looking for fish on a tree? I wish to tell these people that in many cases, it is not true that it is impossible to do something for the question is how much effort one has devoted to them.

In fact, I know that there are cases of vindication in the history of China. For example, the Tiananmen Incident on 5 April 1976 was later on vindicated. It is not true that there was no such precedent. The only question is whether we

can face up to an issue seriously, so that our leaders in China can understand it and truly and deeply understand where the problem lies, and then carry out a reform. Vindication and pursuing responsibility will convey to the public the message that our Government is facing the issue seriously instead of using its power to suppress the will and beliefs of the people. Only in this way can it win the support and trust of the people. It is only with the support and trust of the people that our country can be more prosperous and develop further.

These days, the slogan for the Olympic Games to be hosted by us is "One World One Dream". What dream do we actually have? I can see that people all over the world have gone through many struggles. Their dream is to have a democratic, free and fair social system practising the rule of law. If all the people can have fair and equal treatment, we will realize our common dream. I hope that when we talk about the "One Dream" when hosting the Olympic Games now, we are not just dreaming about hosting the Olympic Games but dreaming about a democratic system that has the full support and participation of the people, so that China will have tomorrow and prospects for development. President, I so submit.

MR ALBERT HO (in Cantonese): President, the serious earthquake in Sichuan and the massacre on 4 June were both disasters for our country and our people and they were both trials and tribulations to our nation. In dealing with the serious earthquake in Sichuan, the leaders of our country made some bold and resolute decisions. Not only did they go to the front-line bravely to take command of the relief work, they were also very astute in deciding to relax the restrictions on media coverage. As a result, through the coverage of the media corps, it was possible to marshal the attention of Chinese people on the Mainland and overseas and foster unity among the Chinese people, so that the nation could get to its feet again from the calamity and preserve its dignity.

However, on the way of handling the 4 June incident, a serious mistake was made in history due to a momentary lapse in judgment. Back then, DENG Xiaoping refused to accept the advice of ZHAO Ziyang to unite people holding different views through the legal institutions and democracy, as a means to resolve the contradictions and disputes in society and consolidate the strength of the nation. Instead, he took the course of carrying out a massacre, thus committing a grave mistake in history and creating a historical wound that is very

difficult to heal. This is also a very painful and saddening thing. Now, 19 years on, we still have to commemorate and discuss this matter here.

President, the People's Liberation Army (PLA) played a very important role in both the serious earthquake in Sichuan and in the massacre on 4 June. When carrying out relief work in Sichuan, officers of the PLA rescued people in the disaster zone with a dauntless spirit. Pride and confidence were seen in their faces and they were proud of their work. However, I believe that when the PLA were forced under orders to massacre citizens holding peaceful rallies 19 years ago, they must have felt abashed and even utterly ashamed because they knew that their name would be tarnished in history.

President, in those 19 years, in facing and dealing with this national calamity called the 4 June incident, in fact, our national leaders have two choices. Unfortunately, due to a momentary lapse in judgment, they made a wrong choice and this wrong decision was to bury their heads in the sand and being unwilling to face history. They hope that the tragedy of 4 June will gradually fade from the memory of the entire nation. However, the 4 June incident has certainly become a collective memory of the people. We can ask the people in Nanjing if they will ever forget the Nanking Massacre that happened 60 years ago. Of course, they will never forget it.

Another course of action that will show vision, wisdom and courage is to face up to history and make a sincere apology to the people. Before making an apology, of course, it is necessary to carry out a full investigation into the matter and disclose all the facts. Only on this basis can an apology be a genuine one which has the people's acceptance and understanding. Only by doing so and by saying sorry can this knot in history be truly untied.

In fact, is saying sorry really so difficult? In the past three or four decades, I have seen the governments of many countries, even the great nations, make apologies to their own people for the mistakes they committed. In the more distant past, Germany made an apology to the Jews and there is hardly any need to mention this. More recent examples include the apologies and compensations made by the governments of United States and Canada to Americans and Canadians who were subject to arbitrary detention and concentrated inhabitation during the war. We can also see that even in 2000, the governments of Canada and New Zealand also made apologies and offered

compensations separately for levying a poll tax from the Chinese nearly 100 years ago. This year, the Australian government also made an apology to the aborigines for forcing their children to receive education and leave their families. Of course, what we Chinese are more familiar with is the apology made by the Taiwanese Government to the victims of the February 28th Incident, and there was also the apology made by the Korean Government to the citizens massacred in the Kwangju Incident. Making apologies is not really so difficult.

I have read a lot of speeches of apology and the one I find most touching is the one made by the Prime Minister of Australia, Kevin RUDD, on 13 February this year in the Parliament. I will read out several paragraphs:

MR ALBERT HO: "We apologize for the laws and policies of successive Parliaments and governments that have inflicted profound grief, suffering and loss on these our fellow Australians.

For the pain, suffering and hurt of these Stolen Generations, their descendants and for their families left behind, we say sorry.

To the mothers and the fathers, the brothers and the sisters, for the breaking up of families and communities, we say sorry.

And for the indignity and degradation thus inflicted on a proud people and a proud culture, we say sorry.

We the Parliament of Australia respectfully request that this apology be received in the spirit in which it is offered

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

MR ALBERT HO: as part of the healing of the nation."

MR LEUNG KWOK-HUNG (in Cantonese): The recent earthquake in Sichuan is in fact a national calamity because many people in our country died. We also say that the 4 June incident is a national calamity because at that time, many

people died. Indeed, many people died, but so far, there is not any formal figure. Why? Because after the incident, pursuing responsibility and collating the figures are prohibited.

When we talk about the disaster in Sichuan, we certainly feel very much in pain. A lot of people said to me, "Many people have died in Sichuan, so why are you still organizing the commemoration of the 4 June incident this year? Why do you not mourn those victims instead?" Of course, I will mourn those people. In fact, the vigil on 4 June this year will also mourn those compatriots in Sichuan.

