

# OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 2 July 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 LI FUNG-YING, B.B.S., J.P.

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

THE HONOURABLE ALBERT CHAN WAI-YIP

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

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

THE HONOURABLE VINCENT FANG KANG, S.B.S., J.P.

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

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

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

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

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

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

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

THE HONOURABLE LEUNG KWOK-HUNG

DR THE HONOURABLE KWOK KA-KI

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

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

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

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

THE HONOURABLE CHIM PUI-CHUNG

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

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

**PUBLIC OFFICERS ATTENDING:**

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

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

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

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

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

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

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

**CLERKS IN ATTENDANCE:**

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

MRS CONSTANCE LI TSOI YEUK-LIN, ASSISTANT SECRETARY  
GENERAL

MRS VIVIAN KAM NG LAI-MAN, ASSISTANT SECRETARY GENERAL

**PRESIDENT** (in Cantonese): We are one man short of a quorum. Clerk, please ring the bell.

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

**PRESIDENT** (in Cantonese): We now have a quorum. The meeting will 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>
Official Languages (Alteration of Text under Section 4D) (Advocate and Advocacy) Order .....	178/2008
Public Health and Municipal Services (Markets) Declaration 2008.....	179/2008
Market (Cessation of Application of the Public Health and Municipal Services Ordinance) Declaration 2008....	180/2008
Public Health and Municipal Services (Cessation of Designation as Public Market) Order 2008 .....	181/2008
Public Health and Municipal Services Ordinance (Amendment of Tenth Schedule) Order 2008.....	182/2008
Public Health and Municipal Services (Markets) (No. 2) Declaration 2008.....	183/2008
Domestic Violence (Amendment) Ordinance 2008 (Commencement) Notice .....	184/2008
Food Business (Amendment) Regulation 2008 .....	185/2008

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Other Papers

- No. 101 — Hong Kong Trade Development Council  
Annual Report 2007-2008
- No. 102 — Hong Kong Export Credit Insurance Corporation  
Annual Report 2007-2008
- No. 103 — Clothing Industry Training Authority  
Annual Report 2007
- No. 104 — Independent Commission Against Corruption Hong Kong  
Special Administrative Region  
Annual Report 2007
- No. 105 — Report of the Independent Police Complaints Council 2007
- No. 106 — Independent Commission Against Corruption Complaints  
Committee  
Annual Report 2007
- Report of the Finance Committee on the examination of the Estimates of  
Expenditure 2008-2009
- Report of the Panel on Commerce and Industry 2007-2008
- Report of the Panel on Housing 2007-2008
- Report of the Panel on Security 2007-2008
- Report of the Panel on Constitutional Affairs 2007-2008
- Report of the Panel on Food Safety and Environmental Hygiene  
2007-2008
- Report of the Panel on Financial Affairs 2007-2008
- Report of the Panel on Education 2007-2008
- Report of the Panel on Welfare Services 2007-2008

Report of the Panel on Economic Development 2007-2008

Report of the Panel on Health Services 2007-2008

Report of the Panel on Environmental Affairs 2007-2008

Report of the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions

Report of the Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2008

Report of the Bills Committee on Fixed Penalty (Smoking Offences) Bill

Report of the Bills Committee on West Kowloon Cultural District Authority Bill

## **ADDRESSES**

**PRESIDENT** (in Cantonese): Addresses. Mr CHAN Kam-lam will address the Council on the Independent Commission Against Corruption Annual Report 2007.

### **Independent Commission Against Corruption Hong Kong Special Administrative Region Annual Report 2007**

**MR CHAN KAM-LAM** (in Cantonese): Madam President, as a Member of the Advisory Committee on Corruption, I am very honoured to present to Honourable colleagues the Independent Commission Against Corruption Annual Report 2007 tabled today.

The year 2007 is a very meaningful year for the Independent Commission Against Corruption (ICAC). For the first time since the founding of the ICAC in 1974, all departments are housed in the same location. The new facilities represent the commitment of the Government of the Hong Kong Special



Administrative Region to maintain Hong Kong as a world leader in the battle against corruption. This purpose built ICAC building provides an environment and facilities under one roof that enable staff to interact more readily with greater efficiency and effectiveness.

Corruption has remained at minimal levels throughout 2007. The ICAC spared no effort in carrying out anti-corruption work by means of law enforcement, corruption prevention and community education. Up to the end of last year, there was a case-based conviction rate of 85%. Following a five-year decline, 2007 saw a slight reverse with a total of 3 600 corruption reports received, an 8% rise over the 3 339 reports of 2006. The number of pursuable reports stood at 2 762, or 77% of the total, an increase of 4% compared with 2006. Reports concerning the public sector continued to fall with 1 224 reports received in 2007, a 6% drop compared with 2006. This figure represents 34% of all incoming reports. The corruption situation in the private sector in 2007 continued to call for a robust response as the number of corruption complaints continued to rise. A total of 2 376 reports were received in 2007, an increase of 17% compared with 2006 and accounted for 66% of all reports received by the ICAC, compared with 61% in 2006. Complaints relating to building management remained at the top with 972 reports or 41% of all private sector complaints. Therefore, a special task force, comprising officers from each of the three departments within the ICAC, was formed to spearhead a holistic and strategic offensive concerning building management issues.

Corruption prevention is an effective strategy to tackle corruption at source continues to gain widening recognition by the international community. During the past year, the ICAC continued to recommend to government bureaux/departments and public bodies corruption prevention measures with a view to improving governance and reducing corruption risks. The ICAC conducted 92 corruption prevention studies on various public administration areas, such as the control of imported food and the procurement of medical items by patients. Additionally, the ICAC also provided corruption prevention advice on 325 occasions on proposed legislation, new policies and systems (such as the Pre-primary Education Voucher Scheme of the Education Bureau) to help ensure that the new system would be corruption resistant. The ICAC also established in 2007 a special unit to provide timely advice to bureaux and departments

involved in the preparation and implementation of major development projects (such as the Cruise Terminal Development Project). Furthermore, the ICAC joined hands with various industry players in promoting corruption prevention. For example, a Best Practice Module on how to manage catering operations was prepared and promulgated with the assistance of the catering industry and major supermarket operators.

Responding to changes in the economic and socio-political environment, the ICAC adopted new approaches in a multi-faceted endeavour to raise public awareness concerning the evils of corruption and to instil a culture of probity. In parallel with the Ethics Officers scheme tailor-made for the Civil Service, the ICAC proactively engaged all government bureaux/departments and public bodies by arranging anti-corruption training talks and assisting in the review of the code of conduct for staff. In the private sector, the ICAC continued to work closely with partners in strategic industries to stage sustainable ethics building initiatives. The two-year "Professional Ethics Programme for Estate Agents" commenced in 2006 progresses in earnest. Another two-year campaign focusing on the insurance sector commenced in late 2007 in collaboration with the Office of the Commissioner of Insurance, self-regulatory bodies and related professional associations. With a shared vision, all these partners have incorporated ICAC content in respective Continuing Professional Development programmes or related training courses.

The ICAC applied a "rippling strategy" to nurture positive values in the younger generation through various education programmes. Besides staging the Youth Summit for local and overseas university students with a focus on corporate governance, the ICAC visited all the universities in Hong Kong to enhance ICAC input in building ethics among students. A pilot ICAC Ambassador Programme was launched in partnership with one university where students took ownership for the promotion of integrity messages on campus. To cascade the integrity message to various age groups, the ICAC also started a website, Kidsland, targeted at primary school students.

Corruption and related crimes have become increasingly complex and global in nature. This fact dictates that officers of the ICAC must continually strive to enhance professional standards in order to be one step ahead of the criminally minded.

Madam President, on behalf of the Commissioner of the Independent Commission Against Corruption, I take this opportunity of presenting the Report to the Council to express our thanks to the Council and the general public for their support of the ICAC, and the valuable contribution made by Members of the Advisory Committee on Corruption within the year. I so submit, Madam President.

**PRESIDENT** (in Cantonese): Dr LUI Ming-wah will address the Council on the Report of the Independent Police Complaints Council 2007.

### **Report of the Independent Police Complaints Council 2007**

**DR LUI MING-WAH:** Madam President, on behalf of the Independent Police Complaints Council (IPCC), may I present the Report of IPCC 2007.

In 2007, the IPCC reviewed and endorsed a total of 2 509 complaint cases involving 4 341 allegations, an increase of 18.7% and 23.4% respectively over the previous year. The three most common allegations were "Neglect of Duty" (with 1 551 counts), "Misconduct/Improper Manner/Offensive Language" (with 1 539 counts) and "Assault" (with 587 counts). Allegations in these three categories accounted for 84.7% of all allegations made. Of the 4 341 allegations the investigation results of which were endorsed, 36 were classified as "Substantiated", 64 were "Substantiated Other Than Reported", five were "Not Fully Substantiated", 769 were "Unsubstantiated", 160 were "False", 148 were "No Fault", one were "Curtailed". In addition, 722 were not pursuable and 1 510 allegations were voluntarily withdrawn by the complainants. The remaining 926 allegations of minor nature were "Informally Resolved". The substantiation rate in relation to the 1 182 fully investigated allegations in 2007 was 8.9%.

In 2007, the IPCC raised over 1 000 queries or suggestions on the Complaints Against Police Office's (CAPO) investigation reports, asking for clarifications or questioning the investigation results. Subsequently, the CAPO changed the results of investigation in respect of 82 allegations. Arising from the results of investigation of the substantiated allegations endorsed by the IPCC

last year, criminal proceedings, disciplinary proceedings or other forms of internal actions were taken against 91 police officers. The IPCC also raised a number of suggestions with the Force with a view to improving police practices and procedures.

Madam President, the Government introduced the IPCC Bill into the Legislative Council in July last year. The IPCC has closely followed the progress of the legislative exercise and put forward its views on the Bill at the Bills Committee meetings. This Council will resume the Second Reading debate on the Bill next week. On becoming a statutory organization, the IPCC will continue to independently discharge its monitoring function, so as to ensure that the CAPO handles and investigates the complaints made by the public against members of the Force in a fair and impartial manner.

Thank you.

**PRESIDENT** (in Cantonese): Mr Jasper TSANG will address the Council on the Independent Commission Against Corruption Complaints Committee Annual Report 2007.

### **Independent Commission Against Corruption Complaints Committee Annual Report 2007**

**MR JASPER TSANG** (in Cantonese): President, as a Member of the Independent Commission Against Corruption Complaints Committee, I present on behalf of the Committee the Independent Commission Against Corruption Complaints Committee Annual Report 2007.

This is the 13th annual report of the Committee, and it gives a summary of the work carried out by the Committee in 2007. The Committee is mainly responsible for monitoring, and where it considers appropriate, reviewing, the handling by the Independent Commission Against Corruption (ICAC) of non-criminal complaints by anyone against the ICAC and officers of the ICAC.

To raise public awareness of the work of the Committee, the report has expounded the terms of reference of the Committee, the mechanism for handling of complaints and its operation.

The Committee held three meetings last year to consider the documents and reports related to 23 complaints with 65 allegations, and two allegations in two complaints were found to be substantiated. In relation to these substantiated allegations, the ICAC officers concerned were given appropriate advice.

The Committee scrutinized ICAC internal procedures, guidelines and practices in considering the reports. The ICAC made improvements in response to the Committee's suggestions.

The Committee publishes an annual report to provide the general public with an account of its work and to enhance the transparency and accountability of the Committee. If Honourable Members have any views on the annual report, they may submit their views to the Clerk to the Committee. The Committee expresses its gratitude to Honourable Members and the public for their support of the Committee's work.

Thank you, President.

**PRESIDENT** (in Cantonese): Mr TAM Yiu-chung will address the Council on the Report of the Finance Committee on the Examination of the Estimates of Expenditure 2008-2009.

### **Report of the Finance Committee on the Examination of the Estimates of Expenditure 2008-2009**

**MR TAM YIU-CHUNG** (in Cantonese): President, in accordance with Rule 71(11) of the Rules of Procedure, you referred the Estimates of Expenditure 2008-2009 to the Finance Committee (FC) for their examination. On behalf of the Finance Committee, I now present to the Council the Report of the Finance Committee on the Examination of the Estimates of Expenditure 2008-2009 (the Report).

As usual, the FC convened open meetings on examining the Estimates. During these meetings, the Administration's various Estimates were thoroughly examined to ensure that the requested appropriation would not exceed the amount required for implementing the various government policies. From 31 March to 3 April and 7 April 2008, we held seven special meetings totalling 20 sessions.

To enable FC members to have more information about the Estimates before the special meetings and to make more effective use of the 20 sessions, we invited FC members to submit written questions on the Estimates as usual, so that the Administration could give written replies beforehand. This year, FC members submitted a total of 2 733 written questions, most of which covered the objectives and service targets of the Estimates. Some of the written questions were on the Estimates relating to the expenditure on health care, education and other public services put forward in the Budget and also about the efficacy of such services. I am very glad that the Administration was able to reply to all the 2 700 or so written questions prior to the special meetings. We have uploaded all these replies onto the website of the Legislative Council for public information.

The concerns expressed by FC members at the special meetings were recorded in detail in Chapters 2 to 21 of the Report. Since there is a huge surplus this year, the Administration has introduced a series of measures to help lessen people's burdens, relieve the plight of the disadvantaged and enable people to share the fruit of economic improvement. FC members all welcome such measures, but they are also concerned that some of these measures, especially one-off allowances or waivers, may not necessarily provide any genuine assistance to the underprivileged. FC members are of the view that the Administration should expeditiously review the mechanism for adjusting Comprehensive Social Security Assistance rates, so that such rates can reflect price rises in a timely manner and relieve the inflation pressure on recipients. FC members also urge the Administration to increase the Old Age Allowance and the Disability Allowance, increase the funding for stepping up health care and community support services, and make systematic assessment and planning in respect of the demand for welfare services. FC members are of the view that the Government should increase the transport support and concessions for

low-income earners and persons with disabilities, step up employment assistance and enhance the assistance for women and victims of domestic violence.

In respect of labour rights, FC members urge the Government to expeditiously introduce a minimum wage level, review the Employment Ordinance, step up enforcement actions against wage defaults and reduce non-compliance with Labour Tribunal awards. FC members also urge the Administration to provide sufficient resources for enhancing pre-school education, small-class teaching, sub-degree education, special education and other education services, so as to upgrade Hong Kong's manpower quality.

FC members are concerned that the Government failed to fully utilize the funding reserved for infrastructure projects last year. They urge the Government to launch all the projects concerned as early as possible, with a view to creating more employment opportunities for the local construction industry. In this connection, FC members welcome the Administration's undertaking to expeditiously launch infrastructure projects and other projects that can provide elderly persons with building maintenance assistance, improve the environment and upgrade health care services.

The Appropriation Bill 2008 was passed by the Legislative Council on 23 April 2008. The Report contains FC members' views on the Budget this year and can provide the Administration with useful reference when formulating the Budget next year and implementing the relevant policies.

President, I am deeply grateful that the special FC meetings this year were marked by the enthusiastic participation of members and the Administration's active responses. I wish to take this opportunity to thank the Financial Services and the Treasury Bureau and the Legislative Council Secretariat for their strong support for the work of the FC.

I so submit.

**PRESIDENT** (in Cantonese): Mr Vincent FANG will address the Council on the Report of the Panel on Commerce and Industry 2007-2008.

**Report of the Panel on Commerce and Industry 2007-2008**

**MR VINCENT FANG** (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Commerce and Industry (the Panel), I shall now submit the work report of the Panel this year and brief the Council on its major deliberations.

The Panel followed up closely the provision of convention and exhibition facilities in Hong Kong to ensure that the capacity of local facilities stayed ahead of the industry demand, with a view to maintaining Hong Kong's leading position as an international business centre. Following an overseas duty visit to Dubai, Frankfurt, Las Vegas and Los Angeles to study the development of convention and exhibition facilities in these places, the Panel published a report in January 2008 on its observations and recommendations on the way forward for the development of the convention and exhibition industry in Hong Kong, with a view to providing useful reference on how new exhibition venues could be developed in Hong Kong. The Panel subsequently exchanged views with the Administration, and it was pleased to note that the Administration had taken on board the Panel's recommendations and proposed a host of corresponding measures. The authorities have set up an Alliance Group, with a view to identifying "Meetings, Incentives, Conventions and Exhibitions" (MICE) opportunities and promoting concerted marketing efforts.

On the promotion of inward investment, the Panel supported the Administration's proposed funding for a non-recurrent provision of \$100 million to InvestHK, which would allow for continued funding of investment promotion (IP) undertaken by InvestHK for three years. Members commended that IP efforts made by InvestHK were conducive to sustaining Hong Kong's competitive edge vis-à-vis its competitors in the region. Nevertheless, they considered that resources of InvestHK should be pooled together with other bodies which were also promoting Hong Kong for cost savings. Members noted that the Government had commissioned a follow-up study to review the strategy for promotion of inward investment, and that the Administration would brief the Panel of the findings of the study.

Members supported the Administrations' latest proposals regarding the small and medium enterprise (SME) funding schemes, maintaining that they



could enhance the assistance provided to SMEs, particularly Hong Kong-owned enterprises in the Mainland, so as to get them prepared for upgrading, restructuring or relocating their operations arising from the Mainland's new policy. On the SME Export Marketing Fund, members were of the view that the Administration should step up the publicity, so that more SMEs could benefit from the scheme and more employment opportunities could be created for the local workforce, thus benefiting the economic development of Hong Kong as a whole.

The Panel discussed the outcome of the public consultation exercise conducted by the Administration on copyright protection in the digital environment. Members considered that it was incumbent upon the Administration to ensure that the copyright protection regime would facilitate the free flow of information in the digital environment while not compromising the protection of personal data privacy. While members supported the protection of intellectual property rights, they also hoped that the Administration would devise measures to forestall infringing acts and consult the public extensively before formulating any new legislation to combat Internet infringement.

In view of the development in the Mainland in recent years, members considered that efforts should be stepped up in nurturing design talents to meet market demand so that Hong Kong would maintain its competitive edge in the long run. Noting that many business and industry players were not yet convinced of or conversant with design and branding, members were concerned whether the authorities would take appropriate measures to assist the trades and industries to make fuller use of design and innovation to build their brand names.

The Hong Kong Economic and Trade Offices (ETOs) and the Beijing Office (BJO) also briefed the Panel on their work. Members appreciated the services rendered by ETOs in keeping the local commercial and industrial sectors abreast of the latest information on the economies concerned, and updating the overseas business communities on the policy changes in relation to the enhancement of the business environment of Hong Kong. Members also commended the BJO and the Mainland ETOs for their efforts in providing assistance to Hong Kong residents and their families suffering accidents in the

Mainland, in particular the Guangdong ETO for its effort in liaising closely with the mainland authorities to assist Hong Kong-owned enterprises to adjust to the Mainland's policy changes on the processing trade.

The Panel followed up closely the preparations of Hong Kong Special Administrative Region (HKSAR) for participating in the World Exposition 2010 Shanghai China (Shanghai Expo). Members considered the participation in the Shanghai Expo an excellent opportunity to exhibit Hong Kong's quality city life and position itself as a creative capital, as well as to emphasize Hong Kong's role as an important city connecting the Mainland and the rest of the world. The Panel noted that the HKSAR would participate in the Urban Best Practices Area Exhibition (UBPA Exhibition) at Zone E with smartcard applications as the main theme. Members hoped that the Administration would take the opportunity to promote the wider use of smartcard systems and application of new technology by various bureaux and departments to improve efficiency and promote connectivity. Members were also keen to ensure that, to put resources to good use, some of the exhibits would be retained for continuous exhibition after the Shanghai Expo.

Other aspects of the Panel's work in the year concerned are covered in the Report. I so submit. Thank you, Madam President.

**PRESIDENT** (in Cantonese): Mr LEE Wing-tat will address the Council on the report of the Panel on Housing 2007-2008.

### **Report of the Panel on Housing 2007-2008**

**MR LEE WING-TAT** (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Housing (the Panel), I submit the report of the Panel for the Session of 2007-2008 and briefly speak on several major areas of work in the report.

In view of rising property prices in the private residential market, the Panel had examined the need for the authorities to re-launch the Home

Ownership Scheme (HOS) and the Tenants Purchase Scheme (TPS). Some members considered that the authorities should revive these schemes to meet the property ownership aspiration of people in the low and middle classes and the aspiration of tenants of public rental housing (PRH) for improving their living conditions. However, some other members were of the view that as surplus HOS flats were still available for sale and the construction of HOS involved heavy subsidies from the Government, the Government should ensure proper utilization of public resources. They urged the authorities to increase the production of PRH flats, instead of using public resources to assist families in meeting their home ownership aspirations. As a result of soaring flat prices, members called on the authorities to critically review the situation and make an early decision on the question of re-launching HOS and TPS. The Government responded that it had already been closely monitoring the market situations. Should there be a need, the Government would conduct a comprehensive review and consult the public on the issue of re-launching HOS.

As the Housing Authority (HA) had been facing the problem of shortage of land for development of PRH in recent years, the Panel saw the need to provide the HA with adequate land for the construction of PRH flats and urged the authorities to consider measures, including formulating a clear policy on the disposal of land resources for PRH production and working out the targets in respect of allocation of land, actively identifying suitable new sites for PRH development and retaining existing PRH sites for redevelopment of PRH, and expediting discussion with local communities, in order to speed up the progress of development projects. In pursuing PRH development, the Panel urged the Government to ensure an even distribution of PRH flats in the territory and that the provision of community facilities will tie in with the completion of PRH estates, and also to improve the design of PRH flats to cater for the needs of the ageing population and provide better facilities and more living space.

The Panel expressed concern about the housing needs of low-income persons. Members opined that the Government should have the determination to phase out bedspace and cubicle apartments, and also map out the policy and a comprehensive plan in this regard. While members understood the concern expressed by owners' groups about reinstating rent control and security of

tenure, they considered that the Government should review the relevant policy and put in place measures to address the problem of substantial rent increases after the removal of rent control and security of tenure.

The Panel would continue to monitor measures for improving the utilization of Housing for Senior Citizen (HSC) units. While the progress of the conversion will hinge on the voluntary decision of HSC tenants to move out, members hoped that the authorities would expedite the conversion of these units and work out tailor-made moving arrangements for tenants. In view of the success of the Senior Citizen Residence (SEN) Scheme implemented by the Hong Kong Housing Society (HS) for the elderly, members urged the Government to consider granting more sites for building more SEN flats and also granting the sites to the HS at discounted premium to ensure the viability of the project.

The Panel had been following closely issues relating to sales arrangement for first-hand residential properties and had discussed with the authorities, the Real Estate Developers Association of Hong Kong (REDA), the Consumer Council and the Estate Agents Authority (EAA) measures to enhance disclosure of sales information in sales descriptions for residential properties. Members were particularly concerned about the definition and presentation of floor area information in sales brochures and price lists. The Panel supported the adoption of a clear and standardized presentation to help prospective buyers understand the floor area information and protect their interests, and incorporation of the standardized presentation of "saleable area" under the Consent Scheme. In this regard, members welcomed the REDA's move to issue new guidelines and a price list template for developers to adopt a standardized presentation of floor area and to include only the area of the unit and the balcony in the calculation of the standardized definition of saleable area. They urged the Government to expedite follow-up actions with the relevant parties, with a view to implementing the new measures as soon as possible. The Panel also urged the EAA to make continuous effort to raise the standard of the estate agency trade, enhance its compliance inspection and strengthen disciplinary sanctions on estate agency practitioners who committed misconduct and malpractices.

The other major areas of work of the Panel are summarized in the report submitted to this Council. I so submit. Thank you, Madam President.

**PRESIDENT** (in Cantonese): Mr LAU Kong-wah will address the Council on the report of the Panel on Security 2007-2008.

### **Report of the Panel on Security 2007-2008**

**MR LAU KONG-WAH** (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Security (the Panel), I submit the report of the Panel for the Legislative Council Session of 2007-2008 and speak briefly on several major areas of work of the Panel.

Members were very concerned about the police's practices regarding handling of searches of detainees, especially the justifications for conducting strip searches and whether such searches had been conducted in compliance with the police's guidelines. Members considered that the Police General Orders (PGO) and the relevant guidelines should be reviewed comprehensively, and suggested that the PGO should contain a specific section on strip search. Such a section should cover the circumstances under which strip searches would be conducted, how such searches were to be carried out and how the human rights, privacy and dignity of detainees could be protected during such searches. Besides, members were concerned about the keeping of records of searches involving the complete removal of clothing worn next to the skin.

The Administration subsequently informed the Panel that in response to members' views, the new guidelines and procedures would make it explicit and clear that a search involving the removal of underwear should not be conducted as a matter of routine but only in circumstances with strong justification. The new guidelines would also state that a search involving the removal of clothing should be conducted with proper regard to the privacy and dignity of the detained person and in accordance with Hong Kong's human rights obligations. Revisions would be made to the PGO to require that accurate records be kept in

the Police's Communal Information System to record the search conducted on a particular detainee and the scope of the search. The new guidelines would also be discussed by the Panel.

Some members expressed concern about the existing mechanism in the Control of Obscene and Indecent Articles Ordinance (COIAO). They considered that it should be an established procedure for the police to consult the Television and Entertainment Licensing Authority (TELA) before determining whether an article was obscene or indecent. The Administration should also review the law enforcement and prosecution in relation to publishing obscene articles on the Internet.

The Administration said that under the COIAO, an article would only be submitted to the Obscene Articles Tribunal (OAT) for classification when the question of whether the article was obscene or indecent would be a live issue in those proceedings. In future, the police would, in cases of doubt as to whether an article was obscene or indecent, consult the TELA or send the article to the OAT for classification before laying charges relating to obscene and indecent articles. The Administration was conducting a comprehensive review on the provisions of the COIAO.

Members were very concerned about the report that Mr Jens GALSCHOT and other foreign visitors were refused entry into Hong Kong in April 2008, and had discussed with the authorities the processing of entry applications into Hong Kong. Some members were concerned about whether the authorities had adopted double standards in the processing of entry applications and queried whether it was the Government's policy to tighten immigration control and restrict freedom of expression when major events were taking place in Hong Kong.

The Administration advised that it fully respected the freedom of speech and freedom of holding peaceful public processions and that a person would not be refused entry for exercising his freedom of speech. Each case was considered on its individual merits and there was no question of double standards being adopted. The Administration said that immigration control and public

order had to be strengthened especially when major events were taking place in Hong Kong.

Moreover, members were concerned about the increasing number of young people crossing the boundary to abuse drugs. They considered that the authorities should combat the youth drug abuse problem in collaboration with the relevant mainland authorities. Members considered that the Administration should formulate measures to facilitate early identification of drug abuse cases among the youth. Some members suggested that the Administration should consider applying the Education Regulations, such that mandatory medical examination could be conducted on students who were suspected of abusing drugs.

The Administration said that the measures recommended by the Task Force on Youth Drug Abuse would be implemented. These measures included enhancing the detector dog services at the boundary control points and stepping up anti-drug publicity at the boundary. The Administration pointed out that while there was no legislation in Hong Kong that empowered the Administration to require any person to submit to a medical examination for the purpose of identifying drug abuse, the relevant provisions of the Education Regulations were archaic and unlikely to be applicable in present-day circumstances. But as a first step, the Task Force would consider the feasibility of making the test available in a voluntary sense and with parental consent.

The Administration announced in January 2008 that the Quality Migrant Admission Scheme (QMAS) would be relaxed to allow those applicants aged 51 or above with proven career achievements, and those younger degree holders with less or even no working experience to enter the selection pool. Some members pointed out that under the revised QMAS, a young mainland university graduate proficient in Chinese only and with two years' working experience would already be qualified for admission under the QMAS. These members expressed concern that such a loose requirement would have a negative impact on the employment opportunities of young people in Hong Kong.

The Administration explained that the review of the QMAS aimed to cast the net wider for talents from places all over the world and expand the pool of

candidates for selection. Under the revised QMAS, an applicant with less working experience would be able to attain the passing mark for further assessment. However, the attainment of the passing mark did not guarantee his admission under the QMAS. He would still have to compete with other applicants for the allocation of quota.

The Administration was requested to briefly update the Panel on the implementation of QMAS in January 2009.

I wish to take this opportunity to thank members for supporting the work of the Panel. I also wish to thank colleagues of the Secretariat for their efforts in providing assistance to us. Thank you, Madam President.

**PRESIDENT** (in Cantonese): Dr LUI Ming-wah will now address the Council on the Report of the Panel on Constitutional Affairs 2007-2008.

### **Report of the Panel on Constitutional Affairs 2007-2008**

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

#### *(1) Further development of the Political Appointment System*

The Panel discussed the Administration's proposal of creating positions of Under Secretaries and Political Assistants for further development of the Political Appointment System (PAS). Some members considered that the PAS was not conducive to political party development and democratic development. The Administration should withhold the proposal until universal suffrage was implemented for the election of the Chief Executive. Some members supported the proposal and considered that it would contribute to effective governance of Hong Kong and groom more political talents to take forward constitutional development.



In May 2008, the Chief Executive appointed the first batch of Under Secretaries and Political Assistants. As the public was concerned about the transparency of the nationality, remuneration and appointment procedure of the political appointees, the Panel had thorough discussions on this issue.

On nationality, the Administration advised that Under Secretaries were not required to have no right of abode in any foreign country, as required in the case of Principal Officials. This was in compliance with the Basic Law. However, the Administration would remind appointees to the positions of Under Secretaries in future that the public expected them to disclose whether they had a foreign right of abode. As to whether they should renounce such a right, it was a personal decision.

The Administration advised that in future, it would make clear to any new appointees that their personal remuneration would be disclosed. The Administration also accepted members' views that it would consider whether the minimum salary point should be offered to some of the political appointees in future.

In response to members' request, the Administration provided detailed information on the appointment system. It also stressed that all key decisions on the appointment procedures were made by the Appointment Committee on a collective basis.

The Panel passed a motion, expressing grave disappointment that the Government had underestimated the expectation of the public in handling matters relating to the appointment of Under Secretaries and Political Assistants and urging the Government to review the deficiencies of the PAS and give an account to the public.

## (2) *Constitutional development*

In December 2007, the Panel discussed the Report on Constitutional Development submitted by the Chief Executive to the National People's Congress as well as the Report on Public Consultation on Green Paper on Constitutional Development. Some members expressed dissatisfaction and disappointment at the conclusion in the two Reports.

After considering the Chief Executive's Report, the Standing Committee of the National People's Congress (NPCSC) made a decision on 29 December 2007 on issues relating to the methods for selecting the Chief Executive and for forming the Legislative Council in the year 2012 and on issues relating to universal suffrage (the NPCSC Decision). According to the Administration, the NPCSC Decision made it clear that the Chief Executive might be elected by universal suffrage in 2017, and that after the Chief Executive was elected by universal suffrage, all Legislative Council Members might also be elected by universal suffrage in 2020. However, some members considered that the Administration had misled the public as the relevant part of the NPCSC Decision merely reflected its view and not its decision.

The Panel passed a motion subsequently, supporting the NPCSC Decision and calling for the joint efforts of all sectors of the community to reach a consensus on a more democratic electoral system in 2012, with a view to attaining universal suffrage for the Chief Executive in 2017 and for the Legislative Council in 2020.

*(3) Methods for electing the Chief Executive and forming the Legislative Council in 2012*

The Chief Executive appointed the Task Group on Constitutional Development under the Commission on Strategic Development (the Task Group) to discuss specifically the two electoral methods for 2012 within the framework set out by the NPCSC Decision. The Panel was briefed on the deliberations of the Task Group on a number of occasions.

Some members requested the Administration to give an undertaking to the effect that the universal suffrage models for the Chief Executive election in 2017 and the Legislative Council election in 2020 would comply with the principles of "universal" and "equal" suffrage in Article 25 of the International Covenant on Civil and Political Rights. They considered that functional constituency (FC) seats should be abolished and all Legislative Council seats should be returned by direct elections. Some other members considered that various sectors of the community had diverse views on the method for forming the Legislative Council by universal suffrage and the abolition of FC seats altogether. The issue would need to be further studied. The Panel passed a motion at the meeting in May, urging the Chief Executive to state clearly that all FC seats should be abolished in the model for forming the Legislative Council by universal suffrage.

(4) *Elections*

The Panel was briefed on the reports submitted by the Electoral Affairs Commission (EAC) to the Chief Executive on the two elections, namely the 2007 District Council election and the 2007 Legislative Council Hong Kong Island Geographical Constituency By-election. The Panel had discussions on whether the conduct of exit polls and use of exit poll results should be regulated. In order to protect freedom of expression and academic freedom, the Administration considered it inappropriate to regulate the use of exit poll results. The Administration advised that the existing guideline urging the organizations and persons to refrain from announcing the results of exit polls until after the close of poll was appropriate, and was also in line with that of many overseas countries.

The 2008 Legislative Council election will be held on 7 September 2008. The Panel was also consulted on a number of practical arrangements for the election. The Panel had discussions on the counting arrangements, the venue for the Central Counting Station, the subsidy rate of the financial assistance scheme, the election expense limits and the formation of the Force Working Group on Electioneering Activities.

(5) *Using the information contained in the electoral register*

The Panel discussed whether legislative amendment should be made to the relevant electoral law to stipulate that Members could continue to use the information contained in the electoral register to communicate with their constituents after the Legislative Council election, such as sending newsletters on their work to their constituents. At the request of the Panel, the Research and Library Services Division of the Legislative Council provided information on the usage of electoral register. Members noted that Australia, Canada, the United Kingdom and Ireland allowed the use of the electoral register for purposes other than a purpose related to an election. Members urged the Administration to adopt an open mind in considering the matter. The Administration agreed to relay members' views to the EAC for consideration.

(6) *Mechanism for amending the Basic Law*

The Panel also received a report from the Administration on its position on the mechanism for amending the Basic Law. The Administration advised that it had discussed the relevant issues with the Central Authorities in the past few

years and the latter considered that the provisions of the Basic Law should be maintained and should not be amended lightly. Moreover, the Basic Law had been implemented smoothly since its enactment. There was no need to amend the Basic Law at this stage and hence, it was not necessary to specify the relevant amendment mechanism. Some members agreed to such position, whilst some other members considered that the Government should have a mechanism in place to deal with the need to amend the Basic Law when it arose. They expressed disappointment that the Administration had no intention to do so after a lapse of 10 years.

Madam President, I so submit. Thank you.

**PRESIDENT** (in Cantonese): Mr Tommy CHEUNG will now address the Council on the Report of the Panel on Food Safety and Environmental Hygiene 2007-2008.

### **Report of the Panel on Food Safety and Environmental Hygiene 2007-2008**

**MR TOMMY CHEUNG** (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Food Safety and Environmental Hygiene (the Panel), I present a report to the Legislative Council on the work of the Panel in the 2007-2008 Session and highlight the deliberations of the Panel concerning food safety.

A series of food safety incidents occurred in Hong Kong in recent years. The Panel had called on the Administration to review and improve comprehensively the food safety regulatory framework and to bring wholesalers, distributors and retailers under this framework. The Administration briefed the Panel in December 2007 on the proposed Food Safety Bill (the Bill) and advised that it would introduce the Bill into the Legislative Council in the 2008-2009 Session.

Under the Bill, a mandatory registration scheme for food importers and distributors would be introduced and it would be an offence for food distributors and retailers to patronize non-registered food importers or non-registered food distributors. The Bill would also empower the Director of Food and Environmental Hygiene to issue an order to prohibit the import or sale of problem food and issue a recall order when a food product was suspected to have

posed a serious health hazard to the public. Members were supportive of the legislative proposal and urged the Administration to expedite the relevant legislative process.

The Panel also had discussions on the proposed regulatory framework for pesticide residues in food, the proposed amendments to the Preservatives in Food Regulations and the proposed amendments to the Colouring Matter in Food Regulations raised by the Administration. The Panel supported the Administration's efforts in this regard to ensure food safety. Members raised concern whether the Administration had put a mechanism in place to ensure that local food standards were in line with the international ones.

The Administration advised that the Centre for Food Safety kept a close watch on the development of food standards in overseas countries and would make reference to international food standards, notably standards of the Codex Alimentarius Commission.

As for the control of avian influenza, the Panel had discussions on the legislative amendments proposed by the Administration for the development of the poultry slaughtering and processing plant and the implementation of central slaughtering.

Members reiterated their concerns that the implementation of central slaughtering would not only lead to the monopolization of live poultry market and the supply of "freshly slaughtered chicken" by the licensee of the slaughtering and processing plant, but also affect adversely the relevant trade including wholesalers, retailers, workers and transporters. The Panel passed a motion urging the Administration to work out compensation proposals and reach a consensus with the affected trade before introducing the relevant legislation.

Upon the discovery of H5N1 avian influenza virus in chickens in public markets last month, the Panel immediately held a special meeting to discuss with the trade and the Administration the preventive and control measures, including the clearing of all live chickens from the wholesale market and retail outlets, that is the "daily rest night" measure. To help ease the financial difficulties faced by

the affected chicken farmers, wholesalers, retailers, transporters and workers, the Panel urged the Administration to provide appropriate compensation and *ex gratia* payment to them.

At another special meeting held on 27 June, the Panel was briefed on the legislative amendments relating to the "daily rest night" measure and the financial proposals for the live poultry trade to surrender their licences and tenancies. Members stressed that in implementing its policy to separate live poultry from humans, the Administration should strike a balance among public health, views of the public and interests of the trade. Such policy should not be implemented too hastily.

Finally, I would like to take this opportunity to thank members and the Secretariat for their support for the work of the Panel over the past year.

Madam President, I so submit.

**PRESIDENT** (in Cantonese): Mr CHAN Kam-lam will address the Council on the Report of the Panel on Financial Affairs 2007-2008.

### **Report of the Panel on Financial Affairs 2007-2008**

**MR CHAN KAM-LAM** (in Cantonese): In my capacity as Chairman of the Panel on Financial Affairs (the Panel), I present a report on the work of the Panel in this year and would like to give a brief account on several key areas of our work.

The Panel paid close attention to the overall economic situation in Hong Kong and was pleased to note the sustained growth in Hong Kong economy. However, members were also concerned about uncertainties prevailing in global markets in the second half of 2008 and the building up of inflationary pressure around the world. As the inflation rate of foodstuffs in the first quarter of 2008 stood at 17.4%, members were gravely concerned about the hardship faced by

the grassroots and called on the authorities to formulate a clear policy and introduce long-term measures, with a view to assisting the needy to cope with inflation and narrowing the wealth gap.

With regard to the banking stability in Hong Kong, members noted from the analysis conducted by the Hong Kong Monetary Authority (HKMA) that the fallout of the United States sub-prime crisis had not caused any systemic problem in the local banking sector. Members also discussed the arrangements on the appointment and tenure of the Monetary Authority (MA) and urged the authorities to explore ways to enhance the transparency and accountability of such arrangements.

As for the regulation of the securities and futures market, members were concerned about the capacity and reliability of on-line securities trading systems, in particular investors had suffered losses due to the delay in trading caused by congestion in the network systems at times of heavy trading. The Panel asked the authorities and the regulators to formulate objective service standards for compliance by financial intermediaries. As the investment market environment had become increasingly complex with a number of novel financial products, members expressed grave concern about whether the regulation on sales practices and risk disclosure was sufficient to protect the investors. Members also had discussions with the authorities and the regulators on the volatilities of stock prices during the initial implementation of the Closing Auction Session and noted that after the Securities and Futures Commission had considered the review and analysis conducted by the Hong Kong Exchanges and Clearing Limited on this incident, appropriate actions would be taken if evidence so warranted.

Members had met with the Administration and deputations to discuss the proposal of increasing employees' control over the Mandatory Provident Fund (MPF) investment, that is, allowing an employee to transfer the accrued benefits derived from the employee's mandatory contributions to his personal account in a scheme of his own choice. Some members considered that the proposal fell short of giving employees full control of their MPF investment. However, some other members were concerned about giving employees full control of their MPF investment might be unfair to employers. As for the proposal announced

in the 2008-2009 Budget to make an injection of \$6,000 into the accounts of members of the MPF Schemes and the Occupational Retirement Schemes, members welcomed it in principle and considered that such measure should be extended to more low-income groups as far as possible.

The Panel continued to follow up the closure of quite a number of bank branches in recent years with the Hong Kong Association of Banks, the Consumer Council, the HKMA and the Administration. Members were concerned about the availability of basic banking services and had discussions on the effectiveness of various improvement initiatives taken by the banking industry. The Panel passed a motion requesting the Government to establish a working group to recommend initiatives to meet the needs of the elderly, the underprivileged, the disabled and low-income groups for banking services, and to submit a report to the Panel.

Madam President, other areas of work of the Panel in this Session have been detailed in the report. I so submit.

**PRESIDENT** (in Cantonese): Mr Jasper TSANG will address the Council on the Report of the Panel on Education 2007-2008.

### **Report of the Panel on Education 2007-2008**

**MR JASPER TSANG** (in Cantonese): President, in my capacity as Chairman of the Panel on Education (the Panel), I report on the work of the Panel in the 2007-2008 Session.

The work of the Panel has been detailed in the report and I will only highlight three major issues of concern to the Panel.

The first issue of concern is sub-degree education. The Steering Committee appointed by the Administration completed the Phase 2 Review of the Post-secondary Education Sector and released its report in April this year. Twenty-two recommendations were made in the report, including how to



enhance the quality of sub-degree programmes. The Panel has held two meetings on this issue and will receive views from deputations at another meeting to be held on 17 July. Members noted that since the Administration's announcement of the policy target in 2000 to enable 60% of senior secondary students to have access to tertiary education by 2010, the post-secondary education participation rate increased from 33% in 2000-2001 to 64% in 2006-2007. Members were very concerned about the over-expansion of the self-financing sub-degree sector having led to excessive competition, compromising the quality of teaching and learning. Members were of the view that the Administration should consider adopting various measures to ensure that the sub-degree programmes should meet the required standards, including making it mandatory for providers to follow the minimum admission requirements for sub-degree programmes.

The pursuit of further studies by sub-degree graduates was also an issue of concern to members. Although the University Grants Committee (UGC) had decided to bring forward the creation of 1 927 senior year undergraduate places by the 2008-2009 academic year, members considered the number of places grossly inadequate to meet the aspirations of sub-degree graduates for further studies.