I heard that some people wanted to come to stage a protest because they were unhappy that we would still organize the commemoration of the 4 June incident even at this time, so they wanted to stage a protest. Here, I warn those people that this is a bestial act and they should by no means do so. The victims of the 4 June incident died of a man-made disaster. Our sympathy and mourning for these people who died of this cause may not have a lofty goal but we still have to mourn them. Nevertheless, we have to understand one point: The victims of the 4 June incident sacrificed themselves in opposition of corruption and official profiteering and in fighting for democracy, freedom and human rights.

When we talk about them here today, we are only talking about history. Here, I have a book entitled "1989 Pro-Democracy Movement in China — Press Advertisement Pictorial Works". I have been reading this book throughout the day, so I have been very quiet. I find the names of nearly all the Members in this Chamber in this book and they all took part in condemning the massacre. Members, this book is the testimony.

I know that a lot of colleagues would say that this is a tactic of the pro-democracy camp to gain political capital. I wish to cite the words of EINSTEIN in reply to them. EINSTEIN said in his *Portraits and Self-Portrait*, "The bitter and the sweet come from outside. The hard from within, from one's own efforts. For the most part I do what my own nature drives me to do. It is shameful to earn so much respect and love for it. Arrows of hate have been shot at me too; but they never hit me, because somehow they belonged to another world, with which I have no connection whatsoever." I wish that those people who accuse us for treating these things as political capital would think about this. We are only doing things that our nature drives us to do.

The noble souls — I am not referring to myself, so Members must not misunderstand this. I am saying that at the most critical point in history, like those Members who dare not admit any more that they once played a part in expressing their support on 4 June then and condemning the massacre They contributed their efforts and my contribution is not in any way greater than theirs. The contribution that I made to the people who died at that time is too small. I have the duty to stress here again that they are the pride of the Chinese people.

Many people think that the present Chinese Government is quite good, besides, it is more open. Indeed, it may be so. We mourn the heroic souls of the 4 June incident because we know that if we do not establish a system which makes the people the master of their own house and which is underpinned by the freedom of speech and other freedoms, natural disasters will become man-made disasters and man-made disasters will become even more serious man-made disasters. Let me cite an example. According to incomplete statistics, during the Great Leap Forward, at least 30 million people perished. Was that a man-made or natural calamity? Certainly, there were some natural disasters as a disaster lasting three years occurred. What we are talking about today is that we have to bid farewell to this kind of system. No matter what the circumstances are, if we believe that it is right for a Government to suppress its people, we will only be farther and farther away from human civilization and from the liberation of our country. Anyone insulting the heroic souls of the 4 June incident and anyone offending the people who mourn the heroic souls of the 4 June incident is committing a crime.

Do not say that I am talking nonsense. Someone questioned why it befitted me to mourn the people in Sichuan. Let me tell him that, quite the contrary, should anyone think that it does not befit mourners of the victims of the 4 June incident to mourn those people in Sichuan, he is not a human being at all. I call on everyone to go to the Victoria Park this year to mourn the 4 June incident and the compatriots who died in Sichuan.

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

MR ALAN LEONG (in Cantonese): President, this is the fourth time that I take part in a debate on a motion concerning the 4 June incident in this Chamber.

However, it is a year of special significance to China for it is the Year of the Olympic Games and this year also marks the 30th anniversary of the reform and opening up of China. Originally, this should be very exhilarating. But the serious earthquake occurred in Sichuan two weeks ago made the hearts of the Chinese people sink.

President, to the victims of the earthquake in Sichuan, I am overwhelmed by grief and would like to extend my deepest condolences. In fact, the heavy heart that I have at this moment is by no means lighter than that I had on the day of the 4 June incident 19 years ago, when I saw what happened in the city of Beijing. Nineteen years have passed but the young victims who died as a result of their patriotism and their opposition to corruption, as well as Mr ZHAO Ziyang, who passed away three years ago, have not yet been given a fair evaluation. I still find this extremely regrettable.

Whenever the 4 June incident was mentioned, I would think of Mr ZHAO Ziyang. Since 1989, he has all along been regarded as the icon of the 1989 pro-democracy movement. Back then, Mr ZHAO did not cling on to power and refused to let the guns of the tanks target the ardent hearts of young people pursuing democracy. At the crucial moment, he went into the crowds and did his utmost to protect the students. In the years that followed, even though he was under house arrest until the end of his life, he still abided by his conscience and refused to accept the official tone set for the 4 June incident. Mr ZHAO devoted his entire life to loving his own people and is a paragon of people in power. In fact, the openness of Mr ZHAO was quite rare in the Communist Party at that time and the democratization of the country and independence of the press advocated by him brought hopes of democratic reform to the people because he hoped that the country could embark on the road of democracy and the rule of law. It was regrettable that his hope was dashed suddenly by the merciless military clampdown. The reform advocated by Mr ZHAO also vanished in no time.

This year is the 19th anniversary of this movement and it also happens to be the 30th anniversary of the reform and opening up policy of China. In 1978, the Communist Party convened the Third Plenary Session of the 11th Central Committee of the Communist Party of China (CPC), laying a milestone for the reform and opening up of China.

In October last year, the CPC convened the 17th National Congress and one of the main themes was the building of a harmonious society, the promotion of systemic reform, furthering democracy and improving people's livelihood. To people both inside and outside the establishment who are concerned about democracy in China, this made them feel vaguely that an environment for debating reform and opening up similar to that 20 years ago is taking shape, thus serving a "chicken soup for the soul" to people who have been longing for democratic reform for a long time.

President, in the Report to the 17th National Congress of the CPC, the State President, Mr HU Jintao, pointed out that a sound institution for democracy could help ensure that the people are the masters of their own country. He emphasized the need to carry out democratic elections, decision-making, administration and oversight in accordance with the law to guarantee the people's rights to be informed, to participate, to be heard, and so on. Just when the wind of reform is beginning to blow in our country, a spate of incidents suppressing the freedom of speech has occurred. To begin with, YANG Chunlin was sentenced to five years of imprisonment for inciting subversion of state power for organizing a signature campaign called "We Want Human Rights, not the Olympics". The allegation was that the signature campaign had tarnished the international image of China and this was tantamount to the subversion of state power. Less than a month later, another human rights activist, HU Jia, was also punished merely for his words: For publishing five articles on the Internet and accepting two media interviews. He was convicted of inciting subversion of state power and imprisoned. However, the Constitution of China enshrines citizen's freedom of expression. HU Jia and YANG Chunlin were merely exercising their civil rights, so how possibly could there be any intention of incitement and why would they be challenged?

President, concerning the massive Sichuan earthquake this time around, the response or the open attitude of the Chinese Government has given us a breath of fresh air and highlighted the people-oriented philosophy of governance of the HU-WEN administration. However, this core value can be given full play only with institutional reform. In fact, the 1989 pro-democracy movement had evolved into the 4 June tragedy precisely because those in power did not learn any lesson from the 10-year Cultural Revolution, the 5 April Tiananmen Incident and the 1987 pro-democracy movement and disregarded the changes in public sentiment.

While we express our good wishes to the survivors in Sichuan that their wounds will heal quickly, we all the more hope that the CPC can face up to history and heal the wounds of the family members of the victims of the 1989 pro-democracy movement. The CPC should examine its past as soon as possible and make an effort to right a wrong, so that an important step forward can be taken and the blood spilt 19 years ago will not be spilt in vain.

With these remarks, President, I support the motion.

DR FERNANDO CHEUNG (in Cantonese): President, I speak in support of Mr CHEUNG Man-kwong's motion which calls for the vindication of the 4 June incident. President, this motion debate has become a traditional rite of ours which has apparently become meaningless after being conducted year after year, and it has now become a norm to be observed every year as a rule. This is the drawback of doing the same thing too often. I sometimes wonder what else can be said after the passage of 19 years.

However, President, rites are actually very important. We conduct a lot of rites in life. Rites prompt us to conduct introspection; then prompt us to review our past and remind us of their meanings, so that we can treasure them. Rites enable us to reflect on ourselves and rethink. In respect of a collective rite, it is often most important for us to go through a process of silent introspection and in this process, we can learn more thoroughly. In the course of introspection, we will have a better understanding of the circle of gains and losses in life, facilitating our quest for wisdom and the meaning of life.

This rite has been conducted in Hong Kong for many years and it obviously signifies that Hong Kong is the only part of China which allows public discussion in a political assembly over the 4 June incident and expression of views on the cardinal issues of right and wrong related to the incident. We can express our opinions with no fear of power, losing our lives or oppression. Such leeway and permission to do this is important in the history of China, and it will be a turning point if we in Hong Kong are not given leeway to do so and if the 4 June candlelight vigil is disrupted, wantonly boycotted or obstructed one day.

China is emerging as a great nation which is hosting the Olympic Games in times of prosperity. China is so powerful today that it is utterly different from what it was 19 years ago, and its development is moving towards a turning point. I think the Sichuan earthquake is tragic and saddening but while there were a lot

of shocking scenes, there were many touching scenes displaying the love between family members and human kindness. Needless to say anything, people simply gave up their lives to save the lives of people whom they do not know, and this kind of loving care for and relations with our compatriots and fellow mankind impressed upon our minds.

The Chinese Government's handling of the Sichuan disaster is very different this time. ZHAO Ziyang said, "I am late" during the 4 June incident, but WEN Jiabao arrived at the scene a few hours after the Sichuan earthquake to console the victims and direct the disaster relief work. Although we knew that the Chinese Government had procrastinated for 66 valuable hours by refusing the assistance of rescue teams from Japan and foreign countries, it put aside the issue of pride or dignity very soon and accepted the assistance of foreign rescue teams and allowed news coverage by the foreign media, so that everyone could see what happened at the scene. This is why we could see not only how brave and marvellous the rescuers were but also the dark side of corrupt officials taking advantage of the victims' misfortune. This may be a turning point for China and I hope the Chinese Government would learn a lesson from this massive earthquake and recognize the importance of being open and candid. If it is willing to subject to monitoring, face up to the current difficulties and make concerted efforts, it will understand that reform and opening up, democracy and freedom are not great scourges.

It will be a turning point for China if the Government is willing to vindicate the 4 June incident one day and face up to its wrongdoings in the past. There are many faces to a man; so is the case for a nation. It will be a turning point for China if it would candidly face up to its dark sides, admit its mistakes and conduct thorough reforms.

Robert FULGHUM is one of my favourite authors and *All I Really Need to Know, I Learned in Kindergarten* is a famous book written by him, which says that he learned in kindergarten all that he needs to know. The principles of life are simple. When we made a mistake, we should admit it, say sorry, correct it and make up for it. Thank you, President.

PRESIDENT (in Cantonese): It is now 14 minutes past nine o'clock in the evening and I believe we cannot finish all the items on the Agenda before 12 midnight. Therefore, I have decided to suspend the meeting after this motion debate comes to a close.

MR ANDREW CHENG (in Cantonese): Madam President, with a suspected man-made calamity on one hand and a natural disaster on the other, it is very natural for Members who have just spoken to link up the motion on vindication of the 4 June incident and the Sichuan earthquake. Members have referred to ZHAO Ziyang and the incumbent Premier WEN Jiabao at that time, who accompanied ZHAO Ziyang to go to the students with a loudspeaker in his hand.

Nineteen years later, WEN Jiabao appeared at the place most badly hit by the disaster, also carrying with him a loudspeaker, and personally directing the relief work, and he wrote on a blackboard the words "trials and tribulations rejuvenate a nation" as we were reminded by Ms Margaret NG just now. My first response after reading this news report was that the words on the blackboard would not be erased. Just as I expected, I heard from the news today that the school is going to remove the blackboard and put it in a museum. This is a historic moment indeed.

I vaguely recall that a classmate of mine asked why China could be rejuvenated only by trials and tribulations when I studied Chinese history, but I could not recall the actual answer given by the Chinese history teacher. Some Members have just said "unity is strength" and I believe my teacher also said so. In times of trials and tribulations, people only wish to stay away from disasters and so, they would make every effort to this end.