The second issue of concern is education for children of ethnic minorities. To better understand the teaching and learning of the subject of Chinese Language, members visited one primary and two secondary designated schools which had enrolled a relatively large number of non-Chinese speaking (NCS) students. Members noted the great variations in the Chinese proficiency of NCS students, whilst the Chinese Language curriculum adopted by various schools was also entirely different. Members suggested that the Administration should design the Chinese Language textbooks in series from the elementary to advanced levels, taking into account the variation of NCS students in the Chinese standard, and the subject of Chinese Language should be taught in small groups to maximize the effectiveness of NCS students' learning.

Members welcomed that more than 80 secondary schools and all UGC-funded institutions were willing to accept the General Certificate of Secondary Education (Chinese), that is the GCSE qualification, as alternative Chinese Language qualifications for entry to the Hong Kong Advanced Level

Examination and the Joint Universities Programmes Admission System. Members urged the Administration to keep track of the number of NCS students at different key stages of education, so as to assess the effectiveness of various measures in assisting them in education.

The third issue of concern is small-class teaching (SCT). The Panel was very glad to see that with efforts made during the past few years, SCT would eventually be implemented, starting from the 2009-2010 school year in Primary 1 and extending to higher levels progressively up to Primary 6. Members had discussions with the Administration on the relevant issues such as admission arrangements, ways to resolve the shortfall of classes in individual school nets and provision of additional resources to schools. Members urged the Administration to draw up a timetable expeditiously for the implementation of SCT in secondary schools. Members welcomed the Administration's announcement earlier that the number of Secondary 1 students allocated under the Secondary School Places Allocation system would be reduced from 38 to 36 students in 2009 and further to 34 students in 2010.

Lastly, I would like to take this opportunity to thank deputations and individuals who had put forward their views on the items discussed by the Panel over the past year. I am also thankful to members for their support for the work of the Panel and officials of the Education Bureau for their ongoing close co-operation with the Panel. I also wish to express my gratitude to the Secretariat for providing assistance to the Panel.

President, I so submit.

**PRESIDENT** (in Cantonese): Dr Fernando CHEUNG will address the Council on the Report of the Panel on Welfare Services 2007-2008.

### **Report of the Panel on Welfare Services 2007-2008**

**DR FERNANDO CHEUNG** (in Cantonese): In my capacity as Chairman of the Panel on Welfare Services (the Panel), I present a report on the work of the Panel

in the 2007-2008 Session and would like to highlight several major areas of work of the Panel.

Members expressed grave concern about the pressure arising from inflation on recipients of the Comprehensive Social Security Assistance (CSSA) and the low-income group. According to the existing annual adjustment mechanism, the CSSA standard payment rates would only be adjusted in the following year in accordance with the Social Security Assistance Index of Prices movement. As a result, the adjustment of the CSSA rates failed to catch up with the prices movement. Members passed a motion urging the Administration to make adjustments to the CSSA rates ahead of the next annual adjustment cycle so that CSSA recipients could have sufficient payments to meet their daily living at times of high inflation.

Members also noted that due to the recent surge in food prices, many low-income people and CSSA recipients were forced to buy less food or buy food products of poorer quality so as to reduce their expenses on food. Members considered it unacceptable that the needy, including CSSA recipients, had to seek emergency assistance on food from welfare organizations. Members urged the Administration to take immediate measures to support people in need to cope with inflation. However, to tackle the problem at root, the Administration should conduct a comprehensive review of the CSSA Scheme expeditiously and advance the latest round of the Household Expenditure Survey on CSSA Households ahead of the normal schedule.

Members were also concerned that some 22 000 CSSA households living in private housing were paying rents higher than the maximum levels of rent allowance (MRA). Members considered that CSSA recipients should not use their standard payments to meet the rental. In view of the recent rapid rise in private housing rental, members asked the Administration to review the mechanism for rent allowance and the MRA.

The Panel held two meetings with the Administration to discuss the review of the rates of Old Age Allowance (OAA). Members passed a motion strongly urging the Administration to increase immediately the monthly OAA to \$1,000, raise the asset limit for application of CSSA by the elderly to \$120,000, allow

independent application for CSSA by the poor elderly who lived with their families, and establish an inter-departmental task group to implement a universal old age pension system.

The Panel noted that the Administration announced the establishment of the Family Council in December last year, with an aim to rationalize the work of the Elderly Commission, the Women's Commission and the Commission on Youth under the Family Council by March 2009, and explore ways to achieve more collaboration between the Family Council and the three commissions. While expressing general support for the establishment of the Family Council, members were of the view that the three commissions were performing different roles and should not be brought under the Family Council. Moreover, the specific issues to be addressed by the Family Council involved policy considerations and impact on policy formulation. The Panel requested the Administration to revert to it on the work progress of the Family Council on a regular basis.

The Panel also had discussions on the progress of the licensing scheme for residential care homes for persons with disabilities and the voluntary registration scheme. Members considered the progress of the two schemes unsatisfactory. They urged the Government to speed up the legislative timetable for the licensing regime and expedite the provision of subvented residential care services for persons with disabilities so as to shorten the average waiting time to a reasonable level.

The Panel welcomed that the Administration had revised the details of the Child Development Fund (CDF) after listening to members' views. Members also requested the Administration to report to the Panel on the progress of the seven pioneer projects under the CDF.

In view of the strong views from the welfare sector, the Panel had time and again discussed with the Administration the review of the Lump Sum Grant (LSG) subvention system. Members welcomed that the Administration had taken on board the sector's and members' views and agreed to establish a LSG Independent Review Committee to review the effectiveness of the system and identify room for improvement.

Moreover, all the three subcommittees formed under the Panel (namely the Subcommittee on Review of the CSSA Scheme, the Subcommittee on Strategy and Measures to Tackle Family Violence and the Subcommittee on Elderly Services) had completed their work in the 2007-2008 Session and submitted their reports to the Panel. I had also proposed a motion debate at the Council meeting on 20 February 2008 on behalf of the Subcommittee on Review of the CSSA Scheme, urging the Administration to note the Report of the Subcommittee. The motion was passed.

Lastly, in my capacity as Chairman of the Panel, I would like to thank the Secretariat for its work in the past. I also wish to express my gratitude to those community organizations which had attended many of our meetings and put forward their views. Thank you, President.

**PRESIDENT** (in Cantonese): Mr Jeffrey LAM will address the Council on the Report of the Panel on Economic Development 2007-2008.

### **Report of the Panel on Economic Development 2007-2008**

**MR JEFFREY LAM** (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Economic Development (the Panel), I present a report to this Council on the work of the Panel in the 2007-2008 Session and briefly highlight several major items of work of the Panel.

Tourism remained a pillar industry of Hong Kong economy. The Panel continued to monitor closely the development of a number of tourism infrastructures. Members were disappointed with the decline in number of visitors to the Hong Kong Disneyland (HKD) and urged the park management to implement measures to boost the number of visitors. The Panel also noted the wide public concern about the expansion plans of the HKD and possible injection of funds by the Government. The Panel stressed that the Administration should exercise prudence in considering the future development and financial arrangement of the HKD. The Panel also urged the Administration to increase transparency of this matter to facilitate consideration of relevant proposals by the Legislative Council.

The operation of Ngong Ping cable car had all along been a matter of concern to the Panel. After the management and operation of the cable car system was taken over by the Ngong Ping 360 Limited, members noted that the new management team had strengthened staff training, implemented a quality management system and enhanced internal communication. The new company had also implemented most of the recommended improvements in the report of the Government Expert Panel. Members expected that the efforts made by the new company could re-establish public confidence in the cable car system and assist the Ngong Ping Village tenants to tide over the difficult period.

Members were supportive of the development of three hotels in the Ocean Park, with a view to enhancing its appeal to visitors, increasing tourist spending and creating employment opportunities for local people. Some members were worried that the project would induce traffic impacts on the vicinity. The authorities advised that according to the traffic impact assessment, the existing public transport facilities were adequate to cope with the demand of the development project. Upon commissioning of the MTR South Island Line (East), the road traffic demand in the Southern District would be further reduced. Therefore, the development would not affect the traffic in the vicinity.

The Panel welcomed the Government's implementation of the cruise terminal project at Kai Tak through open tender in November last year. Members stressed that the authorities should put in place a mechanism for monitoring the performance of the operator of the new cruise terminal and stipulating performance standards, so as to impose sanctions on non-compliance with such requirements; and ensuring the operator's commitment to work with the cruise industry and the Government in developing Hong Kong as a regional cruise hub.

The Panel discussed the work plan of the Hong Kong Tourism Board (HKTB) for 2008-2009. Members were concerned about the HKTB's internal monitoring mechanism and urged the Government to strengthen its monitoring of the HKTB's work. In this regard, members noted that the Government would continue to work closely with the HKTB and monitor the development of the new performance indicators for measuring the HKTB's performance.

The Government entered into new Scheme of Control Agreements (SCAs) with the two power companies in January this year. In view of the rising international fuel prices and the onset of inflation in Hong Kong, members were concerned that the expected tariff reduction would be quickly eroded even the permitted rate of return of the power companies was reduced to 9.99% in the new SCAs. The Government stressed that the power companies had undertaken to bring down the basic tariffs in the first year of the new SCAs. The Administration further assured that it would continue to monitor and critically examine the five-year development plans of the two power companies and enhance its financial monitoring over them. As for the opening of the electricity market, members stressed the need for the Administration to draw up a clear roadmap for opening the market and take swift action within the next decade. In this regard, the Administration was requested to update the Panel on the progress at regular intervals.

The Panel supported the introduction of a competition law to ensure a level playing field for all enterprises and the free play of market forces. However, members stressed the need to prevent the law from increasing the cost of doing business in Hong Kong and the need to address the concerns of the small and medium-sized enterprises. The Administration had undertaken to consider the views received during the consultation period in preparing the new competition law, and to introduce the relevant bill into the Legislative Council in the 2008-2009 Session.

As for the airport and aviation services, the Panel supported the development of a new Civil Aviation Department (CAD) headquarters building on the Airport Island to accommodate the new air traffic control (ATC) system and all CAD functional divisions, with a view to catering for the rapid growth in air traffic and improving the services to the aviation industry. Members urged the Government to ensure that the proposal could cope with the rapid growth of the aviation industry. Members also stressed the need to ensure that the competitiveness of the Hong Kong International Airport (HKIA) would not be hampered by the costs of replacing the ATC system and constructing the new headquarters building. In order to enhance the HKIA's competitiveness, the Panel considered it essential to enhance the runway capacity, construct a third runway and step up co-operation over the use of airspace in the Pearl River

Delta. The Panel urged the Government and the Airport Authority to critically examine the matters concerned and work out forward-looking plans for the development of the HKIA.

The Panel supported in principle the proposal of developing a permanent government helipad at the northeastern corner of the Hong Kong Convention and Exhibition Centre. However, members were concerned about the proposed shared-use arrangement to accommodate both government and commercial uses. The Panel urged the Government to conduct extensive consultation with the stakeholders before taking forward the proposal.

Regarding the allocation of Public Cargo Working Areas (PCWA) berths through open tender, members noted the grave concerns expressed by the existing PCWA operators. They were worried that the increased competition brought about by open tender would increase the costs of operation and might lead to loss of low-skill jobs provided at PCWAs. Members urged the Administration to address their concerns, and suggested that consideration be given to continuing the present arrangement of allocating PCWA berths through a restricted tender to existing operators first, to be followed by open tenders for unallocated berths. After taking into consideration members' views as well as concerns of operators and the industry, the Administration decided to reduce the number of PCWAs for open tender to two instead of five as originally proposed.

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

**PRESIDENT** (in Cantonese): Mr LI Kwok-ying will address the Council on the Report of the Panel on Health Services 2007-2008.

### **Report of the Panel on Health Services 2007-2008**

**MR LI KWOK-YING** (in Cantonese): Madam President, in my capacity as Chairman of the Panel on Health Services (the Panel), I present a report on the



work of the Panel in the 2007-2008 Session and would like to highlight several key areas of work of the Panel.

The Panel held three meetings with the Administration to discuss the Healthcare Reform Consultation Document entitled "Your Health, Your Life" released on 13 March 2008. The Panel also met with a total of 60 organizations and individuals in two public hearings to listen to their views on the proposals contained in the Consultation Document. Members were generally supportive of the service reform proposals, including enhancing primary health care service, developing an electronic database of patient records, strengthening public health care safety net and promoting greater public-private health care partnership. However, they urged the Administration not to wait for the implementation of supplementary financing arrangements before embarking on the service reforms.

The Panel had discussions on the elderly health care voucher pilot scheme at three meetings. Members were of the view that providing each senior citizen with five health care vouchers valued at \$250 annually was too miserly, and the eligible age for receiving health care vouchers should not be set at the age of 60 or above. The Panel passed a motion requesting the Administration to provide health care vouchers to elders aged 65 or above, increase the value of each health care voucher to at least \$100, provide each senior citizen with at least 10 health care vouchers a year, and expedite the launching of the health care voucher pilot scheme within 2008.

The Panel was gravely concerned about the uneven allocation of resources among hospital clusters by the Hospital Authority (HA). According to the HA, a new internal funding allocation model was being developed to challenge and question the existing funding arrangements to clusters. If it was revealed that individual hospitals had been historically disadvantaged, actions would be taken to increase resources to these hospitals progressively. Moreover, to ensure the provision of adequate health care services in rapidly developing areas such as Tin Shui Wai, the HA advised that a new Strategy and Planning Division had been created in the HA last year to work out what workforce and services were required to meet patients' demand in the long run.

The Panel was briefed in June 2008 on the latest position of the Administration's work to update the Childhood Immunization Programme (CIP) and the Government Influenza Vaccination Programme. Members urged the Administration to expeditiously incorporate the four childhood vaccines (namely the pneumococcal conjugate vaccine, chickenpox vaccine, Haemophilus influenza B vaccine and hepatitis A vaccine) into the CIP, and provide free influenza vaccinations to all elders aged 65 or above, regardless of whether they lived in residential care homes, who were chronically-ill or on public assistance.

Lastly, I wish to take this opportunity to thank members and the Secretariat for their support for the work of the Panel over the past year. Thank you, Madam President.

**PRESIDENT** (in Cantonese): Ms Audrey EU will address the Council on the Report of the Panel on Environmental Affairs 2007-2008.

### **Report of the Panel on Environmental Affairs 2007-2008**

**MS AUDREY EU** (in Cantonese): President, in my capacity as Chairman of the Panel on Environmental Affairs (the Panel), I present a report on the work of the Panel in the 2007-2008 Session and would like to brief the Council on several key areas of work set out in the report.

Air quality in Hong Kong has always been a grave concern to the Panel. Since power plants and vehicles were the two major emission sources in Hong Kong, the Panel supported the Administration in amending the Air Pollution Control Ordinance to stipulate the emission caps for power plants, and to provide a legal basis for them to meet the emission caps by way of emissions trading. However, the Panel was disappointed about the non-inclusion of greenhouse gases (GHG), particularly carbon dioxide, in the application of the emission caps on power plants on grounds of technical constraints. As a consultancy was being appointed to conduct a study on climate change, the Panel considered that the Administration should set a target for GHG emissions and a timetable to reduce such emissions.

To reduce vehicular emissions, the Panel supported the Administration to consult the public on the proposal of banning idling vehicles with running engines. The Panel had held three meetings to discuss the proposal and the consultation findings. Although the consultation findings revealed that there was broad-based support from the community for the proposed ban, the trades found the ban unsatisfactory on grounds that it would unduly affect their business. To avoid further delay on the implementation of the ban, the Panel was of the view that consideration could be given to excluding certain types of vehicles from the ban in the initial phase.

To further improve roadside air quality, the Panel supported the Administration in promoting the use of environmentally-friendly commercial vehicles by way of first registration tax concession. The Panel also welcomed a number of measures proposed by the Administration, which included further reducing the duty rate for Euro V diesel, mandating the use of ultra low sulphur diesel in industrial and commercial processes, promoting the use of biodiesel and encouraging ferry operators to switch to cleaner fuel, with a view to achieving emission reduction.

As for regional air quality, the Panel noted that the economy, population, electricity consumption and vehicle mileage in the Pearl River Delta Economic Zone were far higher than the 1997 levels. Given the increasing trend of air pollutant emissions, the Panel was concerned whether the Governments of Guangdong and Hong Kong were able to introduce additional control measures to achieve the 2010 emission reduction targets. To monitor the progress of the work concerned, the Panel considered it necessary for both sides to submit reports to the Panel on a regular basis.

On waste management, the Panel was concerned that since the implementation of the charging scheme for the disposal of construction waste in December 2005, illegal fly-tipping activities had become increasingly rampant. As there was no designated department to co-ordinate efforts in combating such activities at present, the Panel had passed a motion requesting the Chief Secretary for Administration to convene an inter-departmental meeting and come up with a proposal for resolving the problem of disposal of waste materials on private land. Subsequently, the Environment Bureau had been tasked to co-ordinate efforts of relevant bureaux and departments in examining how best

the problem could be addressed. Following a review of the relevant legislation, some preliminary legislative options had been drawn up. These included obtaining authorization prior to depositing of inert construction and demolition (C&D) materials on private land and conducting environmental impact assessments, planning control on the depositing of inert C&D materials and establishing a trip-ticketing system for C&D waste. A database capturing cases of depositing of inert C&D materials on private land would also be set up to better monitor the situation and address the potential problems. The Panel generally supported that the preliminary legislative options should be further pursued.

On sewage treatment, the Administration proposed to revise the generic chemical oxygen demand values and rates of surcharge according to the survey results of the Trade Effluent Surcharge (TES) Scheme, and make adjustments to the TES, with a view to achieving full recovery of the operating costs of sewage services attributable to treating trade effluent. While supporting the application of "polluter pays" principle to recover the costs for treating trade effluent, the Panel was concerned about the charging mechanism of the TES as reflected by the high successful rate of appeals lodged against the TES. Besides, the high appeal cost might deter the small-scale operators. In this connection, the Panel urged the Administration to consider including in the subsidiary legislation to be introduced to the Legislative Council a provision for the award of the cost of appeal to the successful appellants, so as to provide incentive to these small-scale operators to lodge appeals.

As for other key areas of work of the Panel, they have been set out in the report submitted. President, I wish to take this opportunity to express my gratitude to all members of the Panel, the Secretariat and the legal adviser for their support over the past year. Thank you, President.

**PRESIDENT** (in Cantonese): Ms Margaret NG will address the Council on the Report of the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions.

## **Report of the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions**

**MS MARGARET NG:** Madam President, thank you for allowing me to present the phase 1 and phase 2 reports of the Subcommittee and to address the Council on the reports.

### *Background*

Since the handover in July 1997, the sanctions resolved by the Security Council of the United Nations (United Nations sanctions) have been implemented in Hong Kong by way of regulations made by the Chief Executive under section 3(1) of the United Nations Sanctions Ordinance (the Ordinance). These sanctions are mainly economic, trade and arms embargoes. Under section 3(5) of the Ordinance, these regulations are not required to be laid before this Council, and they are not subject to the positive or negative vetting procedures that usually apply to subsidiary legislation. The regulations come into effect as soon as they are gazetted.

In October 2004, the House Committee decided to set up a subcommittee in order to examine the current arrangement of implementing United Nations sanctions in Hong Kong, in particular the constitutional and legal aspects. As Chairman of the Subcommittee, I would like to highlight the work of the Subcommittee over the past four years, during which members have exchanged views extensively with the Administration, including a meeting with the Secretary for Justice. On the question of constitutionality, we have benefited from the expert views of Prof Yash GHAI, former Sir Y K PAO Professor of Public Law at the University of Hong Kong, and the comments provided by the Hong Kong Bar Association. It was at the request of the Subcommittee that the Administration has, since October 2004, provided a Legislative Council Brief in respect of each regulation gazetted under the Ordinance. I shall highlight a few critical issues that have been considered at length by the Subcommittee.

### *Constitutional and legal issues*

One of the Subcommittee's greatest concerns is that section 3(5) of the Ordinance may have gone too far in completely divesting the legislature of its constitutional function and power in scrutinizing, and where necessary,

amending or repealing subsidiary legislation, thereby placing legislative powers in the hands of the executive government. While noting the separation of powers as enshrined in the Basic Law, the Administration takes the view that the Basic Law does not institute a rigid separation of powers. It is suggested that similar provisions disapplying the positive or negative vetting procedures on subsidiary legislation are found in some ordinances including the Vocational Training Council Ordinance and the English Schools Foundation Ordinance. However, these ordinances are of a totally different nature. The Subcommittee finds that the regulations made under the Ordinance create new offences, purport to have serious penal effect and confer vast investigation and enforcement powers. Normally, subsidiary legislation of such a nature should be subject to vetting by the legislature. The Administration and some members of the Subcommittee maintain different views over the constitutionality of the current implementation arrangement under the Ordinance.

The Subcommittee does not question that the implementation of United Nations sanctions before and after the handover in 1997 has always been a matter of foreign affairs over which the imperial or Central Government has sole responsibility. However, members do not subscribe to the Administration's argument that the pre-handover arrangement under which Legislative Council had no vetting power has applied in Hong Kong after the handover under the so-called "doctrine of continuity". The two systems are totally different in that before the handover, the Orders in Council implementing the United Nations sanctions took effect in Hong Kong as United Kingdom legislation, whereas after the handover, regulations are made under the Ordinance as domestic legislation. Under the Basic Law, this Council is the only organ vested with legislative power and responsibility.

The Subcommittee is keenly aware of the need for the Hong Kong Special Administrative Region (SAR) to implement United Nations sanctions in fulfillment of the Central People's Government's international obligations to the United Nations. This is why members have attached great importance to the constitutionality of the current arrangement, as the regulations made under the Ordinance may be challenged as being legally ineffective if the statutory basis on which they have been made is unconstitutional. Members' main concern is whether the current form or legislative approach as provided under the Ordinance is the proper and most appropriate way to implement United Nations

sanctions. The Subcommittee has conducted a comparative study of four ordinances whose purpose is to implement various international obligations in the SAR. It is found that a variety of modalities are adopted. Among them, the Ordinance is unique in that the regulations made under it are entirely excluded from the scrutiny of the Legislative Council, whether by way of the positive or negative vetting procedure.

According to the Administration, the instructions issued by the Ministry of Foreign Affairs to the Chief Executive request the SAR Government to take concrete steps to effectively implement the United Nations sanctions in question. After receiving the instructions, the SAR Government would prepare a draft regulation under the Ordinance and present it to the Central People's Government for comments and endorsement. This may suggest a category of subsidiary legislation which is vetted by the Central People's Government and has the effect of law in the Hong Kong SAR. The Administration's stance is that the Ordinance is the predominant method for implementing United Nations sanctions and that it will only consider other options if the Ordinance is inappropriate for the sanction in question. However, the Subcommittee has observed that the instructions issued to the Chief Executive do not prescribe the specific vehicle to be used. Members take the view that the Administration may still consider other legislative options, such as applying or amending existing ordinances, rather than making regulations under the Ordinance over which the Legislative Council has surrendered its vetting power.

Another concern of the Subcommittee is whether the regulations made under the Ordinance are *ultra vires* of the primary legislation. The term "sanction" as defined under the Ordinance includes economic, trade and arms embargoes and other mandatory measures directed against a "place" outside the People's Republic of China. However, the Subcommittee has observed that at least seven of the 26 regulations being studied are targeted at persons, undertakings or entities, and not at a place or territory. Notwithstanding the Administration's explanation that sanctions against a "place" comprehend the activities or conduct of individuals or entities in the place, members consider that the definition of "sanctions" would need to be suitably amended if it is to reflect such policy intent.

*Timeliness of the regulations made under the Ordinance*

I shall now turn to the desirability of the current arrangement. Despite the Administration's emphasis on the need for timely application of United Nations sanctions in Hong Kong, the Subcommittee has observed long time gaps, ranging from six months to over one year, between the SAR's receipt of the instructions from the Ministry of Foreign Affairs and the gazettal of some of the regulations. After taking up the matter with the Administration, the Subcommittee observes that time gaps have become shorter. For example, since October 2007, the time gap has consistently been less than three months. Longer time gaps have occurred for regulations which impose sanctions on a new place.

*Use of a model law*

The Subcommittee has found that the drafting approach adopted by most of the 26 regulations under study is similar, with the exception of those dealing with prohibitions relating to technologies and the transfer of nuclear-related material. This reinforces the Subcommittee's suggestion that a model law approach be adopted. This may be done by incorporating into the Ordinance all the provisions on enforcement powers and other key provisions which generally apply to all United Nations sanctions; and to set out in a Schedule to the Ordinance the targets and subjects of sanctions which may differ on each occasion. This approach can improve efficiency in the preparation of draft regulations and in members' scrutiny.

The Administration accepts the rationale behind the Subcommittee's suggestion but comments that it is difficult to devise "model clauses" under the Ordinance since the specific details of the sanction measures may vary. It is also concerned that even longer time may be required for checking the extent to which new resolutions deviate from the "model clauses". The Administration has responded to members' concern by endeavouring to expedite the regulation-making process through more streamlined arrangements and deploying dedicated officers in the Department of Justice on the subject.



*The way forward*

In conclusion, the Subcommittee shares the common view that even on the assumption that the existing arrangement under the Ordinance is constitutional and consistent with the Basic Law, it is desirable to improve the existing regulation-making process so as to enhance its transparency, accountability and compliance with the due process in enacting legislation. One of the suggestions of the Subcommittee is that the Administration should provide a copy of the draft regulation to the Panel on Commerce and Industry for comments, if any; and to take into account such comments when finalizing the draft regulation for onward submission to the Ministry of Foreign Affairs.

The Administration has reservation on the proposal for fear that adding further steps would result in delay. Not all members share this view. They consider that scrutiny by the Legislative Council does not necessarily result in delay, as evidenced in past urgent scrutiny of legislative proposals. Instead, input by the Legislative Council would render the legislative process more accountable and compliant with the due process. The Subcommittee has finally recommended to put in place a mechanism for scrutiny.

First of all, the Subcommittee has requested the Administration to beef up the Legislative Council Brief currently provided by the Administration on each gazetted regulation by providing additional information. This will facilitate Members' tracking of the reason for using the Ordinance as the vehicle to implement as specific United Nations sanction, the timeliness in implementing the sanctions and whether there is any matter which is different from the provisions on enforcement powers and other key provisions which generally apply to all United Nations sanctions. The Administration has agreed to consider the extent to which it can provide such information.

Secondly, the Subcommittee has recommended that a dedicated subcommittee be set up under the House Committee to deal with regulations made under the Ordinance. Under this standing arrangement, future regulations made and gazetted under the Ordinance will be considered by Members at meetings of the House Committee, and where necessary, the regulations will be referred to the subcommittee for scrutiny.

In principle, the House Committee has endorsed the Subcommittee's recommended approach at its meeting on 20 June 2008. The Chairman of the House Committee has written to the Chief Secretary for Administration relaying the House Committee's decision to the Administration. The House Committee has also agreed in principle to set up a dedicated subcommittee, on the understanding that this will be taken forward by the House Committee in the coming new term.

Madam President, I would like to take this opportunity to record my thanks to Prof Yash GHAI who has kindly given us the benefit of his invaluable views on constitutionality, and to the Hong Kong Bar Association for its comments. The Subcommittee is also grateful to the government team for their assistance and patience over the past four years and to the Secretary for Justice for his personal attention in the subject. Last but not least, we thank the Clerk of the Subcommittee for her able and untiring support.

Madam President, with these remarks, members of the Subcommittee look forward to an improved mechanism of dealing with regulations made and gazetted under the Ordinance. Thank you.

## ORAL ANSWERS TO QUESTIONS

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

### **Installation of Automatic Platform Gates at MTR Stations**

1. **MR TAM YIU-CHUNG** (in Cantonese): *President, last month, a serious accident occurred at MTR Kwai Fong Station where a passenger awaiting trains on the platform was hit by a train, resulting in one death and four injuries. In this connection, will the Government inform this Council if it knows:*

- (a) *whether the MTR Corporation Limited (MTRCL) has specific plans for advancing the retrofitting works of automatic platform gates (APGs) at the eight at-grade and aboveground stations of the*

*pre-merger MTR system; if so, of the respective completion dates of the retrofitting works at those stations; if not, the reasons for that; and*

- (b) *the measures taken by the MTRCL to enhance the protection for passengers on the platforms before completion of the above APG retrofitting works?*

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

- (a) The retrofitting of APGs at platforms of an operating railway line involves highly complicated works including major modifications to the platform structure, ventilation system and earthing protection system. After completing a detailed feasibility study, the MTRCL decided to proceed with the retrofitting of APGs at the eight at-grade and aboveground stations of the pre-merger MTR system, namely Kwai Fong, Kwai Hing and Tsuen Wan Stations of Tsuen Wan Line; Kowloon Bay, Ngau Tau Kok and Kwun Tong Stations of Kwun Tong Line; and Chai Wan and Heng Fa Chuen Stations of Island Line.

The MTRCL understands that both Members and the general public would like to see the commencement of the retrofitting of APGs as soon as possible. It has devised a works programme and is committed to completing the retrofitting works on schedule. Main features of the programme are as follows:

- (i) to proceed with the tendering process in 2008, including defining the works requirement and assessment of tender submissions;
- (ii) to complete the design for the entire project within 2009. Preliminary design will be carried out in the first two quarters with the contractor proposing the overall works programme, resource planning, construction proposal and how APGs will

interface with the signalling system and civil works. Detailed design will be completed in the third and fourth quarters with the contractor proposing detailed plans including works programme and interfacing design of APGs for each station for approval by the MTRCL;

- (iii) from the fourth quarter of 2009 to the second quarter of 2010, prototype demonstration on site will be arranged. The contractor will produce prototype according to detailed design specification and demonstrate its compliance with required safety and reliability standards in factory environment;
- (iv) the manufacturing process will take place between 2010 and 2011. The contractor will order materials, carry out production, assembly and testing, and make modifications as required. In parallel, trial installation will commence at Heng Fa Chuen Station in the third to fourth quarters of 2010. The MTRCL will conduct review on the trial installation in the first quarter of 2011, including the review of work sequence, noise mitigation measures, signalling interface, and so on, and seek modifications and improvements as required; and
- (v) in the second quarter of 2011 to the fourth quarter of 2012, the MTRCL will complete the installation, testing and commissioning of APGs at all eight stations progressively.

The MTRCL expects the entire project to be completed by 2012.

Past experience from works project shows that initial preparation including design, testing, and so on, are essential to a smooth rollout of the later stages of works. Upon completion of the critical processes of design and testing, the MTRCL will complete the retrofitting of APGs at all eight stations within two years. The installation works have to be carried out during the very tight non-operating hours between 2 am and 5 am so that disruption to railway service could be minimized. As the works involve

modifications to the platform structure at at-grade or aboveground stations which are non-enclosed, the MTRCL will implement temporary mitigation measures such as erecting portable noise barriers during the works, to mitigate possible noise nuisance caused to nearby residents. This would inevitably further reduce the time available for the installation works every night.

We understand that Members would like to see an early completion of the project. The Government will continue to closely monitor the progress.

- (b) To ensure passenger safety, the MTRCL has put in place safety measures that are also adopted by railway operators worldwide. These include:
- (i) yellow line painted along the platform edges to draw passengers' attention;
  - (ii) public announcements are broadcast to advise passengers on approaching trains and remind them to stand behind the yellow line;
  - (iii) closed-circuit television (CCTV) cameras are installed at station platforms to facilitate effective platform monitoring and management;
  - (iv) safety messages are broadcast at platforms and inside trains to remind passengers;
  - (v) passenger help lines and emergency train stop buttons are available for emergency use;
  - (vi) additional station staff and platform assistants are deployed to manage passenger flow, provide assistance to passengers and maintain order at platforms during peak hours and times with heavy passenger flow; and

- (vii) adequate communication and control facilities at control centres and platform supervisor booths to enhance capabilities in preventing and handling incidents.

The MTRCL will also continue with its publicity and education programmes to enhance the overall safety awareness of the passengers.

**MR TAM YIU-CHUNG** (in Cantonese): *President, regarding the retrofitting of APGs, residents of the eight districts such as Tsuen Wan and Kwai Tsing in fact consider it very urgent and hope that the issue can be settled as soon as possible. Recently, I have received more than 2 000 signatures from members of Tsuen Wan and Kwai Tsing District Councils and will pass them to the Secretary later. The Secretary mentioned in her main reply earlier that the advance works including the tendering process, design, production of prototype, manufacturing and trial installation would take three years' time altogether whilst the installation would basically require only one and a half years to complete. Is the progress of the advance works too slow? Moreover, we have in fact got some experience in this regard. For example, the works at the Disneyland with similar conditions was also feasible. As such, is it possible to shorten the time required for the advance works?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Madam President, this is a very good question. In fact, we have also made enquiries with the MTRCL. Firstly, given the difference in the original design of the platforms to be retrofitted with APGs and that of the new routes, some technical problems, such as platform edge loading, will be involved. As APGs are not part of the platform structure, if they are retrofitted at the original platforms, modifications to the platform structure are deemed necessary. Moreover, ventilation is also a problem. As the design of natural ventilation was adopted at these stations initially, the air ventilation problem at platforms has to be addressed upon completion of the APG retrofitting works.

Another technical problem is earthing protection, meaning that both trains and APGs carry electricity. Earthing protection is a device of live current, and

its design should thus ensure safety technically. Mr TAM has asked just now whether the works could be expedited. He is correct that the procedures for implementation of the advance works do take more time. However, the MTRCL has explained to us that the requirements of initial preparation such as the tendering process and design are essential to the smooth rollout of the later stages of the retrofitting works. The MTRCL definitely has experience in this regard and has therefore drawn up a series of steps from the tendering process, design and prototype demonstration on site to manufacturing and installation. Certain procedures are involved and some time has to be taken.

**MR FRED LI** (in Cantonese): *President, incidents of passengers falling onto the railway track occur from time to time and a similar incident has occurred at MTR Kwun Tong Station recently. I notice from the Secretary's main reply that there is heavier passenger flow during peak hours. The problem now is that as there are also many people taking the MTR on Sundays, I really have no idea how peak hours can be defined. The crux of the problem is that accidents will continue to occur unless APGs are retrofitted. I have received complaints from many residents, but we still have to wait three to four more years for completion of the installation works. Secretary, for the sake of passengers' safety, is it possible to install APGs at three stations, namely Kowloon Bay, Ngau Tau Kok and Kwun Tong Stations, which are relatively old but with heavy passenger flow?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Madam President, the MTRCL has decided to proceed with the retrofitting of APGs at the eight at-grade and aboveground stations. I have already mentioned in my main reply the major works involved and the time required, and explained why such a period of time will be taken. As I said earlier, we are in fact willing to expedite the works. However, the work process does involve certain procedures, such as tendering, approval and testing mentioned just now. In response to Mr TAM Yiu-chung's supplementary question, I have also explained that the retrofitting of APGs is not simply an installation of hardware. Rather, a series of works have to be conducted for which certain difficulties will be involved. I have also pointed out some technical problems earlier, such as ventilation at platforms and earthing protection. We will make every effort to

compress the timetable, but we still have to address the complexity involved in the procedures mentioned just now.

**MR FRED LI** (in Cantonese): *President, the Secretary has not answered whether APGs can be retrofitted as soon as possible at the three stations mentioned by me just now?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Madam President, according to the current plan, trial installation will commence at Heng Fa Chuen Station first. As for the priority of the retrofitting works at other stations, it will be decided upon completion of the trial installation. However, I have noted Mr Fred LI's views.

**MS MIRIAM LAU** (in Cantonese): *Madam President, we notice from the timetable that it will take at least four years' time to complete the APG retrofitting works at the eight stations. However, the present situation is, despite the Government advising that the MTRCL has put in place platform safety measures, which include reminding passengers to stand behind the yellow line and broadcasting public announcements to draw passengers' attention to their safety, I always see a lot of passengers simply ignoring these reminders when I take the MTR. It is also common to find that passengers do not stand behind the yellow line. Worse still, many children, particularly students, play and push each other on platforms. It is not only very dangerous, but it will also affect other passengers. As the APG retrofitting works at the eight stations will only be completed in more than four years' time, will the Government require the MTRCL to enhance its platform safety measures at these eight stations in particular, including hiring designated staff to patrol on platforms and remind passengers or youngsters to pay attention to platform safety?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Madam President, I consider Ms Miriam LAU's ideas very good and will of course convey them to the MTRCL. One of the measures adopted by the MTRCL now



is to deploy additional station staff and platform assistants to maintain order at times when passenger flow is heavier. Moreover, staff will also closely monitor the situation through CCTV cameras installed at the platforms. We believe the MTRCL will appropriately deploy its resources according to the situation of the eight stations in particular.

**MR ANDREW CHENG** (in Cantonese): *President, as there are no specific requirements in the legislation, I am worried that the MTRCL may have further delays. According to the Secretary's main reply, I consider that the MTRCL should not be allowed to spend so many years on the design as it has got experience in various aspects. As such, President, may I ask the Secretary, in view of the heavy passenger flow at certain stations now, whether the Government will issue an administrative order to require the MTRCL to expedite the design and installation of APGs? If the two-year design work can be shortened, APGs will definitely be retrofitted in an expeditious manner. Besides, as mentioned by colleagues, prior to the installation of APGs, it is believed that platform safety can be further enhanced through deployment of eight to 10 additional platform assistants and retrofitting of temporary rails.*

**PRESIDENT** (in Cantonese): Mr Andrew CHENG, you have raised a supplementary question and the subsequent part is only a suggestion, right?

**MR ANDREW CHENG** (in Cantonese): *Yes, I have raised a suggestion only.*

**PRESIDENT** (in Cantonese): Generally speaking, Members are not required to raise any suggestion during the Question Time. Secretary, please give a reply.

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Madam President, I am willing to convey Mr Andrew CHENG's views to the MTRCL. However, the suggestion of retrofitting temporary rails may not be practicable.

The design work I mentioned just now does not require two years. Preliminary design will be completed by early 2009 whilst detailed design will be completed in the second to fourth quarters in 2009. I have also mentioned earlier that some more complicated technical problems are involved. It is not simply an installation of APGs. Rather, the structure and electrical installation should also be duly addressed. According to the undertaking I made just now, we will of course make every effort to compress the timetable. In this regard, as suggested by Ms Miriam LAU just now on staff deployment, additional station staff should be deployed at stations where the APG retrofitting works has yet been completed, particularly during peak hours. I consider that it is a good suggestion and we will convey it to the MTRCL.

**MR ALAN LEONG** (in Cantonese): *President, I think APGs required by aboveground and underground stations should be different. I have this question for the Secretary. The MTRCL said that it would take four years to complete the work procedures of retrofitting APGs, but is it the case that what it is thinking is different from what we want? Perhaps, they are apples and oranges, which are two entirely different things. As a matter of fact, we just require installing some simple screen doors with reminders to prevent passengers from falling onto the railway track. May I ask the Secretary if she has ever thought about what she is thinking may be vastly different from the public's expectation?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Madam President, I think this problem can be addressed in the design. The design of APGs may not be simply giving reminders. Rather, it is hoped that they can separate passengers and trains appropriately. For example, we have seen some new designs — I do not know whether Mr LEONG has been to the Disneyland Resort Station before — such kind of design has also been considered by the MTRCL. Those APGs are not so short to allow passengers to jump over easily, but they also serve as a kind of separation.

What I want to say is that the retrofitting of APGs is not simply an installation of hardware. Rather, APGs should co-ordinate with the signalling system as they should only be opened after the train has entered the platform.

And this requirement should also be addressed in the design. As for the functionality, apart from giving reminders, it is hoped that safety should also be taken into account.

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

**MR WONG KWOK-HING** (in Cantonese): *According to the Government's replies to the questions raised by Members just now, I consider that it is definitely not due to a technical problem for the MTRCL to defer completion of the APG retrofitting works for four years. President, as the technical problem was already discussed during the merger .....*

**PRESIDENT** (in Cantonese): Mr WONG, please raise your supplementary question directly.

**MR WONG KWOK-HING** (in Cantonese): *I suspect that it is a matter of money as passengers have to pay 10 cents for each ride. President, may I therefore ask the Secretary via you, how much the MTRCL can receive for deferring completion of the APG retrofitting works for four years? Moreover, initially, only the former MTRCL charged passengers this fare. However, after the merger, the whole MTR system (including the original East Rail) charges this fare as well. As such, has the Government calculated how much the MTRCL can receive in total for the four-year delay and how much it can receive upon expansion after the merger? Has the Government considered that the actual reason for the delay is due to a matter of money rather than a technical problem?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Madam President, the MTRCL will not charge excessive fares because of this. As I have explained before, the arrangement of charging an extra 10 cents from the Octopus card users still focuses on the stage of the retrofitting works for underground stations. The total cost involved in this regard is \$2 billion, in

which \$1 billion will be borne by passengers. Up till now, only 55% has been recovered. Therefore, before completion of the works, the MTRCL has yet started charging fares for aboveground and non-enclosed stations, and thus, there is no question of charging excessive fares.

**MR WONG KWOK-HING** (in Cantonese): *President, the Secretary has not answered the question on how much in excessive fare will be charged by the MTRCL within the four years, and how much excessive fare will be charged upon its expansion. She has not answered the two supplementary questions that I raised during the first round just now.*

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

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Madam President, perhaps let me explain it briefly. What we are talking about charging passengers an extra 10 cents is to share the cost for retrofitting APGs at underground stations. We expect that \$1 billion will only be recovered by 2014. After that, we will start charging the cost for the eight stations which we are now talking about. Therefore, it does not involve charging an extra 10 cents for the eight stations.

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

### **Management of Wholesale Food Markets**

2. **MR VINCENT FANG** (in Cantonese): *President, 12 non-staple food trade associations have relayed to me that starting from 1 June this year, the Agriculture, Fisheries and Conservation Department (AFCD) has substantially increased the rentals for stalls in its Cheung Sha Wan and Western Wholesale Food Markets by 11.42%. The trade associations have alleged that the AFCD has not only failed to honour the undertaking it made when relocating the traders to these markets that future rentals would be adjusted with reference to the*

*Consumer Price Index (A) (CPI(A)), but has also taken the lead in pushing up food prices. The AFCD explained to the traders that as the costs for the outsourced cleansing and security services of these markets had increased, the rentals had to be raised according to the "user pays" principle. In this connection, will the Government inform this Council:*

- (a) of the rates of adjustment made to rentals for stalls this year for the four wholesale food markets under the Food and Health Bureau; whether these wholesale markets raised their rentals at the same time and at the same rate; and of the numbers of cleansing and security staff of these wholesale markets as well as the changes in their salaries in the past three years;*
- (b) of the reasons for outsourcing the cleansing and security work of the above wholesale markets and the costs of outsourcing involved; whether the contracts concerned have stipulated the salary levels of the staff concerned; whether the cleansing and security work of public markets, which are also under the Bureau's purview and are managed by the Food and Environmental Hygiene Department (FEHD), has been outsourced; if not, of the reasons for that, and how the costs for the cleansing and security work of such markets compare with the above outsourcing costs of the wholesale markets; and*
- (c) of the occupancy rate of the stalls at the above wholesale markets and the number of entrants in the past three years; among these entrants, the respective numbers of traders engaged in non-staple food wholesaling and processing at the markets and customers entering the markets to make their purchases; and whether the Bureau has new plans to further attract more retailers to make their purchases at the markets?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): Madam President, the AFCD manages four wholesale food markets. Given their different backgrounds, the markets operate under different rent adjustment mechanisms.

The management of the North District Temporary Wholesale Market for Agriculture Products has been outsourced to a private company. Since the Market derives its income from sales commission rather than rental charges on stalls, the issue of rental adjustment does not arise. Rental charges at the Cheung Sha Wan Temporary Wholesale Poultry Market were also determined with reference to the cost recovery principle in its early years. In light of the temporary nature of the Market, and that the Market has been in use for over 20 years, the Market rental is now determined with reference to the CPI(A) starting from 1998-1999. According to the change in the CPI(A) in 2007, this Market's rental for 2008-2009 should increase by 1.3%.

As for the Western and Cheung Sha Wan Wholesale Food Markets, these Markets have always determined their rentals with reference to the cost recovery principle since 1994. Costing review is conducted biennially.

The new round of costing review in 2008 shows that the management costs for the Western and Cheung Sha Wan Wholesale Food Markets have increased, particularly in respect of the hiring of cleansing and security services. For instance, salary of security staff increased by about 30% over the past two years, whilst that of supervisory cleansing and security staff increased from 50% to 70%. As such, the AFCD has concluded that rentals at the two Markets should increase by 11.42% to tie in with the rise in management costs. Moreover, 68% of the tenants would be facing an actual increase of less than \$800. In response to tenants' comments, the costing review has excluded costs for implementing measures relevant to improving public order and public health (including implementing the Market Entry Registration System, crow control and enhanced inspection of imported freshwater fish).

The number and salary of cleansing and security staff at the two Markets over the past three years is at Annex A.

Through outsourcing the cleansing and security services for wholesale food markets, the AFCD hopes to provide quality service to tenants through private companies. In 2008-2009, the Cheung Sha Wan and Western Wholesale Food Markets have spent about \$14 million in hiring cleansing and security services.

In light of the Government internal requirements, all invitations for tender specify that non-skilled workers must be paid a salary that is not lower than the average monthly salary of relevant trades as publicized by the Census and Statistics Department (C&SD) at the time of the tender. Thus, tender submissions by the contractors set out employees' salaries for the Government's consideration. The above information on salary of cleansing and security staff provided to Members is also sourced from these documents.

In relation to public markets, the cleansing and security work at most public markets managed by the FEHD have been outsourced to contractors. As the scale and operation of public markets and wholesale food markets are different (for example, in terms of size of the markets and stalls and throughput), it is difficult to compare the expenditure of public markets and wholesale food markets on outsourcing directly.

The occupancy rate of the stalls, the number of traders and the number of entrants of the Western and Cheung Sha Wan Wholesale Food Markets over the past three years are detailed at Annex B. In general, the number of traders at the Cheung Sha Wan and Western Wholesale Food Markets has not changed significantly, and the occupancy rate remained at about 90%. The AFCD does not have statistics on the number of customers entering the markets to make their purchases, though it is believed that most of the entrants are such customers.

The AFCD has been paying close attention to the occupancy situation at the Wholesale Food Markets. To further improve the utilization rate, the AFCD has been publicizing stall vacancies through the department's homepage, and has also introduced greater flexibility for the use of the market facilities (for example, vacant egg stalls may be used to wholesale canned foods and kitchen utensils). We believe the above measures would help improve the diversity of the Wholesale Food Markets, and attract more retailers to make their purchases. The AFCD is also working with other government departments and relevant agencies on how to better the utilization of the vacant facilities at the Wholesale Food Markets.

## Annex A

Number and Salary of Cleansing and Security Staff  
at Western and Cheung Sha Wan Wholesale Food Markets  
over the past three years

	2006	2007	2008
<b>Cheung Sha Wan Wholesale Food Market</b>			
Cleansing worker	\$5,030 (12)	\$5,100 (11)	\$5,100 (11)
Cleansing supervisor	-	\$9,000 (1)	\$9,000 (1)
Security staff	\$4,936 (37)	\$6,410 (37)	\$6,410 (37)
Security supervisor	\$5,970 (3)	\$9,030 (3)	\$9,030 (3)
<b>Western Wholesale Food Market</b>			
Cleansing worker	\$5,126 (13)*	\$5,100 (13)	\$5,100 (13)
Cleansing supervisor	\$5,200 (1)	\$9,000 (1)	\$9,000 (1)
Security staff	\$4,966 (20)	\$6,410 (20)	\$6,410 (20)
Security supervisor	\$5,200 (3)	\$9,030 (3)	\$9,030 (3)

\* ( ) denotes the number of staff. The figures have already excluded staff increase in relation to the implementation of measures relevant to improving public order and public health (including implementing the Market Entry Registration System, crow control, and enhance inspection of imported freshwater fish).

## Annex B

Stall occupancy rate number of tenants,  
and number of entrants of  
Western and Cheung Sha Wan Wholesale Food Markets  
over the past three years

	2006	2007	2008
<b>Cheung Sha Wan Wholesale Food Market</b>			
(1) Average stall occupancy rate	90.7%	89.6%	88.7%



	2006	2007	2008
(2) Annual average of tenants	299	297	296
(3) Daily number of entrants	3 870#	3 790	3 760
<b>Western Wholesale Food Market</b>			
(1) Average stall occupancy rate	83.1%	84.5%	91.2%*
(2) Annual average of tenants	447	453	466
(3) Daily number of entrants	4 660#	4 120	3 930

\* Includes allowing the Hong Kong Post to take up part of the poultry wholesale market

# Since the Market Entry Registration System commenced operation in May 2006, the figure covers from May to December 2006 only.

**MR VINCENT FANG** (in Cantonese): *President, as mentioned in the fourth paragraph of the main reply, the rentals for stalls should be increased by 11.42% as the salary of cleansing and security staff of the contractors had increased from 50% to 70%. May I ask the Secretary whether this outsourcing contract has stipulated that the tenderer should implement the minimum wage — there was no such requirement in the previous tender contract — and even if it has to comply with the minimum wage requirement, why the rate of increase should be 50% to 70%?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): According to our understanding and as explained in the fourth paragraph of my main reply, this is attributed to the increase in salaries and costs of the management staff, which is also the result of the lowest bidder wins.

My reply to part (a) of Mr Vincent FANG's supplementary question is, since 2007-2008, we have to ensure that the salary of non-skilled workers (that is, the cleansing and security staff) should not be lower than the average monthly salary of relevant trades as publicized by the C&SD, that is, the so-called minimum wage. This also explains why we have to increase the rentals.

**MR LEUNG YIU-CHUNG** (in Cantonese): *President, the Secretary mentioned in his reply that the occupancy rate remained at about 90% only, but the tenants had to share all the costs. That is to say, tenants have to be responsible for the total costs even not all the stalls are rented out. It is unfair to the existing*

*tenants as the stalls may not be rented out because of some management or administrative reasons. Is it necessary for the department to review this policy afresh and explore areas for improvement, so as to reduce the actual costs borne by the existing tenants?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): Madam President, in general, the rentals of government wholesale food markets are already lower than that in other markets. Therefore, we consider that tenants have their own choice. If tenants rent stalls in the wholesale food markets, their stalls will be more spacious and the rentals will be lower. If they rent stalls in other markets, they may need to pay higher rentals but enjoy greater flexibility in the choice of locations. In view of this, I consider that they should make a commercial decision on their own.

They are also aware that there have been no substantial changes in wholesale food markets over the past years, particularly the occupancy rate. Over the past years, the occupancy rate has remained at about 80% to 90%. We consider that the existing system has also been effective.

**PRESIDENT** (in Cantonese): Mr LEUNG Yiu-chung.

**MR LEUNG YIU-CHUNG** (in Cantonese): *President, the Secretary has not answered my supplementary question on the reasons for shifting the costs of vacancy onto other tenants. Such a practice will give rise to unfairness. May I ask the Secretary whether improvements will be made to administration so that tenants are not required to bear such costs in case the occupancy rate rises?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): Madam President, we will of course consider whether there are other options to address this issue, particularly on the rentals. However, the wholesale food markets have all along charged rentals with reference to the cost recovery principle. When signing contracts with the tenants, we are all aware of this principle.

**MRS SELINA CHOW** (in Cantonese): *President, the Government always increases the rentals for either the cost recovery principle or bringing them on a par with the market rates, which are excuses anyway.*

*We notice from the main reply that there is indeed unfairness. It is revealed that as the salaries had increased by 50% to 70%, it suddenly increased the rentals by 11.42%. In fact, the reason for the Government providing these venues is also to prevent food prices from surging and affecting people's livelihood. Recently, fuel prices and costs in various aspects have remained very high. And as most of our food is imported, the exchange value of Hong Kong Dollar will also affect the import price of food. Under such situation, importers have already shouldered a very great burden. Has the Secretary considered that in increasing the rentals, consideration should in fact be given to a number of factors rather than strictly following the 100% cost recovery principle, which will indirectly shift the costs onto wholesalers, and then from wholesalers onto retailers, and finally from retailers onto the public?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): *Madam President, the method for calculating the rentals was determined in 1994. As we can all see, the rentals are adjusted biennially. Before 2006, due to deflation, we reduced the rentals nearly on a biennial basis. In 2000, we had a rental reduction by 9.4% whilst in 2004, we also had a reduction by 9.4%. In view of this, rental adjustments have all along been recognized and accepted by tenants. As for whether there are other considerations, we will of course take into account the impact on prices or inflation of the rental adjustments. However, according to our calculation, the impact on the costs borne by tenants and inflation is minimal, which is even lower than 0.01%.*

**MRS SELINA CHOW** (in Cantonese): *President, I do not think the Secretary has answered my supplementary question. I asked the Secretary whether he would take a basket of factors into consideration, rather than strictly following the 100% cost recovery principle and increasing the rentals all the same. Will the authorities take a basket of factors into consideration rather than simply following the 100% cost recovery principle?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): Madam President, as I have mentioned just now, we have considered other factors before making the decision, and we will maintain this principle.

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

**MR LEE CHEUK-YAN** (in Cantonese): *President, I believe the Secretary must have also heard the Chief Executive say at the last Council meeting that we should not have too much discussion on the issue of Under Secretaries and Political Assistants. Rather, we should be more concerned about the inflation problem. As the Secretary said just now, the impact of rental increase was only 0.01%, but I do not know how such figure is computed. If the calculation is based on inflation as a whole, it may be 0.01% only. But if the calculation is based on food prices, it is impossible to arrive at 0.01%. If all items are included in the calculation, the figure should of course be minimal. However, it will definitely have certain impact on food prices. I do not know whether the Secretary will follow the Chief Executive's advice and consider the issues on inflation and people's livelihood. Although the Chief Executive always asks us to make considerations in this regard, the Government and the Secretary seem to have no such considerations on the contrary. May I ask the Secretary whether he will discuss this issue with the Chief Executive, such as freezing the rentals, so as to ease or curb inflation?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): Honourable Members, the budget of this year has been endorsed with the introduction of a series of measures to reduce this year's inflation as far as possible. Regarding the rentals, as I have just mentioned, its impact on inflation is minimal. Therefore, we consider that we should stick to the principle on the one hand, and we will introduce other strategies and measures in respect of people's livelihood and other problems on the other. Therefore, I consider the existing practice correct.

**MR LEE CHEUK-YAN** (in Cantonese): *President, the Secretary has not answered the part on whether he will discuss it with the Chief Executive. Although the Secretary considers his practice appropriate, will the Chief Executive consider it inappropriate?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): *Madam President, the adjustment of prices and rentals is not determined by one single bureau. Other government departments have also participated in it. The Chief Executive of course appreciates the public's plight in face of inflation and will also consider introducing possible strategies in other aspects.*

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

### **Selection of Chief Executive and Election of Members of Legislative Council by Universal Suffrage**

3. **MS EMILY LAU** (in Cantonese): *President, at its Session in December last year, the Standing Committee of the National People's Congress (NPCSC) decided that the selection of the Chief Executive and the election of the Legislative Council in 2012 should not be implemented by the method of universal suffrage (dual universal suffrage). The NPCSC did not make any specific undertaking to implement dual universal suffrage in 2017 and 2020. When seeking re-election in March last year, the Chief Executive indicated that he would put forward an ultimate proposal for implementing universal suffrage. However, when attending the Question and Answer Session of this Council on 15 May this year, the Chief Executive stated that the electoral system of functional constituencies (FCs), with modifications, could be in line with the principles of universal and equal suffrage, and could also be regarded as falling within the meaning of universal suffrage. In this connection, will the executive authorities inform this Council:*

- (a) *given that the Human Rights Committee of the United Nations had pointed out in its concluding observations published in 1995 that "the concept of functional constituencies, which gives undue weight to the views of the business community, discriminates among voters*

*on the basis of property and functions. This clearly constitutes a violation of Articles 2, paragraph 1, 25(b) and 26" of the International Covenant on Civil and Political Rights (ICCPR), and the Committee also recommended that immediate steps should be taken by the authorities to ensure that the electoral system should be put in conformity with Articles 21, 22 and 25 of the ICCPR, whether the authorities will consider afresh abolishing all FC seats of the Legislative Council, so that the electoral system for Legislative Council election will be in conformity with the ICCPR;*

- (b) how the authorities will convince the people of Hong Kong and the international community that the nomination system for future Chief Executive election will comply with the standards of the above international covenant, and that the requirement in Article 45 of the Basic Law regarding the nomination of Chief Executive election candidates by a nominating committee will not be used as a screening mechanism to exclude people who are not accepted by those in power from standing for Chief Executive election; and*
- (c) how the authorities will convince the people of Hong Kong that they will draw up the proposals on the methods for selecting the fifth Chief Executive in 2017 and forming the seventh term Legislative Council in 2020 in accordance with the ultimate proposal for implementing universal suffrage mentioned by the Chief Executive last year?*

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

- (a) Regarding the ICCPR, the consistent position of the Government is that when the ICCPR was applied to Hong Kong in 1976, a reservation was made not to apply Article 25(b) insofar as it might require the establishment of an elected Executive or Legislative Council in Hong Kong. In accordance with the notification given by the Central People's Government to the United Nations Secretary-General in June 1997 and Article 39 of the Basic Law, this reservation continues to apply to the HKSAR.

The existing electoral method for returning the Legislative Council FC seats is not consistent with the principle of universal suffrage. However, the decision adopted by the NPCSC in December last year has determined the timetable for attaining universal suffrage in Hong Kong, that is the Chief Executive may be elected by universal suffrage in 2017 and the Legislative Council may be elected by universal suffrage in 2020.

Regarding the implementation of universal suffrage for the Legislative Council, in discussing the relevant universal suffrage models, the community would have to deal with the issue of FCs so as to ensure that the future universal suffrage model for the Legislative Council could comply with the principles of universal and equal suffrage.

- (b) In the Green Paper on Constitutional Development, we made it clear that, in implementing universal suffrage for the Chief Executive, the method of nomination should:
  - (i) comply with the provisions of Article 45 of the Basic Law;
  - (ii) ensure that candidates have wide support and sufficient legitimacy; and
  - (iii) provide aspiring individuals with a fair opportunity to be nominated.

Between 2012 and 2017, when the fourth-term HKSAR Government consults the public on the universal suffrage model for electing the Chief Executive, different sectors of the community could put forth their proposals on the related issues, including how the Chief Executive candidates should be nominated in accordance with democratic procedures. In attaining universal suffrage, the HKSAR Government would have to forge wide consensus within the Hong Kong community on the universal suffrage electoral model put forth. The model would have to be endorsed by a two-thirds majority of all Legislative Council Members in accordance with the procedures stipulated in Annex I to the Basic Law, and supported by the majority of the public.

- (c) During his election campaign, the Chief Executive, Mr Donald TSANG, undertook to lead the Hong Kong community to attain universal suffrage as early as possible. In this regard, in the course of six months after the formation of the third-term HKSAR Government last July, the Government issued the "Green Paper on Constitutional Development" to consult the public on the models, roadmap and timetable for implementing universal suffrage, published the report on the public consultation and submitted the report to the NPCSC.

Having considered the Chief Executive's report, the decision adopted by the NPCSC last year has made clear the universal suffrage timetable. Between 2008 and 2012, Hong Kong's electoral methods could roll forward to a mid-way point. The aim of the SAR Government is to settle the two electoral methods for 2012 within the tenure of the current term in order to enhance democratic elements. This could then lay a solid foundation for attaining universal suffrage for the Chief Executive in 2017, and for the Legislative Council in 2020.

Between 2012 and 2017, the fourth-term Chief Executive and the fifth-term Legislative Council should address together the method for implementing universal suffrage for the Chief Executive. The Chief Executive taking office in 2017 will have to work with the Legislative Council returned in 2016 and come up with proposals to attain universal suffrage for the Legislative Council in 2020. This Chief Executive, returned by universal suffrage, will have broad public support to lead the Hong Kong community to resolve this issue.

**MS EMILY LAU** (in Cantonese): *President, I have asked in part (b) of my main question how the authorities will convince the people of Hong Kong and the international community that the so-called universal suffrage option for future Chief Executive election will comply with the international standards. But the Secretary has mentioned in part (b) of his main reply that this option should forge wide consensus, not only be endorsed by a two-thirds majority of all the Legislative Council Members in accordance with the Basic Law, but also be supported by the majority of the public. However, he has not mentioned how it will comply with the international standards.*



*Moreover, the Secretary has mentioned in part (a) of his main reply that when the ICCPR was applied to Hong Kong in 1976, a reservation was made. May I ask the Secretary whether this reservation will be observed eternally and will never be discarded? Moreover, even the so-called universal suffrage is implemented in future, it will not comply with the ICCPR. Perhaps, the people of Hong Kong will accept this, but the international community may see it as a big joke.*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Madam President, in fact, over the past two or three years, no matter during the discussions by the Commission on Strategic Development on the models and timetable for implementing universal suffrage, or the release of the Green Paper on Constitutional Development and various reports last year, we have made it very clear that, in implementing universal suffrage for the Chief Executive and the Legislative Council in future, we will comply with the principles of universal and equal suffrage.

If Members care to refer to the decision made by the NPCSC in December last year, the universal suffrage model for the Chief Executive is also very clear. Upon nomination by the nominating committee, all qualified registered voters in Hong Kong will participate in the election by universal suffrage of the Chief Executive on the basis of "one person, one vote". Therefore, I am confident that in the future implementation of universal suffrage for the Chief Executive in 2017, we will comply with the principles of universal and equal suffrage.

Members should also remember that universal suffrage will be implemented in Hong Kong as the Basic Law has incorporated the ultimate goal of universal suffrage into this mini constitution. This has already gone farther than the scope of provisions stipulated in the Sino-British Joint Declaration in 1984. In 1984, the Sino-British Joint Declaration only stated that the future Chief Executive could be selected by consultations or elections held locally whilst the legislature would be formed by elections, but there was no mention of universal suffrage. At present, there are provisions on universal suffrage in the Basic Law and its implementation in Hong Kong is the source of our constitutional law. Universal suffrage will be implemented in Hong Kong just because of the Basic Law, not the ICCPR.

**MS EMILY LAU** (in Cantonese): *The Secretary has not answered whether the so-called universal suffrage in future will certainly not comply with the ICCPR?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Concerning Article 25(b) of the ICCPR, as the British Government had made a reservation when applying the ICCPR to Hong Kong in 1976, the provision is not applicable to Hong Kong. However, Hong Kong can still attain universal suffrage as the ultimate goal of universal suffrage has been stipulated in Articles 45 and 68 of the Basic Law and it is very clear that the future universal suffrage system in Hong Kong will be in compliance with the principles of universal and equal suffrage.

**MRS ANSON CHAN** (in Cantonese): *President, the reply given by the Secretary seems to be in line with his consistent style, that is, confusing the public and evading our questions.*

*May I ask the Secretary to explain how "superficial changes" can be made to the FCs in order to comply with the principles of universal and equal suffrage?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Madam President, I have already given a clear reply to these four words "universal and equal suffrage". If Mrs Anson CHAN still finds it not clear enough, I really do not know how to make "universal and equal suffrage" more concise.

As for how universal suffrage can be attained under the Basic Law, we have yet finalized any option at this stage. We consider that this should be explored in the coming terms of the SAR Government and the Legislative Council step by step.

However, we made it very clear when releasing the Green Paper on Constitutional Development last year that there were a number of options for consideration. For example, all Legislative Council seats would be returned by

geographical constituencies through direct elections in future, or by the "one person, one vote" option, through which some 3.3 million registered voters can cast one vote in the district-based election and another in the FC election.

There is also another model for consideration and, that is, the so-called district council option, through which the number of seats representing District Councils in the Legislative Council elected by and from their members will be increased and the FC seats will gradually be replaced. However, no matter which model is to be adopted, we should comply with the principles of universal and equal suffrage and allow registered voters to take part in the election of the Legislative Council.

**DR YEUNG SUM** (in Cantonese): *Madam President, I am very glad to hear from the Secretary that, in order to move towards universal suffrage, we should base on the principles of universal and equal suffrage. However, I also wish to tell the Secretary that, according to the international standards, the so-called universal and equal suffrage should also include the right of nomination in addition to the right of polling.*

*One of the options proposed by the Secretary just now is "one person, one vote", that is, the FC candidates will first of all be nominated by the FCs, and then elected by the people of Hong Kong by "one person, one vote".*

*May I ask the Secretary if it is completely against the principle of equitable right of nomination? It is because the violation of the equitable right of nomination is basically unacceptable. Does the Secretary not agree with this?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Madam President, what I want to say is that no matter which model will be adopted to attain universal suffrage for the Legislative Council, we should, first of all, forge a consensus within Hong Kong society.

The greatest political reality is that at present, half of the Legislative Council seats are returned by geographical constituencies through direct elections and half of them are returned by the FCs. If universal suffrage for the

Legislative Council is to be attained gradually in the coming years, we have to strive for support from two sides. On the one hand, we have to strive for support from the society as a whole, and on the other, we have to strive for support from different sectors.

Therefore, concerning the model of universal suffrage for the Legislative Council and the ways of dealing with the issue of FC seats in the future, we should have extensive discussions to forge a consensus among different sectors and secure their overall support as well.

In the long run, apart from voting by some 3.3 million voters for the formation of the Legislative Council, what are the nomination arrangements? I believe a final judgment should only be made about two terms later. It is reasonable for us to leave this question to the Chief Executive who will be returned by universal suffrage in 2017 and the Legislative Council of 2016, for the Chief Executive returned by universal suffrage in 2017 should have broad public support and a wide consensus should have been forged then to deal with such a crucial issue.

**DR YEUNG SUM** (in Cantonese): *The Secretary has only made a political analysis just now without answering my supplementary question.*

*Madam President, my supplementary question is very simple. As the Secretary mentioned "one person, one vote", I consider that apart from the equitable right of polling, there should also be the equitable right of nomination. However, if the FC candidates are nominated by the FCs and then elected by the public, it is completely against the equitable right of nomination. I hope the Secretary can give a reply in this regard once again.*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Madam President, I am aware of Dr YEUNG Sum's views. However, we have to go through a number of stages in order to attain universal suffrage for the Legislative Council in accordance with the Basic Law. The SAR Government should submit a report to the NPCSC after the Chief Executive has taken office in 2017, so as to deal with the method of forming the Legislative

Council in 2020. After taking this step, the Chief Executive and the incumbent SAR Government should conduct studies and come up with a proposal, which should be supported and endorsed by a two-thirds majority of all Legislative Council Members.

Therefore, my explanation to the President and Honourable Members just now is not simply a political analysis, but a constitutional process. After going through this constitutional process, the ultimate arrangements for nomination, polling and election will only be determined in future. However, the broad principles of universal and equal suffrage are recognized by all of us.

**DR YEUNG SUM** (in Cantonese): *Madam President, the Secretary has not answered my question on "one person, two votes".*

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

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Madam President, the concept of "one person, two votes" mentioned by me earlier is one of the possibilities, that is, registered voters can cast one vote in the district-based direct election and another vote in the FC election.

**PRESIDENT** (in Cantonese): The Council has spent more than 17 minutes on this question. We shall now proceed to the fourth question.

### **Emergency Situation Caused by a Rainstorm**

4. **MR LEUNG YIU-CHUNG** (in Cantonese): *President, the rainstorm on the seventh of last month caused serious destruction to a vast area on Lantau, especially the area around Tai O, and brought about disastrous consequences to the road traffic, fresh water supply as well as the dwellings of the residents. Many residents criticized that the Government's contingency and relief measures were extremely inadequate. In this connection, will the Government inform this Council:*

- (a) *of what time on that day and through what channels the Government learnt of the extent of the damage caused to various facilities on Lantau and the situation of the affected residents; and the specific contingency measures immediately taken by the Government to support the affected residents when it learnt of the situation of the disaster; and*
- (b) *whether it has assessed if the contingency and relief measures taken by the authorities on the day of the rainstorm were adequate and effective; of the experience learnt and improvements to be made by them?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, on 7 June, Hong Kong experienced the highest rainfall within an hour since we have started maintaining such record. We received 130 landslip and 622 flooding reports that day. Landslide Potential Index, which keeps track on slope safety, has also recorded the highest score since its introduction. The situation in Tai O where suspension of telecommunications network, land transport, and water supply occurred at the same time was rare. Regarding Mr LEUNG Yiu-Chung's main question, I would like to reply as follows:

- (a) The Hong Kong Observatory (HKO) issued landslip warning and black rainstorm warning in the morning of 7 June. The Emergency Monitoring and Support Centre (EMSC) of the Government Secretariat and the emergency co-ordination centres or control centres of various emergency service departments activated the emergency response system in accordance with the established "Contingency Plan for Natural Disasters" to collect information from the concerned departments and to assume overall monitoring of the situation and the provision of the required emergency services. Serious flooding causing the closure of North Lantau Highway, and landslips, road closure and disruption to telecommunications and water supply in Tai O came to the notice of the Government on the morning of 7 June.

The departments concerned carried out emergency relief works under the emergency monitoring and co-ordination mechanism on the day in many parts of Hong Kong. In Tai O, the Water Supplies Department (WSD) assigned a vessel to provide water to the residents in the afternoon of the same day. The police deployed additional officers to the Tai O Pier and Lung Tin Police Post by sea to provide Tai O residents with emergency support. Through the officers on site and the use of police communication equipment, the Government maintained close contact with the Tai O Rural Committee and the residents to ascertain their condition and needs and provide them with relief information. Moreover, the Transport Department implemented temporary transportation measures starting from that day, and provided extra ferry services between Tai O and Tung Chung. The Office of the Telecommunications Authority also asked the telecommunication companies concerned to carry out emergency repair works on the damaged communication facilities.

Having regard to the difficulty faced by Tai O residents in the aftermath of the rare heavy rainstorm, the Government adopted a multi-pronged approach to assist the residents in restoring their normal lives, in addition to the above emergency measures. Firstly, the Islands District Office (IsDO) co-ordinated with the Government Flying Service and the Marine Police to send daily necessities to residents in remote villages by air and sea. After assessing the situation in Tai O and the needs of its residents, the Government enlisted the service of the Civil Aid Service (CAS) to reinforce the relief work of disciplined forces. The CAS sent officers to Tai O and the neighbouring villages to assist in removing the debris from the residents' houses, clearing blocked paths and village walkways and distributing relief supplies. The IsDO also made arrangements to help residents of remote villages to tap hill water for use. In addition, the Civil Engineering and Development Department completed the inspection of all slopes affected by landslips in Tai O on 11 June; the IsDO and the concerned departments assisted residents of Tai O affected by potentially unstable slopes and other people in need in moving to temporary accommodations provided by the Government on 13 June.

With the concerned government departments' efforts, public services in Tai O have been returning to normal: telecommunications service was gradually restored by noon of 8 June and fully restored by the evening of 9 June; the WSD completed the resumption of water supply in Tai O on 10 June; the Highways Department reopened Tai O Road on 14 June and the bus service between Tai O and Ngong Ping resumed limited service in the afternoon of 15 June. On 20 June, emergency repair works on Keung Shan Road was completed and Tai O's land transport was fully restored.

- (b) The emergency co-ordination or control centres of various government departments as well as EMSC of the Government Secretariat activated the emergency response mechanism in accordance with the "Contingency Plan for Natural Disasters" in the morning of 7 June, and the relevant departments provided emergency services in accordance with the existing mechanism. Nevertheless, the Government is aware that the provision of prompt and effective emergency services is vital for residents to restore their normal lives. The Government will learn from the incident and conduct a review on the ways to further improve its emergency response system. For example, apart from enhancing co-ordination work, information collection and impact assessment, consideration will be given to improving communication among departments. In doing so, the Government will be able to grasp more accurately the situation of individual districts and improve the emergency response and relief systems, so as to ensure that prompt and effective assistance will be provided to the affected residents.

**MR LEUNG YIU-CHUNG** (in Cantonese): *President, the Secretary kept stressing that the rainstorm disaster this time was rare and that the Government had already activated the emergency response system to carry out relief work on that day. Despite all this, unfortunately, President, when I called the Transport Department (TD) that day, no one answered. I then called the IsDO and the emergency service centre, but again, no one answered. I tried to find some departments to help the affected residents at the earliest moment, but my efforts were in vain.*



*In the main reply, the Secretary spent two to three paragraphs to emphasize repeatedly that the Government had already taken a lot of the measures. But, all of these measures were taken a day or two after the rainstorm. The problem was so serious because a number of neighbouring villages in Tai O were affected by the disruption of water and electricity supplies and communication breakdown, and some were even facing a food shortage, but none of them received any assistance. A helicopter carried the Chief Executive to Tai O to inspect the situation of the residents there, but no helicopter was sent to inspect other villages and find out the difficulties faced by the residents there.*

*Therefore, may I ask the Secretary what experience and lessons he has learnt from the incident, for he said he had gained experience and learnt a lesson from the incident? He said that there would be improvement, but what improvement will be made? Residents of Tai O tried to enlist help from the police, but since there was no police station in the district, nor was there any policeman stationed there, so they had no way to seek assistance. In view of this incident, what improvement will be made to the facilities in villages in the outlying islands or remote areas to help the residents there to cope with such disasters?*

**PRESIDENT** (in Cantonese): Mr LEUNG Yiu-chung, you have asked two supplementary questions, which question do you wish the Secretary to answer?

**MR LEUNG YIU-CHUNG** (in Cantonese): *President, I will leave it to the Secretary to decide.*

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

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, when the calls of Mr LEUNG Yiu-chung for assistance were not answered, various government departments had indeed been working on relief measures and support services required at the district level.

As I mentioned in the main reply earlier, in the afternoon of 7 June, a vessel was assigned to deliver fresh water to residents of Tai O. In respect of communication, arrangements were made for the telecommunications companies concerned to repair damaged facilities, for the commencement of repair works on road facilities and for the ferry company to provide extra ferry service, with a view to strengthening the external communication of Tai O.

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

(Mr LEUNG Yiu-chung raised his hand)

**PRESIDENT** (in Cantonese): Mr LEUNG Yiu-chung, the Secretary has already answered one of your supplementary questions.

**MR LEUNG YIU-CHUNG** (in Cantonese): *I do not know which supplementary question he has answered. But the thrust of my question to the Secretary is: Since the residents were deeply aggrieved by this incident, and they considered that the Government had failed to provide assistance and handled the incident properly, what experience has the Secretary actually gained from the incident? After taking stock of the experience gained, what improvement will be made to the environment concerned to ensure that future measures implemented can cope with these rare disasters?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, on 9 June, I visited Tai O and met with some residents there. It was still raining at that time, debris from landslides had not been removed completely and water supply had not yet been restored. After inspecting the situation at the time, I talked to some residents of Tai O. Naturally, it had caused inconvenience to their daily lives, but in general, I thought they were relatively calm.

Later, the IsDO has received in succession commendations from residents and organizations of Tai O, including a "Concern Group on the rebuilding of Tai O in the aftermath of the rainstorm", the Po Lin Monastery and the Tai O Rural Committee, for the relief work carried out by the Government and the IsDO.

Now that land transport, water supply and telecommunications services have all been restored, we see that the overall situation in Tai O is rather stable. I have also contacted the Tai O Rural Committee and the Island District Council. On the day of the rainstorm, the persons-in-charge of the committee and Members of District Council brought the spirit of helping each other into full play. Besides, they assisted residents in communicating with government departments and helped disseminating information to the relatively remote places.

As different people will meet with different people, some people may particularly come across some deeply aggrieved residents, while others may come across some gentle residents.

**MR LEUNG YIU-CHUNG** (in Cantonese): *Sorry, I wonder if the Secretary has misunderstood my supplementary question, for his answer is totally irrelevant to my question. In the main reply, he said that he had gained experience from the incident. Thus, I asked him to specify the experience he had gained and the improvement measures to be introduced in the light of such experience.*

**PRESIDENT** (in Cantonese): Mr LEUNG Yiu-chung, this is where the problem lies. You should have understood by now why I always remind Members to put their supplementary questions direct. If your supplementary questions are too long, officials may easily misunderstand them. Do you understand?

**MR LEUNG YIU-CHUNG** (in Cantonese): *No, President, my supplementary question is very straightforward, that is .....*

**PRESIDENT** (in Cantonese): You need only put your supplementary questions direct. You should refrain from making too many personal remarks. All Members should indeed do so. I will now ask the Secretary to reply, but you should refrain from putting lengthy supplementary questions in future. You only need to make the salient points and public officers will give suitable replies. If the reply of the public officer concerned is improper, Members will know that he has not answered your supplementary question.

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, if Mr LEUNG Yiu-chung's supplementary question is about the experience we have gained, the answer has already been stated in my main reply. Drawing on the experience of this incident, we consider that the communication among various departments should be reinforced, and actually, we have started working on it.

On 7, 8 and 9 June, operations at the district level were supported by various departments of the Government, and there was sound co-ordination at the operation level. Moreover, regular reports are issued to Principal Officials under the emergency co-ordination mechanism. The activation of this mechanism has enhanced the communication and co-ordination at senior levels, and I think the mechanism has worked well.

**MR CHEUNG HOK-MING** (in Cantonese): *President, it is undeniable that the flooding in Tai O this time around is unprecedented. A couple of days after the rainstorm, I visited the scene with Secretary Carrie LAM and a number of Members. We observed that the residents had responded rationally to the assistance rendered by government departments.*

*However, in the Secretary's reply to Mr LEUNG's supplementary question earlier, he mentioned the Tai O Rural Committee. I would like to ask the Secretary one question. Insofar as this incident is concerned, how will the Government, the Home Affairs Bureau and the IsDO in particular, assess the role of rural bodies and local resident groups in the incident? What will the Secretary do in future to reinforce the work in this respect?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, Members know that Tai O is in the far western part of Lantau. The area covered by the Tai O Rural Committee is relatively larger. The location of a number of villages there is relatively scattered, such as Sham Wat and Big Wave Bay. These villages are rather isolated and the external transport of these villages has once been disrupted. As the area concerned is very large, in case of heavy rainstorm and emergency, colleagues of the IsDO, or the Government, can hardly carry out extensive searches or visits within a short time. Therefore, we have to rely heavily on rural committees and village representatives of various villages to play their part in this respect.

Actually, in the heavy rainstorm this time, the Rural Committee and various village representatives have fulfilled this function. We attach great importance to this network and will reinforce the communication in this respect in future.

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

**MR DANIEL LAM** (in Cantonese): *The heavy rainfall on 7 June can be considered a one in decades incident. The Heung Yee Kuk and the relevant departments have conducted site investigations in the aftermath. With regard to the efforts made by the Home Affairs Bureau, the Development Bureau and the Transport and Housing Bureau, the Heung Yee Kuk and the Island District Council would like to express our gratitude.*

*May I ask the Secretary, in the light of this incident, whether the Government will set up an inter-departmental task force, teaming up with certain statutory organizations, including the Heung Yee Kuk, the District Councils and the Rural Committees, to re-inspect areas frequently affected by floods on Lantau and other areas in the New Territories and implement preventive measures?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, in respect of inter-departmental work, in fact, under the existing mechanism, a team has been assigned to deal with this on a regular basis.

Mr LAM asked earlier whether special inspection work, such as examining the possibilities of disasters, floods or landslides, could be carried out at the district level with rural committees. I think this is a good idea.

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

**New Liantang-Heung Yuen Wai Boundary Control Point**

5. **MR CHEUNG HOK-MING** (in Cantonese): *It has been reported that the "Shenzhen-Hong Kong Joint Preliminary Planning Study on Developing the Liantang/Heung Yuen Wai Control Point" is nearing completion and the internal study conducted by the Hong Kong Government to tie in with the development of the Liantang/Heung Yuen Wai boundary control point (the new BCP) is in its final stage. Both the Shenzhen Municipal Government and the Hong Kong Government expect that specific development details of the new BCP will be finalized in the latter half of the year. In this connection, will the Government inform this Council of:*

- (a) *the positioning and functions of the new BCP;*
- (b) *its preliminary idea about the road alignment of the new BCP within Hong Kong's territory; and*
- (c) *the links which will be established between the new BCP and other places within the existing Frontier Closed Area (FCA) (such as Sha Tau Kok (STK))?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): Madam President, given the very close link between Hong Kong's economic development and neighbouring Shenzhen and the Pearl River Delta Region, we need to plan strategic cross-boundary infrastructural projects as well as to continuously enhance the facilities of boundary control points. The proposed Liantang/Heung Yuen Wai (LT/HYW) BCP is a major project to achieve the above objective.

My reply to the three-part question from Mr CHEUNG Hok-ming is as follows:

- (a) From the macroeconomic development and strategic perspectives, the planned BCP will connect the Eastern Corridor in Shenzhen and provide an efficient access to the eastern part of Guangdong Province and adjacent provinces via Shen-hui and Shen-shan

Expressways. This will significantly shorten the distance between Hong Kong/Shenzhen and the eastern part of Guangdong, Fujian and Jiangxi Provinces, and greatly facilitate future regional co-operation and development.

From the local perspective, the planned new BCP will help redistribute the cross-boundary traffic amongst the crossings in the eastern part of the territory, alleviate the frequent traffic congestion at Man Kam To (MKT) Control Point, and provide room for improvement at MKT and STK Control Points. The overall capacity and the quality of service of various BCPs in the eastern part of the territory (including LT/HYW, MKT and STK) will be greatly enhanced in the future.

The positioning and functions of the new BCP are mainly to serve the cross-boundary goods vehicles and long-distance passengers travelling between Hong Kong and Shenzhen East, Huizhou, the eastern part of Guangdong, Jiangxi and Fujian. It will handle about 20 600 vehicles and 30 700 passengers per day in 2030.

- (b) We have to construct a new trunk road to link up the BCP and the existing highway networks in Hong Kong. We will explain to the public in detail the information and design of the new BCP as well as the alignment of the connecting road after the SAR Government and the Shenzhen Municipal Government have decided to construct the new BCP.
- (c) The development of the new BCP will bring about opportunities for land development in the surrounding areas including those currently within the FCA. At present, the Planning Department (PlanD) is conducting two relevant studies on the related issues. The first one is the "Study on Land Use Planning for the Closed Area", which aims to formulate a planning framework to provide guidance for the development and conservation for the land to be released from the FCA. The study covers the proposed BCP and adjacent areas. The first stage community engagement for the study is now in

progress (until early August) while the second stage will commence in early 2009. It is expected that the whole study will be completed in mid-2009.

Secondly, the PlanD plans to launch the "Study on the Enhancement of the Sha Tau Kok Rural Township and Surrounding Areas" in early 2009. The study, aiming to formulate a comprehensive plan to enhance the STK rural township and surrounding areas, is scheduled for completion in end-2010. We will consult the relevant organizations, including district councils, rural committees, green groups, and so on.

**MR CHEUNG HOK-MING** (in Cantonese): *President, according to the reply of the Secretary just now, it is obvious that the new BCP will solve the problems faced by cross-boundary trucks and long-haul passengers in using cross boundary facilities. Strictly speaking, these vehicles will enter Hong Kong via Liangtang BCP and arrive at Heung Yuen Wai. In the course of study, has the Government considered focusing the study on developing Heung Yuen Wai into a back-up base for containers handling?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): As I said earlier, the new BCP, which connects the eastern part of Hong Kong with the eastern part of Shenzhen, will surely bring new development opportunities to the north-eastern part of Hong Kong. Therefore, the overall development opportunities available are related to the land released from the FCA and the new development areas (the area along Ping Che, Fan Ling and Ta Kwu Ling) designated by the Chief Executive under the 10 major infrastructure projects, on which we are now working in terms of content in some measure. To respond to Mr CHEUNG's question in brief, the views I mentioned earlier will be implemented and examined in the course of the relevant studies.

**MR LAU WONG-FAT** (in Cantonese): *Upon the opening and commencement of the operation of the Lok Ma Chau (LMC) BCP and the Western Corridor, the utilization rate has been on the low side due to problems with the ancillary*



*facilities and various problems. In this connection, will the Government inform this Council what lesson the authorities have learnt from the above experience and what measures it will take in the construction of the new BCP to avoid repeating those mistakes?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): Mr LAU Wong-fat suggested that we had made some mistakes in the LMC BCP and Shenzhen Bay BCP and should avoid repeating such mistakes. I do not fully agree with this, for the development of those BCPs is for long-term and strategic purposes. Even for the new BCP now under discussion, though the project will be finalized by the end of this year, the BCP will not be ready for opening until 2018. Therefore, we should allow time for each BCP to develop, starting from design to completion, and then to maturity, as well as rising in utilization rate. Take the Shenzhen Bay BCP and the LMC BCP opened last year as examples. The utilization rates of these BCPs are rising, and they are playing a prominent role in diversion. For instance, with the opening of these two BCPs, the passenger flow and cargo flow at MKT BCP in March this year have dropped 10% in comparison with last March, despite an overall increase in cross-boundary passenger flow and cargo flow in the said period. In other words, they are serving the purpose of diversion in some measure.