About "trials and tribulations rejuvenate a nation", I think most disasters in the history of China were natural disasters and the inevitable disasters caused by thousands of years of imperial or monarchical rule. We should do our bit. Everyone should bear responsibility for the fate of his country but it seems the rise and fall of a nation is just repeating a cycle of rise and fall of dynasties. In the end, the emperor had certainly become more and more corrupt and his policies more and more incompetent, and another dynasty would eventually take over following the uprising of the common people.

"Trials and tribulations rejuvenate a nation" has been proven true repeatedly in China and, under the one party-authoritarian rule nowadays, our Premier's writing "trials and tribulations rejuvenate a nation" at the disaster scene saddens me and makes me feel helpless. Could the disaster be avoided?

Members reiterated a while ago the collapse of 7 000 schools in China. Madam President, we are talking about 7 000 schools. Let us imagine with our eyes closed why 7 000 "jerry-built" school buildings had collapsed. Was that a result of shoddy work and the use of inferior materials? It is unnecessary to go into details. Why was there no alert before an earthquake measuring 8.0 on the Richter scale? Was it because some people did not want to cause disastrous panic in order not to affect the grand event of the Olympic Games? Many people panicked at the sight of toads jumping around, just like what happened when people boiled vinegar during the SARS attack a few years ago. Were there people who did not want to cause panic in the community? Nobody ever made explanations. Is it because the Chinese always like to hold back unpleasant news?

I believe many compatriots have such sentiments. How are we going to face up to the commemoration of 4 June next week? Mr LEUNG Kwok-hung has just called on Members to go to the Victoria Park next Wednesday on time. Since there will be a Council meeting next Wednesday, I believe some Members may not be able to attend. Nevertheless, we hope there would not be any conflict between the commemoration of the Sichuan earthquake and that of 4 June.

We wish to learn from history. Although the Sichuan earthquake is a natural disaster, it can certainly remind our leaders the ways in which institutional changes can be made to minimize trials and tribulations besides writing on the blackboard "trials and tribulations rejuvenate a nation". The modern world is different and the law of the jungle no longer applies. In ancient times, might was right and people facing trials and tribulations had to fight and win, but I do not think that should be the case in the modern world.

For a decade or so, the corruption problem has not been abated and I believe corrupt officials will have greater opportunities to take advantage of legal loopholes for corruption purposes as society become wealthy and prosperous. Without a good check-and-balance system and channels to curb corruption, there will be worsening confusion, corruption and degeneration in an increasingly wealthy society.

Today, some Members such as those from the Liberal Party have not spoken on this motion debate, though they had in the past. I hope they would express their views on this motion. I hope that the shoddy construction works before the Government put forward this topic of discussion, some famous radio programme hosts already raised this issue and the audience had fiercely

reproved such practices but they shut their mouths after the Government brought out the matter. I hope Members would not just echo the policies of the Central Government. We have our conscience and we should express our views and continue to work hard for the love of our country. Thank you, Madam President.

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

MR HOWARD YOUNG (in Cantonese): Madam President, the accuracy of the projection of Mr Andrew CHENG seems to be quite the same as earthquake forecasts. He said that Members from the Liberal Party were not going to speak but his projection is inaccurate.

It has been 19 years since the 4 June incident and a number of Members had proposed the relevant motion. However, the stance of the Liberal Party remains unchanged regardless of the sponsor of the motion.

I believe many Chinese people agree that the 4 June incident was a tragedy and all Chinese people who deeply love our country do not want similar incidents to occur. The Liberal Party deeply believes that history will give a fair judgment on the entire process of the incident which had developed into a bloodshed.

The Liberal Party considers it most important to look forward in the development of China as vital. As we have noticed, the country has carried out many reforms since the 4 June incident and its achievements have attracted worldwide attention.

In the government work report presented by Premier WEN Jiabao in March this year, it is stated that China had significant achievements in social and economic development; the gross domestic product reached RMB 24.66 trillion yuan and received a higher ranking from the sixth to the fourth in the world. The per capita disposable income of urban residents reached RMB 13,785 yuan and the per capita income of rural residents hit RMB 4,140 yuan. All this symbolizes that China has become a moderately prosperous and harmonious society.

President HU Jintao advocates such principles as people-oriented governance for the people and Premier WEN has an image of being

approachable and full of love for the people, and their new ruling styles have won the support of the people and international praise. The recent earthquake resistance and disaster relief work in Sichuan embody fully this people-oriented principle of governance.

Premier WEN Jiabao arrived at Chengdu at around 4.40 pm on 12 May, two hours after an earthquake of magnitude 8 occurred in Sichuan, and he was at the disaster zone eight hours after the earthquake occurred inspecting the situation and consoling the victims. Also, President HU Jintao hurried to the scene still hit by aftershocks soon afterwards to console the victims. On 19 May, the whole nation for the first time held a ceremony to observe silence for victims of the earthquake and the national flag was flown at half staff for three days.

After utmost supervision and urging by central leaders, not one second was wasted in carrying out disaster relief work, and officials who procrastinated in the relief work were removed from office at once. To facilitate redevelopment of the disaster zone, the Central Authorities practised thrift and reduced government organization expenditure by 5% to set up a redevelopment fund of RMB 70 billion yuan for the first year.

After the earthquake, online and media reports and commentaries on the conditions of the disaster in various places, and also comments on pursuing the officials' responsibilities for dereliction of duty can be circulated freely; local and foreign reporters can freely access the disaster zones to cover news; and the Government has been unprecedentedly open and transparent in releasing information on the conditions of the disaster.

Throughout the years, China has fully demonstrated progress and improvements in terms of economic growth, the living standards of the people, the standard of governance and the strength of the nation as a whole. The Liberal Party understands that the 4 June incident is still on the mind of many Hong Kong people for 19 years since the incident occurred but we think that political, economic and social stability is the prerequisite for any reform to be implemented in our country and only on this basis can there be a democratic and prosperous society.

Madam President, I so submit.

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

MS EMILY LAU (in Cantonese): President, I speak in support of Mr CHEUNG Man-kwong's motion. Like Members who have just spoken, I am grateful to the Democratic Party for proposing this motion over the years so that we can pay tribute to those who died in the 4 June massacre in Beijing.

Nineteen years are a very long time but I believe people will never forget and forgive. We very much hope that a large-scale investigation will be made as soon as possible to find out what really happened in order to do justice. I do not agree with the Liberal Party that history would naturally make a fair judgment on the 4 June massacre. What do they mean? How can a judgment be made when investigation or anything is not carried out? We ask for investigations to be carried out into many happenings in Hong Kong for that is a must. No one will say one party is perfectly right while the other party is all wrong. Investigation is warranted.

I believe many people have not forgotten the incident despite the passage of 19 years and many still insist on carrying out an investigation and vindicating the incident. I also believe that tens of thousand of people will go to the Victoria Park next Wednesday to pay tribute to those who died during the massacre.

President, for a decade or so, there has not been significant progress in China in terms of democracy, the rule of law and freedom but, as we have witnessed, more and more prisoners of conscience and politics have been put in prison, and China has locked up and detained the largest number of reporters among all countries in the world. Although we are saying that the authorities have handled the Sichuan incident in a more open manner, does it mean we can be optimistic from now on?

Last year, Mr Albert HO and I, together with some lawyers and academics, set up a China Human Rights Lawyers Concern Group, for we really wish that there will be the rule of law and fearless and independent professional lawyers in the Mainland. We hope to see in China the ultimate adoption of an independent judicial system, so as to truly facilitate the development of the political and social systems in the Mainland.

Therefore, I do not agree with the Liberal Party that economic achievement is most important to our country. For more than a decade, the economic achievement of our country has brought about worsening corruption and degeneration. As we have seen, there were many people reflecting their views to the higher authorities and many who had their houses and land

plundered. This is precisely why we need human rights lawyers and activists to come forth and help them. Unlike all of us in Hong Kong who would not be arrested after speaking here, these courageous human rights lawyers and activists, and even their family members would be arrested and imprisoned, and some of them would even be badly assaulted in prison.

We have set up the Concern Group for this reason, although we can do only very little, but we still have to tell these human rights lawyers and activists that people outside — in fact, we are not outsiders because Hong Kong is a part of China — greatly support them. Many in the international arena do hold in high repute these human rights activists who risk their lives for the rule of law to bear fruit on the soil of China.

Over the past decade or so, we have seen some people in China become wealthy but we have also seen endless oppression of tens of million of people. President, as a Member of the Standing Committee of the National People's Congress, you should be aware of this and know even more than we do. We have not been permitted to return to China and we have been deprived of this right for more than 10 years because of the comments we made in Hong Kong. What sort of government is this?

I would only smile coldly on hearing the so-called "people-oriented" principle of governance. We often have to look at what has been done and also the situation inside our country, rather than just looking at what our country has done for Hong Kong people. I had discussed the question of what made a civilized country or society during our previous debates. What really counts is not the number of skyscrapers or magnificent infrastructure, but how the most vulnerable and disadvantaged groups are treated in a country or society.

However, if we travel to China and have a look — over a long period of time, I seldom have the chance to travel to China but I have heard many stories — we will find countless poor people in deep distress. While there are so many wealthy people on the Mainland, there are also tens of million of people being cruelly oppressed. The sufferings of those people who sought to reflect their views to the higher authorities cannot be put into words, and this is why those courageous human rights lawyers and activists have come forth to help them. Hence, when people say that China is doing very well economically and in many other areas, I really want to find out if they know only to take a one-sided view.

We as Chinese certainly want our country to be rich and strong but we all the more wish that there will be democracy, freedom and the rule of law in our country. President, though people like us cannot return to our country for years, our ideal and principles will never be obliterated. We pay tribute to people shot down by the People's Liberation Army or killed under their tanks in fighting for a less corrupt and degenerated government and a freer country; we will never forget these death victims. We hope there will be democracy and freedom in China one day very soon, but before then I believe more people or even tens of million of people may have to shed their blood and sacrifice.

President, Hong Kong is a part of China and we wish to make contributions and we hope that there can be democracy and freedom in our country as soon as possible. We oppose one party dictatorship and we would like to see the end of it as well as the building up of a democratic China soon. I wish to express my condolences to those who died and their family members, and I pay tribute to those human rights lawyers and activists. I hope that these activists and other people with aspirations would make the best endeavour to help our country, with a view to putting an end to one party dictatorship and building up a democratic China.

With these remarks, I support Mr CHEUNG Man-kwong's motion.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon Mr CHEUNG Man-kwong to reply. You have two minutes two seconds.

MR CHEUNG MAN-KWONG (in Cantonese): President, in this debate on the 4 June incident tonight, Members who have spoken are, as usual, mostly democrats, and we take pride in this. Members from the Liberal Party have spoken and emphasized that their stance has remained unchanged. I will also be proud of them if their stance, which has remained unchanged, is to give support to the vindication of the 4 June incident, but if they only maintain that history will make a fair judgment, they have only chosen a safe political refuge for themselves, which somehow smacks of opportunism.

History will not make a fair judgment out of nothing and it takes tortuous struggles and much blood and sweat of the people for history to be given a just evaluation. The remark that history will naturally make a fair judgment will do a disservice to many youngsters who sacrificed for China and to the Tiananmen mothers, and is tantamount to evading what is right or wrong in history. But of course, evasion is better than opposing the vindication of the 4 June incident.

Nevertheless, I believe the voting records of each of these motions in the Legislative Council will be remembered in history. History will remember those who persevered in struggling for the vindication of the 4 June incident during the most difficult times; it will remember those who remained silent or opposed the motion during the most difficult times; it will remember even more clearly those who were evasive and who abstained in the vote during the most difficult times. Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr CHEUNG Man-kwong 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 CHEUNG Man-kwong rose to claim a division.

PRESIDENT (in Cantonese): Mr CHEUNG Man-kwong has claimed a division. The division bell will ring for three minutes, after which voting will begin.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr Joseph LEE, Dr KWOK Ka-ki and Dr Fernando CHEUNG voted for the motion.

Dr Philip WONG, Mr WONG Yung-kan, Mr WONG Kwok-hing and Mr KWONG Chi-kin voted against the motion.