In response to Mr LAU's question, I would say, right, for the development of BCP, we would consider it from a long-term and strategic perspective. But, on the other hand, I understand the point made by Mr LAU that, more often than not, supporting measures, such as traffic quota (the quota system for cross-boundary traffic of both places) are important to the utilization of BCPs. Is there room for negotiation and improvement? In this connection, we will not only deal with hardware issues, but will also examine software issues in the task force on cross-boundary issues.

**MR CHAN KAM-LAM** (in Cantonese): *President, the Secretary mentioned earlier that a lot of vehicles have now been diverted to other BCPs. However, the new BCP will play a very important role in future, connecting the eastern part of Guangdong, Jiangxi and Fujian. According to the current estimation,*

*we may only handle around 20 600 vehicles and 30 700 passengers by 2030, may I know whether this is due to an underestimation of demand or that the control point cannot be further expanded due to space constraint?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): As I said in my reply to Mr LAU Wong-fat's question earlier, at present, the passenger flow and cargo flow handled by various BCPs, as well as the average daily flow, vary significantly. In other words, in estimating the flow, we must make adequate provision. However, on daily utilization, the figures mentioned by me, as well as those quoted by Mr CHAN, are figures on the average daily flow. The current estimation on the passenger flow and cargo flow handled by the new BCP by 2030 is made according to the strategic study for 2030. It is estimated that by 2030, the average daily cross-boundary passenger flow will increase from 540 000 passenger trips now to 1 380 000 passenger trips, while the average daily traffic flow will increase from 42 300 vehicles at present to 56 000 vehicles. On this premise, all BCPs will be able to cope with the demand. Certainly, we may have to review the estimation made over time and the integration of Hong Kong and the Mainland.

However, Mr CHAN's understanding is correct. The limitation of land is a major constraint to the development of the new BCP. For this reason, one of the approaches we have discussed is to provide immigration and custom facilities at separate locations in Hong Kong and the Mainland.

**MR TAM YIU-CHUNG** (in Cantonese): *Concerning the transport arrangement linking Hong Kong and the new BCP, inappropriate routing design may cause serious congestion in the New Territories. According to studies conducted by the Government in the past, there are three possible road alignments. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) has also conducted some studies on the draft planning, and it has formed the view that the option of running to the Fan Ling bypass is more desirable. May I ask the Government of its view on the option of the link road and the proposal of the DAB?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): In respect of infrastructure development, according to the data obtained and scientific studies conducted by us, the views of political parties are not a factor we will consider direct. However, the understanding of Mr TAM Yiu-chung is correct. In preparing this project, we have indeed considered a total of eight alignments for the road concerned, including the alignments on the eastern, central and western parts. However, as I said in the main reply to Mr CHEUNG Hok-ming's question, I cannot disclose in detail the road alignment selected. Yet I may share with Members which alignment is the most desirable and the factors considered by us. First, we have to consider the impact on the environment, for environmental protection is a great public concern today. Second, we have to consider the impact on land. For instance, the development may involve the resumption of a lot of private land, while the resumption of certain sites may not be possible. We have to consider these factors. Third, it is definitely about traffic. As Mr TAM said, will the road alignment create serious traffic congestion in a certain area? Fourth, it is about the impact on the local community. We also have to consider whether the proposed road alignment will create hurdles to the existing planning of the community concerned.

I hope that by the end of this year, when we have finalized the plan on the new BCP with the Shenzhen Municipal Government, we will explain to the Legislative Council and the people of Hong Kong the ideal alignment.

**MRS SOPHIE LEUNG** (in Cantonese): *My supplementary question is on the views of the Shenzhen Municipal Government. Since the Hong Kong Government and the Shenzhen Municipal Government started discussing this topic, has there been any major difference in opinion between both sides? Particularly in respect of macroeconomic development, as well as the release of land from the FCA and the formulation of the outline zoning plan, are there any areas on which the Shenzhen Municipal Government holds different views with us? Or that both Governments share similar views on the majority of issues?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): In respect of the new BCP, the work is indeed carried out by both Governments jointly. Therefore, the Shenzhen Municipal Government and the SAR Government basically share a common goal in optimizing the BCP, hoping to achieve the target of "East in, East out; West in, West out". I would say that we primarily hold similar views. The only difference is that our counterpart appears to be more anxious, for the new BCP will be connected to the Eastern Corridor in Shenzhen, whose construction works will soon commence and the completion date will be much earlier than that of the new BCP in Hong Kong. Therefore, we also hope that the SAR will grasp the schedule of work concerned with a view to shortening the construction time of the new BCP.

**MR DANIEL LAM** (in Cantonese): *In part (c) of the main reply, the Secretary mentioned that the second study planned to be launched in 2009 was the "Study on the Enhancement of the Sha Tau Kok Rural Township and Surrounding Areas". Will the Secretary inform this Council whether the study will examine the release of the STK rural township at Chung Ying Street, which is the wish of the residents there?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): The "Study on the Enhancement of the Sha Tau Kok Rural Township and Surrounding Areas" mentioned by me in the main reply purely relates to the improvement and enhancement of rural township environment. With regard to the concern raised by Mr LAM about the possibility of opening up Chung Ying Street at Sha Tau Kok Hui, it is included in a review on closed area led by the Security Bureau. Upon the completion of the review, the result will be announced. Though the closed area has been reduced significantly from 2 800 hectares to 400 hectares, the STK rural township will still be in the closed area for security reasons. However, from the point of view of the Development Bureau, despite being included in the closed area, the STK rural township and its surrounding areas have potential in conservation and tourism development, and we wish to enhance and release the area in some measure. This is the main purpose for launching the above-mentioned study by early next year.

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

**MR DANIEL LAM** (in Cantonese): *Yes, President. May I ask the Secretary whether she will relay our worries to the relevant departments, including the Security Bureau, so that they will refer to them in conducting the study?*

**PRESIDENT** (in Cantonese): This is not part of the supplementary question you asked earlier. You may make this request to the Secretary after the meeting.

We have spent 15 minutes on this question. Last supplementary question.

**MR CHAN KAM-LAM** (in Cantonese): *President, the Secretary said earlier that there had been a significant increase in traffic flow and passenger flow in the past few years. As round-the-clock operation is only carried out at the LMC BCP at present, may I know whether the Secretary will consider implementing round-the-clock operation at the new BCP?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): I strongly believe that is the point I mentioned earlier. In addition to the planning and implementation of infrastructure hardware, the co-ordination in software through policies adopted by Hong Kong and the Mainland will also be examined and followed up by the special task force.

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

### **Public Housing Blocks Without Lifts**

6. **MR LAU WONG-FAT** (in Cantonese): *Madam President, will the Government inform this Council:*

- (a) *of the current total number of public housing estate (PHE) blocks which do not have lifts installed, together with a table setting out the names of the PHEs where such housing blocks are situated, the age of such housing blocks and the number of units involved;*
- (b) *whether it will reconsider providing lifts in the PHE blocks which do not have lifts installed at present to facilitate the mobility of the elderly, disabled persons and other mobility-handicapped residents in PHEs; if so, of the details; if not, the reasons for that; and*
- (c) *whether the Government will, upon receipt of applications for transfer from the elderly, disabled persons and other mobility-handicapped residents who are currently living in PHE blocks without lifts, assist them in transferring to other housing blocks with lifts in the same PHEs or PHEs in the same district?*

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

- (a) At present, there are 32 public rental housing (PRH) blocks without lift services in the territory, all of which are located in 11 aged PRH estates and involved some 5 960 flats. These PRH estates are aged from 28 to 47 years. Details of these blocks are set out at the Annex.
- (b) The addition of lifts in completed PRH blocks involves complex engineering works and techniques. The major considerations include the loading requirement brought by the works towards the overall building structure, the identification of a suitable location and the impact of the works on the underground public utilities. The Hong Kong Housing Authority (HA) is actively exploring the feasibility of adding lifts in PRH blocks and has commenced lift addition works in individual buildings. For example, installation works in the west wing of Hing Wai House of Tai Hing Estate was completed in June 2008 and works in the east wing of the same building is scheduled for completion in December 2008. Besides,

the HA will consider the feasibility of installing lifts in these PRH blocks when implementing Total Maintenance Scheme and conducting comprehensive structural investigation on PRH estates aged over 40 years.

Apart from the installation of additional lifts, given that some existing aged public PRH blocks are not provided with lift services on every floor, the HA will retrofit an entrance on each floor when carrying out lift replacement programme subject to the structural condition of the building.

- (c) The HA is always concerned about the housing needs of the elderly and disabled persons. As such, the HA will take the initiative to offer them PRH flats which are more conveniently accessible and will also allocate larger flats to families with disabled persons with special needs.

Under the existing transfer policy, the HA has been accommodating to the needs of the elderly or disabled households as far as possible and make appropriate arrangements for them. If the PRH blocks are not provided with lift installation, or the blocks are situated at a higher level or with narrow passages that are causing inconvenience to the residents concerned, the HA will arrange transfers for them to flats in the same estate where lift services are provided, or to flats in other estates which are more conveniently accessible, subject to the availability of resources.

Annex

#### PRH Blocks Without Lift Installations

<i>PRH Estates</i>	<i>Year of Completion</i>	<i>Number of PRH Blocks Without Lifts</i>	<i>Number of Flats involved</i>
Choi Hung	1963-1964	3	1 336
Wo Lok	1962-1963	8	856
Ping Shek	1971	2	274
Shun On	1978	1	228
Pak Tin	1975-1978	4	953

<i>PRH Estates</i>	<i>Year of Completion</i>	<i>Number of PRH Blocks Without Lifts</i>	<i>Number of Flats involved</i>
Kwai Shing West	1976-1977	3	226
Fuk Loi	1963-1967	5	1 114
Lei Muk Shue	1975	2	177
Lek Yuen	1976	2	300
Tai Hing	1978	1	280
Shui Pin Wai	1981	1	215

**MR LAU WONG-FAT** (in Cantonese): *Madam President, in the past, the Housing Department (HD) refused to carry out retrofitting works for PHE blocks without lifts on the grounds of lacking a deep foundation. Will the Government inform this Council of the technology and criteria adopted by the HD in deciding the installation of additional lifts?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): *Madam President, the construction works and techniques involved in the addition of lifts in completed PRH blocks are considerably complicated. The major considerations include building structure, the possible increase in loading and the availability of suitable location for the construction of the lift tower, and so on.*

Moreover, the HD has to consider whether the works will involve the relocation of certain underground public utilities. In the course of examining and preparing for the installation of lifts, a decision should be made in accordance with two major principles, namely, making the best use of public money and cost-effectiveness. However, on the whole, we are more than willing to carry out improvement works or installation of additional lifts for PRH blocks, wherever it is technically feasible.

**DR FERNANDO CHEUNG** (in Cantonese): *According to the Secretary's reply, they are also deeply concerned about the elderly and people with disabilities. However, as shown in the Annex, nearly 6 000 units are not provided with direct lift access. Moreover, some old-type PHE blocks are not provided with lift*



*service on every floor, which means certain floors cannot be accessed by lift direct. According to the cases I have come across in the past, some elderly are living on those floors where direct lift access is unavailable. May I ask the Secretary whether there are statistics on the number of households with elderly persons or mobility-handicapped persons living in the 5 959 units concerned and those units with no direct lift access mentioned by me earlier? If there are, will she please provide the statistics? Besides, will she agree to relocating these households expeditiously to units on other floors where direct lift access is available?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Madam President, Dr Fernando CHEUNG asked earlier of the number of elderly persons now living in PRH blocks without lifts. As far as I know, the number of elderly concerned is around 8 000, while the number of persons with disabilities is around 260. We definitely hope that the installation of additional lifts can be completed as soon as possible, and we will contact the households concerned. We will address the issue with a number of approaches: First, if they want to continue to live in their existing units, we will provide assistance to them. For instance, some minor works, including the installation of flashing door bells or mail boxes with Braille markings, and so on, will be carried out to assist them. For those in genuine need, a flexible transfer scheme is already in place to cater for their needs, as I mentioned earlier. With the assistance from organizations like the Social Welfare Department or the Hospital Authority, the average waiting time for transfer will not be long, only around one month. Certainly, the best solution is to install lifts. At present, the HA will carry out works to improve lift access or install additional lifts at a speed of around 100 lifts each year generally. I believe good progress will be made in the next few years.

The various PHE blocks mentioned by me earlier are located in 11 PHE, and the plans to install additional lifts have been carried out in six of these estates. As for the remaining five PHEs, we are now conducting the engineering feasibility study on lift installation works. Besides, we have to consult the residents concerned. As the works will cause nuisance, proper consultation must be carried out. Once the consent of the residents is obtained,

the installation works will be completed within 30 to 36 months. Therefore, on the whole, we hope that we can help the residents concerned through the installation of additional lifts or the transfer scheme.

**MR LAU KONG-WAH** (in Cantonese): *Madam President, the Secretary has set out in the Annex the number of PHEs without lifts. I have just made a calculation and found that about 6 000 flats are involved. To these 6 000 families, the installation of additional lifts is definitely good news to them. The Secretary said earlier that the installation works would be completed in the next few years. Will the Secretary state clearly the number of years required? For a few years can mean five years, three years and even nine.*

*Moreover, will the Secretary tell us which estates cannot have additional lifts installed?*

**PRESIDENT** (in Cantonese): Secretary, Mr LAU has asked two supplementary questions. For the first supplementary question, I think you have indeed answered part of it earlier, so will you focus your reply on the second supplementary question.

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Alright. Madam President, according to the current engineering feasibility study, we do not find the installation works totally impracticable in any one of those blocks. Surely, we will continue with the works, but it all depends on the progress.

Concerning the previous question, actually, installation works are under way in six estates. As for the remaining five estates, engineering feasibility studies are ongoing. I cannot say exactly when the works will be completed now, for we have to consult the residents. Once the consultation with residents is completed, all the works will be completed within 30 to 36 months.

**MR WONG KWOK-HING** (in Cantonese): *Eleven estates are included in the Annex provided by the Government, and one of the estates, Fuk Loi Estate, has been granted the funds by the HA for the installation of lifts. Yesterday, I visited the estate and saw that site investigation was underway. I would like to express my gratitude for this.*

*May I ask the Secretary via the President for the timetable of lift installation for Kwai Shing West Estate and Lei Muk Shue Estate?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Madam President, according to the information at hand, the installation works in Lei Muk Shue Estate should be able to complete in 2011. As for the other estate, I believe a feasibility study is now underway.

**MR TAM YIU-CHUNG** (in Cantonese): *Madam President, some residents may encounter difficulties due to their health conditions in living in blocks without lifts. They will apply for transfer and the HD will assist them. However, if they are allowed to transfer, they have to move, that means they have to bear the cost of moving. But these residents may not have any income and may even be in hardship. If such is the case, will the HD grant them an allowance to help them overcome the difficulties in removal?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Madam President, it depends on the situation of individual cases. The HD or, I believe, the Social Welfare Department mainly can offer the assistance.

**MR DANIEL LAM** (in Cantonese): *Will the Secretary inform this Council whether the authorities will consider demolishing those estates where the installation of lifts is not feasible, so as to improve the standard of living of the residents there?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Madam President, at present, comprehensive structural investigations for some aged

PRH blocks, particularly those over 40 years, are being carried out in succession. A host of factors, including the cost-effectiveness, have to be considered in deciding whether certain estates should be demolished. As I said earlier, we are now conducting some engineering feasibility studies, and so far, lift installation has not been found totally impracticable in any one of the blocks concerned. We will examine the progress of work latter and consider the case of each block carefully.

Another consideration is that many residents want to live in the same estate because of the social network established or that their family members also live in the same estate. This is one of the factors for consideration. Take the views we have collected recently from the residents of certain estates as an example. We learn that they prefer the Government spending money on strengthening works or other renovation works for the estates, but they do not want to see their estates being demolished or redeveloped. For they consider the latter arrangement will cause them great nuisance and they have to make significant adjustments. Therefore, we will consider the issue in a holistic manner before making a decision.

**DR KWOK KA-KI** (in Cantonese): *I would like to ask the Secretary about part (c) of the main reply, for she said that the housing needs of the elderly and persons with disabilities would be considered in allocating PRH flats. However, most of the estates without lifts have been occupied for years actually. My supplementary question is: Has the HD or the HA conducted regular consultations or investigations to identify the number of elderly or persons with disabilities who need to be transferred or provided with flats accessible by lifts? What are the latest figures? What percentage do those flats account for?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Madam President, according to my understanding, Dr KWOK Ka-ki's question is about whether we have contacted those persons. Am I right? The HD contacts them constantly, but I do not have the figures indicating the number of months between each contact. When the residents have such needs, they will usually express their needs to us. As I said earlier, a transfer scheme with great flexibility has been put in place. If they can provide sufficient justification, we will only need about a month on average to process their application.

**MR ALAN LEONG** (in Cantonese): *The Secretary may also know that the study on the installation of lifts for Ping Shek Estate has been underway for quite some time. Will the Secretary tell us when the lift installation works for Ping Shek Estate will be completed?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Madam President, the engineering feasibility study concerned is still underway. As I said earlier, upon the completion of the relevant study and after consulting the residents concerned, the installation works will be completed in 30 to 36 months. We know precisely the progress of work at the site, and we are now working on the feasibility study.

**MR CHAN KAM-LAM** (in Cantonese): *President, we have to thank the Government for agreeing to install lifts for blocks without lifts in old areas. May I know whether the Government has considered the issue in a holistic manner? As the lift installation works for many blocks without lifts, such as those in Wo Lok Estate completed between 1961 and 1963, will not be completed until 2011 and 2012, those blocks will reach 50 years of age by then. President, according to the computation method adopted by the HA, only blocks with a service life of another 15 years will be installed with lifts. Has the Secretary ever thought that those blocks may be in poor condition by then, and whether those blocks can really remain in good shape for 60 or 65 years?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Madam President, as I have explained earlier, the HA has put in place a comprehensive structural investigation scheme for PHE blocks. For blocks aged over 40 years, a series of works, including strengthening and renovation works, will be carried out after the completion of site investigations. We may also introduced improvement works in the estate concerned, such as building footbridges or escalators. Therefore, on the whole, we wish to provide residents with a good living environment where they can continue to live happily.

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

**MISS CHOY SO-YUK** (in Cantonese): *Madam President, at present, households with elderly members will be allocated PRH flats in the urban area. Actually, lift access is not provided on every floor in many PRH estates in the urban area, such as Hing Wah Estate and even Lai Tak Estate of the Hong Kong Housing Society. In part (b) of the main reply, the Secretary said that the installation of lifts in these estates would be considered collectively. Will the Government consider according priority to retrofitting an opening on each floor of estate blocks in the urban area not provided with lift access on every floor? For the majority of flats in those estates are allocated to elderly persons.*

**PRESIDENT** (in Cantonese): Miss CHOY So-yuk, when the Secretary answered the main question and the supplementary questions of a number of Members earlier, were you in the Chamber?

**MISS CHOY SO-YUK** (in Cantonese): *Yes, Madam President, I was.*

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

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Madam President, as I explained earlier, a plan has already been put in place. At present, there are 11 estates not provided with lift services, and lift installation works are in progress in six of these estates. As for the remaining five estates, once the engineering feasibility studies are completed and after consulting the residents, the installation works will be completed within 30 to 36 months. Miss CHOY So-yuk mentioned the application for PRH flats by the elderly earlier, and I think she may be referring to the Special Scheme for Families with Elderly Persons. She is right, we have extended the scheme to estates in the urban area, but it all depends on the number of applications received. The quota of this scheme is capped at 1 000. The Scheme is quite popular and we will continue to implement it.

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

## WRITTEN ANSWERS TO QUESTIONS

## Employment Statistics of Selected Trades and Occupations

7. MR LEE CHEUK-YAN (in Chinese): *President, regarding the employment statistics compiled by the Census and Statistics Department, will the Government provide the statistics, in each of the past three years, on the number of employed persons and their average hours of work during the seven days before enumeration, broken down by industry group and occupation (please provide the statistics using the tables below)?*

(a) *By industry group:*

Industry group	Gender	Number of employed persons ('000)					Average hours of work during the seven days before enumeration (Hours)
		Hours of work during the seven days before enumeration (Hours)					
		Less than 35	35 to 48	49 to 60	Over 60	Sub-total	
Clothing and footwear	Male						
	Female						
	Both sexes						
Other manufacturing industries	Male						
	Female						
	Both sexes						
Foundation and superstructure	Male						
	Female						
	Both sexes						
Decoration and maintenance	Male						
	Female						
	Both sexes						
Wholesale trades	Male						
	Female						
	Both sexes						
Retail trades	Male						
	Female						
	Both sexes						
Import/export trades	Male						
	Female						
	Both sexes						

<i>Industry group</i>	<i>Gender</i>	<i>Number of employed persons ('000)</i>					<i>Average hours of work during the seven days before enumeration (Hours)</i>
		<i>Hours of work during the seven days before enumeration (Hours)</i>					
		<i>Less than 35</i>	<i>35 to 48</i>	<i>49 to 60</i>	<i>Over 60</i>	<i>Sub-total</i>	
<i>Restaurants/Hotels</i>	<i>Male</i>						
	<i>Female</i>						
	<i>Both sexes</i>						
<i>Transport and storage</i>	<i>Male</i>						
	<i>Female</i>						
	<i>Both sexes</i>						
<i>Communications</i>	<i>Male</i>						
	<i>Female</i>						
	<i>Both sexes</i>						
<i>Financing</i>	<i>Male</i>						
	<i>Female</i>						
	<i>Both sexes</i>						
<i>Insurance</i>	<i>Male</i>						
	<i>Female</i>						
	<i>Both sexes</i>						
<i>Real estate</i>	<i>Male</i>						
	<i>Female</i>						
	<i>Both sexes</i>						
<i>Business services</i>	<i>Male</i>						
	<i>Female</i>						
	<i>Both sexes</i>						
<i>Public administration</i>	<i>Male</i>						
	<i>Female</i>						
	<i>Both sexes</i>						
<i>Education, medical and other health services</i>	<i>Male</i>						
	<i>Female</i>						
	<i>Both sexes</i>						
<i>Welfare and community services</i>	<i>Male</i>						
	<i>Female</i>						
	<i>Both sexes</i>						
<i>Other services</i>	<i>Male</i>						
	<i>Female</i>						
	<i>Both sexes</i>						



Industry group	Gender	Number of employed persons ('000)					Average hours of work during the seven days before enumeration (Hours)
		Hours of work during the seven days before enumeration (Hours)					
		Less than 35	35 to 48	49 to 60	Over 60	Sub-total	
Other industries	Male						
	Female						
	Both sexes						
Total	Male						
	Female						
	Both sexes						

(b) *By occupation:*

Occupation	Gender	Number of employed persons ('000)					Average hours of work during the seven days before enumeration (Hours)
		Hours of work during the seven days before enumeration (Hours)					
		Less than 35	35 to 48	49 to 60	Over 60	Sub-total	
Managers and administrators	Male						
	Female						
	Both sexes						
Professionals	Male						
	Female						
	Both sexes						
Associate professionals	Male						
	Female						
	Both sexes						
Clerks	Male						
	Female						
	Both sexes						
Service workers and shop sales workers	Male						
	Female						
	Both sexes						
Craft and related workers	Male						
	Female						
	Both sexes						

Occupation	Gender	Number of employed persons ('000)					Average hours of work during the seven days before enumeration (Hours)
		Hours of work during the seven days before enumeration (Hours)					
		Less than 35	35 to 48	49 to 60	Over 60	Sub-total	
Plant and machine operators and assemblers	Male						
	Female						
	Both sexes						
Elementary occupations (i) including foreign domestic helpers	Male						
	Female						
	Both sexes						
(ii) excluding foreign domestic helpers	Male						
	Female						
	Both sexes						
Other occupations	Male						
	Female						
	Both sexes						
Total (i) including foreign domestic helpers	Male						
	Female						
	Both sexes						
(ii) excluding foreign domestic helpers	Male						
	Female						
	Both sexes						

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Chinese): President, according to the findings of the General Household Survey conducted by the Census and Statistics Department, the number of employed persons (in thousand) by sex and hours of work during the seven days before enumeration, and their average hours of work during the seven days before enumeration broken down by industry group and occupation respectively for years 2005 to 2007 are provided in Table 1 and Table 2 as follows:

Table 1

Year 2005

Industry group	Sex	<i>Employed persons ('000)</i>					<i>Average hours of work during the seven days before enumeration</i>
		<i>Hours of work during the seven days before enumeration</i>					
		<i>Less than 35</i>	<i>35-48</i>	<i>49-60</i>	<i>Over 60</i>	<i>Total</i>	
Clothing and footwear	Male	1.8	13.2	8.4	2.8	26.2	49
	Female	4.9	16.0	5.7	1.4	28.0	43
	Both sexes	6.7	29.2	14.1	4.2	54.2	46
Other manufacturing industries	Male	8.8	62.4	40.0	9.2	120.4	48
	Female	6.4	30.9	10.1	1.6	48.9	43
	Both sexes	15.2	93.3	50.1	10.8	169.3	47
Foundation and superstructure	Male	31.5	97.4	45.5	7.0	181.3	44
	Female	2.4	9.5	3.1	*	15.3	42
	Both sexes	33.9	106.9	48.6	7.3	196.7	43
Decoration and maintenance	Male	16.9	33.4	10.5	1.8	62.6	40
	Female	0.6	2.2	0.8	*	3.7	42
	Both sexes	17.5	35.6	11.3	1.8	66.3	40
Wholesale trades	Male	2.8	19.2	12.1	3.9	38.0	48
	Female	3.1	12.0	4.1	1.1	20.3	43
	Both sexes	5.9	31.2	16.2	5.0	58.3	46
Retail trades	Male	8.4	34.9	47.1	29.9	120.2	54
	Female	24.8	52.2	62.9	19.6	159.5	48
	Both sexes	33.2	87.1	110.0	49.5	279.8	51
Import/export trades	Male	17.0	153.9	81.0	13.6	265.5	46
	Female	26.2	166.3	53.2	4.9	250.6	43
	Both sexes	43.2	320.2	134.2	18.5	516.1	45
Restaurants/Hotels	Male	8.8	20.2	59.1	35.4	123.4	56
	Female	17.2	29.7	50.5	19.1	116.4	50
	Both sexes	26.0	49.8	109.6	54.5	239.9	53
Transport/Storage	Male	25.2	99.1	84.9	34.8	244.0	50
	Female	11.8	35.9	14.2	3.2	65.1	42
	Both sexes	36.9	135.1	99.2	38.0	309.2	48
Communications	Male	2.6	20.2	9.2	1.5	33.5	45
	Female	1.9	9.0	2.4	*	13.7	42
	Both sexes	4.6	29.2	11.6	1.8	47.2	44

Industry group	Sex	Employed persons ('000)					Average hours of work during the seven days before enumeration
		Hours of work during the seven days before enumeration					
		Less than 35	35-48	49-60	Over 60	Total	
Financing	Male	5.0	34.9	22.0	2.8	64.8	45
	Female	7.2	40.5	19.8	1.5	69.0	44
	Both sexes	12.2	75.4	41.8	4.3	133.8	44
Insurance	Male	1.6	10.5	5.3	0.9	18.4	45
	Female	2.7	17.0	6.1	0.7	26.5	43
	Both sexes	4.3	27.5	11.4	1.6	44.9	44
Real estate	Male	3.7	33.0	20.6	28.8	86.1	55
	Female	3.3	19.0	7.6	4.6	34.5	47
	Both sexes	7.0	52.1	28.2	33.4	120.7	53
Business services	Male	10.4	68.9	32.3	18.7	130.4	48
	Female	9.5	44.7	16.8	4.8	75.9	44
	Both sexes	19.9	113.6	49.2	23.5	206.3	46
Public administration	Male	7.6	57.9	10.9	2.5	78.9	43
	Female	5.5	30.6	3.4	*	39.7	40
	Both sexes	13.1	88.5	14.3	2.6	118.6	42
Education/Medical	Male	14.5	49.1	18.7	5.6	87.8	42
	Female	30.9	98.5	28.3	3.6	161.3	40
	Both sexes	45.4	147.6	47.0	9.2	249.2	41
Welfare and community services	Male	3.1	14.0	4.2	3.3	24.6	46
	Female	7.8	32.7	8.7	4.1	53.2	43
	Both sexes	10.9	46.7	12.8	7.4	77.8	44
Other services	Male	16.4	36.8	33.4	11.6	98.2	46
	Female	43.4	55.5	171.4	59.8	330.2	53
	Both sexes	59.9	92.4	204.8	71.4	428.5	51
Other industries	Male	2.2	11.1	4.4	1.3	19.0	45
	Female	0.7	3.0	1.1	*	5.2	44
	Both sexes	2.9	14.1	5.5	1.7	24.2	45
Total	Male	188.4	870.2	549.8	215.2	1,823.6	48
	Female	210.4	705.3	470.2	131.4	1,517.2	46
	Both sexes	398.8	1,575.4	1,020.0	346.6	3,340.8	47

Notes : \* Figures are compiled based on a small number of observations and not released owing to large sampling error.

Figures may not add up to the totals owing to rounding.

Year 2006

Industry group	Sex	Employed persons ('000)					Average hours of work during the seven days before enumeration
		Hours of work during the seven days before enumeration					
		Less than 35	35-48	49-60	Over 60	Total	
Clothing and footwear	Male	1.9	12.6	6.9	2.3	23.8	48
	Female	5.5	15.4	5.4	0.9	27.2	42
	Both sexes	7.5	28.0	12.3	3.2	51.0	44
Other manufacturing industries	Male	9.9	60.9	35.8	9.2	115.8	47
	Female	8.1	29.9	9.7	2.0	49.7	43
	Both sexes	18.0	90.8	45.5	11.2	165.5	46
Foundation and superstructure	Male	35.5	102.6	44.1	6.9	189.1	43
	Female	2.7	9.3	2.9	*	15.3	42
	Both sexes	38.3	111.9	47.0	7.3	204.4	43
Decoration and maintenance	Male	17.0	33.0	9.2	1.7	60.9	39
	Female	0.8	2.2	0.7	*	3.8	41
	Both sexes	17.8	35.2	9.9	1.8	64.7	40
Wholesale trades	Male	3.5	18.9	11.1	3.7	37.2	47
	Female	2.8	10.8	4.8	0.8	19.1	44
	Both sexes	6.3	29.7	15.8	4.4	56.3	46
Retail trades	Male	9.5	36.3	46.6	27.9	120.3	54
	Female	26.8	57.8	61.1	17.9	163.5	47
	Both sexes	36.4	94.0	107.7	45.7	283.8	50
Import/export trades	Male	24.9	157.5	71.3	11.2	264.9	45
	Female	32.2	174.6	48.3	5.9	260.9	42
	Both sexes	57.2	332.0	119.6	17.1	525.9	44
Restaurants/Hotels	Male	10.8	21.6	58.9	33.7	125.0	55
	Female	17.6	31.3	50.7	17.3	117.0	50
	Both sexes	28.4	52.9	109.6	51.0	242.0	53
Transport/Storage	Male	24.6	104.1	85.0	34.6	248.4	49
	Female	12.2	40.9	13.3	2.4	68.8	42
	Both sexes	36.8	145.1	98.3	37.0	317.2	48
Communications	Male	3.9	22.2	8.9	1.5	36.6	45
	Female	2.0	9.4	2.9	*	14.6	42
	Both sexes	6.0	31.6	11.8	1.8	51.2	44
Financing	Male	7.0	40.3	21.4	3.0	71.7	45
	Female	9.6	39.9	20.4	1.5	71.4	43
	Both sexes	16.6	80.1	41.8	4.5	143.0	44

Industry group	Sex	Employed persons ('000)					Average hours of work during the seven days before enumeration
		Hours of work during the seven days before enumeration					
		Less than 35	35-48	49-60	Over 60	Total	
Insurance	Male	1.6	10.3	4.9	0.7	17.5	45
	Female	3.4	16.1	4.6	*	24.4	42
	Both sexes	5.0	26.4	9.4	1.0	41.9	43
Real estate	Male	5.7	31.4	19.9	29.0	86.0	54
	Female	4.5	22.1	8.4	6.0	40.9	47
	Both sexes	10.1	53.5	28.3	35.0	126.9	52
Business services	Male	13.1	71.6	30.3	19.4	134.4	47
	Female	11.6	50.7	16.5	3.9	82.7	43
	Both sexes	24.7	122.3	46.8	23.3	217.1	45
Public administration	Male	8.1	60.2	11.1	2.2	81.7	43
	Female	6.9	32.5	3.6	*	43.4	40
	Both sexes	15.0	92.7	14.8	2.6	125.1	42
Education/Medical	Male	14.1	48.4	19.3	4.7	86.5	42
	Female	36.0	101.0	30.0	4.0	171.1	40
	Both sexes	50.1	149.4	49.4	8.7	257.6	41
Welfare and community services	Male	3.4	13.3	4.6	3.6	24.8	46
	Female	10.4	30.5	8.0	4.1	53.0	42
	Both sexes	13.8	43.8	12.6	7.7	77.9	43
Other services	Male	17.0	38.4	34.3	11.3	101.2	46
	Female	43.5	60.5	169.7	60.9	334.7	52
	Both sexes	60.6	98.9	204.1	72.3	435.8	51
Other industries	Male	2.2	10.5	3.8	1.1	17.6	44
	Female	1.1	2.6	1.1	*	5.3	43
	Both sexes	3.3	13.2	4.9	1.6	22.9	44
Total	Male	214.1	894.2	527.4	207.7	1,843.4	47
	Female	237.7	737.5	462.0	129.5	1,566.8	45
	Both sexes	451.8	1,631.7	989.5	337.2	3,410.2	46

Notes : \* Figures are compiled based on a small number of observations and not released owing to large sampling error.

Figures may not add up to the totals owing to rounding.

Year 2007

Industry group	Sex	Employed persons ('000)					Average hours of work during the seven days before enumeration
		Hours of work during the seven days before enumeration					
		Less than 35	35-48	49-60	Over 60	Total	
Clothing and footwear	Male	0.9	11.0	6.5	2.1	20.4	49
	Female	4.2	15.7	4.5	1.3	25.6	43
	Both sexes	5.0	26.7	10.9	3.4	46.1	46
Other manufacturing industries	Male	7.3	61.2	36.4	6.4	111.3	48
	Female	7.9	28.2	9.4	1.2	46.7	42
	Both sexes	15.2	89.4	45.8	7.6	158.0	46
Foundation and superstructure	Male	31.3	108.7	46.8	6.4	193.3	44
	Female	2.3	10.0	3.7	*	16.3	43
	Both sexes	33.6	118.7	50.6	6.7	209.6	44
Decoration and maintenance	Male	13.8	38.1	10.3	1.8	64.0	41
	Female	0.7	2.4	0.8	*	4.1	42
	Both sexes	14.5	40.5	11.1	1.9	68.0	41
Wholesale trades	Male	2.6	17.3	11.4	3.1	34.3	48
	Female	2.8	9.9	3.9	0.5	17.1	43
	Both sexes	5.4	27.2	15.3	3.6	51.5	47
Retail trades	Male	7.9	37.4	48.9	26.0	120.2	54
	Female	27.0	57.2	67.8	17.1	169.0	48
	Both sexes	34.9	94.7	116.6	43.0	289.2	50
Import/export trades	Male	20.5	169.0	74.9	11.4	275.7	46
	Female	30.1	183.0	53.8	3.9	270.9	43
	Both sexes	50.6	352.0	128.7	15.3	546.6	44
Restaurants/Hotels	Male	9.4	24.8	64.2	35.1	133.5	56
	Female	19.2	35.1	53.5	18.6	126.4	50
	Both sexes	28.7	59.9	117.7	53.8	260.0	53
Transport/Storage	Male	26.0	101.3	90.4	35.4	253.1	50
	Female	13.4	40.8	14.2	2.4	70.8	42
	Both sexes	39.4	142.0	104.6	37.8	323.9	48
Communications	Male	2.9	20.8	9.7	1.6	34.9	46
	Female	2.0	9.4	2.8	*	14.6	42
	Both sexes	4.9	30.2	12.6	1.9	49.5	45
Financing	Male	6.5	42.0	21.4	2.5	72.4	44
	Female	7.7	48.3	18.6	1.1	75.7	43
	Both sexes	14.2	90.2	40.1	3.6	148.1	44

Industry group	Sex	Employed persons ('000)					Average hours of work during the seven days before enumeration
		Hours of work during the seven days before enumeration					
		Less than 35	35-48	49-60	Over 60	Total	
Insurance	Male	1.7	10.6	4.6	0.7	17.6	45
	Female	3.7	16.9	3.8	*	24.9	41
	Both sexes	5.4	27.5	8.4	1.2	42.5	43
Real estate	Male	4.6	33.1	19.1	28.3	85.1	54
	Female	3.2	23.4	9.3	4.6	40.5	47
	Both sexes	7.8	56.5	28.4	32.9	125.6	52
Business services	Male	11.6	79.8	33.0	19.3	143.7	47
	Female	11.2	53.4	18.4	4.7	87.7	43
	Both sexes	22.8	133.3	51.4	24.0	231.4	46
Public administration	Male	7.2	60.4	10.1	1.4	79.0	43
	Female	5.2	33.2	2.9	*	41.5	41
	Both sexes	12.3	93.6	13.0	1.6	120.5	42
Education/Medical	Male	12.6	51.8	19.2	4.9	88.6	43
	Female	31.6	103.3	31.1	3.6	169.6	40
	Both sexes	44.1	155.1	50.4	8.6	258.2	41
Welfare and community services	Male	2.8	15.3	4.1	3.4	25.7	46
	Female	8.1	34.0	8.5	3.8	54.5	43
	Both sexes	10.9	49.4	12.7	7.2	80.1	44
Other services	Male	17.3	42.1	35.9	10.3	105.6	46
	Female	44.6	66.7	185.9	61.5	358.7	52
	Both sexes	61.9	108.9	221.8	71.8	464.3	51
Other industries	Male	1.9	10.9	3.3	0.8	16.9	44
	Female	0.8	3.0	1.0	*	5.0	43
	Both sexes	2.7	13.9	4.3	1.0	21.9	44
Total	Male	188.6	935.6	550.3	200.8	1,875.3	47
	Female	225.7	774.1	493.8	126.1	1,619.7	46
	Both sexes	414.3	1,709.7	1,044.1	326.9	3,495.0	47

Notes : \* Figures are compiled based on a small number of observations and not released owing to large sampling error.

Figures may not add up to the totals owing to rounding.



Table 2

Year 2005

Occupation	Sex	Employed persons ('000)					Average hours of work during the seven days before enumeration
		Hours of work during the seven days before enumeration					
		Less than 35	35-48	49-60	Over 60	Total	
Managers and administrators	Male	14.7	108.4	84.1	23.4	230.6	48
	Female	7.8	42.5	27.9	6.1	84.3	46
	Both sexes	22.5	151.0	112.0	29.4	314.8	48
Professionals	Male	16.4	82.8	43.9	9.4	152.5	45
	Female	11.9	41.4	21.1	3.3	77.7	42
	Both sexes	28.3	124.2	65.0	12.7	230.2	44
Associate professionals	Male	32.3	197.0	103.3	22.0	354.6	46
	Female	38.9	151.6	63.2	8.7	262.5	42
	Both sexes	71.1	348.6	166.5	30.7	617.0	44
Clerks	Male	12.2	94.8	31.4	5.8	144.2	45
	Female	48.9	268.9	72.6	9.4	399.8	43
	Both sexes	61.1	363.7	104.0	15.2	544.0	43
Service workers and shop sales workers	Male	21.9	74.4	101.3	57.6	255.2	53
	Female	46.2	84.1	104.1	35.4	269.7	48
	Both sexes	68.0	158.5	205.4	93.0	524.9	50
Craft and related workers	Male	43.0	144.3	57.9	10.3	255.4	44
	Female	1.5	5.9	1.9	0.7	10.0	44
	Both sexes	44.5	150.2	59.8	10.9	265.4	44
Plant and machine operators and assemblers	Male	18.1	72.3	76.6	34.1	201.1	51
	Female	4.1	14.1	4.1	0.9	23.2	43
	Both sexes	22.2	86.4	80.6	35.0	224.3	50
Elementary occupations							
(i) including foreign domestic helpers	Male	29.0	94.4	49.6	51.8	224.8	50
	Female	51.0	95.6	174.6	66.5	387.6	52
	Both sexes	79.9	190.0	224.2	118.3	612.4	51
(ii) excluding foreign domestic helpers	Male	29.0	94.1	48.5	51.5	223.1	50
	Female	50.1	85.8	44.3	16.8	196.9	42
	Both sexes	79.0	179.9	92.7	68.3	420.0	46

Occupation	Sex	Employed persons ('000)					Average hours of work during the seven days before enumeration
		Hours of work during the seven days before enumeration					
		Less than 35	35-48	49-60	Over 60	Total	
Other occupations	Male	0.8	1.8	1.8	0.9	5.3	48
	Female	*	1.0	0.7	*	2.5	48
	Both sexes	1.2	2.8	2.5	1.3	7.8	48
Total (i) including foreign domestic helpers	Male	188.4	870.2	549.8	215.2	1,823.6	48
	Female	210.4	705.3	470.2	131.4	1,517.2	46
	Both sexes	398.8	1,575.4	1,020.0	346.6	3,340.8	47
(ii) excluding foreign domestic helpers	Male	188.4	869.9	548.2	214.7	1,821.2	48
	Female	209.5	695.0	335.2	79.4	1,319.3	44
	Both sexes	397.9	1,564.9	883.5	294.1	3,140.4	46

Notes : \* Figures are compiled based on a small number of observations and not released owing to large sampling error.

Figures may not add up to the totals owing to rounding.