Dr Raymond HO, Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG and Prof Patrick LAU abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr James TO, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr LAU Chin-shek, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG and Mr LEUNG Kwok-hung voted for the motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr LI Kwok-ying and Mr CHEUNG Hok-ming voted against the motion.

Mr James TIEN and Mrs Selina CHOW abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, six were in favour of the motion, four against it and 14 abstained; while among the Members returned by geographical constituencies through direct elections, 22 were present, 13 were in favour of the

motion, six against it and two abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

SUSPENSION OF MEETING

PRESIDENT (in Cantonese): I now suspend the Council until 9.00 am tomorrow.

Suspended accordingly at twenty minutes to Ten o'clock.

Annex I

DUTIABLE COMMODITIES (AMENDMENT) BILL 2008

COMMITTEE STAGE

Amendments to be moved by the Secretary for Commerce
and Economic Development

<u>Clause</u>	<u>Amendment Proposed</u>
3	By deleting the clause.
4	By deleting the clause.
5	By deleting the clause.
6	By deleting the clause.
7	By deleting subclause (1).
7(2)	By adding "to the Dutiable Commodities Ordinance (Cap. 109)" after "Schedule 1".
8	By deleting the cross-heading " Dutiable Commodities Regulations " immediately before the clause.
8	By deleting the clause.

- 9 By deleting the clause.
- 10 By deleting the cross-heading "**Dutiable Commodities (Exempted Quantities) Notice**" immediately before the clause.
- 10 By deleting the clause.

Annex II

PREVENTION AND CONTROL OF DISEASE BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for Food and Health

<u>Clause</u>	<u>Amendment Proposed</u>
2	<p>(a) In the definition of “article”, in paragraph (a), by deleting “(other than a human being)”.</p> <p>(b) By deleting the definition of “isolation”.</p> <p>(c) By deleting the definition of “quarantine”.</p>
5(2)	<p>(a) By deleting everything after “a police officer,” and before “exercising a power” and substituting “a member of the Auxiliary Medical Service or a member of the Civil Aid Service or a public officer appointed under this Ordinance who is”.</p> <p>(b) By deleting everything after “such obstruction,” and substituting “that officer or member may arrest that person without a warrant.”.</p>
5(3)	<p>(a) By deleting “Where a health officer, or a public officer or a person” and substituting “Where a health officer or a member of the Auxiliary Medical Service or a member of the Civil Aid Service or a public officer”.</p> <p>(b) By deleting “the health officer, or the public officer or the person appointed under this Ordinance” and substituting “the person who made the arrest”.</p>

- 6(1) By deleting paragraph (a).
- Part 4 In the English text, by deleting the heading and substituting “REGULATIONS”.
- 7 In the English text, in the heading, by deleting “**regulation**” and substituting “**regulations**”.
- 8 (a) By adding –
“(1A) The Chief Executive in Council shall review from time to time, or cause to be reviewed from time to time, the public health emergency in respect of which the regulation is made.”.
- (b) By adding –
“(5) For the purposes of a regulation made under subsection (2)(c), property may be requisitioned –
(a) by requiring a person to place it either temporarily or permanently at the disposal of the public officer requisitioning it; or
(b) by the public officer requisitioning it taking possession of it either temporarily or permanently.”.
- 12 (a) By deleting subclause (2).
(b) By adding –
“(2A) The Director shall serve an order made under subsection (1) on the person in respect of whom it is made,

either personally or by post, within 7 days after the order is made.

(2B) Any dispute arising from an order made under subsection (1) on the question whether compensation is payable or the amount of compensation shall, in the absence of agreement, be resolved or determined in accordance with this section.

(2C) The dispute shall be resolved or determined by arbitration under the Arbitration Ordinance (Cap. 341) if the party disputing the Director's order ("the claimant"), within 6 months after the Director makes the order, serves a notice on the Director notifying the Director that the dispute will be referred to arbitration and proceeds to arbitration in accordance with the Arbitration Ordinance (Cap. 341).

(2D) Instead of proceeding to arbitration in accordance with the Arbitration Ordinance (Cap. 341) pursuant to subsection (2C), the claimant may, within 6 months after the Director makes the order, institute civil proceedings for the determination of the dispute."

Appendix I

WRITTEN ANSWER

Written answer by the Director of Home Affairs to Dr KWOK Ka-ki's supplementary question to Question 2

As regards information on the work carried out by the Hong Kong Tourism Board and the Home Affairs Bureau on promoting traditional and festive events in the New Territories to local and overseas tourists, the required information is attached for Members' reference.

Promotion of Traditional and Festive Events
in the New Territories to Local and Overseas Tourists

The Hong Kong Tourism Board

The Hong Kong Tourism Board (HKTB) has been working closely with the local organizations, travel trade partners and District Offices in promoting the attractions and traditional celebrations in different districts to visitors, and encourage them to participate in the celebrations so as to experience Hong Kong's festivities and living culture, through various channels, including:

<i>(i) Publicity and Promotion</i>	
Website	<ul style="list-style-type: none"> ● HKTB's DiscoverHongKong.com website includes a dedicated section on the traditional and festive events of Hong Kong. Besides the major festivals, the website covers less well-known celebrations, such as the Birthday of Kwan Tai and Monkey God Festival. ● The website also provides the dates of the traditional festivals in 2008 and 2009, and the associated celebratory activities in different parts of the city for visitors' information, such as: <ul style="list-style-type: none"> - The celebratory events in Sai Kung's Joss House Bay and Yuen Long Stadium on the Birthday of Tin Hau - The parade in Shau Kei Wan on the Birthday of Tam Kung - The Bun Festival in Cheung Chau ● In addition, HKTB website introduces the traditional lifestyles and architectures of various districts, including those on the outlying islands, such as: <ul style="list-style-type: none"> - The Po Lin Monastery and the Giant Buddha on Lantau Island, the stilt houses, Kwun Yum Temple, Kwan Tai Temple and Yeung Hau

	<p>Temple in Tai O, as well as the silver mine and watchtowers in Mui Wo</p> <ul style="list-style-type: none"> - A Tin Hau Temple built more than 100 years ago in Yung Shue Wan of Lamma Island - Lam Tsuen Wishing Tree and Tin Hau Temple in Tai Po - Tin Hau Temple in Lei Yue Mun <p>< http://www.discoverhongkong.com/eng/heritage/festivals/index.jhtml ></p> <p>< http://www.discoverhongkong.com/eng/attraction/index.jhtml ></p>
Visitor Literature	<ul style="list-style-type: none"> ● HKTB has in several brochures introduced Hong Kong's traditional lifestyle and festive celebrations, for example: <ul style="list-style-type: none"> - <i>Discover Hong Kong by Rail</i> highlights the various attractions and related activities along the East Rail and West Rail, including the Che Kung Temple in Sha Tin and the celebrations on the Birthday of Che Kung. - <i>Discover Hong Kong Nature</i> presents visitors with information about Cheung Chau's Pak Tai Temple and the annual Bun Festival, the major attractions of Lantau Island, including Kwun Yum Temple in Southwest Lantau. Others include the Tin Hau Temple in Yung Shue Wan of Lamma Island, and the Tin Hau Temple and Lung Mo Temple in Peng Chau. ● HKTB also produces and distributes special leaflets to promote major traditional festivals in Hong Kong, such as the Birthdays of Tin Hau and Lord Buddha, Cheung Chau Bun Festival, Tam Kung Festival, Dragon Boat Festival, Mid-Autumn Festival and Chinese New Year. These leaflets include information on the historic background, traditions and local celebratory activities in relation to the festivals. For instance, HKTB produced leaflets on the Dragon Boat Festival this year, which listed the boat races in various districts, including Mui Wo, Cheung Chau, Lamma Island, Sai Kung, Sha Tin, Tai Po and Tuen Mun.
Promotional videos	<p>Traditional festivals and celebrations are also featured in HKTB's promotional videos. Besides screening these videos in road shows and trade shows overseas, HKTB has uploaded the videos onto the DiscoverHongKong.com website for viewing by visitors. Examples of these videos are:</p> <ul style="list-style-type: none"> ● "Welcome to Hong Kong" video — featuring celebratory activities on the Birthday of Lord Buddha, Cheung Chau Bun Festival, Dragon Boat Festival, Mid-Autumn Festival and Chinese New Year. ● "Events Capital of Asia" video — featuring Chinese New Year celebrations.

Media & PR Activities	<ul style="list-style-type: none"> ● Every year, HKTB organizes familiarization visits for overseas media to feature and film the different attractions and activities in Hong Kong, including traditional festivals such as Chinese New Year, the Birthdays of Tin Hau and Lord Buddha, as well as the Cheung Chau Bun Festival. It is hoped that the ensuing media coverage can enhance Hong Kong's exposure internationally and promote the city's traditional culture and heritage. For instance, in May this year, HKTB arranged media groups from Japan and Singapore to cover the Cheung Chau Bun Festival. ● In addition, HKTB collaborates with major media organizations and broadcasters from various source markets to produce special reports, features and nationwide programmes on Hong Kong's diverse appeals, including the local culture and festive celebrations. For example, HKTB co-operated with National Geographic Channel in the past to produce a special feature on the "International Chinese New Year Night Parade".
<i>(ii) Itinerary</i>	
	<p>HKTB works closely with travel trade partners and encourages them to develop sightseeing tours comprising Hong Kong's traditional festive celebrations so that visitors can take part in the local festivities. Examples are:</p> <ul style="list-style-type: none"> ● 2008 Tin Hau Festival Tour — the tour includes visit to the Wishing Tree in Lam Tsuen, Tai Po, and viewing the parade in Yuen Long on the Birthday of Tin Hau. ● Buddha Festival Celebrations on Lantau Island — Besides visiting the Po Lin Monastery and Giant Buddha, the itinerary includes visit to Cheung Sha Beach and Tai O fishing village. ● 2008 Bun Festival Tour — this tour covers Cheung Chau Bun Festival, the piu sik (children on floats) parade as well as a visit to Pak Tai Temple on the island. ● 2008 Tam Kung Festival Tour — a tour that includes visit to Chi Lin Nunnery, harbour cruise on Victoria Harbour as well as joining the celebratory activities of Tam Kung Festival in Shau Kei Wan. ● 2008 Dragon Boat Tour — an opportunity to catch all the excitement of the Tai Po Dragon Boat races.
<i>(iii) Mega Events</i>	
International Chinese New Year Night Parade	<ul style="list-style-type: none"> ● In the past 13 years, HKTB has organized the International Chinese New Year Parade, inviting international and local performing groups to participate in the parade in the Lunar New Year. ● HKTB also promotes other New Year related activities, such as the fireworks display, Chinese New Year Race Day, the Lunar New Year Cup, and other celebratory programmes organized by different attractions, hotels and shopping malls.

2006 Culture & Heritage Celebration	<ul style="list-style-type: none"> ● In 2006, HKTB organized the Culture and Heritage Celebration to promote four major festivals, namely the Birthdays of Tin Hau, the Lord Buddha and Tam Kung, as well as the Cheung Chau Bun Festival. Besides promoting celebrations in various districts, a temple fair was set up in Central ferry pier to showcase the characteristics of the four festivals.
Mid-Autumn Lantern Celebration in 2003 & 2006	<ul style="list-style-type: none"> ● In 2003 and 2006, HKTB organized the Mid-Autumn Lantern Celebration. Besides setting up a Lantern Wonderland in Victoria Park, HKTB publicized celebrations held across the city and encourage visitors to play an active part in order to have a taste of Hong Kong's unique local culture and heritage.