### Year 2006

Occupation	Sex	Employed persons ('000)					Average hours of work during the seven days before enumeration
		Hours of work during the seven days before enumeration					
		Less than 35	35-48	49-60	Over 60	Total	
Managers and administrators	Male	21.1	117.2	81.5	23.3	243.1	47
	Female	9.5	51.1	33.4	7.2	101.2	46
	Both sexes	30.6	168.4	114.9	30.5	344.3	47
Professionals	Male	17.8	82.8	41.6	7.8	149.9	44
	Female	14.1	45.8	22.2	3.0	85.1	42
	Both sexes	31.9	128.6	63.8	10.8	235.0	43
Associate professionals	Male	40.4	208.6	96.0	20.6	365.5	45
	Female	46.9	171.9	63.2	10.2	292.2	42
	Both sexes	87.3	380.5	159.2	30.8	657.7	44
Clerks	Male	15.5	92.3	30.1	4.4	142.3	44
	Female	57.9	259.8	65.1	6.9	389.8	42
	Both sexes	73.4	352.0	95.3	11.4	532.0	42

Occupation	Sex	Employed persons ('000)					Average hours of work during the seven days before enumeration
		Hours of work during the seven days before enumeration					
		Less than 35	35-48	49-60	Over 60	Total	
Service workers and shop sales workers	Male	23.8	78.7	96.8	51.9	251.2	52
	Female	48.7	85.0	97.7	31.7	263.1	47
	Both sexes	72.5	163.7	194.5	83.6	514.3	49
Craft and related workers	Male	44.5	144.1	52.7	8.8	250.1	43
	Female	1.2	5.2	2.1	0.6	9.1	45
	Both sexes	45.7	149.4	54.7	9.4	259.2	43
Plant and machine operators and assemblers	Male	17.1	74.0	75.3	34.4	200.7	51
	Female	4.7	13.0	3.0	0.7	21.5	41
	Both sexes	21.8	87.0	78.3	35.1	222.1	50
Elementary occupations (i) including foreign domestic helpers	Male	33.0	95.1	52.4	55.5	236.0	49
	Female	54.1	105.0	174.7	68.7	402.5	51
	Both sexes	87.1	200.1	227.0	124.2	638.4	51
(ii) excluding foreign domestic helpers	Male	32.9	95.0	51.2	55.2	234.3	49
	Female	53.4	92.4	42.5	16.9	205.2	42
	Both sexes	86.3	187.4	93.7	72.1	439.5	46
Other occupations	Male	1.0	1.4	1.2	1.1	4.6	46
	Female	0.6	0.8	0.5	*	2.4	44
	Both sexes	1.6	2.2	1.7	1.5	7.0	46
Total (i) including foreign domestic helpers	Male	214.1	894.2	527.4	207.7	1,843.4	47
	Female	237.7	737.5	462.0	129.5	1,566.8	45
	Both sexes	451.8	1,631.7	989.5	337.2	3,410.2	46
(ii) excluding foreign domestic helpers	Male	213.9	894.1	525.8	207.2	1,841.0	47
	Female	237.0	724.8	326.2	76.3	1,364.2	43
	Both sexes	451.0	1,618.8	852.0	283.5	3,205.2	45

Notes : \* Figures are compiled based on a small number of observations and not released owing to large sampling error.

Figures may not add up to the totals owing to rounding.

Year 2007

Occupation	Sex	Employed persons ('000)					Average hours of work during the seven days before enumeration
		Hours of work during the seven days before enumeration					
		Less than 35	35-48	49-60	Over 60	Total	
Managers and administrators	Male	16.9	123.3	84.6	22.2	247.0	48
	Female	9.8	55.3	32.5	6.1	103.8	45
	Both sexes	26.7	178.7	117.1	28.3	350.8	47
Professionals	Male	16.1	87.2	40.1	8.1	151.5	44
	Female	13.5	48.5	22.1	3.2	87.3	42
	Both sexes	29.6	135.7	62.2	11.3	238.8	43
Associate professionals	Male	34.5	223.9	99.4	20.8	378.6	45
	Female	40.9	173.8	69.2	7.7	291.6	42
	Both sexes	75.4	397.7	168.6	28.5	670.2	44
Clerks	Male	13.8	97.9	32.9	3.8	148.4	44
	Female	50.4	275.2	67.0	6.4	399.1	42
	Both sexes	64.3	373.0	100.0	10.2	547.5	43
Service workers and shop sales workers	Male	21.2	79.8	103.0	50.3	254.3	52
	Female	53.5	89.9	107.7	32.0	283.1	47
	Both sexes	74.6	169.7	210.7	82.3	537.4	49
Craft and related workers	Male	37.9	152.0	58.0	7.5	255.3	44
	Female	1.3	6.2	2.4	*	10.3	45
	Both sexes	39.2	158.1	60.4	7.9	265.6	44
Plant and machine operators and assemblers	Male	16.6	70.7	77.2	33.6	198.0	52
	Female	3.9	11.8	3.4	1.5	20.7	43
	Both sexes	20.5	82.5	80.6	35.1	218.7	51
Elementary occupations							
(i) including foreign domestic helpers	Male	31.1	99.4	54.1	53.8	238.5	49
	Female	52.1	112.6	189.0	68.5	422.2	52
	Both sexes	83.3	212.0	243.1	122.4	660.7	51
(ii) excluding foreign domestic helpers	Male	31.1	99.3	53.4	53.4	237.2	49
	Female	51.4	96.8	44.2	16.3	208.6	42
	Both sexes	82.5	196.0	97.6	69.7	445.8	46
Other occupations	Male	0.5	1.5	1.0	0.6	3.6	46
	Female	*	0.7	0.5	*	1.7	49
	Both sexes	0.8	2.2	1.5	0.8	5.3	47

Occupation	Sex	Employed persons ('000)					Average hours of work during the seven days before enumeration
		Hours of work during the seven days before enumeration					
		Less than 35	35-48	49-60	Over 60	Total	
Total							
(i) including foreign domestic helpers	Male	188.6	935.6	550.3	200.8	1,875.3	47
	Female	225.7	774.1	493.8	126.1	1,619.7	46
	Both sexes	414.3	1,709.7	1,044.1	326.9	3,495.0	47
(ii) excluding foreign domestic helpers	Male	188.6	935.4	549.1	200.1	1,873.2	47
	Female	224.9	757.8	344.2	71.9	1,398.8	43
	Both sexes	413.4	1,693.2	893.3	272.1	3,272.0	46

Notes : \* Figures are compiled based on a small number of observations and not released owing to large sampling error.

Figures may not add up to the totals owing to rounding.

### Contract Staff of Institutions Funded by UGC

8. **MR CHEUNG MAN-KWONG** (in Chinese): *President, will the Government inform this Council if it knows:*

- (a) *the number of staff employed on fixed-term contracts (FTC) by each University Grants Committee (UGC)-funded institution in each of the past three years and, among them, the respective numbers of those who had been employed on fixed-term contracts for more than six years;*
- (b) *among the serving FTC staff of each UGC-funded institution, the highest number of contract renewals granted (together with the number of years for which the relevant staff have been employed) and the longest duration of employment (together with the number of contract renewals granted to the relevant staff);*
- (c) *whether UGC-funded institutions have established a mechanism whereby FTC staff may be offered substantive appointment after they have been employed for a certain number of years or have been granted a certain number of contract renewals; if there are such mechanisms, of the details; if not, the reasons for that;*

- (d) *whether UGC-funded institutions have set any limit on the proportion of FTC staff who may be offered substantive appointment; if so, of the proportion;*
- (e) *whether UGC-funded institutions have set a ratio of substantive staff to FTC staff; if so, of the ratio; if not, the reasons for that; and*
- (f) *whether UGC has formulated guidelines stipulating the ratio of substantive staff to FTC staff in UGC-funded institutions and that FTC staff may be offered substantive appointment after they have been employed for a certain number of years or they have been granted a certain number of contract renewals; if it has, of the details of the guidelines; if not, the reasons for that?*

**SECRETARY FOR EDUCATION (in Chinese):** President,

- (a) Based on information provided by the UGC-funded institutions, the number of staff employed on FTC by the institutions in each of the past three years and, among them, the respective numbers of those who had been employed for more than six years, are set out at Annex A.
- (b) Based on information provided by the UGC-funded institutions, among the serving FTC staff of each institution, the highest number of contract renewals granted and the longest duration of employment, are set out at Annex B.
- (c) According to information provided by the UGC-funded institutions, all institutions have established a mechanism whereby FTC staff may be offered substantive appointment after they have been employed for a certain number of years or have been granted a certain number of contract renewals<sup>1</sup>. In considering such applications, institutions normally take into account staff performance, their pay levels, manpower needs and financial situation of the institutions.

<sup>1</sup> This arrangement is not applicable to non-academic staff employed by the Hong Kong University of Science and Technology since March 1999 due to the financial situation and developmental needs of the University.

- (d) According to information provided by the institutions, except for the Lingnan University which has set out the percentage of substantiated staff can be up to 50% of all potentially eligible staff in the University<sup>2</sup>, the other UGC-funded institutions have not set any limit on the proportion of FTC staff who may be offered substantive appointment.
- (e) According to information provided by the institutions, some UGC-funded institutions have set a ratio of substantive staff to FTC staff, and details are set out at Annex C. For those institutions which have not set any ratio, they will take into consideration the individual circumstances in deciding the appropriate appointment terms.
- (f) Institutions are autonomous statutory bodies governed by their own legislation. The management of appointment-related matters (including selection and promotion of staff and determination of their remuneration packages) is within the autonomy of institutions. It is therefore not appropriate for the UGC to formulate any guidelines on appointment matters of institutions.

## Annex A

Number of staff employed on FTC by UGC-funded institutions,  
and the respective numbers of the FTC staff employed for more than six years

<i>Name of Institution</i>	<i>Number of FTC staff (number of FTC staff employed for more than six years are set out in bracket)</i>		
	<i>2005-2006 academic year</i>	<i>2006-2007 academic year</i>	<i>2007-2008 academic year</i>
City University of Hong Kong*	646 (137)	809 (164)	918 (183)
Hong Kong Baptist University <sup>#</sup>	306 (148)	389 (155)	509 (133)
Lingnan University	227 (84)	250 (94)	276 (96)
The Chinese University of Hong Kong <sup>#</sup>	1 493 (447)	1 715 (305)	2 003 (254)
The Hong Kong Institute of Education	557 (217)	636 (239)	565 (129)

<sup>2</sup> Potentially eligible staff refers to staff who have reached a specified salary point along their salary scale and have served the University for a specified period of time.

<i>Name of Institution</i>	<i>Number of FTC staff (number of FTC staff employed for more than six years are set out in bracket)</i>		
	<i>2005-2006 academic year</i>	<i>2006-2007 academic year</i>	<i>2007-2008 academic year</i>
The Hong Kong Polytechnic University	777 (471)	744 (380)	743 (322)
The Hong Kong University of Science and Technology	450 (30)	530 (42)	548 (61)
The University of Hong Kong*	985 (290)	1 063 (318)	1 222 (357)

\* Includes staff on contract terms for at least two years per contract.

# Excludes staff on contract terms for less than one year per contract.

## Annex B

The highest number of contract renewals granted and the longest duration of employment among the serving FTC staff of the UGC-funded institution

<i>Name of Institution</i>	<i>The highest number of contract renewals granted (the number of years for which the relevant staff have been employed is in bracket)</i>	<i>The highest number of contract renewals granted (the number of years for which the relevant staff have been employed is in bracket)</i>
City University of Hong Kong*	7 times (14 years)	14 years (7 times)
Hong Kong Baptist University <sup>#</sup>	7 times (12 years)	12 years (7 times)
Lingnan University	12 times (about 19 years)	about 28 years (11 times)
The Chinese University of Hong Kong <sup>#</sup>	16 times (20 years)	23 years (10 times)
The Hong Kong Institute of Education	8 times (about 13 year) <sup>@</sup>	about 14 years (7 times)
The Hong Kong Polytechnic University	16 times (34 years)	34 years (16 times)
The Hong Kong University of Science and Technology	5 times (14 years 7 months)	14 years 7 months (5 times)
The University of Hong Kong*	8 times (13.6 years)	19.7 years (7 times)

\* Includes staff on contract terms for at least two years per contract.

# Excludes staff on contract terms for less than one year per contract.

@ The relevant staff will be appointed on substantiated terms starting from 1 July 2008.



## Annex C

## Arrangement on setting a ratio of substantive staff to FTC staff

<i>Name of Institution</i>	<i>Arrangement on setting a ratio of substantive staff to FTC staff</i>
City University of Hong Kong	The University will take into consideration the individual circumstances in deciding the appointment terms.
Hong Kong Baptist University	The percentage of academic staff on substantive appointment is currently set at 85% of the total number of staff at the Assistant Professor, Associate Professor and Professor ranks.
Lingnan University	The percentage of substantiated staff can be up to 50% of all potentially eligible staff <sup>1</sup> in the University.
The Chinese University of Hong Kong	The University will take into consideration the individual circumstances in deciding the appointment terms.
The Hong Kong Institute of Education	A soft target of 50% staff on substantiated terms against all staff is adopted.
The Hong Kong Polytechnic University of Hong Kong	The University will take into consideration the individual circumstances in deciding the appointment terms.
The Hong Kong University of Science and Technology	The University will take into consideration the individual circumstances in deciding the appointment terms.
The University of Hong Kong	The ratio for non-academic staff on substantiated terms to contract terms is 80% to 20%. For academic staff, there is no such ratio.

<sup>1</sup> Potentially eligible staff refers to staff who have reached a specified salary point along their salary scale and have served the University for a specified period of time.

## Provision of Lifts and Escalators

9. **MR JAMES TO** (in Chinese): *President, regarding the provision of lifts and escalators by the Government in public areas, will the Government inform this Council:*

- (a) *of the total number of Government-managed footbridges and pedestrian subways which had been retrofitted with lifts or escalators in the past three years, together with the information on the locations and commencement/completion dates of each of these projects, broken down by the facility provided; and whether it has*

*any plan to provide such facilities at other Government-managed footbridges and subways; if it has, of the information on the above items for each of these projects, broken down by the facility to be provided;*

- (b) given that it has recently been reported that there are members of the public criticizing that the provision of lifts by the Government at a footbridge at Shelter Street in Causeway Bay, where the pedestrian flow is low, is a waste of public money, but the Highways Department (HyD) has explained that the project aims at providing barrier-free access for the public; yet the Government refused to provide lifts on Waterloo Road Hill in 2006 on the ground that the estimated daily usage of such lifts in terms of pedestrian flow was low, whether the Government has any plan to draw up new criteria for providing lifts or escalators in public areas; if it has, of such criteria; if not, whether it will review the existing criteria;*
- (c) given that some residents of Whampoa area have relayed to me that the Government, despite its earlier announcement to provide lifts at two footbridges in Tsim Sha Tsui East, had refused to provide lifts at the section of the footbridge at Hung Hom Road opposite Whampoa Garden on the ground of inadequate resources, whether the Government will consider allocating additional resources to expedite the provision of such lifts, so as to accelerate the progress of providing barrier-free access; and*
- (d) given that the Government will conduct several surveys on mitigation of traffic noise, and will draw up plans and timetables for the projects concerned, whether the Government will make similar arrangements for handling the projects of the provision of lifts and escalators in public areas, in order to facilitate the public in monitoring the work of the Government in providing barrier-free access?*

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

- (a) During the period from June 2005 to June 2008, the Government retrofitted 15 public footbridges with elevators to provide*

barrier-free access. Details are at Annex 1. The Government is planning to retrofit other footbridges and pedestrian subways not accessible by persons with disabilities (PwDs) with elevators or ramps. The HyD is planning for the retrofitting works for six of such footbridges. It is also studying the feasibility of such works for another 28 footbridges and 18 pedestrian subways. Details are at Annex 2.

- (b) As mentioned in (a), the Government will look at the feasibility for providing barrier-free access for the existing footbridges and pedestrian subways not equipped with such access. The footbridge at Shelter Street, Causeway Bay, which has not been equipped with access facilities for PwDs, was retrofitted after a study in order to fulfill the requirement of barrier-free access.

The proposed provision of elevators on Waterloo Road Hill involves the construction of an elevator system for an uphill area, which differs from the above retrofitting of access facilities for PwDs on footbridges and pedestrian subways. The Government will take into account the seven criteria presented to the Legislative Council Panel on Transport in 2002 in considering whether or not an escalator link/elevator system should be provided for an uphill area. As the proposal does not fulfill the principles, the Administration currently has no plan to construct an elevator system there. The seven criteria is at Annex 3.

- (c) The footbridge at Hung Hom Road near Whampoa Garden is already equipped with ramps accessible by PwDs. It therefore does not require the installation of elevators. The issue of resources is irrelevant here.
- (d) As regards the provision of barrier-free access to footbridges and pedestrian subways not equipped with access facilities for PwDs, as set out in (a), the HyD is planning for the retrofitting works for six footbridges and is studying the feasibility of such works for another 28 footbridges and 18 pedestrian subways. The HyD will consult the relevant District Councils and PwD groups on the results of the study. Once the retrofitting timetable is finalized, we will seek funds to implement the works.

## Government footbridges retrofitted with elevators from Jun 2005 to Jun 2008

	<i>Location</i>	<i>Type of facility</i>	<i>Start date/ Completion date</i>
Completed footbridge retrofitting projects			
1	Footbridge across Island Eastern Corridor near Ning Foo Street at Chai Wan MTR station	2 lifts	12/2004 4/2006
2	Footbridge across Nam On Street and Shau Kei Wan Road	2 lifts	12/2004 4/2006
3	Footbridge across Toll Plaza of Cross Harbour Tunnel	2 lifts	02/2005 03/2006
4	Footbridge across Castle Peak Road (Tsuen Wan) near Lo Tak Court	1 lift	11/2005 6/2007
5	Footbridge across Tsing Yi Road West near Liu To Road and Cheung Hang Estate	1 lift	11/2005 6/2007
6	Footbridge across Kwai Chung Road and Hing Fong Road near Kwai Chung Centre	2 lifts	11/2005 6/2007
7	Footbridge across Queensway and Queen's Road East near Arsenal Street	2 lifts	12/2005 8/2007
8	Footbridge across Island Eastern Corridor slip roads near Quarry Bay Park	2 lifts	12/2005 8/2007
9	Footbridge across Chatham Road North and Wuhu Street	3 lifts	12/2005 8/2007
10	Footbridge at Junction of Ferry Street and Waterloo Road	1 lift	3/2006 3/2007
11	Footbridge across Castle Peak Road (Yuen Long) near Shui Pin Wai Station	1 lift	1/2007 3/2008
Footbridge retrofitting projects under construction			
12	Footbridge across Chung Mei Road near Tsing Yi Heung Sze Wui Road	2 lifts	2/2007 7/2008
13	Footbridge across Ming Kum Road near Yeung King Road and Kin Wing Street	2 lifts	2/2007 7/2008
14	Footbridge across Castle Peak Road (Kwai Chung) near Tai Wo Hau MTR Station	2 lifts	2/2007 2/2009
15	Footbridge across Kwai Chung Road near Kwai Hing Estate	1 lift	2/2007 7/2008

## Annex 2

## Planned retrofitting of lifts to Government footbridges and pedestrian subways

## (a) Footbridge retrofitting projects under planning

	<i>Location</i>	<i>Type of facility</i>	<i>Start date/ Completion date</i>
1	Road improvement at junction of Wo Yi Hop Road and Cheung Wing Road	1 lift	10/2008 5/2010
2	Footbridge at King's Road at Junction of North View Street and North Point Road	2 lifts	mid 2009 end 2010
3	Footbridge across Ma Tau Pa Road and Yeung Uk Road	1 lift	8/2008 2/2010
4	Footbridge across Causeway Road at Shelter Street	2 lifts	10/2008 4/2010
5	Footbridge across Wong Chuk Hang Road near Grantham Hospital	2 lifts	10/2008 4/2010
6	Footbridge across Nam Cheong Street near Lung Cheung Road	2 lifts	10/2008 4/2010

## (b) Footbridges and pedestrian subway retrofitting projects under investigation

## Footbridges

	<i>Location</i>	<i>Type of facility</i>	<i>Start date/ Completion date</i>
1	Footbridges across Gloucester Road near Luk Kwok Centre	lift	See Note 1
2	Footbridge across Connaught Road Central near Hutchison House	lift	
3	Footbridge across junction of Leighton Road and Irving Street	lift	
4	Footbridges across Tonnochy Road and Harbour Road near Sun Hung Kai Centre	lift	

	<i>Location</i>	<i>Type of facility</i>	<i>Start date/ Completion date</i>
5	Footbridge across Shau Kei Wan Road near Tai Wu Court of Taikoo Shing	lift	
6	Footbridge across King's Road at Tong Shui Road near tram terminus	lift	
7	Footbridges across King's Road and Quarry Bay Street near Mount Parker Road	lift	
8	Footbridge across Wong Chuk Hang Road near Yip Kan Street	lift	
9	Footbridge across Harcourt Road near Fenwick Pier Street and Central Police Station	lift	
10	Footbridge across Harbour Road and Convention Avenue near Hong Kong Arts Centre	lift	
11	Footbridge across Queensway near Supreme Court, Lippo Centre and Tamar Street	lift	
12	Footbridge across Aberdeen Praya Road and Yue Shi Cheung Road	lift	
13	Footbridge across Gloucester Road and Percival Street	lift	
14	Footbridge across Lai Chi Kok Road near Cheung Shun Street	lift	
15	Footbridge across Waterloo Road near Suffolk Road and Kowloon Tong MTR Station	lift	
16	Footbridge across Nam Cheong Street near Chak On Estate	lift	
17	Footbridge across Kwun Tong Road at its junction with Ngau Tau Kok Road	lift	
18	Footbridge across Ngau Tau Kok Road and Chun Wah Road at bus terminus	lift	
19	Footbridge across Lung Cheung Road at Tin Ma Court	lift	
20	Footbridge at Lam Tin Bus Terminus and MTR Station in Sceneway Garden	lift	
21	Footbridge across Castle Peak Road (Kwai Chung) near Ping Fu Path	lift	
22	Footbridge across Lion Rock Tunnel Road near Fung Shing Court	lift	

	<i>Location</i>	<i>Type of facility</i>	<i>Start date/ Completion date</i>
23	Footbridge across Choi Yuen Road and San Wan Road near Sheung Shui KCR Station and Choi Yuk House of Choi Po Court	lift	
24	Footbridge across Tsuen Wan MTR Depot near Mega Trade Centre	ramp	
25	Footbridge across Tsing Yi Heung Sze Wui Road near Cheung Lung Street	lift	
26	Footbridge across Castle Peak Road near Chung On Street	lift	
27	Footbridge across Choi Yuen Road and San Wan Road near Sheung Shui MTR Station and Pak Wo Road	lift	
28	Footway on Bridge No. N486 along Tuen Mun Heung Sze Wui Road crossing Tuen Mun Road near Tsing To Path	lift	

### Subways

	<i>Location</i>	<i>Type of facility</i>	<i>Start date/ Completion date</i>
1	Subway under Canal Road Flyover near Sports Road	lift	See Note 1
2	Subway across Wong Nai Chung Road and Queen's Road East	lift	
3	Subway across Aberdeen Praya Road near Wu Nam Street	lift	
4	Subway across Prince Edward Road West at Kowloon City Interchange	lift	
5	Subway across Cheung Sha Wan Road at Pei Ho Street	lift	
6	Subway across Cheung Sha Wan Road at Kweilin Street	lift	
7	Subway across Kwun Tong Road near How Ming Lane	lift	

	<i>Location</i>	<i>Type of facility</i>	<i>Start date Completion date</i>
8	Subway between Ma Tau Chung Road and Argyle Street at Kowloon City Interchange	lift	
9	Subway between Argyle Street and Prince Edward Road West at Kowloon City Interchange	lift	
10	Subway across Nathan Road at Bute Street	lift	
11	Subway across Nathan Road at Soy Street	lift	
12	Subway across Tai Po Road at Pei Ho Street	lift	
13	Subway across Ching Hong Road near Mayfair Gardens	lift	
14	Subway across Tai Po Road (Sha Tin) near Fo Tan Road	ramp	
15	Subway under MTR East Rail west of Tai Wo Station	ramp	
16	Subways at junction of Nam Wan Road and Kwong Fuk Road	lift	
17	Subway across a slip road from Tsing Wun Road to Wong Chu Road	lift	
18	Subway across Pak Wo Road near Fung Ying Sin Koon	lift	

Note 1: The retrofitting projects in (a) and (b) are under investigation. The investigation is expected to be complete by mid 2009.

### Annex 3

Seven selection criteria for the provision of escalator links/elevator systems for uphill areas:

- (a) The catchment areas of the system should either be reasonably populated, or there exists a commercial element which would be further enhanced to attract users;
- (b) There should be a steady flow of users throughout the day. Areas where usage is confined to certain short periods of the day, such as school area, do not alone justify the provision of the system;



- (c) The gradient of the area should be steep. Escalator links would be suitable for streets with steep gradient whereas elevator systems would be more appropriate for linking areas with large drop in vertical level;
- (d) Priority should be given to systems that can connect to railway stations or major public transport interchanges;
- (e) Environmental considerations (for example, whether the provision could encourage the habit of walking which is environmentally friendly and would reduce the reliance on vehicular transport);
- (f) Consideration would also be given to developed areas with severe physical constraints for building additional road links or expanding public transport services, and yet where major re-development schemes are anticipated to generate substantial traffic demand; and
- (g) Social benefits arising from the provision of escalator links/elevator systems (for example, beneficial effects on those with disabilities, the elderly and tourists).

### **Recycling of Used Computer Equipment**

10. **MISS CHOY SO-YUK** (in Chinese): *President, it has been reported that the computer trade, with the support of the Environmental Protection Department (EPD), launched a territory-wide computer recycling programme (CRP) in January this year. The target of the programme was to recover 50 000 items of computer equipment annually in the first two years of implementation. Almost half a year has lapsed since the programme was launched, but only about 10 000 items of computer equipment have been recovered, with merely some 250 items can be refurbished for subsequent donation, which have fallen far short of the target. In this connection, will the Government inform this Council:*

- (a) *whether it will assist the computer trade in improving the recovery of computer equipment, including providing additional collection points and stepping up publicity efforts; if it will, of the details; if not, the reasons for that;*

- (b) *whether it knows the respective numbers of computer equipment recovered and disposed of at landfills in each of the past three years, as well as the numbers hitherto this year; and*
- (c) *given that the above recycling programme depends on the voluntary recovery of computer equipment by the trade, whether the authorities will consider making, through legislation, the recovery of computer equipment by the trade mandatory, if the result of the programme is still not satisfactory after it has been implemented for one year; if they will, of the details; if not, the reasons for that?*

**SECRETARY FOR THE ENVIRONMENT:** President, the CRP is a territory-wide recycling initiative jointly funded and organized by 20 major computer manufacturers and suppliers with the full support of the EPD. It is the second voluntary producer responsibility scheme (PRS) after the Rechargeable Battery Recycling Programme. Moreover, members of the trade have formed the Hong Kong Waste Electrical and Electronic Equipment Recycling Association (the Association) to manage and promote the CRP.

Our reply to the questions raised by the Honourable Member is as follows:

- (a) Since the launch of the CRP in January this year, the EPD has been maintaining close liaison with the Association with a view to achieving the CRP's objective of recovering used computer equipment in an environmentally sound manner. Through the assistance and promotional efforts of the EPD, a total of 630 residential estates as well as industrial and commercial buildings from 18 districts across the territory have signed up for the CRP. The CRP contractor will provide collection service for the participating estates and buildings according to a district collection schedule. Members of the public may also bring their used computer equipment to 15 designated public collection points in the territory, including the offices and the Environment Resources Centre of the EPD. Furthermore, the EPD has been making use of video broadcasting on buses to disseminate green messages on the use of computer from time to time, and will make use of this channel to promote the CRP as well.

To provide more convenient channels to encourage the public to recycle waste electrical and electronic equipment (WEEE), the EPD has been providing a mobile collection service since March 2008. A mobile collection vehicle will be stationed at designated locations in 18 districts on Saturdays and Sundays according to a district roster to collect used computers and other used electrical equipment from the public. Used computers collected will be transferred to the CRP for recycling. Exhibition panels will also be displayed at the designated locations to promote green messages and public participation in WEEE recycling. The EPD will make use of advertisements in district newspapers and promotional posters to encourage the public to use the service. Earlier on, the Environment and Conservation Fund has agreed to support a Green Rural Waste Reduction Scheme to promote the recovery of used computer and electrical equipment for recycling in rural areas, and the computer equipment collected through the Scheme will be transferred to the CRP. The Scheme will be implemented shortly.

The EPD will continue to collaborate with the Association in promoting the CRP.

- (b) According to survey estimates, the quantities of WEEE recovered and disposed of at landfills over the past three years are set out below:

<i>Year</i>	<i>2005</i>	<i>2006</i>	<i>2007*</i>
Recovery (tonnes)	53 000	58 000	59 000
Disposal (tonnes)	14 000	11 000	11 000

\* Figures for 2008 are not yet available

In other words, about 80% of WEEE generated would be recovered, while landfill disposal of WEEE accounted for only about 0.3% to 0.4% of the total municipal solid waste (MSW) disposed of at landfills. The EPD does not have detailed statistics on the recovery and disposal of used computer equipment.

- (c) The Legislative Council has completed its scrutiny of the Product Eco-responsibility Bill (the Bill). The Bill aims to provide a legal

basis for introducing PRS's for various products (including WEEE), with the environmental levy on plastic shopping bags being the first statutory PRS. We hope that the Bill will be passed in the current legislative session.

Meanwhile, the EPD has been discussing with the suppliers of various products on how to promote the recovery and recycling of the products. In this connection, we have successfully reached a consensus with the computer trade to launch the CRP. As the CRP has been launched for less than six months, its operation does have further room for improvement. The EPD will continue to work with the computer trade in promoting the CRP and review its effectiveness at suitable juncture. We will also, taking into account the views of the public and the trade, consider further amending the future Product Eco-responsibility Ordinance to provide for statutory PRS's applicable to individual products (including WEEE). The Administration will consult the relevant trade before introducing new statutory PRS's.

### **Inclusion of Cash Values of Insurance Policies in Calculation of Capital Assets in Assets Tests**

11. **MR JAMES TO** (in Chinese): *President, it has been learnt that applicants for legal aid and Comprehensive Social Security Assistance (CSSA) must pass both the income and assets tests, and the "cash values" of insurance policies held by them will be calculated as part of their assets. In this connection, will the Government inform this Council:*

- (a) *besides legal aid and CSSA, which of the loan schemes (such as the Financial Assistance Scheme for Post-secondary Students which provides tuition subsidy for tertiary students) and social assistance schemes (such as the Transport Support Scheme) offered by the Government or public organizations for members of the public at present require that applicants must pass the assets tests before they are granted loans or allowances; please list the names of such schemes, broken down by whether or not the above "cash values" are included in the calculation of the applicants' assets;*

- (b) *given that at present, the insured parties have to pay interests to the insurance companies concerned when they withdraw the "cash values" from their policies, therefore, unlike other assets, such "cash values" cannot be readily converted into cash to meet the needs of the livelihood of their holders, whether the Government will consider reviewing the methods adopted for the above subsidy schemes offered to members of the public (especially those providing legal aid and CSSA) for calculating the applicants' assets, and disregarding "cash values" in the calculation; and*
- (c) *given that several health care financing options mentioned in the Healthcare Reform Consultation Document involve proposals for members of the public taking out insurance, whether the Government has, when putting forward such options, taken into account the impact of the above "cash values" on members of the public when they apply for the assistance schemes concerned, and consulted the public in this regard?*

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

- (a) We do not have the statistical data on all the loan or assistance schemes provided by the Government or publicly-funded bodies for members of the public. But of the financial assistance or loan schemes mentioned in the first part of the question, the CSSA Scheme, the Tertiary Student Finance Scheme — Publicly-funded Programmes/Financial Assistance Scheme for Post-secondary Students, and the Pilot Transport Support Scheme would include the cash values of insurance policies held by applicants<sup>Note</sup> in the calculation of capital assets in asset tests.

As regards the life assurance or endowment policies held by a legal aid applicant, the Legal Aid Department will, when assessing the applicant's financial resources, include as capital of the applicant the amount that the applicant can borrow using the policies as security.

<sup>Note</sup> The cash values of insurance policies held by applicants aside, some of the schemes mentioned in the paragraph will also include the cash values of insurance policies held by family members as assets of the applicants in conducting asset tests. The term "family members" is defined differently under various schemes.

- (b) On the question of whether the cash values of insurance policies should be calculated as part of the assets in conducting asset tests, the responsible bureau or department will have regard to the unique circumstances of individual financial assistance or loan scheme in reaching a view.

Generally speaking, the bureaux and departments responsible for the financial assistance or loan schemes mentioned in the first part of the reply consider that the arrangement of including the cash values or relevant values of insurance policies as part of the asset tests has been working effectively and have no plan to review the relevant arrangement at this stage.

- (c) During the first-stage health care reform consultation, we have put forth six supplementary health care financing options for discussion by the community. The Government has no pre-conceived views on any of the options, and does not have any specific recommendations at this stage. Depending on whether or not the final option to be adopted involves the taking out of insurance, we will consider the impact of the above cash values issue on members of the public when they apply for the assistance schemes concerned.

### **Increase of Fixed-Mobile Interconnection Charge**

12. **MR SIN CHUNG-KAI:** *President, on 17 April 2008, PCCW-HKT Telephone Limited (PCCW) submitted an application to the Telecommunications Authority (TA) to increase the Fixed-Mobile Interconnection Charge (FMIC), which is the interconnection charge payable by a mobile network operator (MNO) to a fixed network operator (FNO), by 25%, that is, from 4.36 cents per minute to 5.45 cents per minute. The application was deemed, according to the provisions of the fixed carrier licence of PCCW, to be approved as the TA did not arrive, within 30 days from receipt of the application, at a definitive view that the tariff increase would, or would not, contravene the competitive provisions in the Telecommunications Ordinance (TO) (Cap. 106). The new FMIC was effective from 1 June 2008. In this connection, will the Government inform this Council:*

- (a) *of PCCW's justifications for its application to increase the FMIC, and the reasons why the TA did not follow its past practice of consulting the affected parties before the new tariff was adopted;*
- (b) *whether it has assessed if the FMIC increase had contravened the spirit of section 7L of the TO regarding predatory pricing, given that PCCW's market share in fixed-network services is reportedly 70%; if it is assessed so, whether it is contemplating any measure to overturn the decision of the TA; if it is assessed otherwise, the reasons for that;*
- (c) *given the TA's policy of removing regulatory barriers to fixed-mobile convergence in Hong Kong, whether it has assessed the impact which the increased FMIC will have on the competitive position of MNOs vis-a-vis FNOs;*
- (d) *whether the TA had considered and reached a view on the potential impact of the increased FMIC on the charges payable by customers of MNOs; and*
- (e) *whether the TA had considered and reached a view on whether the other FNOs would follow PCCW's lead and increase their FMIC?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT:**

President, the FMICs arrangement is a regulatory matter which falls within the ambit of the TA and is currently governed by a regulatory guidance issued by the TA in 1995.

After the full liberalization of the local fixed market, the TA removed in January 2005 the *ex ante* control on tariff which had hitherto only applied to PCCW, the incumbent FNO, except for interconnection tariffs which were in force at 1 December 2004. Under PCCW's licence, amendments to the interconnection charges are still subject to the TA's prior approval. The TA shall approve every such amendment where, in the TA's opinion, the amended tariff would not be in contravention of the competition provisions under the TO. If the TA does not approve or disapprove the application, it will be deemed to be approved after a period of 30 days from the date of receipt of the application.

When considering the approval or disapproval of the application for an increase in the tariff, the TA exercises his power under the relevant licence condition impartially and independently.

According to the Office of the Telecommunications Authority (OFTA), PCCW submitted on 17 April 2008 its application to seek the TA's approval of the increase of its FMIC Tariff. As the TA could not arrive at a definitive view that the proposed tariff increase would, or would not, contravene the competition provisions of the TO (in particular section 7L), PCCW's application for tariff amendment was therefore deemed to be approved after a period of 30 days. The revised FMIC Tariff, an increase from 4.36 cents per minute to 5.45 cents per minute, was published by PCCW in the Gazette on 23 May 2008. The TA published a statement on the same date to explain his position regarding PCCW's application.

Since the TA has not given positive clearance to the FMIC Tariff increase and pursuant to consideration of section 7L of the TO in respect of abuse of dominant position in the market, the question of whether the tariff increase, once implemented, contravenes section 7L of the TO is an open one which can be considered under the *ex post* regime, that is, after the increase has come into effect. Any party who considers that the tariff increase has an anti-competitive effect in any telecommunications services market in contravention of section 7L may state its case to the TA. On 18 June 2008, a MNO submitted to the TA and requested an investigation on the tariff increase conduct of PCCW under section 7L or other competition provisions in the TO. Separately, two MNOs filed appeals in respect of the case with the Telecommunications (Competition Provisions) Appeal Board on 6 June 2008.

Against the above background, my reply is as follows:

- (a) As pointed out in the TA statement published on 23 May 2008, PCCW has claimed that the tariff increase is a strategic move to stimulate the MNOs to commence negotiation with PCCW over the transitional FMIC arrangement. However, the TA has elaborated that PCCW's declared motive for the increase is not a relevant consideration as he will only consider the impact of the tariff amendment in the context of the competition provisions of the TO. In addition, since the liberalization of the local fixed market in July



1995, it has not been an established practice for the OFTA to undertake any industry consultation in relation to changes in the level of PCCW's FMIC Tariff. There is also no such consultation requirement in PCCW's licence.

(b) to (e)

The Government has received legal advice that the specific issues set out in parts (b) to (e) are matters that fall within the scope of the two separate appeals filed with the Telecommunications (Competition Provisions) Appeal Board as set out in the above reply. Since these matters are now *sub judice*, the Government is not in a position to comment at this juncture.

### **Computer Recycling Programme**

13. **MR FREDERICK FUNG** (in Chinese): *President, the Computer Recycling Programme (CRP) which is supported by the Environmental Protection Department (EPD) was launched in January this year. Under CRP, used computers are collected and the better quality ones are donated to the needy through a charitable organization, while the rest are given to the recycler appointed under CRP for dismantling so as to recover useful parts and materials for recycling purpose. However, it has been reported that the only appointed recycler of CRP has not yet obtained the relevant licence for disposing of computer kinescopes, and that the company has been granted tenancy of the EcoPark in Tuen Mun concurrently. In this connection, will the Government inform this Council:*

- (a) *of the respective quantities of each type of computer products collected under CRP so far and, among them, the respective percentages of those which have been sent to the charitable organization for onward donation to the needy, those already dismantled and those which have not yet been disposed of;*
- (b) *whether the above recycler has applied for the relevant licence for disposing of computer kinescopes; if so, of the progress of the application; of the reasons why the authorities approved the appointment of such recycler as the recycler of CRP and granted it*

*tenancy of the EcoPark; as well as the measures in place to prevent those companies which have not obtained the relevant licences from being awarded government contracts related to environmental protection; and*

- (c) *whether, in the past three years, the authorities had assessed if the Waste Disposal Ordinance (Cap. 354), which has been in force since 1980, is outdated and studied overseas legislation in this respect; whether the authorities will amend the relevant legislation to require that organizations which dispose of toxic computer parts must have the relevant licences, so as to protect the health of those working in the relevant trades and the general public?*

**SECRETARY FOR THE ENVIRONMENT** (in Chinese): President, the CRP is a territory-wide recycling initiative jointly funded and organized by 20 major computer manufacturers and suppliers with the full support of the EPD. It is the second voluntary Producer Responsibility Scheme after the Rechargeable Battery Recycling Programme. Moreover, members of the computer trade have formed the Hong Kong Waste Electrical and Electronic Equipment Recycling Association (the Association) to manage and promote the CRP.

Our reply to the questions raised by the Honourable Member is as follows:

- (a) According to the information provided by the Association, during the four and a half months from the launch of the CRP in mid-January to the end of May 2008, a total of some 10 800 used computer products were collected, including about 4 600 main units, 2 600 monitors and 3 600 printers/scanners. Of these, 250 reusable items of better quality (2.3%) were given to a charitable organization for donation to the needy, while about 70% of the non-reusable computer products were dismantled for recycling. The remaining 2, 400 kinescope monitors have been temporarily stored in a workshop, pending further treatment.
- (b) The Association selected the contractor for the CRP through a Tender Assessment Committee which assessed the tenderers based on their experience, existing facilities or planned facilities to be introduced and price, and so on. The proposal submitted by the

appointed recycler of the CRP obtained the highest overall score, and was therefore appointed as the contractor by the Association early this year.

The CRP's contract stipulates that the contractor must comply with the laws of Hong Kong and obtain the necessary licences. In this regard, the processing of kinescope monitors is the only operation under the CRP which involves chemical waste treatment and requires the contractor to obtain a waste disposal licence beforehand. After appointment by the Association, the contractor has already installed the facility for the recycling of kinescope monitors as pledged in the tender submission, and applied to the EPD for the relevant licence. The EPD is now processing the licence application. Meanwhile, the kinescope monitors collected have been temporarily stored in the contractor's workshop, which will be processed after the contractor has obtained the necessary licence. Given the current progress, the licence is expected to be issued soon.

The EcoPark is designed to provide long-term land and communal facilities to encourage and promote the environmental industry to invest in advanced and cost-effective technologies that would add value to locally recovered materials. To ensure fairness, tenancies of the lots in the EcoPark are granted through open tender. Tenderers will be assessed by an assessment panel based on a transparent set of scoring criteria which take into account their experience, proposed recycling process, environmental management plan and rent offered. The tenderer with the highest total score will be accepted as the tenant of the relevant lot.

The EcoPark tenancy agreement stipulates that the tenant must comply with the laws of Hong Kong and obtain the necessary licences. In fact, applicants for waste disposal licences have to provide details of their proposed processes, design and layout of their plants and other operational arrangements in their applications. As such, tenderers will only be able to submit such licence applications after they have become tenants of the EcoPark.

- (c) The objective of the Waste Disposal Ordinance is to provide for the control of the production, storage, collection and disposal of waste. Any persons and places connected with activities under control shall have to register or apply for relevant licences with the authority.