The Leisure and Cultural Services Department

Every year, the Entertainment Office of the Leisure and Cultural Services Department (LCSD) organizes large-scale territory-wide carnivals and thematic lantern displays at prominent venues in the urban areas and the New Territories to celebrate two major traditional festivals, namely the Lunar New Year and the Mid-Autumn Festival. Apart from showcasing traditional craftsmanship and lantern designs in the lantern displays, Chinese traditional stage performances are organized at these carnivals together with participatory activities, such as palm reading, lantern riddles, nostalgic games and handicraft stalls serving to promote and preserve Chinese traditional culture and folk arts. LCSD also co-organizes a lantern design competition cum exhibition with the Education Bureau during the Mid-Autumn Festival, aiming to promote the interest of students and public in the traditional art of lantern-making. All the programmes are provided free for the public and tourists. The direct production costs for carnivals and thematic lantern displays for these two traditional festivals total at around \$8 million.

The Bun Scrambling Event of the Cheung Chau Bun Festival is a unique traditional activity. After being suspended for 26 years, LCSD revived the event in 2005. With the support of the local organizations, LCSD explored all safety measures and resolved technical difficulties with the works departments and professional organizations, and conducted the event jointly with the Hong Kong Cheung Chau Bun Festival Committee in a safe and orderly manner. The activities were welcomed by the community. Every year, it not only attracts tens of thousand of local and overseas spectators or audience through live TV

broadcasting, but also receives extensive coverage from the local and international media and has become the talk of the town. The total expenditure for the Bun Carnival in 2008 is about \$1.2 million.

Dragon boating is a traditional activity of rich Chinese historic and cultural value. The sport has also gained considerable popularity around the world. Since Hong Kong held its first international race in 1976, the Hong Kong International Dragon Boat Races has become a prestigious international tournament, attracting more than 100 overseas and local dragon boat teams to take part each year; and tens of thousand of local and overseas spectators to enjoy the competition at the venue. LCSD provides subvention to the Hong Kong Dragon Boat Association each year to stage the International Dragon Boat Races. In 2008, LCSD subvented about \$400,000 for the event.

As far as museums are concerned, the Hong Kong Museum of History and Hong Kong Heritage Museum of LCSD have been documenting traditional/festive events in Hong Kong for research and exhibition purposes. Rituals and festivals such as the Lantern-lighting ceremony, Cheung Chau Bun Festival, Dragon Boat Dance of the Hokklos and Tin Hau Birthday Parade in Yuen Long are introduced to local and overseas visitors through the permanent exhibitions of the two museums. The cost incurred from the on-going research and documentation of these traditional/festive events as well as the maintenance and renewal of related displays is absorbed in the annual operating cost of the two museums.

The Home Affairs Department

The Home Affairs Department has been working in collaboration with District Councils on initiatives to promote traditional and festive events in the New Territories. In 2007-2008, about \$8.6 million was incurred for the implementation of these activities. A summary of these promotional activities held in the New Territories in 2007-2008 is provided below:

<i>District</i>	<i>Activities</i>
Islands	<ul style="list-style-type: none"> ● Tourism promotion activities ● Chinese New Year festive lighting ● Cheung Chau Bun Festival ● Bathing Buddha Festival ● Tai O Fishing Village Festival ● Lamma Day ● Mui Wo Day

<i>District</i>	<i>Activities</i>
Kwai Tsing	<ul style="list-style-type: none"> ● District tours ● Distribution of memo pads and coaster sets depicting district attractions
North	<ul style="list-style-type: none"> ● Guided tours to the North District ● Heritage tour of Ho Sheung Heung Village ● Publication of "Guided Heritage Tour of Ho Sheung Heung Village"
Sai Kung	<ul style="list-style-type: none"> ● International Walkathon ● Lunar New Year Programme on Rural Culture ● Dragon Boat Race
Sha Tin	<ul style="list-style-type: none"> ● Cycling Festival 2007 ● Festive Lighting ● Festive Lighting TV Promotion ● Sha Tin Festival ● Dragon Boat Race
Tuen Mun	<ul style="list-style-type: none"> ● Publication of "Tuen Mun Heritage" ● Guided tours of ecological, heritage and cultural attractions in Tuen Mun
Tai Po	<ul style="list-style-type: none"> ● Production of "Traditions and Antiquities of Tai Po" ● Production of "Tai Po Sightseeing, Shopping and Dining Promotion Guide" ● Cycling Fun Day for Family Harmony ● Harmony in the Four Lanes Carnival ● Editing of "Tai Po District Antiquities and Monuments"
Tsuen Wan	<ul style="list-style-type: none"> ● Provision of information about tourist attractions in the district through the website of the Industry and Commerce Committee of the Tsuen Wan District Council ● Production of publication to promote tourism
Yuen Long	<ul style="list-style-type: none"> ● Promotional TV Programme on Yuen Long's attractions ● Cultural Fair and Sightseeing Bus Tours in Yuen Long ● Provision of tourism information in the district through the "Incredible Journey of Yuen Long" website < www.go2y1.com >

Appendix II

WRITTEN ANSWER**Written answer by the Secretary for Transport and Housing to Mr SIN Chung-kai's supplementary question to Question 5**

As regards the environmental standard of the fuel used by Hong Kong registered vessels, following the implementation of the International Maritime Organization's MARPOL Annex VI in June 2008, all ocean-going vessels, whether registered in Hong Kong or not, are required to use fuel with sulphur content not exceeding 4.5%. Moreover, the fuel for local vessels supplied in Hong Kong already has a sulphur control not exceeding 0.5%.

The Government will continue to monitor international development and will further tighten the environmental standard of the fuel used by ocean-going and local vessels where appropriate.

Appendix III**WRITTEN ANSWER****Written answer by the Secretary for Constitutional and Mainland Affairs to Ms Emily LAU's supplementary question to Question 6**

As regards the number of requests for assistance received from visually impaired electors in the 2007 District Council (DC) Election and the 2007 Legislative Council Hong Kong Island Geographical Constituency By-election (LegCo By-election), under the established practice, visually impaired electors may request Braille templates to facilitate them to mark the ballot papers on their own. Alternatively, they may also request the Presiding Officer, the Deputy Presiding Officer or the Assistant Presiding Officer to mark the ballot papers on their behalf, in the presence of another polling staff. In the 2007 DC Election and the 2007 LegCo By-election, we received 768 and 157 requests respectively from visually impaired electors for assistance to cast their votes.