To step up the control of hazardous waste, the Waste Disposal (Chemical Waste) (General) Regulation (the Regulation) was enacted and implemented in 1992 to regulate the production, storage, collection and disposal of chemical waste. The Regulation requires chemical waste producers to register with the EPD and to arrange for the proper packaging, labelling and storage of the chemical waste before delivery to a disposal facility in order to protect the health and safety of the workers and the general public. Chemical waste must be collected by a licensed waste collector and be disposed of at a licensed disposal facility. Moreover, staff of the EPD will conduct regular inspections of the licensed collectors and disposal facilities to ensure that their operations comply with the licensing conditions and will not cause environmental pollution.

The above mentioned chemical waste control regime, in terms of regulatory approach and standard, is comparable to those adopted by other advanced countries such as the United States, the United Kingdom and Canada. The EPD will continue to review the need to amend the Regulation from time to time, with due reference to overseas experience and the development of hazardous waste control, with a view to protecting the environment and public health.

### **Traffic Accident Black Spots**

14. **MR LAU KONG-WAH** (in Chinese): *President, regarding traffic accident black spots (TABs), will the Government inform this Council:*

- (a) *of the location of each TAB, as well as the number of traffic accidents and resultant casualties at each TAB in each of the past three years; which of these TABs do not involve road sections with road junctions;*

- (b) *of the expressways and the road sections without road junctions at which a greater number of traffic accidents or resultant casualties occurred over the past three years;*
- (c) *whether it has made reference to the criteria and practices adopted in developed countries for classifying TABSs; and*
- (d) *whether traffic sign posts have been erected at all TABSs to remind drivers to drive with care; if not, of the reasons for that?*

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

- (a) and (b)

The locations meeting the current criteria of TABSs, as well as the number of accidents and casualties at these locations in the past three years are set out in detail in the Annex, with a breakdown on locations that do not involve road junctions. According to the statistics, expressways or roads that do not involve junctions and have a greater number of traffic accidents and casualties include Tsing Kwai Highway, Island Eastern Corridor and Tolo Highway.

- (c) According to the criteria currently adopted by the Transport Department (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 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. In devising the current criteria adopted, TD has made reference to overseas practice. According to the information gathered, there are no common criteria or international standards. Different places devise their own methods having regard to the local specific circumstances.
- (d) According to TD's experience, erection of "Traffic Black Spot" signs is not a particularly effective means for reminding motorists to

drive with care. In view of this, and with a view to achieving the purpose of warning motorists to drive with care and providing motorists with substantive advice, the TD has put emphasis on adding warnings and advisory signs, including "Sharp Deviation", "Bend Ahead", "Steep Hill Downwards Ahead", "Pedestrian Crossing Ahead", and so on, in accordance with the particular circumstances of each location, so that motorists would have more information and drive with care, thereby enhancing road safety.

Indeed, our work in investigating traffic accidents and improving road facilities is by no means confined to TABSs. 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 irrespective of whether it is a TABS. In addition, the TD and Highways Department will continue to conduct regular inspections on road traffic conditions and facilities throughout the territory. They will also continue to seek views from 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, including erecting appropriate traffic signs to warn motorists to drive with care and to provide advice to motorists.

Annex

### Traffic Accident Black Spot Locations

#### A. Those Located at Junctions

<i>Location</i>	<i>2005</i>		<i>2006</i>		<i>2007</i>	
	<i>No. of Accidents</i>	<i>No. of Casualties</i>	<i>No. of Accidents</i>	<i>No. of Casualties</i>	<i>No. of Accidents</i>	<i>No. of Casualties</i>
New Territories						
Po Shun Road/King Ling Road & Tong Ming Street	8	10	11	21	10	10

<i>Location</i>	2005		2006		2007	
	<i>No. of Accidents</i>	<i>No. of Casualties</i>	<i>No. of Accidents</i>	<i>No. of Casualties</i>	<i>No. of Accidents</i>	<i>No. of Casualties</i>
Chan Man Street/Fuk Man Road	10	11	6	6	9	10
Tam Kon Shan Interchange	11	18	14	17	12	12
Tsuen Kam Interchange	27	35	18	25	20	36
Tsuen Tsing Interchange	11	14	12	14	17	21
Castle Peak Road/Shing Mun Road & Kwan Mun Hau Street	4	8	9	20	9	14
Kowloon						
Austin Road/Austin Avenue	9	10	4	5	11	11
Jordan Road/Lin Cheung Road	9	12	12	17	16	25
Boundary Street/Nathan Road	7	9	7	8	17	21
Prince Edward Road West/Yuen Ngai Street	11	14	8	12	10	12
Hoi Wang Road/Hoi Ting Road	5	14	7	7	11	12
Jordan Road/Shanghai Street	16	17	7	7	10	10
Jordan Road/Nathan Road	11	11	16	19	8	8
Argyle Street/Nathan Road	14	26	32	43	18	19
Austin Road/Chatham Road South	18	28	24	39	19	33
Nathan Road/Waterloo Road	14	19	23	26	26	26
Canton Road/Kowloon Park Drive	17	19	22	24	9	9
Chatham Road South/Hong Chong Road	3	4	7	8	19	21
Chatham Road North/Hong Chong Road	12	13	23	30	16	19
Mong Kok Road/Nathan Road	16	18	18	21	17	18
Argyle Street/Waterloo Road	9	14	12	14	8	8
Prince Edward Road West/Nathan Road	20	30	7	7	11	13
Argyle Street/Tung Choi Street & Sai Yeung Choi Street	21	24	16	18	16	18
Nathan Road/Dundas Street	14	15	7	10	15	16
Butterfly Valley Road/Ching Cheung Road	1	1	10	14	11	14

<i>Location</i>	<i>2005</i>		<i>2006</i>		<i>2007</i>	
	<i>No. of Accidents</i>	<i>No. of Casualties</i>	<i>No. of Accidents</i>	<i>No. of Casualties</i>	<i>No. of Accidents</i>	<i>No. of Casualties</i>
Prince Edward Road West/Sai Yee Street	8	8	12	12	16	21
Cheung Sha Wan Road/Yen Chow Street	12	13	13	16	18	21
Caldecott Road/Tai Po Road	14	14	12	13	14	26
Ching Cheung Road/Tai Po Road	19	26	26	30	14	21
Cheung Sha Wan Road/Tai Nan West Street	21	23	17	18	11	11
Cheung Sha Wan Road/Cheung Wah Street & Hing Wah Street	8	8	15	19	14	14
Chatham Road North/Valley Road	12	12	6	10	10	15
Chatham Road North/Yan Fung Street	8	11	5	6	9	12
Fuk Lo Tsun Road/Nga Tsin Wai Road	2	3	5	5	7 (6 ped)	7
Kowloon City Road/Lok Shan Road	4	4	4	6	7 (6 ped)	7
Prince Edward Road/Lung Kong Road	1	1	2	2	9	9
Waterloo Road/Hereford Road	15	21	17	21	12	18
Waterloo Road/Lancashire Road & Essex Crescent	5	7	6	6	11	21
Waterloo Road/Rutland Quadrant & Durham Road	7	8	3	7	10	12
Waterloo Road/Prince Edward Road West	8	11	10	15	11	14
Chatham Road North/Ping Chi Street & Wuhu Street	23	37	19	25	14	18
Ma Tau Chung Road/Fu Ning Street & Sung Wong Toi Road	11	13	17	21	16	19
Argyle Street/Lomond Road	21	23	17	24	10	14
Argyle Street/Tin Kwong Road	15	20	11	20	10	13
Fung Tak Road/Lung Cheung Road & Po Kong Village Road	19	21	15	20	9	11
Kwun Tong Road/Hong Ning Road	17	25	8	9	11	11



<i>Location</i>	2005		2006		2007	
	<i>No. of Accidents</i>	<i>No. of Casualties</i>	<i>No. of Accidents</i>	<i>No. of Casualties</i>	<i>No. of Accidents</i>	<i>No. of Casualties</i>
Clear Water Bay Road/New Clear Water Bay Road	12	16	18	32	11	11
Kai Tin Road/Lei Yue Mun Road	9	11	15	26	14	15
Hong Kong						
King's Road/Shu Kuk Street	5	6	5	8	9	9
King's Road/Tong Shui Road	7	7	3	3	9	9
Morrison Hill Road/Sports Road	9	11	15	30	12	17
Fleming Road/Hennessy Road	6	6	13	15	10	10
Connaught Road Central/Pedder Street	11	11	20	23	22	26
Garden Road/Lower Albert Road	5	10	4	5	9	9
Pok Fu Lam Road/Sasson Road & Bisney Road	7	8	5	7	10	13

**B. Those Road Sections Not Located at Junctions**

<i>Location</i>	2005		2006		2007	
	<i>No. of Accidents</i>	<i>No. of Casualties</i>	<i>No. of Accidents</i>	<i>No. of Casualties</i>	<i>No. of Accidents</i>	<i>No. of Casualties</i>
New Territories						
Tai Po Road (Sha Tin) — section between New Town Plaza & Hilton Plaza	11	12	20	40	16	19
Lok King Street — section between KCRC House & Royal Ascot	10	11	11	12	11	13
Lion Rock Tunnel Road — section between toll plaza & Hung Mui Kuk Road	12	25	6	7	17	22
Fo Tan Road — section between Yuen Wo Road & Lok King Street	10	13	15	22	8	15
Sha Tin Centre Street — section between Pak Hok Ting Street & Tam Kon Po Street	10	15	18	19	9	10

<i>Location</i>	<i>2005</i>		<i>2006</i>		<i>2007</i>	
	<i>No. of Accidents</i>	<i>No. of Casualties</i>	<i>No. of Accidents</i>	<i>No. of Casualties</i>	<i>No. of Accidents</i>	<i>No. of Casualties</i>
Tai Wai Road	11	11	7	7	9	11
Tolo Highway near Shek Kwu Lung*	25	37	28	48	16	34
Tolo Highway near Mui Shue Hang*	26	60	34	53	17	34
Clear Water Bay Road near Ha Yeung	15	19	11	24	8	10
Hiram's Highway — section between Ho Chung & Marina Cove	22	31	19	24	15	31
Tsing Kwai Highway near Cheung Tsing Tunnel*	8	11	23	40	28	59
Tsing Kwai Highway near Lai King Estate*	19	30	29	39	10	17
Kwai Chung Road near Lai King Estate	15	17	14	17	13	21
Chuen Lung Street near San Tsuen Street	4	4	5	5	15	15
Sha Tsui Road near Ham Tin Street	3	3	8	10	10	11
Hoi Pa Street	10	10	9	9	15	16
Tai Ho Road near Tsuen Wan Market Street	5	8	11	13	9	13
Tuen Mun Road near Belvedere Garden*	7	10	5	8	11	13
Tuen Mun Road near Yau Kom Tau*	1	3	7	18	13	40
Tuen Mun Road near Sham Tseng Interchange*	16	36	11	16	12	25
Tai Tong Road — section between Castle Peak Road & Ma Tong Road	10	11	9	11	13	13
Long Yat Road near Long Wo Road	12	13	7	7	14	18
Fung Cheung Road	4	4	8	10	11	11
Castle Peak Road near Lok Ma Chau	8	12	13	14	13	15

Location	2005		2006		2007	
	No. of Accidents	No. of Casualties	No. of Accidents	No. of Casualties	No. of Accidents	No. of Casualties
Kowloon						
Sau Ming Road — section between Sau Nga House & Sau Mau Ping shopping centre	17	19	18	20	12	12
Hong Kong						
Island Eastern Corridor near Seaview Estate*	8	9	10	19	18	22
Chai Wan Road near Lok Hin Terrace	9	10	7	13	15	16
Island Eastern Corridor near Quarry Bay Park*	7	9	7	11	11	12
Island Eastern Corridor near Canossa College*	11	14	16	25	11	16
Shau Kei Wan Road near Nam Hong Street	7	7	3	3	11	18
Shau Kei Wan Road near Tai Lok Street	3	3	9	12	15	16

Notes: \* Expressways

### Provision of Chinese Medical Treatments for Prisoners

15. **MR LEUNG YIU-CHUNG** (in Chinese): *President, it is learnt that prisoners who request Chinese medical treatments will be allowed to receive such treatments only if they can provide the Correctional Services Department (CSD) with a report by toxicologists proving that the Chinese medicine proposed to be taken will not have adverse interactions with the treatments being administered to them by the medical officers at the penal institution. In this connection, will the Government inform this Council whether:*

- (a) *any prisoner had been allowed to receive Chinese medical treatments in the past three years; if so, of the number of such prisoners; if not, the reasons for that; and*

- (b) *it will provide assistance to prisoners to facilitate them in receiving Chinese medical treatments; if it will not, of the reasons for that?*

**SECRETARY FOR SECURITY** (in Chinese): President, the CSD respects prisoners' right to medical treatment, and ensures that sufficient and appropriate medical services are provided to all prisoners in accordance with the Prison Rules (Cap. 234A).

The Prison Rules stipulate that Medical Officers are in charge of medical matters in penal institutions. Medical Officers currently posted to the penal institutions and specialists who visit the institutions on a regular basis are all registered western medical practitioners appointed by the Department of Health or the Hospital Authority (HA). At present, the medical services the CSD provides to prisoners are no different from those subsidized services provided to the public by the Government and HA's health care staff.

My reply to the questions raised is set out below:

- (a) The CSD has a statutory obligation to protect the health and safety of prisoners. Besides, the Medical Officers in the penal institutions have the responsibility to understand the treatment requested by prisoners. If any prisoner requests to receive medical treatments beyond the existing services, the CSD will consider it on a case-by-case basis in consultation with the Medical Officers. Depending on the circumstances of the case, the prisoner may need to provide relevant proof to facilitate the institution's Medical Officers in judging whether the requested treatment will have adverse interactions with the treatment being administered.

During the past three years, the CSD has received written applications from one prisoner for Chinese medical treatment. However, as he could not provide the necessary proof, his request has not been approved.

- (b) Under the current arrangement, the CSD provides prisoners with appropriate medical services in compliance with relevant international standards for correctional services. If any prisoner

requests medical treatments beyond the existing services, the CSD will, based on the Medical Officers' professional advice, consider such requests on a case-by-case basis.

### **Deregulation of Fixed-Mobile Interconnection Charge Arrangement**

16. **MR SIN CHUNG-KAI:** *President, on 27 April 2007, the Telecommunications Authority (TA) issued a statement announcing that it would, subject to a two-year transition period, deregulate the Fixed-Mobile Interconnection Charge (FMIC) arrangement by withdrawing the regulatory guidance in favour of a structure for payment of FMIC based on the Mobile Party's Network Pays (MPNP) methodology. The TA has stated that in the future primary reliance will be placed on negotiated outcomes between the fixed and mobile network operators (MNOs), with the TA intervening only if agreement cannot be reached. In this connection, will the Government inform this Council:*

- (a) whether the TA plans to withdraw the regulatory guidance on MPNP at the end of the transition period as scheduled;*
- (b) whether it has assessed if the TA's allowing PCCW-HKT Telephone Limited (PCCW) to increase its FMIC with effect from 1 June 2008 is consistent with the policy of de-regulating the current FMIC arrangement; if it is assessed so, of the reasons for that;*
- (c) whether it has assessed if PCCW's decision to increase its FMIC Tariff without prior notice or consultation with other telecommunications operators is consistent with the TA's preference for negotiated outcomes; and*
- (d) whether the TA will provide assurances that the deadline of 27 April 2009 for withdrawal of the regulatory guidance on MPNP will not be deferred?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT:** President, in accordance with the current regulatory guidance issued by the TA in June 1995 on FMIC arrangement, the principle of MPNP is adopted, under

which for every call made from a fixed line to a mobile phone, or from a mobile phone to a fixed line, the MNO has to pay an interconnection charge to the fixed network operator.

Under PCCW's licence, amendments to the interconnection charges which were in force at 1 December 2004 are subject to the TA's prior approval. The TA shall approve every such amendment where, in the TA's opinion, the amended tariff would not be in contravention of the competition provisions of the Telecommunications Ordinance (TO). If the TA does not approve or disapprove the application, it will be deemed to be approved after a period of 30 days from the date of receipt of the application.

In his Statement dated 27 April 2007, the TA announced that a number of regulatory changes would be adopted as a consequence of his review in relation to fixed mobile convergence. This includes, among others, the withdrawal of the existing regulatory guidance in favour of MPNP, subject to a transition period of two years.

PCCW published in the gazette on 23 May 2008 the revised FMIC Tariff. The TA published a statement on the same date to explain his position regarding PCCW's application. On 18 June 2008, a MNO submitted to the TA and requested for an investigation on the tariff increase conduct of PCCW under section 7L or other competition provisions in the TO. Separately, two MNOs filed appeals in respect of the case with the Telecommunications (Competition Provisions) Appeal Board on 6 June 2008.

Against the above background, my reply is as follows:

(a) and (d)

The TA reiterates that the current regulatory guidance in favour of the MPNP arrangement will be withdrawn on 27 April 2009 as set out in the TA Statement of 27 April 2007.

(b) and (c)

The FMIC arrangement is a regulatory matter which falls within the ambit of the TA. When considering the approval or disapproval of

the application for an increase in FMIC Tariff, the TA exercises his power under the relevant licence condition impartially and independently.

While the TA encourages fixed and mobile operators to negotiate commercially the future FMIC arrangement after the withdrawal of the current regulatory guidance which is in favour of the MPNP arrangement, it is currently not a licensing requirement for PCCW to inform nor consult other operators about the change in the level of FMIC Tariff in advance. In addition, since the liberalization of the local fixed market in July 1995, it has not been an established practice for the Office of the Telecommunications Authority to undertake any industry consultation in relation to changes in the level of PCCW's FMIC Tariff.

The Government has received legal advice that the specific issues set out in parts (b) to (c) are matters that fall within the scope of the two separate appeals filed with the Telecommunications (Competition Provisions) Appeal Board as set out in the above reply. Since these matters are now *sub judice*, the Government is not in a position to comment further at this juncture.

### **Police's Conduct of Body Searches of Persons**

17. **MS EMILY LAU** (in Chinese): *President, it has been reported that at the end of May this year, a female domestic helper was suspected of theft and was strip-searched by a policewoman at her employer's dwelling. On the other hand, the authorities stated in their letter dated 12 June to the Panel on Security of this Council that the new guidelines and procedures for conducting searches of detainees would make it explicit and clear that "a search involving the removal of underwear should not be conducted as a matter of routine but only in circumstances with strong justification", and that "a search involving the removal of clothing should be conducted with proper regard to the privacy and dignity of the detained person and in accordance with our human rights obligations". The authorities said that they would provide a copy of the new guidelines and information on the improved arrangements to the Panel at the end of June, and implement the new guidelines and the improved procedures in July. In this connection, will the Executive Authorities inform this Council:*

- (a) *whether they have investigated why the policewoman mentioned above strip-searched the female domestic helper at the her employer's dwelling, including whether the policewoman conducted the strip search "as a matter of routine";*
- (b) *of the details of the new guidelines and procedures;*
- (c) *what measures the Police will take to ensure that all police officers are aware of and will comply with the new guidelines and procedures; and*
- (d) *whether the Police will take disciplinary actions against those police officers who have not complied with the new guidelines and procedures in conducting body searches; if so, of the details?*

**SECRETARY FOR SECURITY** (in Chinese): President,

- (a) The Complaints Against Police Office of the Hong Kong Police Force earlier received a complaint related to the case referred to in the question raised by the Member. As investigation work is still underway, it is not appropriate for the Administration to comment on the incident at this stage.
- (b) After review and after discussion with the Legislative Council Panel on Security, in June 2008 the Police revised the procedures for the conduct of searches on detained persons contained in the Police General Orders and the Force Procedural Manual. In addition, the Police also drew up a set of new guidelines. The new guidelines not only set out the provisions and guidelines related to the human rights and entitlements of detained persons to be searched, but also clearly stipulate the information required to be recorded by the responsible Duty Officer (including the reason(s) for searching the detained person, the factor(s) to be considered when determining the scope of the search as well as other factual information). The new guidelines and the associated arrangements were implemented from 1 July 2008.



The Administration provided the new guidelines and the revised procedural documents to the Panel on Security on 27 June. The Annex sets out the gist of the new procedures.

- (c) In mid-June 2008, the police management briefed the Operation Support Sub-unit Commanders and Duty Officers responsible for supervising the conduct of searches on detained persons on the new arrangements for searches to be conducted on detained persons. In addition, the Force issued the revised Police General Orders, the revised Force Procedural Manual and the new guidelines to all frontline police officers on 23 June 2008. Prior to the implementation of the new arrangements on 1 July 2008, all frontline commanders briefed officers under their command to ensure that all frontline police officers are familiar with the new arrangements and will comply with them.
- (d) Starting from 1 July when the new arrangements took effect, police officers must strictly comply with the requirements of the new arrangements when they conduct searches on detained persons. If any officer is found to have contravened the requirements stipulated in the revised Police General Orders, the revised Force Procedural Manual or the new guidelines, the Police will take disciplinary action in accordance with established procedures.

Annex

The gist of the new procedures which took effect on 1 July 2008

- The Commissioner of Police has determined that in order for the Police to properly discharge their statutory functions and fulfil the Force's duty of care to the detained persons and other persons, a search will be conducted on all persons to be detained in police custody.
- The Duty Officer should determine the scope of the search on a case-by-case basis, based upon the prevailing circumstances. The Duty Officer should be able to justify his decision on the scope of the search, and clearly differentiate between searches not involving removal of clothing, searches involving removal of clothing and searches involving removal of underwear.

- Prior to conducting a search on a detained person, the Duty Officer should explain to the detained person the reason(s) for the search to be carried out and the scope of the search. The Police have also prepared a "Custody Search Form" setting out the rights and entitlements of persons to be searched. The Duty Officer is required to ensure that the form is served on the detained person, and its contents explained to the person, prior to the search. The responsible officer will request the detained person to sign on the form in acknowledgement after explanation and prior to the search.
- Only officers of the same gender as the detained person are allowed to be present when a search is conducted and only such officers will conduct the search. The search must be witnessed by another police officer of the same gender.
- Police officers should conduct searches only in an area offering reasonable privacy. Where clothing is to be removed, the responsible officer will not require a detained person to remove all of his/her clothes at the same time. The officer will conduct the search as quickly as practicable and will allow the detained person to put on his/her clothing as soon as the search is completed.
- The Duty Officer should record the details of a search (including the reason(s) for the search, the scope of the search, any concern(s) raised by the detained person regarding the search and action taken by the Police to address the concern(s), and so on) in the Force's Communal Information System as soon as reasonably practicable after the search for every detained person.

### **Solid Waste Management**

18. **MR FREDERICK FUNG** (in Chinese): *President, in January this year, the authorities recommended that studies be conducted on the development of Integrated Waste Management Facilities (IWMF) with incineration as the core technology, on the grounds that the capacity of the three existing strategic landfills will be exhausted in the next four to eight years. In this connection, will the Government inform this Council:*

- (a) *whether it has assessed the effectiveness of the current work of the authorities in promoting the reduction, reuse and recycling of waste; if so, of the assessment outcome; and whether it will consider further enhancing the work in the above three areas, and consider levying waste disposal fees, in order to reduce waste generation and the pressure on landfills; and*
- (b) *given that it has been reported that an enterprise had proposed converting cement plants into incineration facilities and pointed out that, in terms of construction costs and waste-handling capacity, such proposal was better than the Government's proposal to build the above IWMF in Tsang Tsui or Shek Kwu Chau, whether the authorities have assessed the feasibility of the enterprise's proposal; if so, of the assessment outcome, and whether the authorities will consider consulting the public on this proposal, other proposals put forward by the community and its own proposals at the same time, so as to enable discussion by the community?*

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

- (a) The Government published the "Policy Framework for the Management of Municipal Solid Waste (2005-2014)" (Policy Framework) in 2005, which set out clear waste management targets and proposed a series of initiatives under a comprehensive waste management strategy to achieve the targets. We have been committed to implementing the initiatives in the Policy Framework and already achieved a 45% recovery rate for municipal solid waste (MSW) back in 2006, three years ahead of the target laid down in the Policy Framework.

We launched a territory-wide source separation programme of domestic waste in January 2005. As at the end of May 2008, there were about 900 housing estates participating in the programme, covering about 1.1 million households and some 47% of the population. The participating estates have reported an average of about 10% reduction in waste disposal since their participation in the programme. To further promote source separation of waste, we propose amendments to the Building (Refuse Storage and

Material Recovery Chambers and Refuse Chutes) Regulation (Cap. 123H). The scrutiny of which by the Legislative Council is nearly completed. Under the proposed amendment, it is proposed that every new domestic building and the domestic part of every new composite building be provided with a refuse storage and material recovery room on every floor with effect from 1 December 2008. As for commercial and industrial (C&I) waste, since the launch of the Source Separation Programme of Commercial and Industrial Waste in October 2007, over 400 C&I buildings have joined the programme. We will step up promotion of the programme to encourage more C&I buildings to participate.

On development of a MSW charging scheme to achieve the waste reduction targets and facilitate waste recovery, we plan to conduct a comprehensive territory-wide baseline survey to collect information on the waste generation pattern and waste collection modes under different types of buildings and C&I operations. The information collected would form the basis for formulating feasible options for introducing the MSW charging scheme.

To facilitate the development of the local recycling industry, we have developed EcoPark phase I in Tuen Mun to provide long-term land at affordable rents for the local environmental and recycling industries. In addition, the scrutiny of the Product Eco-responsibility Bill by the Legislative Council is nearly completed. The Bill aims to provide a legal framework for implementing Producer Responsibility Schemes (PRS's), the first being the environmental levy on plastic shopping bags, with a view to enshrining the principle of polluter-pays to address the indiscriminate use of plastic shopping bags and control waste generation at source. As regards other products, the Environmental Protection Department (EPD) has been discussing with suppliers on ways to recover relevant products for reuse and recycling. In collaboration with the rechargeable battery, computer and lighting industries, we have successfully implemented the trade funded Rechargeable Battery Recycling Programme, Computer Recycling Programme and Fluorescent Lamp Recycling Programme respectively. We will continue to promote the introduction of voluntary PRS's in light of the experience gained

and review their effectiveness at suitable juncture. We will also, taking into account the views of the public and the trade, consider further amending the future Product Eco-responsibility Ordinance to provide for statutory PRS's applicable to individual products. The Administration will consult the relevant trades before introducing new statutory PRS's.

Notwithstanding the progress made in waste reduction and recovery, there remains huge volume of unavoidable waste that needs to be disposed of properly. To dispose untreated waste by landfill extensions alone is not in line with the sustainable development principle. We have a pressing need for the adoption of advanced and more sustainable technologies to reduce the volume of waste and recover resources so as to deal with the MSW generated in Hong Kong more effectively.

- (b) To identify advanced waste treatment technologies that are suitable for Hong Kong, we invited Expressions of Interest (EOI) from local and international waste management industry in 2002. An Advisory Group on Waste Management Facilities (AG), which comprised representatives from professional bodies, academia and green groups, was set up to assist and advise in the technology selection exercise.

We received 59 EOIs in total, involving various waste management technologies which also included the combustion of refuse derived fuel for cement production. There have not been any records of using this technology in a large-scale for waste management in other places, whereas those recorded in Hong Kong were short-term testing results of experimental scale only. Factors such as operational viability, environmental performance, stability and risk of market competition of applying this technology in a long-term waste incineration facility have yet to be established. In view of the need to address the imminent and serious waste problem in Hong Kong, the AG recommended that the Government should adopt a waste management technology that is well-proven, and has sizable scale operation and long-term satisfactory performance record. Hence, the AG finally recommended that IWWMF should adopt a multi-technology approach such that the most suitable technology could be applied to deal with different waste streams of MSW.

Biological treatment technology would be employed to treat source-separated biodegradable organic waste such as food waste. For mixed MSW, thermal incineration treatment as the core technology supplemented by sorting and recycling technology would be used to reduce the volume of waste and recover resources.

Furthermore, as mentioned in our IWMF Site Selection Report published in January this year, a Government site in Tuen Mun Area 38 adjacent to a cement plant was assessed for building the IWMF during the selection process. The evaluation indicated that it is very likely that, after taking into account the cumulative air impact from all existing and planned emission sources in the area, the air quality objectives in the area could not be met if a 3 000 tpd IWMF is to be located at that site.

To develop IWMF with incineration as the core technology to solve our imminent and serious waste problem, we will carry out detailed engineering and environment impact assessment studies for the two potential sites at Shek Kwu Chau and Tsang Tsui Ash Lagoons to ascertain their overall suitability and make a final decision on the choice of site as soon as possible.

The Government holds open views on alternative MSW treatment proposals from individual private companies. When we receive detailed information on the individual proposals, we will consider them having regard to environmental impacts, technical feasibility, views from the public, planning considerations and financial arrangement, and so on.

### **Handling of Vacant Public Housing Units**

19. **MR LAU KONG-WAH** (in Chinese): *President, regarding the handling of vacant units in public rental housing (PRH) estates, will the Government inform this Council:*

- (a) *of the number of vacant PRH units at the end of each of the past three years, broken by the reasons for such units being left vacant*

*and, among them, the number of those allocated to Waiting List applicants within 12 months since they were vacant, as well as the number of units which have been vacant for three years or more, broken down by districts;*

- (b) whether it has assessed the cost incurred and the average quantity of construction waste generated in removing the furnishings of each vacated unit;*
- (c) of the annual expenditure incurred by the authorities on refurbishing vacated units; and*
- (d) whether the authorities will review the existing relevant requirements, with a view to minimizing the construction waste generated in removing the furnishings of vacated units and saving the costs of refurbishing them?*

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

- (a) Over the past three financial years, the number of recovered flats is as follows:

	2005-2006	2006-2007	2007-2008
Number of recovered flats	20 220	17 580	19 760

We do not have statistics of recovered flats being allocated to Waiting List applicants within 12 months. In general, after refurbishment, recovered flats will be let within two to three months.

As at May 31, 2008, a total of 310 PRH flats have not been let and remained vacant for three years or more. Most of them are flats of Housing for Senior Citizens, or flats in remote areas such as Lung Tin Estate in Tai O and unpopular locations such as near a refuse

chamber, or flats where special incidents such as fire had happened, and so on. The distribution of these units by districts is shown below:

<i>Location</i>	<i>Number of units</i>
Urban area	90
Extended urban area	80
New Territories	90
Islands District	50
Total	310

In order to expedite the letting of less popular PRH flats, the Housing Department (HD) has included the flats above under the Express Flat Allocation Scheme, so that eligible applicants on the Waiting List may gain earlier allocation of PRH flats. Applicants accepting these flats will also be offered a reduced rent at 50% for twelve months.

- (b) The average cost incurred by the HD in removing the furnishings of each recovered flat is about \$500, while the average quantity of construction waste generated is about 1.5 cu m.
- (c) The annual expenditure incurred by the HD on refurbishing PRH flats is about \$280 million.
- (d) When PRH flats are recovered from tenants, the HD will retain as far as possible the fixtures inside the flat, including those well-maintained installations/facilities altered by the outgoing tenants at their own expenses, for example, marble countertop, built-in kitchen cupboard, pedestal WC pan with flushing cistern, vinyl/tiled flooring, aluminium windows, metal gatesets, and so on. The HD will only ask outgoing tenants to remove installations that violate the regulations or safety codes and will not ask them to remove all furnishings. The HD will only arrange for necessary repairs and basic refurbishing works for recovered flats and seek to minimize the amount of dismantled materials.



Besides, at present tenants who are allocated flats aged less than 21 years may opt for the HD's Vacant Flat Refurbishment Allowance corresponding to three to five months' rent in lieu of having refurbishment works undertaken by the HD. The aim is to allow tenants to move in the vacant flats as soon as possible and arrange refurbishment according to their preferences, thereby saving unnecessary expenses on redundant refurbishment works and avoiding the waste of construction materials. In 2007, 65% of new tenants opted to receive this allowance.

## **BILLS**

### **Second Reading of Bills**

#### **Resumption of Second Reading Debate on Bills**

**PRESIDENT** (in Cantonese): Bill. We now resume the Second Reading debate on Statute Law (Miscellaneous Provisions) Bill 2008.

### **STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 2008**

#### **Resumption of debate on Second Reading which was moved on 20 February 2008**

**PRESIDENT** (in Cantonese): Ms Margaret NG, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report.

**MS MARGARET NG:** Madam President, in my capacity as the Chairman of the Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2008 (the Bill), I would like to report on the deliberations of the Bills Committee on the major proposals in the Bill.

The Bill is an omnibus Bill which seeks to make miscellaneous amendments to various Ordinances. The Bills Committee has held five meetings with the Administration.

Parts 2 and 3 of the Bill seek to make amendments to various Ordinances and subsidiary legislation in which offences with the phrase "to the satisfaction of" an enforcement agency are created. Part 4 contains amendments that are supplementary to the amendments made to the Regulations in Part 3 of the Bill. The Court of First Instance held in 2000 that the drafting formula "to the satisfaction of" an enforcement agency was too vague to enable a person to ascertain the elements of the offences. According to the Administration, the amendments seek to add a requirement that no offence is committed unless the official has specified to the affected person the measures to be taken to his "satisfaction", or the person has commenced the regulated activities without approaching the official to ascertain the measures to be taken. The burden of proof in either case will expressly be on the prosecution.

The Bills Committee has expressed concern that, as drafted, an offence can be committed by the omission of the person regulated to approach the relevant authorities to ascertain what measures have to be taken "to the satisfaction of" those authorities, and that a person who has commenced the regulated activities without first approaching the relevant authority to ascertain what measures have to be taken "to the satisfaction of" that authority will be liable to prosecution, even if the authority has not specified the measures to be taken to its satisfaction. Members are concerned that the responsibility will be put on the person regulated to seek specifications, rather than on the authority to provide them. The Bills Committee has requested the Administration to seek the views of the relevant authorities and advise members of the actions to be taken to inform the person regulated of the specific measures to be taken "to the satisfaction of" those authorities after the relevant provisions are amended as proposed.

Although the Administration has conducted two consultation exercises before drafting instructions for the Bill were issued and during the drafting process, in the light of members' views, the Administration agrees to further consult the relevant authorities. The Administration subsequently advises that as it will take some time to consolidate all returns, it is unable to reach a final view in the time remaining before the resumption of the Second Reading debate on the Bill by July 2008. It therefore proposes to move Committee stage

amendments (CSAs) to delete Parts 2 to 4 of the Bill, and it will introduce a Bill in future on the amendments relating to the drafting formula "to the satisfaction of" an enforcement agency. The Bills Committee supports the Administration's proposal to delete Parts 2 to 4 of the Bill.

Another proposal which has been considered by the Bills Committee in detail relates to the proposed amendments under Part 6 of the Bill to add a new section 13A to the Conveyancing and Property Ordinance (CPO). The proposed new section 13A of the CPO will apply to transactions in which the sale and purchase agreement is signed on or after the enactment of the Bill.

The Bills Committee notes that The Law Society of Hong Kong (Law Society) is concerned that the effect of two recent judgments of the Court is that a vendor has the duty to produce the "originals" of "all" title deeds and documents relating "exclusively" to the subject property to fulfil his duty to give a good title. This duty would theoretically include the duty to produce title deeds that were made before the required intermediate root of title. Law Society has observed that, based on their previous interpretation of section 13(2) of the CPO, solicitors have not insisted on obtaining the original pre-intermediate root title deeds. The practice has been to accept copies of title documents either certified by a solicitor or a government public officer, or attested by two solicitors' clerks. According to the Administration, the proposed amendments would help to alleviate potential problems for many property owners.

The Bills Committee also notes that Law Society has raised concern about the inconsistency in wording between section 13 of the CPO and the proposed new section 13A. Members have raised concern on whether the word "original" should be added to the proposed new section 13A(1) to give effect to the court judgments. Members consider that the provisions of new section 13A should not create any uncertainty which may give rise to future litigation in which the current legislative proposal is seeking to avoid. They have asked the Administration to review the drafting of new section 13A(1). Finally, the Bills Committee has expressed concern about the risk of affecting the third party's right or interest, however remote, as a result of the operation of the proposed new section 13A.

Having considered members' views, the Administration has advised that it will also introduce CSAs to address members' concerns. Members have had the opportunity of studying the proposed CSAs and are in agreement with the Administration. Law Society has indicated that the amendment meets their needs.

The Administration will introduce other minor and technical amendments to the Bill which have the support of the Bills Committee.

Madam President, with these remarks, and subject to the amendments to be moved by the Administration at the Committee stage, the Bills Committee supports the resumption of the Second Reading debate on the Bill. Thank you, Madam President.

**MS MIRIAM LAU:** Madam President, the problem of missing original title deeds has agonized conveyancers and property owners for a long while, and is frequently the subject of requisitions in conveyancing such transactions. In many cases, it is not that a title deed is missing altogether, but that only a certified or attested copy exists, and the original of the title deed cannot be found. In the case of *Yiu Ping Fong & Anor v Lam Lai Hing Lana*, the High Court decided in 1998 that a vendor could not make or give good title by merely producing certified true copies of title deeds at completion without adequate explanation as to why the originals could not be handed over. The case of *Guang Zhou Real Estate Development (HK) Co. Ltd. v Summit Elegance Ltd.* decided in the same year also confirmed that production of certified copies of title deeds instead of originals does not enable the vendor to give good title to the purchaser. The effect of these decisions is that although section 13 of the Conveyancing and Property Ordinance (Cap. 219) only requires title to be traced to a good intermediate root of title at least 15 years prior to the contract of sale, a vendor has the duty to produce the originals of all title deeds relating to the property to fulfill his duty to give a good title. That includes original title deeds made before the required intermediate root of title. Following these cases, many property owners face rejection or potential rejection of the title to their properties by reason of their failure to satisfy the requirement to produce original title deeds, particularly original pre-intermediate root title deeds. The problem

is notably acute in a declining property market, particularly when there is a sharp downturn, when purchasers may wish to get out of the deal and find excuse not to complete.

The problem of missing original title deeds is not uncommon. It may be a Crown lease that has been lost, it may be an assignment or release that has been mislaid or it may be a title deed that was simply not handed down the title chain. Mostly, this happens in the case of New Territories land or properties in old areas. Both before and after the enactment of the Conveyancing and Property Ordinance, conveyancers have sought to overcome this problem by producing either copies certified by a solicitor or a government public officer, or attested by two solicitors' clerks sometimes accompanied by a statutory declaration. It then became a common conveyancing practice to accept such copies for the purpose of approving and accepting title to properties, particularly when these documents relate to pre-intermediate root title deeds.

Indeed, section 13(2) of the Ordinance provides that where production of any document is required, it shall be sufficient to produce a copy that has been attested by two solicitors' clerks or certified by a public officer or a solicitor. However, in the *Yiu Ping Fong* and *Guang Zhou* cases I referred to just now, the Courts held that section 13(2) merely facilitated the proving of title and did not exonerate a vendor from his obligation to produce original title deeds at completion. The Courts further held that proving of title was not to be equated with making or giving title, and that what was good enough for proving title was not good enough for making or giving title. Since the two 1998 cases, the problem of missing original title deeds remained in limbo. The result is that many property owners were not able to sell their properties which titles have become doubtful because of their inability to produce original title deeds.

Theoretically, it is possible for a vendor to expressly stipulate in the agreement for sale and purchase that the purchaser shall not be entitled to insist on production of the originals of the title deeds. However, this is usually not acceptable to the purchaser because that purchaser can never be sure that when he eventually sells the property, the subsequent purchaser will not insist on the original title deeds or reject title on that basis. As Master M YUEN said in the recent case of *Loyal Hope Limited v Leung Pui Ming and others*: "Unless and

until the Statute Law (Miscellaneous Provisions) Bill 2008 tabled at the Legislative Council on 6 February 2008 were to become law in its suggested new section 13A of the Ordinance, this court is unlikely to entertain any argument against the subsistence of a purchaser's common law right to insist production of original title documents relating exclusively to the property on the date of the completion of the land sale."

The new section 13A is enshrined in Part 6 of the Bill. The effect of this new provision is that, unless the contrary intention is expressed, a purchaser of land shall be entitled to requiring from the vendor, for the purpose of giving title to that land, the delivery of the original of only the Government lease if it relates exclusively to that land and any document that relates exclusively to that land and is required to be produced by the vendor as proof of title to that land. This will overcome the problem of inability to produce the originals of many title deeds. Further, it would no longer be necessary to trace pre-intermediate root title documents for the purpose of proving and giving good title.

Madam President, many practicing solicitors and property owners have been anxiously awaiting this new section 13A for a long time, and urge for its early passage into law. I do so as well.

With these words, I support the Second Reading of the Bill and the amendments that will be moved by the Administration at the Committee stage. Thank you, Madam President.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): If not, I will now call upon the Secretary for Justice to reply.

**SECRETARY FOR JUSTICE** (in Cantonese): Madam President, as I explained when I introduced the Statute Law (Miscellaneous Provisions) Bill (the Bill) into the Council on 20 February 2008, this Bill makes technical and minor amendments that are required to achieve the following four purposes –

- (a) enhance the clarity of certain statutory provisions that criminalize failure to perform any act to the satisfaction of an enforcement authority;
- (b) define the vendor's obligation regarding the delivery of title deeds on completion of a sale of land;
- (c) change the post titles of certain prosecutors to highlight their independence; and
- (d) remove obsolete references to two sets of repealed rules.

Madam President, I am most grateful to Dr Margaret NG, the Chairman of the Bills Committee and other members of the Bills Committee for their hard work and helpful contributions, and for producing a very detailed report on the Bill. It has been succinctly summarized by the Chairman just now. We have proposed some changes to the Bill which have been agreed by the Bills Committee. As a result, I will be moving a number of Committee stage amendments (CSAs) later. I shall now give a brief outline of these amendments.

First, it is on clause 2, the commencement of the Bill. The proposal to delete Parts 2 to 4 of the Bill means that clause 2, which is the commencement provision of the Bill, is no longer required. The effect of the repeal is that the Ordinance will come into operation on the day on which it is published in the Gazette.

Parts 2 to 4 (clauses 3 to 55) make amendments to various Ordinances and subsidiary legislation in which offences with the phrase "to the satisfaction of" an enforcement authority are created.

The object of the proposed provisions is to make express, for purposes of certainty, the duties impliedly imposed under the existing legislation on both the relevant authority and the person regulated.

At the Bills Committee meetings, members were concerned that the drafting of the provisions failed to address the questions that whether a person who has commenced the regulated activity without approaching the relevant authority to ascertain the measures to be taken "to the satisfaction of" that authority will be subject to prosecution, even if the authority has not specified the measures to be taken to its satisfaction. The Bills Committee requested us to seek the views of the relevant authorities and advise Members of the means by which the person regulated would be informed of the specific measures to be taken "to the satisfaction of" those authorities after the relevant provisions are amended as proposed.

We advised the Bills Committee that with such a large number of provisions and relevant authorities involved, some time would be required for all returns to be received. There are also matters of some complexity upon which we would wish to seek clarification from the relevant authorities regarding their responses in the context of individual provisions. In the circumstances, it would be impossible, in the time remaining before the resumption of the Second Reading, to reach a properly concluded view, and to draft appropriate CSAs, should they be required, in respect of the many provisions which are subject to the proposed amendment. Therefore we decide, with the agreement of the Bills Committee, to withdraw Parts 2 to 4 of the Bill, and the CSAs are now introduced to that effect. We will reintroduce in a future Bill the amendments relating to the drafting formula "to the satisfaction of" an enforcement agency.

Clause 64 adds a new section 13A to the Conveyancing and Property Ordinance which will address the concern brought about by a number of court cases. These cases suggest that there is a duty on a vendor of land to produce



the "originals" of "all" title deeds and documents relating "exclusively" to the subject property, including those made before the required intermediate root of title.

Accordingly, the new section 13A provides that unless the contrary intention is expressed, a vendor of land shall, for the purpose of giving title to that land, deliver to the purchaser only (i) the Government lease if it relates exclusively to that land and (ii) any document that relates exclusively to that land and is required to be produced by the vendor as proof of title to that land.

At the suggestion of the Bills Committee and the Law Society, a CSA is proposed to amend clause 64. Instead of providing that a vendor shall deliver the relevant documents to the purchaser, the CSA refers to a purchaser's entitlement to require the vendor to deliver such documents. This is consistent with the language used in section 13 of the Conveyancing and Property Ordinance (Cap. 219) concerning proof of title.

The Bills Committee also suggested, and we agreed, that for purposes of certainty, the word "original" should be added to the proposed new section 13A(1). Accordingly, the CSA now introduced specifies that a purchaser of land is entitled to require the vendor to deliver to him the original of the relevant documents referred to in the proposed new section 13A(1).

While noting that the risk of affecting a third party's right or interest is very remote, members consider that the right or interest of any person other than the vendor and the purchaser should not be affected as a result of the operation of the proposed new section 13A. It is proposed to amend the new section 13A(4) to address members' concern by making it clear that the new section 13A shall not affect the right or interest in the land concerned of any other person who is not a party to the contract for the sale and purchase of that land.

With regard to clause 66: The Pneumoconiosis (Compensation) (Amendment) Bill 2008 was passed by the Legislative Council on 9 April 2008

and commenced on 18 April 2008. The title of the Pneumoconiosis (Compensation) Appeal Rules (Cap. 360 sub. leg. C) was amended to "Pneumoconiosis and Mesothelioma (Compensation) Appeal Rules" on that date. Clause 66 contains a reference to the "Pneumoconiosis (Compensation) Appeal Rules" and a CSA is required to refer to the new title of those Rules.

Madam President, with these remarks and subject to the CSAs proposed by the Administration, I commend the Bill to Honourable Members.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Statute Law (Miscellaneous Provisions) 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): The Statute Law (Miscellaneous Provisions) Bill

Council went into Committee.

### **Committee Stage**

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

**STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 2008**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Statute Law (Miscellaneous Provisions) Bill 2008.

**CLERK** (in Cantonese): Clauses 1, 56 to 63, 65 and 67 to 75.

**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): Clause 2, Part 2, Part 3, Part 4, clause 64, the cross-heading immediately before clause 66 and clause 66.

**SECRETARY FOR JUSTICE** (in Cantonese): Madam Chairman, I move the deletion of clause 2, Part 2, Part 3, Part 4 and amendments to the other clauses and the cross-heading read out just now. The amendments have been circulated to Members.

I have explained the reason for proposing a CSA to delete clause 2 earlier. We propose that the Ordinance will come into operation on the day on which it is published in the Gazette.

Parts 2 to 4 make amendments to various Ordinances and subsidiary legislation in which offences with the phrase "to the satisfaction of" an enforcement authority are created. We proposed and members of the Bills Committee agreed that we should repeal these Parts and the amendments should be deferred and considered in a future Bill.

The amendments proposed to clause 64 were suggested by the Bills Committee and the Law Society. Instead of providing that unless the contrary intention is expressed, a vendor of land shall, for the purpose of giving title to that land, deliver to the purchaser only (i) the Government lease if it relates exclusively to that land and (ii) any document that relates exclusively to that land and is required to be produced by the vendor as proof of title to that land, the amendments provide that the purchaser shall be entitled to require the vendor to deliver the original of such documents. The amendments are consistent with the language used in section 13 of the Conveyancing and Property Ordinance (Cap. 219) concerning "proof of title".

The amendments also take into account third party rights and interests by making it clear that the new section 13A shall not affect the right or interest of any other person in the land concerned who is not a party to the contract for the sale and purchase of that land.

The amendment proposed to clause 66 is consequential on the recently amended short title of what were formerly called the Pneumoconiosis (Compensation) Appeal Rules.

The Bills Committee has discussed and expressed support for the above amendments. I hope Members will endorse them.

Madam Chairman, I beg to move.

*Proposed amendments*

**Clause 2 (see Annex I)**

**Part 2 (see Annex I)**

**Part 3 (see Annex I)**

**Part 4 (see Annex I)**

**Clause 64 (see Annex I)**

**Cross-heading immediately before Clause 66 (see Annex I)**

**Clause 66 (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 Justice 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 clause 2, Part 2, Part 3 and Part 4, which deal with deletion, have been passed, clause 2 and the three parts are deleted from the Bill.

**CLERK** (in Cantonese): Clause 64, the cross-heading immediately before clause 66 and clause 66 as amended.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the clauses and the cross-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.

**CHAIRMAN** (in Cantonese): Council now resumes.

Council then resumed.

### **Third Reading of Bills**

**PRESIDENT** (in Cantonese): Bill: Third Reading.

**STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 2008**

**SECRETARY FOR JUSTICE** (in Cantonese): Madam President, the

Statute Law (Miscellaneous Provisions) Bill 2008

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 Statute Law (Miscellaneous Provisions) 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): Statute Law (Miscellaneous Provisions) Bill 2008.

**Resumption of Second Reading Debate on Bills**

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on Fixed Penalty (Smoking Offences) Bill.

**FIXED PENALTY (SMOKING OFFENCES) BILL****Resumption of debate on Second Reading which was moved on 20 February 2008**

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

**MR ANDREW CHENG** (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on Fixed Penalty (Smoking Offences) (the Bills Committee), I would like to report on the major deliberations of the Bills Committee.

The Fixed Penalty (Smoking Offences) Bill (the Bill) seeks to provide for a fixed penalty of \$1,500 to be payable for the offences in contravention of section 7(1) of the Smoking (Public Health) Ordinance, that is, smoking or carrying a lighted cigarette, cigar or pipe in specified statutory no smoking areas (such as restaurants and shopping malls) and in public transport carriers (such as public buses and taxis), and the recovery of the fixed penalty and related matters.

Clause 17 of the Bill provides that specific ranks of officers authorized to enforce the law will be specified by the Secretary for Food and Health by notice subsequent to the enactment of the Bill published in the Gazette. Members have requested the Administration to adopt the arrangement in the Fixed Penalty (Public Cleanliness Offences) Ordinance by specifying the Authority (defined in clause 2(3) of the Bill) and the list of public officers authorized to exercise the powers and perform the duties under the Bill in a schedule to the Bill, to enable scrutiny by the Council. On review, the Administration will move amendments to clause 17 of the Bill to specify that the notice to be published in the Gazette is subsidiary legislation, thereby necessitating vetting by the Council.



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

Members are of the view that considerations for withdrawing a fixed penalty notice (FPN) under clause 7 of the Bill should be specified to ensure consistency in enforcement and avoid abuse of power. On review, the Administration will move an amendment to specify in clause 7(4) of the Bill that a FPN may only be withdrawn if the ground, or one of the grounds, for its withdrawal, is that it contains incorrect information supplied by the person to or on whom the notice was given or served.

Some members have suggested that people who have been fined under the Fixed Penalty System (FPS) several times should be required to undergo smoking cessation counselling in addition to paying the fixed penalty. The Administration has advised that it would not be appropriate as smoking itself is not an offence unless such act is carried out in a designated no smoking area or in a public transport carrier. Moreover, if smoking cessation is made mandatory for a smoker who has paid fixed penalty several times, the law would have to provide for consequences for those who fail to attend the counselling without reasonable excuse. Enforcement staff would also be deployed to investigate and find out the facts of default cases and, if the penalty for such default is not in the form of another fixed penalty, court time is to be spent on hearing the cases and meting out appropriate penalty. All these would render the otherwise simple FPS much more complicated, and may result in less savings in enforcement resources, which could be used on enforcement of the smoking offence, and court time. Nevertheless, the Administration believes that opportunities should be taken to provide smoking offenders who have been dealt with under the FPS with the information on smoking cessation services. To that end, actions would be taken to print the Department of Health/Tobacco Control Office (TCO)'s smoking cessation hotline on FPNs, and provide information on smoking cessation services when a notice under clause 6(2) of the Bill is issued.

Members are concerned about the high wastage rate of Tobacco Control Inspectors (TCIs). The Administration has advised that the main reason for the departure of TCIs is the securing of a new job. To improve retention of TCIs, the Administration is exploring the possibility of absorbing TCI positions into the existing civil service grades as far as practicable.

Members note that the Integrated Call Centre (ICC) began handling calls to the TCO hotline on 1 February 2007. There are now on average 12 Customer Service Officers (CSOs) manning the TCO hotline from 9 am to 10 pm, and four such officers from 10 pm onwards. The performance target is to answer 80% of the calls within 12 seconds. At the Bills Committee's request, the Administration has agreed to give an undertaking that it will explore the option of increasing the number of designated CSOs if the demand so justifies to be given by SFH when the Second Reading debate on the Bill is resumed.

Deputy President, on behalf of the Bills Committee, I support the resumption of the Second Reading debate on the Bill.

Deputy President, next I will speak on the Bill on behalf of the Democratic Party.

Deputy President, currently smoking offenders are liable on summary conviction to a fine, which will be imposed by Court individually after summons are issued to the offenders by enforcement officers. The Bill seeks to replace the existing arrangement with a fixed penalty for smoking offences in statutory no smoking areas.

Actually, this proposal was introduced by the Democratic Party during deliberations on the Smoking (Public Health) (Amendment) Bill in 2005, on the ground that the imposition of individual penalties by Court was time-consuming and ineffective. With the enactment of the Smoking (Public Health) (Amendment) Bill, the scope of statutory no smoking areas will be substantially expanded and the prosecution of smoking offenders will strain the time and resources of the Government and the Courts. Taking this into consideration, I proposed in the Bills Committee on Smoking (Public Health) (Amendment) Bill that we should follow the practice of issuing tickets to litterbugs and adopt a simple FPS. Not only will it increase the efficiency of enforcement, but it will also help to clearly convey the message of a fixed penalty of \$1,500 for smoking offences to the public so as to enhance the deterrent effect on smoking offenders.

At that time, the Democratic Party did not put forth the proposal until our public survey had confirmed the public's support to it. Furthermore, as most of the people surveyed considered the amount of \$1,500 appropriate, the Democratic Party thus supported the fixed penalty of \$1,500.

During the deliberations on the Bill, members spent a substantial amount of time debating whether smoking offenders should be allowed to undergo smoking cessation counselling in lieu of paying the fixed penalty.

Not long ago, a consultancy conducted a survey on smoking cessation experiences. It was found that 57% of smokers had attempted to quit smoking, and among them, 78% relied on their will power to kick the habit. However, the result was far from satisfactory as 57% of those who had tried to quit twice or more still ended in failure. According to some pulmonologists, smokers who smoke a pack of cigarettes or more a day are already addicted to nicotine, and whether they try to quit smoking completely or gradually, it is easy to slip back into the old habit again after a week. The addiction is not just physical, but psychological as well, making smoking cessation even more difficult.

Cessation therapy and counselling can increase the success rate. Overseas studies found that integrated smoking cessation counselling service could push up the success rate by 25% to 30%. However, according to the Census and Statistics Department's survey in 2003, among the smokers who were aware of smoking cessation services, only 13.7% indicated their willingness to try the services, and only 1.6% did try them in the end. Deputy President, it is 1.6%, an extremely low figure.

If smoking offenders are allowed to choose between the options of using \$1,500 to undergo smoking cessation counselling or paying the fixed penalty, the Government, which does not need to put in additional resources, can help smoking offenders quit smoking by providing them with the information and incentive in the enforcement process so that they can go into cessation counselling on their own. By redirecting the penalty money into smoking cessation services to support smokers in improving their health, the measure will help reduce our public health burden in the long run. Not only is it an effective

use of social resources, it will also ease the resentment of smokers being fined. Comparing to the original amendment that only carries a \$1,500 fine as a deterrent, the measure of providing offenders with the option of smoking cessation counselling is more positive.

Deputy President, the proposed measure may be even more helpful to elderly smokers. According to the experience in dealing with littering offences under the FPS, it is found that offenders tend to be elderly and low-income citizens. In the first two years of the implementation of the law, elderly made up 16% of FPN recipients. Currently, 13% of the smoking population are elderly people, who often hang out in statutory areas such as public estates and parks and thus stand a greater chance of committing the offence. As we all know, many elderly people are living in poverty, and more than 180 000 of them are Comprehensive Social Security Assistance recipients with a monthly income of approximately \$2,300. If they are required to pay a \$1,500 fine, the only result will be a series of conflicts as the impact of the penalty on their lives is much more than they can afford. If these elderly offenders are allowed to choose smoking cessation in lieu of penalty, it will reduce the chance of conflicts between them and law-enforcement officers on the one hand, and encourage them to undergo smoking cessation counselling on the other so as to help them save on cigarette expense in the end.

As this proposal is absolutely beneficial to smokers, non-smokers and the Government alike, on behalf of the Democratic Party, I have spent a lot of time and effort to draft some amendments.

The amendments that I drafted are as follows:

- (1) Smoking offenders have to report to the specified smoking cessation counselling service providers within 21 days;
- (2) smoking cessation counselling must be completed as instructed;
- (3) smoking cessation counselling service providers should be paid upon completion of the service;
- (4) the charge for the counselling service should not exceed \$1,500;

- (5) the counselling service must be appointed by the Secretary for Food and Health by notice in the Gazette; and
- (6) if smoking offenders fail to take counselling at their own expense as stipulated, they have to pay the fixed penalty of \$1,500.

Last week, I conducted an audio survey by phone to gauge the public opinions on this proposal. It was found that 79.7% (approximately 80%) of those surveyed approved of it. With or without a smoking habit, respondents shared similar views on the proposal, to which nearly 70% of smokers and 80% of non-smokers stated support.

If the cost of smoking cessation counselling service is higher than \$1,500, 63.5% of those surveyed even agreed that the Government should subsidize the service providers.

It can be seen that the public supports smokers to seek smoking cessation service, and the proposal of allowing smoking offenders to choose smoking cessation counselling in lieu of penalty has also won the approval of the majority of the respondents. It is a pity that the Government not only declined to take on board these public-backed amendments, but even tried to block them. It requested the President to decide whether my amendments should be moved in the meeting today on the grounds that they were unrelated to the subject of the Bill and would incur additional public spending.

Deputy President, a couple of days ago here in the Council, Chief Executive Donald TSANG persuaded Members to focus on people's livelihood. In response to his views, I would like to say that people's livelihood has always been our focus. Here I emphasize that I have spent a lot of time trying to work out these purely livelihood-related amendments. To seek approval of these amendments, before the President made her ruling, I had written to the Chief Executive's Office to urge the Chief Executive to consider the benefits that the amendments will bring to people's livelihood. I also requested the Chief Executive to grant me a written consent for moving the amendments in the Council, in case the President rules that it has charging effect.

Unfortunately, as we all know, my amendments cannot be moved in the Council today, nor are they allowed to be discussed. The President's ruling pointed out that my proposed amendments were unrelated to the subject of the Bill and could not be moved in the Council today. As for their possible impact on public spending, in that case, it is believed to be of no relevance.

Deputy President, I am very disappointed at the developments. Giving no regard to public opinion and giving administrative convenience as well as administrative cost saving the highest priority in a short-sighted way, the Government not only overlooks the some 7 000 deaths caused by smoking and second-hand smoke every year, but also ignores the annual tobacco-related economic loss of up to \$5.3 billion. No doubt I was disgusted by the Government's rejection of the proposal which aims to promote the smoking cessation service. I think that the Government's rationale for rejecting these amendments, which provide smokers with the options of smoking cessation or a fixed penalty, is far from reasonable. Besides, I would also like to express again my disappointment at the President's narrow interpretation of the Rules of Speaking, which has resulted in the decision of not allowing me to move my amendments today. In fact, the Council is bent on blocking Members' amendments and private bills. In this regard, Mr Donald TSANG should understand that the Council does want to make concrete contribution, but the fact is that the Government seems to go against public opinion in many issues. If the Government really looks for close co-operation between the executive and the legislature, I hope that it will put more resources into smoking cessation services and take further steps in line with the amendments to promote these services in the days to come.

Deputy President, though the amendments cannot be moved today, in future, the Democratic Party will still follow up smoking cessation promotion such as considering the introduction of a private bill next year. We will also follow up the fixed penalty proceeds and request the authorities to use the fines from smoking offenders to set up a smoking cessation fund for improving smoking cessation services.

With the designation of additional statutory no smoking areas and implementation of the FPS, it is believed that more smokers will try to quit smoking, and the demand for smoking cessation services is bound to rise. The

clinics under the Department of Health (DH) and the smoking counselling and cessation centres operated by the Hospital Authority (HA) will not be able to meet the service demands. The Government should make good use of the fines from smoking offenders to set up a smoking cessation fund to enhance smoking cessation services and provide support for smokers who want to quit smoking. Our survey indicated that 80.6% of the respondents approved of this proposal, to which more than 70% of smokers and 80% of non-smokers showed their support.

According to the study conducted by the University of Hong Kong in 2000, 42% of the smoking cessation service recipients could stop smoking for four consecutive weeks, and the cost for each successful case of quitting smoking for a month was \$2,573. In the first 12 months of operation, the HA's smoking counselling and cessation centres had provided counselling service to a total of 4 900 recipients. Assuming that the demand for smoking cessation services will double after the Ordinance has come into effect, it will give rise to an additional annual expenditure of \$10,594,584. The Government may consider injecting \$10 million for the establishment of a smoking cessation fund to subsidize smoking cessation service providers. The fund can be supported by the fines from smoking offenders in future, to save the Government of additional spending on smoking cessation services.

Deputy President, law enforcement is another key concern of the Bills Committee. Besides the TCO, the Ordinance also authorizes other departments such as the Leisure and Cultural Services Department (LCSD) and the Food and Environmental Hygiene Department (FEHD) to issue FPNs. This arrangement is exactly what many Members fought for in the deliberations on the Smoking (Public Health) Bill. In the Bills Committee's public hearing, representatives of the FEHD Staff Union said that they had encountered a lot of difficulties in issuing FPNs, and that among various reasons for difficult enforcement, the major one was the shortage of manpower. It is believed that this is also the main reason why the wastage of TCIs is as high as 24%.

In addition to the strengthening of manpower, the Bills Committee, when scrutinizing the Smoking (Public Health) Bill, also recommended expanding the enforcement power of the managers of statutory no smoking premises. In New

York for instance, to ensure effective enforcement, it is stipulated that both customers and managers of the no smoking premises can be fined for smoking offences. In Ottawa, Canada, similarly, managers of the no smoking premises can be fined for allowing or encouraging customers to smoke on the premises. At the same time, extensive support is given to the enforcement staff by the local government departments. In case any customers act recklessly, the managers can even take necessary enforcement actions in conjunction with the police. I suggest the Government to expand the enforcement power of the managers of no smoking premises to complement the work of TCO, so that the TCO staff do not have to work on their own.

As for tobacco control, based on our concern for people's health, the Democratic Party has been co-operative in passing bills and funding requests presented by the Government. We have been more pro-government than any other parties. Even if the Bill is passed today, it will not come into effect immediately. We hope that the Secretary will announce its implementation date as soon as possible.

Furthermore, bus termini are designated as statutory no smoking areas in the Smoking (Public Health) Bill passed in October 2006. However, the measure will only come into effect after an announcement by the Secretary. Though the Secretary has promised its implementation in 12 to 15 months after the passage of the Bill, he time and again claimed that the smoking ban at bus termini would not be implemented until the passage of the Fixed Penalty (Smoking Offences) Bill. If the Bill is passed today, I hope the Secretary will honour his promise and demarcate the no smoking areas at bus termini as soon as possible.

Deputy President, as we all know, summer is already here. Though bus termini, especially the covered ones, are already designated as statutory no smoking areas, the exact confines still have to be demarcated by the Secretary and the Transport Department. As the Chairman of the Transport Panel — and I believe the Deputy President follows transport affairs as closely as I do — I just do not understand why the planning and demarcation of bus termini are still not done properly. Drawing up boundaries is actually a simple task. It is hoped



that after the Bill is passed, the Secretary will work closely with the Transport Department to deal with the matter immediately. With the passage of the Bill and the arrival of summer, I hope that the designation of bus termini as no smoking areas will very soon come into effect.

Deputy President, I so submit.

**MR LI KWOK-YING** (in Cantonese): Deputy President, there is no doubt that Hong Kong has been striving to be a smoke-free city. After the enactment of the Smoking (Public Health) Ordinance and since 2007, a statutory smoking ban has been implemented in indoor and public premises as well as some of the outdoor areas. Under the law, many places are listed as no smoking areas, which give the biggest protection to the public against the nuisance of second-hand smoke. However, when scrutinizing the Fixed Penalty (Smoking Offences) Bill (the Bill), we found that no matter how comprehensive the law was, without effective enforcement, it would only mean that all our efforts would be in vain. In view of this, we proposed that a fixed penalty system should be adopted by the Government to facilitate the prosecution of offenders by public officers. Today, we are so pleased to see that this long-awaited Bill is finally tabled at the Council for Second Reading. To protect the health of the public, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) supports the passage of the Bill.

In fact, a fixed penalty helps the authorities enhance the effectiveness of enforcement and reduce the unnecessary judicial procedures. Now, as a fixed penalty has not yet been implemented, those who smoke in no smoking areas and violate the law are not imposed a fine on site. Instead, they have to go through certain prosecution and court procedures before a fine is meted out by the Court. Sometimes it takes several months to satisfactorily complete these procedures. Not only does it increase the workload of the Courts, it also lessens the immediate deterrent effect of the penalties on the offenders.

Currently, for other offences under the Public Health Ordinance such as littering and spitting, an FPS is already implemented. Under this system, the authorized enforcement officers can issue an FPN to the offenders, so that they

can pay the fines within a specified period without going through complicated prosecution procedures. As there is already an existing system, which is also proven, the Bill proposes to deal with the scheduled offence under the Smoking (Public Health) Ordinance by a fixed penalty. It is believed that this will be conducive to the effective implementation and enforcement of the law.

Moreover, according to the provisions of the Bill, in addition to police officers, the law will empower public officers of several government departments such as the LCSD, FEHD and HD to issue FPNs for smoking offences in statutory no smoking areas in public venues under their management. The DAB supports this amendment because the new arrangement will not only effectively alleviate the pressure on TCO officers in enforcement, but also reduce the chances of conflicts between smokers and enforcement officers. However, in the course of scrutinizing the Bill, I noticed that some of the public officers were worried about their enforcement power conferred by the Bill. Their worries include an increase in workload due to enforcement of the new law, insufficient ability and experience in law enforcement, and the possibility of conflicts between them and offenders. For instance, offenders might blame the public officers for issuing tickets to them and thus argue with the officers. Or even worse, both might end up in quarrels involving violence.

For this reason, sufficient training for relevant public officers should be provided before the new law comes into effect, so that they will know what measures should be taken to deal with unco-operative offenders. At the same time, after the implementation of the law, the authorities should continue to communicate with the above government departments in order to gain an understanding of their law-enforcement work. Reviews can also be conducted constantly and assistance provided when necessary to ensure that the public officers can exercise their new power fearlessly to protect the health of the public.

The implementation of a fixed penalty aims to enhance the deterrent effect of the law to protect the public from the health hazards of second-hand smoke in statutory no smoking areas. More than this, the law will have another positive impact on smokers. Restricted by the smoking ban in public venues, smokers will have a greater incentive to quit smoking. In order to further enhance the

positive impact of the law on health promotion, a member proposed that for those who do not have the means to pay the fixed penalties or who have been prosecuted for several times, the authorities can offer them the option of smoking cessation counselling. I realize that this proposal focuses on the health of smokers with a view to encouraging them to quit smoking as soon as possible through the implementation of the law.

However, we have to understand that smokers are fined not for their smoking habit. Instead, they are punished for lighting a cigarette in statutory no smoking areas. Of course, we do not encourage smokers to smoke in the interest of their health, but we also understand that smoking is a personal habit and an individual choice. Therefore, we should respect their right and freedom of smoking. On the other hand, whether we should offer smokers the option of smoking cessation counselling through the implementation of the law or make smoking cessation counselling mandatory for smokers who have offended the law for several times, it involves a lot of complicated procedures in actual operation. The FPS actually aims at cutting down unnecessary judicial procedures to reduce the burden of the Courts, but the proposed new measures will only make the procedures for imposing penalties on smoking offenders more complicated in future, thus defeating the spirit of implementing FPS. Hence, we should carefully study the proposal and not to make legislation rashly at the present stage.

Deputy President, Hong Kong is a free society. In addition to protecting the health of non-smokers, we also have to respect the right and freedom of smokers. Those who have some knowledge about smoking cessation counselling probably know that the key to smoking cessation is the wish and will of smokers. Instead of forcing smokers to quit smoking, we had better improve the existing smoking cessation services. For example, the authorities can increase the number of smoking cessation clinics and extend their service hours to meet the needs of people from different strata of society, especially the working population. Furthermore, the authorities may consider providing free smoking cessation medicines and treatments for those who intend to quit smoking so as to give them a stronger incentive to kick the habit.

Deputy President, everybody can see that Hong Kong has been making a lot of effort to promote tobacco control in recent years. The real meaning of tobacco control, however, is to protect the health of both smokers and non-smokers instead of intentionally making things difficult for those with a smoking habit. I sincerely hope that the authorities can enhance the existing smoking cessation services while ensuring effective implementation of the law with a view to providing smokers the freedom and opportunity to choose to live a healthy life.

Deputy President, I so submit.

**MS AUDREY EU** (in Cantonese): Deputy President, since the new law on the expansion of statutory no smoking areas came into effect on New Year's Day last year, a smoking ban has been implemented in all restaurants. Customers no longer have to take in second-hand smoke while having meals. However, just like a hydra-headed monster that refuses to die, some people still take the risk of being prosecuted to smoke at the backstairs of a building or the corner of a park after the implementation of the new law.

Now, the maximum penalty for smoking in statutory no smoking areas is \$5,000. After committing the offence, an offender usually has to wait for three months before he can appear before Court. As the average amount of the fine for each offence is only \$700 to \$800, the deterrent effect is far from enough. Hence, the Government tabled the Fixed Penalty (Smoking Offences) Bill (the Bill), which proposes a fixed penalty of \$1,500 for the offence. The proposed amendment will enable enforcement officers to issue a ticket to the offenders on site, and the accused must pay the fine within 21 days upon the issuing of the ticket. It is hoped that this penalty will hurt the wallets of the accused so that they dare not commit the same offence again or even determine to quit smoking.

However, no matter how comprehensive the law is, rigorous enforcement is needed in order to achieve the best result. Now there are only about 80 TCIs in Hong Kong. It is impossible for them to inspect each and every statutory no

smoking area, not to mention handling telephone reports. It only takes a few minutes to smoke a cigarette. When the TCIs arrive, the offenders may have already left. It is hard to catch them red-handed.

To make the enforcement work more efficient, the Government has worked out an ideal plan of giving designated officers from the police, LSD, FEHD and HD the same enforcement power as that of the TCIs. It means that the number of enforcement officers may dramatically increase from 80 to more than 10 000, and the effectiveness of tobacco control can be enhanced by a great measure. It can be so theoretically. But actually, is everything as ideal as planned?

First of all, details of the enforcement work, especially the division of labour among departments, have yet to be carefully planned. Representatives of the FEHD staff once came to the Council and said that the 200 FEHD staff members responsible for the management of 104 markets and 19 hawker bazaars resisted the new task for the reason that there was already a shortage of manpower in the FEHD, and the addition of the new task would affect their normal duties. In fact, the effectiveness of tobacco control hinges on the initiative of the front-line enforcement staff. The Government should pay more attention to their morale and manpower needs.

Besides division of labour within the Government, a simple and standardized channel for making complaints should be provided for the public. For instance, which department should the public report to when they witness a smoking offence? If it happens in a market, should they report to an FEHD officer? Or do they have to report to the police if the market is managed by The Link? If it happens in the public areas of a public housing estate, then should it be reported to an HD officer? If it happens in a public space under private management such as the Times Square, who should the public report to? Do they have to check the land lease before deciding where to make the complaint?

Regarding the complaints hotline, the Audit Commission recently said that the government hotline of 1823 was extremely inefficient, and the complaints, instead of being handled through one-stop processing, were transferred to relevant departments for appropriate follow-up, which involved time-consuming

co-ordination work that affected the effectiveness of the service. The TCO hotline is just the same. Since there is a shortage of manpower, calls to the TCO hotline are now handled by operators of the government hotline, who will then inform the TCO of the details of the complaints. If more information is needed, the TCIs have to ring up the complainants before they can arrange any unannounced inspections. Unless the offenders are caught red-handed, no prosecution can be initiated.

We can see that the whole procedure for handling complaints is time-consuming and ineffective. Moreover, as it involves so many government departments, the public just feel confused and gradually lose the initiative to report offences. Last year, the TCO received 17 000 complaints through email and telephone. On average, there were 47 complaints a day. In the same year, over 3 800 tickets were issued by the TCIs. The Government should take reference to all this data and provide the TCO with more manpower and support with a view to boosting morale and efficiency.

Since the public did not know the new law very well at the early stage of its implementation, misunderstandings were easily caused. According to the newspaper reports, there were several scams involving impersonated TCIs in Tuen Mun Park earlier. It was reported that a lone swindler posing as a TCI targeted at elderly smoking offenders in the park and took the so-called prosecution actions. As the swindler claimed that the matter could be dealt with privately, the elderly smokers eventually paid him a "fine" of \$50 to \$300 in order to avoid troubles. There were at least five victims in these scams. The Government did not have any plan to amend the law when these incidents happened. But after the Bill is passed today, there will be a sharp increase in the number of enforcement staff from various departments and it may create more opportunities for swindlers. Hence, the Government has to handle the details of the law-enforcement work satisfactorily in order to stop swindlers from fishing in troubled water.

In recent years, the Government has been making a lot of effort to promote the policy of tobacco control. When the hardware is almost ready, the software is still fraught with defects that have to be dealt with as soon as possible. Otherwise, when the scope of statutory no smoking areas expands to include entertainment venues such as bars and mahjong parlours in July next year,

law-enforcement work may become even more difficult. To pre-empt unnecessary confusions, the Government has to work out a comprehensive and feasible plan to ensure effective enforcement.

The Civic Party agrees in principle to today's motion, except the software, to which we hope that improvement can be made by the authorities concerned after the passage of the Bill. With these remarks and on behalf of the Civic Party, I support the motion.

**DR KWOK KA-KI** (in Cantonese): Deputy President, I speak in support of the Second Reading of the Fixed Penalty (Smoking Offences) Bill (the Bill).

In fact, the FPS is basically a sequel to the Smoking (Public Health) (Amendment) Bill (Amendment Bill), which was passed into law sometime ago. When the amendment was moved, the Government promised to implement the FPS in the shortest possible time.

The Bill was repeatedly discussed in the Bills Committee and many organizations concerned were invited to make representations. People from many sectors (especially the catering sector) have raised concerns about the implementation of the Bill. But on the whole, the FPS is accepted by most of the citizens and respondents, who agree that it is essential for the perfection of the Bill and therefore should be implemented.

On the other hand, when the Bill was being scrutinized, relevant public officers (especially FEHD officers), who will have to enforce the law and exercise their power in auditoriums and venues under the management of the FEHD or LCSD, expressed their views on the anticipated increase in workload, possible conflicts with the citizens and the foreseeable difficulties in enforcement. In the course of examination of the Bill, the Government promised to provide adequate support.

However, I think the greatest issue is that the Government still has not committed sufficient manpower to the enforcement of the Amendment Ordinance or the law on the FPS. Besides the problem of manpower shortage, the greatest

worry is the relatively high wastage in the TCO, which has increased from 16.1% in 2006-2007 to 23.7% in 2007-2008. We are worried that, even if the Fixed Penalty (Smoking Offences) Ordinance is implemented, how much can the Government accomplish through the TCO? How effectively can the Ordinance be enforced?

After repeated discussions, we came to the view that it is the Government's obligation to expand the establishment of the TCO and to improve remuneration and promotion opportunities with a view to retaining aspiring officers in the TCO. In fact, one of the reasons for the wastage is probably the shortage of manpower, which leads to a consequential heavy workload. This is a vicious circle. If we fail to put in more resources and manpower for the enforcement of the Ordinance, it is predictable that we can see no real improvement in the wastage rate in the days to come.

As we mentioned earlier in the discussion on the Amendment Bill, overall speaking, apart from implementing the Ordinance, the Government has put in little resources to support anti-smoking and smoking cessation services. Though the Government receives about \$3 billion in tobacco duty revenue every year, the direct allocation to the TCO and the Council on Smoking and Health (COSH) for enforcement and assuring public health is far from adequate.

Moreover, smoking cessation services offered by the Department of Health (DH) and Hospital Authority (HA) are often underfunded, resulting in firstly, inadequate manpower and resources for more district smoking cessation programmes, classes and clinics; and secondly, no provision of oral or external medicines for those who intend to quit smoking due to financial limitations. In this regard, we think that the Government, which on the one hand levies a duty on cigarettes, has the obligation to allocate more resources to support smoking cessation services on the other.

The HA and DH are under heavy workload. With so many patients to take care of, it is difficult for them to allocate additional resources and manpower to help people quit smoking. Moreover, it is not fair to other patients and the medical staff. We think that the Government should first appropriate additional resources, through internal resource reallocation, to set up specialty clinics and



programmes for smoking cessation. It can also consider co-operating with practicing family physicians in private clinics, through fixed funding, to help those who intend to quit smoking to get adequate support, including oral and external medicines from family clinics or acquainted doctors

At the same time, the Government should also encourage more voluntary agencies and non-governmental organizations to provide programmes through their district volunteer services. In fact, non-governmental organizations and voluntary agencies in various districts, especially charitable organizations that run health care services or clinics, have the capability to operate such programmes. The point is that, under the current situation, they do not have sufficient resources to provide the service.

Another option which the Government may consider is to follow the examples of other countries, including Asian countries such as Taiwan and Thailand, to levy a surcharge on cigarettes. The surcharge is earmarked for specific uses, which include education, services and medicines for smoking cessation, as well as studies on smoking and health. Actually, the levying of surcharge has successfully helped increase the resources for tobacco control, anti-smoking education and smoking cessation assistance to a large extent in many regions such as Taiwan or Thailand. However, we are so disappointed that despite repeated suggestions to the Government, including the Food and Health Bureau and the Financial Secretary, they still turn a deaf ear to us.

Besides, we are greatly worried that since the implementation of the Amendment Ordinance a year ago, the Government has recorded an increase in tobacco duty revenue instead of a drop. Many front-line workers, including smoking control organizations, have also seen a very worrying scenario, that is, a rise in the number of new smokers, especially among young men and women. Hence, unless the Government is determined to change the current policy to pump up resources or levy a surcharge, otherwise, the existing level of support, both in education and smoking cessation assistance, is unable to meet the needs. The implementation of the FPS may be an effective deterrent that can prevent many smokers from smoking in indoor areas or indoor no smoking premises. However, for young people or even students, I do not think the system can effectively dissuade them from succumbing to the temptation of smoking.

Even more worrying is that, though well aware of the direct and indirect impact of smoking on health such as heart and respiratory diseases, we always do not have adequate resources or measures to help those who are determined or intend to quit smoking. We, as members of the medical staff, deeply regret that these smokers are not able to quit smoking through the existing smoking cessation services. Besides, what upsets us even more is that every day in hospitals and clinics, we have to face a large number of such people whose health is directly or indirectly impaired by smoking.

Hence, in addition to my support and agreement to the passage of the Bill, I once again appeal to the Government to commit more effort and resources, including consideration of levying a surcharge, to strengthening its support for relevant anti-smoking services and education. I believe that all the people in our community — regardless of their social strata or ties to smokers — will not raise any objection to this.

In view of this, firstly, I support the Second Reading of the Bill. More importantly, I hope that, after the Ordinance has come into effect, the Government will bring us good news that adequate resources, manpower and funding will be provided in the coming year to ensure the implementation of various smoking cessation campaigns, smoking cessation assistance programmes, anti-smoking campaigns and activities like education campaigns and studies targeting students and youngsters.

I so submit. Thank you, Deputy President.

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

(No Member indicated a wish to speak)

**DEPUTY PRESIDENT** (in Cantonese): If not, I now call upon the Secretary for Food and Health to reply. This debate will come to a close after the Secretary for Food and Health has replied.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): Deputy President, I would like to express my heartfelt thanks to Mr Andrew CHENG, Chairman of the Bills Committee on the Fixed Penalty (Smoking Offences) Bill (the Bill), and other members of the Bills Committee for their hard work.

Also, I have to express my gratitude to the organizations, professional sectors, district figures and individuals concerned for attending the public hearings held during the scrutiny of the Bill, as well as Members of the Legislative Council and members of various District Councils.

The design of the principal legislation and the majority of provisions in the Bill are supported by the Bills Committee. I will propose a number of amendments at the Committee stage shortly. Two of the amendments are the outcome of our discussions with the Bills Committee, while the remaining amendments are technical in nature. I will explain these amendments in detail when I propose the amendments later on.

The concept of introducing a fixed penalty system to deal with minor offences related to smoking was developed in the course of scrutiny of the Smoking (Public Health) (Amendment) Bill 2005. The Bills Committee concerned at that time was particularly concerned about the effectiveness of enforcement actions and proposed that a fixed penalty system (FPS) should be implemented to deal with offences of smoking in no smoking areas. With the enactment of the Smoking (Public Health) (Amendment) Bill 2005, smoke-free space and healthy environment enjoyed by the public were increased substantially. Most smokers had been law-abiding and co-operative, and they no longer smoked indoors or when others would be affected. But, at the same time, the public expected the enforcement authorities to deal with offenders, who were in a small minority, smoking in no smoking areas seriously. Therefore, upon the passage of the legislation, we immediately went ahead with the preparation for the establishment of a FPS. We then consulted the Panel on Health Services of the Legislative Councils and the 18 District Councils on the details of the proposed FPS. The relevant Bill was submitted to the Legislative Council for scrutiny early this year. Thanks to the hard work of the Bills Committee and the support of all Members, the Second Reading of the Bill was resumed this legislative year.

At present, under the Smoking (Public Health) Ordinance (Cap. 371), smoking or carrying a lighted cigarette, cigar or pipe in a statutory no smoking area or a public transport carrier is an offence punishable on summary conviction by a maximum fine of \$5,000. The work involved in the prosecution of an offender includes preparing investigation reports, application for summons through the CASEMAN system, preparing brief facts of the case as well as relevant witness statements for submission to the Court and giving instructions to the prosecutor. For undelivered summonses, the Tobacco Control Office (TCO) of the Department of Health (DH) would have to obtain the respective addresses of the relevant offenders from other departments and arrange to re-issue a summons if there has been any change to an offender's address. The Courts also need to spend much time and manpower to process these cases.

(THE PRESIDENT resumed the Chair)

This is a heavy drain on the limited time and resources of the Government and the Courts, considering that the smoking offence is a relatively less serious offence. The Bill thus proposes to adopt the FPS to deal with offences of smoking or carrying a lighted cigarette, cigar or pipe in a statutory no smoking area or a public transport carrier, for this will save time and better utilize the limited resources of the Government and the Courts. Enforcement officers will thus have more time and manpower to take enforcement actions, which will increase the strength and effectiveness of enforcement as a whole, and the workload of Courts may also be reduced. According to the experience in implementing other FPSs, if the penalty is set at an appropriate level and that offenders are required to pay the fines within a shorter period, the number of offences will decrease.

Next, I would like to brief Members on the features and mode of operation of the proposed FPS.

First, we propose to fix the penalty level at \$1,500. This is on a par with the fine level for public cleanliness offences which also have public health implications. This penalty level was also given majority support during the public consultation.

The operation of the proposed FPS for smoking offences is similar to the existing FPSs. We propose that if an authorized enforcement officer has reasons to believe that a person is contravening or has contravened the statutory smoking ban, he may give that person a fixed penalty notice, and the recipient will have an opportunity to discharge his liability to conviction by payment of the fixed penalty within 21 days. The person concerned shall no longer be liable to be prosecuted or convicted for that offence once the penalty is paid. If the person concerned wish to dispute liability for the offence, he may do so by notifying the enforcement authority of his intention in writing. By then, a summons will be served on him.

If no payment of the full amount is received within 21 days, the enforcement authority will serve by post on the person a reminder to demand payment of the fixed penalty within 10 days from the date of the reminder.

If no payment of the full amount of the fixed penalty is received within 10 days from the date of issue of the reminder and no notification of the person's intention to dispute liability for the offence is received during the same period, the authority concerned will apply to the Magistrate for a court order, requiring the person to pay the fixed penalty amount together with an additional penalty equal to the fixed penalty amount plus an administrative cost of \$300, that is \$3,300 in total within 14 days from the date on which the court order is served.

If no payment of the full amount of the fixed penalty and the additional penalty plus administrative cost is received within the specified time limit, the person concerned shall be deemed to have failed to pay the sum adjudged to be paid by a convict and be sentenced to imprisonment under section 68 of the Magistrates Ordinance (Cap. 227).

The Bill has also included provisions to deter offenders from draining the time and resources of the Government and Courts without justification. Under the Bill, if an offender has notified the authority concerned of his wish to dispute liability, but offers no defence or a defence which is considered frivolous or vexatious by the Magistrate in the court proceedings, the Magistrate will impose an additional penalty equal to the amount of the fixed penalty. Or, in the case of an offender who has notified the authority his wish to dispute liability and

summary proceedings have been initiated against him but he then changes his mind and wishes to discharge liability by paying the fixed penalty, he should pay a total of \$3,500, the sum of the fixed penalty and the administrative costs.

Moreover, in the course of enforcement, enforcement officers may require the offender to supply his name, address and contact telephone number, and to produce proof of identity. If he refuses to supply these personal particulars or supply false or misleading personal particulars, he commits an offence and is liable on summary conviction as decided by the Court to a maximum fine of \$10,000.

Finally, the Bill also empowers the Secretary for Food and Health to make regulations to deal with various technical matters including prescribing the fixed penalty notices and other forms and specifying the payment methods and manners. If the Bill is passed today, we will make the regulation before the commencement of the Ordinance.

Madam President, though the Bill is purely on the FPS, the Bills Committee has also discussed many issues related to the enforcement of the smoking ban. We would like to thank members for their concerns in this respect, which have helped us evaluate the existing system and conduct suitable review.

First, members are gravely concerned about the sufficiency of enforcement manpower. Actually, in the past two years, additional resources were provided to the TCO, and the number of Tobacco Control Inspectors (TCIs) has increased from 34 in 2006-2007 to 85 at present. If the Bill is passed, manpower will be increased in future as required. I know full well that the work of TCIs is no easy task. To attract and retain talents, we plan to convert non-civil service contract TCI positions into civil service positions, and examine the possibility of absorbing the TCIs into existing grades as far as practicable. If it is confirmed, after examination, that no existing grade is applicable to TCIs, we will consider the creation of a new civil service grade for TCIs.

Moreover, under the FPS, we propose that management staff of public venues frequented by members of the public should be authorized to issue fixed penalty notices for offences of smoking in the statutory no smoking areas of the public venues managed by them. These public venues include:

- (a) Public bathing beaches, public pleasure grounds, public swimming pools, stadia and indoor areas of other public facilities under the Leisure and Cultural Services Department;
- (b) Indoor areas of public markets and hawker bazaars under the management of the Food and Environmental Hygiene Department; and
- (c) Statutory no smoking areas within public housing estates under the management and control of the Housing Authority or the Housing Department

The number of additional enforcement officers will exceed 3 000.

Members are also concerned about the answering of incoming calls to the complaint and enquiries hotline of the TCO. At present, calls to the TCO hotline are answered by the Government's Integrated Call Centre (ICC). The ICC answers incoming calls around the clock, and the performance target is to answer 80% of the calls within 12 seconds. Calls are answered by Customer Service Officers (CSO) trained to provide service for the TCO hotline, but if a CSO is not immediately available, the call will be put on a queue, or the caller may leave a voice message. The ICC will reply to the callers who have left a voice message within three hours. All complaints received are referred to TCIs in charge of the district immediately after the calls. The TCO will then arrange unannounced inspections to follow up the complaints. The TCO will continue to work closely with the ICC to monitor the performance level and explore the option of increasing the number of designated CSOs if the demand so justifies.

Furthermore, the Bills Committee is concerned about the adequacy of smoking cessation service. Actually, we share the same goal with the Bills Committee in the provision of smoking cessation service. We are now planning

to co-operate with non-government organizations to provide more smoking cessation services. We will continue disseminating and promoting quit-smoking messages via the Hong Kong Council on Smoking and Health and at the district levels. We think we should seize the opportunities arising from the implementation of the FPS to provide information on smoking cessation services to unlawful smokers. To that end, actions will be taken to print the DH's smoking cessation hotline on fixed penalty notices, and provide information on smoking cessation services when a payment reminder is issued.

Madam President, though the Bill is relatively simple, the administrative, promotion and other matching work involved behind the scene are rather complicated. Since after the passage of the Bill, the DH will need about 10 months to establish an information system to support the administrative work under the FPS, it is impossible for us to fix the commencement date of the Ordinance at the present stage. However, there will surely be extensive publicity to enable the public to gain a good understanding of the FPS before its implementation.

Lastly, I would like to express my sincere gratitude to members of the Bills Committee for their support of the resumption of the Second Reading of the Bill. I implore Members to vote for the Bill and the amendments to be proposed by the Government at the Committee stage. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Fixed Penalty (Smoking Offences) 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): Fixed Penalty (Smoking Offences) Bill.

Council went into Committee.

### Committee Stage

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

### FIXED PENALTY (SMOKING OFFENCES) BILL

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Fixed Penalty (Smoking Offences) Bill.

**CLERK** (in Cantonese): Clauses 1, 3, 4, 5, 11, 12, 14, 15, 16, 18 and 19.

**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, 6 to 10, 13 and 17.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): Madam Chairman, I move the amendments to the clauses read out just now. The amendments have been circularized to Members.

I would like to explain several amendments involving substantial changes in content.

First, clause 6 of the Bill provides that the authority concerned, that is the enforcement authority authorized by the Secretary for Food and Health, "may" serve on a person, who has not paid the fixed penalty within the specified period or refuses to accept a fixed penalty notice, another fixed penalty notice, that is the reminder.

The Bills Committee is of the view that to enhance the clarity of the provision, the provision should state that the enforcement authority "shall" issued a reminder to the offender mentioned above instead of resorting to other enforcement actions. We have accepted the view of the Bills Committee and made corresponding amendments to clause 6(2) and 6(3).

Moreover, under the original clause 7, despite the establishment of the FPS, the enforcement authority may withdraw a fixed penalty notice or reminder issued and initiate summary proceedings against the offender concerned. It is not specified in the original Bill under what circumstances can the enforcement authority decide to do so.

The Bills Committee considers that to ensure consistency in enforcement and avoid abuse of power, the Bill should state clearly the considerations for withdrawing a fixed penalty notice and initiating the summary proceedings.

On review, I agree to stipulate in clause 7(4) that where a fixed penalty notice is withdrawn, proceedings in respect of the offence specified in the notice

may only be commenced under the situation specified in the legislation. The situation is: if the ground, or one of the grounds, on which the notice is withdrawn is that it contains incorrect information supplied by the person to or on whom the notice was given or served. In other words, unless the offender has supplied incorrect information and rendered the notice containing incorrect information, the authority cannot withdraw any fixed penalty notice already issued and initiate a prosecution by serving a summons. We believe the provision after amendment will provide the necessary flexibility to the enforcement authority on the one hand, and make it known to the public the circumstances under which the enforcement authority may withdraw the notice and initiate summary proceedings on the other. This amendment is thus worthy of support.

Third, it is the amendment to clause 17(1) and 17(2), which is related to the authorization mechanism for the Secretary for Food and Health to authorize public officers to enforce the law. According to the original clause 17, subsequent to the enactment of the Bill, the Secretary for Food and Health may by notice published in the Gazette specify a class of public officers to enforce the law.

The Bills Committee considers that the authorities and the class of public officers to be authorized to enforce the law should be specified by means of legislation subject to the scrutiny of the Legislative Council. On review, we agree to move amendments to clause 17(1) and 17(2) to specify that the notice to be published in the Gazette is subsidiary legislation, and the Legislative Council thereby has the authority to examine it.

Furthermore, to facilitate the smooth operation of the FPS and to make the legislative intent clearer, we will propose amendments to clauses 2(1), 10(2), 13(2) and the schedule.

Lastly, technical amendments will be made to clauses 8(4) and 9(3)(c) to enhance the clarity of the meaning of these provisions.

The Bills Committee has discussed the above amendments and expressed its support. I hereby implore members to support and pass the above amendments.

Thank you, Madam Chairman.

*Proposed amendments*

**Clause 2 (see Annex II)**

**Clause 6 (see Annex II)**

**Clause 7 (see Annex II)**

**Clause 8 (see Annex II)**

**Clause 9 (see Annex II)**

**Clause 10 (see Annex II)**

**Clause 13 (see Annex II)**

**Clause 17 (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): Clause 2, 6 to 10, 13 and 17 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedule.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): Chairman, I move the amendment to the schedule. The amendment to the schedule is related to the amendment to clause 2, both seeking to enhance the clarity of "scheduled offence". Thank you, Chairman.

*Proposed amendment*

**Schedule (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 amendment 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 amendment passed.

**CLERK** (in Cantonese): Schedule as amended.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the schedule 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.

**CHAIRMAN** (in Cantonese): Council now resumes.

Council then resumed.

**Third Reading of Bills**

**PRESIDENT** (in Cantonese): Bill: Third Reading.

**FIXED PENALTY (SMOKING OFFENCES) BILL**

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

Fixed Penalty (Smoking Offences) 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 Fixed Penalty (Smoking Offences) 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): Fixed Penalty (Smoking Offences) Bill.

**Resumption of Second Reading Debate on Bills**

**PRESIDENT** (in Cantonese): We now resume the Second Reading debate on the West Kowloon Cultural District Authority Bill.

**WEST KOWLOON CULTURAL DISTRICT AUTHORITY BILL****Resumption of debate on Second Reading which was moved on 20 February 2008**

**PRESIDENT** (in Cantonese): Mrs Selina CHOW, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report. Since Mrs Selina CHOW is not present in the Chamber, I can only .....

(Mrs Selina CHOW entered the Chamber hurriedly.)

**PRESIDENT** (in Cantonese): The Honourable Member has come back on time. You can now address the Council on the Committee's Report.

(Mrs Selina CHOW was looking for her speech)

**MRS SELINA CHOW** (in Cantonese): I am sorry, President. I have to find my speech.

**PRESIDENT** (in Cantonese): All right. I will wait for you but please hurry.

(Mrs Selina CHOW was still looking for her speech. The President asked an officer to give her a speech.)

**MRS SELINA CHOW** (in Cantonese): I am sorry, President.



**PRESIDENT** (in Cantonese): The speech I gave you just now is a copy of the speech to be delivered on behalf of the relevant Bills Committee.

**MRS SELINA CHOW** (in Cantonese): I know, but I want to find the speech that I will deliver in my personal capacity.

**PRESIDENT** (in Cantonese): You may first give your speech on the report, then let other Members speak and speak in your personal capacity as a Member later.

**MRS SELINA CHOW** (in Cantonese): President, in my capacity as Chairman of the Bills Committee on the West Kowloon Cultural District Authority Bill (Bills Committee), I would like to submit the report and report on the main deliberations of the Bills Committee.

The West Kowloon Cultural District Authority Bill (the Bill) seeks to establish a West Kowloon Cultural District Authority (WKCDA) as a dedicated statutory body whose major functions are to implement the West Kowloon Cultural District (WKCD) project from planning to operation and to ensure the entire project's financial sustainability.

The Bills Committee has held a total of 15 meetings. During this period, public opinion on the Bill was sought. Thirty-nine deputations and nine individuals have made representations to the Bills Committee.

In view of the high expectations of the public on the WKCD project, some members considered that mission statements and objective performance indicators should be formulated and specified in the enabling legislation to provide objective yardsticks for the public and the Legislative Council to monitor regularly the Authority's work. In this connection, the Administration did not consider it appropriate to specify any quantifiable performance indicators but agreed to improve the presentation of the provision to bring out more clearly the

role of the WKCDA in meeting the different objectives when performing its functions. Moreover, the following two new objectives were added having regard to deputations' suggestions:

- (a) to uphold and encourage freedom of artistic expression and creativity; and
- (b) to enhance and promote excellence, innovation, creativity and diversity in arts and culture.

The composition of the WKCDA Board was also one of the major deliberations in the Bills Committee. The Bill provides that all Board members, other than the CEO, are to be appointed by the Chief Executive. Some members have expressed concern that the entire appointment exercise would be conducted at the sole discretion of the Chief Executive and the appointment mechanism would lack transparency and objective criteria.

At the earlier stage of the scrutiny of the Bill, some members suggested that some of the non-public officer Board members should be appointed in representative capacities through nomination or election by the respective sectors. Moreover, the Legislative Council Member(s) to be appointed to the Board should be elected by and from among the Legislative Council Members.

According to the Administration, the precise composition of the Board may vary from time to time to tie in with the needs of the different stages of the development and operation of the WKCD facilities. The Administration therefore considers it not appropriate to specify in the Bill the precise composition of the Board members. Moreover, the Board should work together as a strong, dedicated and cohesive team capable of performing its executive functions effectively. Any nomination or election mechanism would risk undermining the effective operation of the Board, as the interests of the sectors or organizations which some members are representing may not be compatible with the overall objectives of the Board in responding to the development needs of the WKCD project from time to time.

The Administration has advised that it is particularly difficult and impracticable to prescribe a proper and fair election or nomination system for the

arts and cultural sector, given its diversity and the lack of an established professional accreditation mechanism for screening and electing qualified representative members of the arts and cultural sector.

Given the above considerations, the Administration considers it more appropriate for the Chief Executive to appoint members of the Board having regard to the different needs of the WKCD project at different stages of development, based on the merits of the individuals concerned, including their ability, expertise, experience, integrity and commitment to public service.

However, the Administration has agreed to suitably tighten the appointment criteria of the five or more Board members with arts and cultural background and to set out in the relevant provision requirements on the professional experience of the other non-public officer members.

The Administration's proposed amendment could not adequately address some members' concern about the appointment mechanism of the Board. Mr Alan LEONG, members from the Democratic Party and Miss CHAN Yuen-han have indicated their intention to move amendments to the relevant clause. The Bills Committee has also discussed their proposed amendments.

Another important point of deliberation in the Bills Committee is about the provisions on public consultation. Clauses 17 and 18 of the Bill provide that the WKCD shall, in relation to matters in general and the preparation of the development plan respectively, consult the public at such time and in such manner as it considers appropriate.

Some members considered that the provisions on public consultation in the Bill are too loosely constructed and cannot ensure that there can be systematic and extensive public consultation. Mr Alan LEONG has proposed amendments for the establishment of a standing consultation panel, which the WKCD would be obliged to consult regularly and openly but the WKCD would not be bound by the decisions of the panel.

The Administration initially considered that it would be inappropriate and indeed difficult to prescribe in the legislation a predetermined public consultation mechanism which the WKCD should follow in conducting any public

consultation since the development and operation of the WKCD involve a wide range of matters. The stakeholders concerned would vary according to the matters requiring public consultation at different stages.

Later, the Administration, upon further consideration, has advised that a consultative mechanism established under the WKCDA similar to the Consultative Committee on the Core Arts and Cultural Facilities of the West Kowloon Cultural District (Consultative Committee) and its three Advisory Groups could provide a useful platform for soliciting views and building consensus among experts, stakeholders and the general public on major matters relating to the work of the WKCDA. The Administration, therefore, will move an amendment to require the WKCDA to set up a consultation panel. Members of the consultation panel will be appointed by the WKCDA and the latter shall from time to time issue guidelines and make public the functions, proceedings and business, and so on, for the consultation panel.

Mr Alan LEONG proposed further amendments on the functions, appointment of members and operation of the consultation panel. The Administration has agreed to further provide that in appointing any member of the consultation panel, the Authority shall have regard to the purpose for which the panel is established. However, the Administration considered it not appropriate to specify in the Bill the detailed arrangements regarding the operation of the panel.

Regarding the requirement for the WKCDA to consult the public in preparing a development plan, Miss CHAN Yuen-han considered that in relation to the WKCDA's consultation with the public in this regard, the Authority shall be required to announce a specific consultation timetable. The consultation should be conducted in three prescribed stages. The subjects to be consulted should have a wide coverage, including community representatives, persons in the field of arts and culture, the academia and the professional sectors.

The Administration has responded that while it appreciates Miss CHAN's concern, it is difficult to prescribe in the legislation the exact manner in which the consultation should be conducted. The Administration has however advised

the Bills Committee that it would be prepared to undertake in the relevant speech of the Secretary for Home Affairs later on that it would request the WKCDA to conduct the public consultation in an extensive and systematic manner.

Members of the Bills Committee in general have expressed the wish that the WKCDA will operate with a high degree of transparency. In this connection, the Bills Committee has had detailed discussions on whether it is necessary to open to the public all meetings of the Board or its committee. Members have noted that quite a number of deputations have expressed the view that mandating the Board and committees of the WKCDA to hold meetings in public would not be conducive to the effective performance of their functions.

The Administration has explained that unlike regulatory or consultative bodies, the Board and committees of the WKCDA have the statutory duty to deliberate and make decisions on many matters concerning the development and operation of the WKCD. It is expected that a vast majority of the meetings of the Board and committees will involve discussions of commercially and market sensitive matters, the disclosure of which will make it very difficult for the WKCDA to operate effectively and efficiently. The Administration has also advised that it is a common feature in the relevant legislation for local statutory bodies that the respective boards are allowed to decide whether to hold open meetings. The Administration is also not aware of any comparable overseas organizations being required by statutes to hold their board meetings in public.

The Bills Committee noted that, by making reference to the relevant provision in the Construction Industry Council Ordinance, members of the Democratic Party would move an amendment to require the Board and committees of the WKCDA to hold their meetings in public except under certain specified circumstances.

The Bill provides for the establishment of the Audit Committee under the WKCDA. The Bills Committee has examined whether and how the composition of the Audit Committee should be subject to additional conditions to enhance its independence and effectiveness in performing the internal financial monitoring role. During the deliberations, the Bills Committee has made reference to the relevant rules for listed companies.

Taking into account members' concerns and views, the Administration will move amendments to specify that the chairman of any other committee established under the WKCD is not eligible for appointment as a member of the Audit Committee. The Audit Committee should include at least one member with appropriate professional qualifications or accounting or related financial management expertise.

Members of the Democratic Party have indicated that as the WKCD would be provided with substantial public resources including the upfront endowment, it would be opportune for the Audit Committee to conduct a comprehensive audit in 2015 when the first phase of the development of the WKCD is scheduled to be completed and submit a report on the review to the WKCD, and that the WKCD shall cause the report to be laid on the table of the Legislative Council. The Democratic Party would move an amendment in this connection.

Moreover, in view of members' concern, the Administration will move amendments to require the WKCD to set up an Investment Committee to advise the Board on the investment of the WKCD and to oversee and monitor the management of such investment. The WKCD shall also set up a Remuneration Committee to advise the WKCD on the terms and conditions of employment and pension schemes, and so on.

At the same time, members considered that arrangements should be made to enhance the public accountability of the WKCD in its operation. In this connection, the Administration has agreed to move amendments to specify that the annual report of the WKCD must:

- (a) specify the work and activities of the committees established by the WKCD;
- (b) specify how the activities of the WKCD for that financial year relate to the WKCD's functions and objectives in the Bill; and
- (c) include information on how the WKCD conducted or implemented the activities and projects as set out in the corporate plan and the business plan submitted in the previous financial year.

The Bills Committee has also had careful deliberations on the provisions regarding the requirements for disclosure of interest of the members of the Board and committees of the WKCD. Taking into account members' concerns and views, the Administration agreed to move other amendments to the Bill for the purposes of refinement.

Some members have requested the Administration to consider establishing a statutory appeal mechanism in respect of the WKCD's decisions. The Administration has explained that the WKCD is not a regulatory body but is an executive organization that has to perform a wide scope of duties. It would not be practicable to identify and specify in the legislation the specific types of decisions of the WKCD which should be subject to appeal.

The Bills Committee noted that the WKCD may make bylaws to provide for an appeal mechanism, and that the WKCD Board may set up a committee to handle appeals. In view of members' concern, the Administration has indicated that the Secretary would make an appropriate undertaking in his speech later that the Administration would urge the WKCD to set up an appeal mechanism.

President, I so submit. I will speak again on my views and those of the Liberal Party later. Thank you, President.

**MR LAU CHIN-SHEK** (in Cantonese): Regarding this Bill, I think I have adopted basically the same attitude with regard to the Government's funding allocation later, that is, it depends on the Government's positioning of, attitude to and allocation of resources for this local community culture known as Cantonese opera, that is, what the Government's commitment to inheriting, promoting and developing this culture is.

President, I wish to raise three points. First, to local people, Cantonese opera is an important part of their life. However, this is not an estate because it has a life of its own. Cantonese opera has a history of more than 200 years. At the very beginning, it was performed in the Zhongzhou dialect, going everywhere in a red opera float in the countryside or mountain areas of the Pearl River Delta Area. Initially, in Cantonese opera, there were wooden fish and dragon boat and supernatural power shows and New Year shows. Members

may recall that in the 1940s, 1950s and 1960s, theatres in Hong Kong included the Ko Shing Theatre, Tai Ping Theatre, Lee Theatre, State Theatre, Hong Kong Grand Theatre and in Kowloon, the Astor Theatre, Prince's Theatre, Apollo Theatre, Paramount Theatre, and even Princess Theatre. As for performers, there were an array of different stylistic schools from Master MA Sze-tsang, Master SIT Kok-sin, Master PAK Yuk-tong, Master GWAI Ming-yeung; and in recent years, there are troupes like the Sin Fung Ming Opera Troupe, the Chung Sun Sing Opera Troupe, the Tai Lung Fung Opera Troupe repertoire and the Chor Fung Ming Opera Troupe. They play a very important role in our cultural life. It is even said that as long as one speaks Cantonese, one can sing the act of "Fragrant Sacrifice" from the Cantonese Opera "Legend of Princess Chang Ping" and the line of "Falling petals fill the atmosphere, obscuring the moon from view."

Recently, the Cantonese operas "Dream of the West Chamber" and "the Legend of the Princess Chang Ping" with Madam PAK Suet-sin as the artistic director were performed on Hong Kong side and Kowloon side respectively and in the end, it was extremely difficult to get even one ticket as they had a full house for more than a month. Since the Government can provide her with the venues and the time slots for performances, I believe there should certainly be no difficulty in satisfying the needs of fans for half a year or a year. Cantonese opera will not die.

Secondly, I wish to say that Hong Kong has an unshirkable responsibility towards this local community culture called Cantonese opera. It is said that since Cantonese opera belongs to Guangdong, Hong Kong and Macao, Guangdong should also share the responsibility. However, if we look at Cantonese opera in Guangdong, what will we find? There is a heavy baggage left over by the catastrophe of the Cultural Revolution. There are different schools and interpretations in Cantonese opera. There are the MA (Sze-tsang) stylistic school, the SIT (Kok-sin) stylistic school and the GWAI (Ming-yeung) stylistic school; and for singing style, there are different singing styles such as Sin's voice, Nui's voice and Fong's voice. What about the music in Cantonese opera? It gives music accompaniment to the performers. That is to say, the singing style of Alan LEONG would be very different from that of LAU Chin-shek. Even when we sing the same part of a song, there can be different tones and styles. However, what is the case of Cantonese opera on the



Mainland? Be it a performance by one single person or a hundred persons, there is no difference. It is just like baking cookies from one single mould. The result is that there is no freedom, no freedom of interpretation and therefore, very few people would buy a ticket to watch the performances. In Guangzhou, even a long-term venue for performance is lacking.

Thirdly, I wish to point out that this is the very last chance. Mr YUEN Siu-fai said that just one minibus could carry all the seasoned Cantonese opera artists. Should this minibus run into any traffic accident, Hong Kong's Cantonese opera would go with them. Playwright YIP Shiu-tuck said that his wish is to pass on his script-writing knowledge to the next generation. Experienced Cantonese opera performer Danny LI said that his wish was to pass on the quintessences of this tradition to the next generation. Ms LEE Heung-qin said that her wish is to see in her lifetime that Cantonese opera can have a permanent performance venue. But in view of their old age, there is no time to lose in passing on everything to the next generation.

President, today, we are talking about the policy carried by the West Kowloon Cultural District Authority Bill, that is, about culture. However, what sort of cultural policy is there in Hong Kong? Let us take a look at the framework: Culture is under the ambit of the Leisure and Cultural Services Department (LCSD). There is not any culture bureau or culture department, so we have become a laughing stock. Today, I do not want to discuss what a cultural policy is here, rather, I want to say that in the past, the approach of getting whatever came handy with regard to culture and the arts was adopted in Hong Kong. Many overseas famous people would be invited to come to Hong Kong to perform as they stopped by. However, have Members ever considered what sort of soil is there in Hong Kong to nurture and cultivate local culture and artists?

The music of Beethoven is beautiful. His music is about the relationship between man and Nature. What he described in his music were often larks and squirrels. However, where can we find larks and squirrels in Hong Kong? This music is in itself good but, after all, it is not closely related to the place where we live.

The absence of orchestral music matters not to Hong Kong; it is the business of Austria, Germany or the United Kingdom. The absence of ballet matters not to Hong Kong; it is the business of Russia or the United Kingdom. The absence of opera matters not to Hong Kong; it is the business of Italy. However, if we lose Cantonese opera now, it is absolutely the business of the Government, this Council and members of the Hong Kong public.

Food is important, but so is arts. Food can give us a full tummy whereas arts can transform us from being selfish to full of compassion. Flowers may seem to be useless and just a luxury. However, similarly, they can make us more diversified and generous. President, for this reason, I think that no matter if the Government has any cultural policy or not, it should still show particular favour to this local community culture called Cantonese opera. I have several suggestions: First, venue is the most important thing. There are people who learn to perform Cantonese opera (that is, Da Xi) but after all, there must be opportunities of performance and there must be an audience that really pays to buy tickets to watch the performance.

Cantonese opera can survive only with an appropriate venue. There are many constraints in the location and design of the Ko Shan Theatre. So do not say that the Ko Shan Theatre is helpful to Cantonese opera. This will not do. The Sunbeam Theatre is the most important performance venue for Cantonese opera nowadays, but its tenancy is expiring soon. Should the Government not give more proactive consideration to the preservation of the Sunbeam Theatre? This is because there must be a venue before Cantonese opera will have an audience, and there must be an audience before Cantonese opera can pass on its tradition and flourish.

The second point is the partnership scheme. In implementing this scheme, please do not provide venues in the remote areas. It is important for a venue to be situated in the urban area. Venues should be reserved for Cantonese opera troupes to stage performances on a regular basis. The Cultural Centre is one location that can be considered.

The third point is that more resources should be committed to Cantonese opera. In the past, we may have devoted a lot of resources to non-professional groups. However, today, we should channel the resources back to the

professional groups. It is said that the Yau Ma Tei Cinema will be used by them for training. However, we all know that there are a refuse collection point and centre, so they cannot get more space even if they want to. The refuse collection point has to be relocated but no one wants its presence. It is most desirable if it can stay away from where one lives, so it has to continue to stay there. However, just imagine, it is a place with only 300 seats. They need a place for regular rehearsal and let young artists perform and hone their skills there. Should the Government not seriously consider how to solve this problem? Moreover, basically, there is a serious lack of administrative staff. Should the Government not consider how to allocate the necessary resources instead of thinking that it does not need any administrative staff at all?

The fourth point is about the consultation framework. Since we say that we have to be biased in favour of Cantonese opera, which is our local community culture, I think it should have representatives in the consultation or power framework.

President, some people may say that Cantonese opera is old-fashioned. However, I wish to tell Members that when we look at all opera scripts, including the play scripts of western drama, then look at the four famous plays by TONG Tik-sang again, we will find that they are by no means old-fashioned. On the script of the Legend of Princess Chang Ping, the Faculty of Education of the University of Hong Kong has published the book, *The "Princess Changping" Classroom*. It is designed for Secondary students to learn Chinese from it and to learn more about and appreciate Cantonese opera. In future, it will become an elective course in the secondary education curriculum. In Beijing, some school professors said that the scripts of TONG Tik-sang and Mei Lan-fang were Chinese national treasures, absolutely comparable to Shakespeare, so let us watch them, listen to them and appreciate them.

President, there are currently many enthusiasts working on this. I really hope that the Government will not waste the good intentions of these people. President, since my childhood, I have accompanied my father in going to the Da Xi. My mother and I would take a rickshaw, that is, a human-powered cart, and go from the western part of Guangzhou to the eastern part. I would sit in their lap to watch the show. After coming to Hong Kong, on seeing that Mr YUEN Siu-fai, Mr LEUNG Hon-wai and others had formed the Experimental

Cantonese Opera, I volunteered to join them. In those days, we had no pay and we even had to pay for our own meals. We worked hard and performed all the chores together. Later, I joined the Chor Fung Ming Opera Troupe in 1972. I did chores of all kinds. That is the truth. I even opened the car door for "Sin Tse". Now, despite the change in my status, my respect for artists has not changed. Regardless of my status, I am willing to salute them. For the sake of arts and culture, let us truly put words into action. Even though we can only achieve very little, we still have to do our utmost.

Our local culture is limited and still less has survived. This flower of culture requires nurture by the Government, you and me. I really hope that the Secretary can give me some response later.

Thank you, President.

**MISS CHAN YUEN-HAN** (in Cantonese): Today, we have to spend a long period of time discussing the WKCD project. In the past few years, this project has experienced some ups and downs. Today, a piece of legislation relating to the WKCD is tabled before the Legislative Council.

Even at this stage, this matter still conjures up a lot of memories. Initially, the Government selected a very elitist design that can be called the "toad model" for the WKCD. At that time, Mr John TSANG was the Director of Planning. Subsequently, many civil groups voiced their opposition. Most importantly, members of the public had no channel of participation before the Government made its decisions. For this reason, the arguments at that time were very heated.

I remember that on one occasion, the incumbent Chief Executive invited me to have a meal with him and discuss this matter. He hoped very much that we could render our support. However, I told him that this would be very difficult and that he had to carry out extensive consultation. Everyone could see that the political system in Hong Kong had evolved from that of the colonial government to the present one under the SAR government after the reunification.

Frankly speaking, the public were attached to and had given a great deal of thought to this place. They wished very much to offer their opinions and the Government could not possibly deny them this opportunity.

For this reason, at that time, I advised him — I cannot remember whether he was the Chief Secretary for Administration or what post he was holding at that time, but he was not yet the Chief Executive at that time. It was still the TUNG Chee-hwa era then. I advised him that a consultation had to be carried out. Otherwise, he would surely lose, because we could see the changes in society. In the colonial era before, we had some views on the decisions made by the Government. However, those views were probably only regarded as those of political commentators. Subsequently, a civil society came into being and there were a lot of views in society. The public wanted to participate but often, the authorities acted without regard to them. How could one act in this way? Madam President, you also witnessed this matter relating to the WKCD together with us. Subsequently, the Government scrapped the WKCD project and started afresh and asked Mr Rafael HUI to take charge.

Now, we have consigned many things to the back of our minds. All right, at the present stage, strictly speaking, the Government has acceded to the demands of civil society and the legislature, that is, to expeditiously establish an administrative authority. We hope that this authority is independent, not subject to government control. If the authority is still under government control, how would the situation be like? I do not wish to discuss this at this stage and will wait until the amendments are moved to do so.

At this stage, concerning the entire piece of legislation, has the Government actually sensed the public expectation? I believe the authorities have accepted some views but in some key areas, it is still sticking to the old nut and chooses whatever is handy. In sum, we have to take its words. The Government is saying that it will naturally come up with an authority on its own. This is the criticism that I wish to level at it.

Often, it looks as though the Government wanted to test our standard. What is involved now is a 40-hectare site and in Mr CHIM Pui-chung's view (he

will surely speak later), it is worth a lot of money. If this piece of land is sold, it will be worth a lot of money but the authorities have turned it into such a state. Moreover, it is even necessary to commit \$21.6 billion to this piece of land and this is really a huge sum. That is to say, an additional sum of over \$20 billion will be spent to develop this large waterfront site that many people think is worth a lot of money. If the funding is approved by the Financial Committee, it would be a very great financial commitment. With such a commitment, what actually do we want to get in return? I think we in the Legislative Council would not take whatever the authorities say at face value. Nowadays, things are no longer done in this way and the entire civil society would not allow the Legislative Council to act in this way either.

I think that many Honourable colleagues here, including the Chairman of the subcommittee, Mr Allan LEONG, have listened to innumerable views from friends in the arts community. All along, they have been unrelentingly advocating this project and each time we got in touch with them, they would come here to voice their opinions. Recently, we also invited nine major cultural groups receiving funding in Hong Kong, which can be regarded as the software, to come and voice their opinions. Mr Ko Tin-lung pointed out that they actually had no idea what we got in touch with them for but still, they came and voiced their views. At that time, when I heard them say this, I was also a bit moved. It was a shame that the meeting time of the Panel on Home Affairs on that day was not enough and throughout the meeting, Miss CHOY So-yuk had not allowed them to speak too much. However, this group of people still observed our progress enthusiastically. Each time we held a meeting, they would come here and would do so even though they did not know what we would discuss. I can see the keen aspirations of the entire civil society and friends of the entire arts and cultural sector.

All right, today, we have to examine this Bill and what actually is being discussed in the civil society? I will also wait until the Committee stage to talk about this because I have also proposed an amendment. With the commitment of such a large amount of resources, I wonder what actually can be achieved. Often, I also support turning West Kowloon into an arts and cultural district. I do not agree with auctioning that piece of land. I will also raise this issue again

when I move my amendment later. Why am I so concerned about the whole planning exercise? Why do I want to move an amendment on the preparation of a development blueprint? Later, I will talk about these issues further.

My comments will perhaps make the President wonder why CHAN Yuen-han, who concerns herself with labour affairs, also got involved in culture and arts for no apparent reason. The President may not be aware of this, but I really have an artistic gift. I could sing and dance at my tender age and for some reason, I joined the labour sector and took part in labour movements, which are totally unrelated to culture and arts. If my potentials can be fully realized, there is really no way of holding them back.

That those potentials were uncovered but were not kept alive was precisely attributable to the employment problem. When I was young, I encountered problems in employment and nowadays, young people aged between 15 and 19 are still the group hit hardest by unemployment. Now, this group of people is unsuccessful in their academic pursuits and cannot sit for higher examinations. They are not qualified for admission to universities but, as the saying goes, every man has his gift and many of them have potentials for artistic development. Many of them are really fantastic when staging performances in the streets. Several years ago, for reasons unknown, I was invited to take part in some activities that took place at a certain location in Shatin and I could see that a group of young people had no venue to perform hip-hop. Secretary, it can be said that at that time, I reacted fairly quickly and I thought of a place where they could perform hip-hop. How wonderful that was!

In another case, some other young people were very interested in performing magic but they were not allowed to do so. They were even not allowed to stage performances in Stanley. I thought this situation was really unreasonable, so I was fired up by my sense of mission. I believed what this group of young people did was really blameless and all they wanted was only to create an occupation and even a lifelong career with their talents. I got acquainted with such a group of young people and when they could join and work for the Hong Kong Disneyland, they said, "Miss CHAN, from now on,

please do not criticize the Disneyland too much." . They all say that it is now very wonderful as they can perform there using the knowledge they have learnt and they can apply what they have learnt.

We all hope very much that we can solve the unemployment problem confronting a group of young people in society and this group of young people is between 15 to 19 or some 20 years old. At present, they are still the group hardest hit by unemployment. Now that a domain offering excellent employment opportunities is suddenly linked to my work in labour affairs, how possibly can I not be all lit up and devote myself to it wholeheartedly? For this reason, for more than a decade, I have devoted a great deal of effort to the planning relating to culture, particularly in this Legislative Council. I consider myself very fortunate because in Kowloon East, there are many areas that can give me opportunities to carry out planning with a group of old pals and aficionados from the Conservancy Association and The Chinese University of Hong Kong. I believe that if we join forces, we will create a local culture economy which LAU Chin-shek mentioned just now.

Madam President, I still remember clearly that on one occasion, I blasted TUNG Chee-hwa and nearly all newspapers carried headline reports about how I blasted him. At that time, SARS was about to break in Hong Kong and the unemployment situation was serious. He could see that I had a lot of ideas, so he asked me to prepare a proposal. I prepared a proposal on "local culture economy" and submitted it to him. Not long afterwards, TUNG Chee-hwa appointed the Directors of Bureau under the Accountability System in 2002, and assigned this task to Anthony LEUNG. Anthony LEUNG consulted me on this matter and so did Mrs Fanny LAW, who was in charge of labour affairs then, so I spelt out all my proposals. Subsequently, Hong Kong faced a very serious unemployment situation, so Anthony LEUNG modified my proposal and called it "local community economy", thus making my proposal neither fish nor fowl. As a result, I was very displeased, so the Government created some cultural bazaars with the so-called special characteristics, but they were also neither fish nor fowl. From the first day the open-air bazaar (Dai Tat Dei) came into being, I already pointed out that the authorities were doomed to fail. Subsequently, I established the Wong Tai Sin Dragon Market next to the Wong Tai Sin Temple to introduce the "temple fair culture".



Madam President, I have said all these because I find that culture and arts can really create new horizons for some people. To young people who are talented in this area, a plot of soil can be found here. If we make reference to the experience in the United Kingdom (although in the past few years, I have not made any overseas visits, I know that some Honourable colleagues have just made a visit there and they also said so on coming back), the creative industries there are quite capable of solving this kind of problems, so again, I put forward this kind of proposals in the Legislative Council. That is to say, in the course of getting involved in promoting culture and arts, my abilities in my youth all cropped up, so I am committing an increasing amount of time to this area.

However, I wish very much to stress one point. I think I have already written quite a lot of proposals for the Government. When Mr LAM Woon-kwong was the Secretary for Home Affairs, I prepared a proposal concerning the Temple Street and the fruit wholesale market at that time. I also prepared a proposal on the "Yung Shu Tau" culture. At the same time, the Polytechnic University of Hong Kong also prepared such a document.

I also wrote an article on the historic sites relating to the 100-year treaty and discussed linking the existing historic sites to southeast Kowloon, which I have discussed today. I have prepared quite a number of such proposals on culture and arts but, Madam President, it is a shame that they were all to no avail because the Government did not provide the complementary facilities. When I discussed them with Stephen IP, he said, "Great, Miss CHAN, good on you.". When it came to Frederick MA, who has now resigned, he told me, "Miss CHAN, it's got nothing to do with me. Please approach TSANG Tak-sing.". Before that, when Dr Patrick HO was still in office, he said, "Miss CHAN, it will not do because the Government has no money.".

We will find that, strictly speaking, the Government has been fooling us around and it has not given us any reply. Why did so many groups take part in the discussions on the WKCD in the Legislative Council so perseveringly? Even on Monday, at a meeting of the Panel on Home Affairs, a number of civil groups which can be considered to be flagship ones also came here to voice their views.

I believe that if even today, the Government still does not understand what civil society is thinking about but proceeds to establish the WKCDA rashly, I

will be very worried. I am worried that something may go amiss, so I have proposed several amendments in one go. Originally, I also wanted to propose some other amendments but honestly, I did not have the stamina to do so because I had to scrutinize many other pieces of legislation at the same time. For this reason, what I am saying here becomes what my speech on this occasion. I hope the Secretary will also take note that later on, some of the views are not my views, nor are they those of Honourable colleagues or LAU Chin-shek.

I hope the Government will tell me what policy on culture and arts there is in Hong Kong? On Monday, the Panel on Home Affairs convened a meeting. On that day, a Dr CHAN from one of the arts groups said that he had come here not because he wanted to beg for money. He even queried if the authorities had a policy on cultural and arts development. He asked how it would be like if culture and arts had the soil to grow. Frankly, the Chung Ying Theatre Company is an example of success. That was Mr Ko Tin-lung's drama troupe and the funds allocated to it by the Government have been decreasing year on year. Fortunately, he has now found a way out by connecting the Chung Ying Theatre Company with various local communities and its presence can be found even in Tin Shui Wai. I think the products of this drama troupe are full of vitality and they are very good. Through drama, poor children can learn English and through things they like, they can refine their artistic tastes without realizing this, so the influence of the milieu is very important.

For this reason, I believe we are not asking the Government for money either. With the land, the authorities do not have to provide anything. What I mean now is the soil. Is any soil being provided to LAU Chin-shek? In Wong Tai Sin, there was a site with an area of 13 000 sq ft. Subsequently, when the Hong Kong Playground Association organized the "temple fair culture" there, it was only allocated some 40 000 sq ft of land. I cannot help but ask how possibly can this area be used to organize a fair or a "temple fair market"? How can the kind of culture in the late Ching Dynasty be recreated? The Government just does not have any complementary facilities. Frankly speaking, I find that our friends in the arts sector are not asking the Government for funding. Rather, they are asking the authorities to formulate a complete policy on culture and arts. What they are asking is whether any soil is being made available.

There is none, is there, Secretary? When I wanted to organize a religious and cultural fair for the Wong Tai Sin Temple, Secretary Frederick MA told me that I should approach TSANG Tak-sing because that was his ambit, that this belonged to the domain of social enterprises and it had nothing to do with him. When I asked Secretary TSANG, he suggested that an application be made to the Enhancing Self-Reliance Through District Partnership Programme. If the application was successful, fund allocation could then be made. Next, I asked him about that piece of land. What about organizing cultural and artistic activities at a traditional Chinese temple? We found that again, he said that it was not his business because it was within the ambit of Secretary Carrie LAM.

Madam President, I have complained so much to you because I believe that, just like us, when you handle matters relating to the Government, you also have to endure the hassle of approaching various government departments but in the end, you do not know what you have achieved because there are still no policies in certain areas. There is no policy even on culture and arts, but we still bustle about like a bunch of fools. Therefore, I will first air my grievances here and later on, I will elaborate on my proposals concerning the WKCDA one by one, in the hope that Honourable colleagues can support us.

I have proposed two very important amendments, one relating to the composition of the WKCDA which can reveal whether the Government has taken on board public opinions, and the other relating to whether audience is really given to public views at the stage of drawing up the development plan before the site concerned is turned into developed land. I will elaborate further in moving the amendments.

Having said all this, I hope very much that the Government will really listen to the views of this group of friends from the cultural and arts sector who have been listening and waiting in the Chamber. So many years have passed, so I really hope that the authorities can listen to them. Frankly speaking, it should not just make a brief appearance on stage and think that this will do. This is what I hope for.

Madam President, I so submit but I will speak further later. Thank you.

**MR LEE WING-TAT** (in Cantonese): President, I speak in support of the resumption of Second Reading of the Bill on behalf of the Democratic Party. Why do I say so? The Democratic Party has all along supported the establishment of a statutory cultural authority and the development of a large cultural district in Hong Kong. Basically, the Democratic Party has all along supported this. In fact, we are just trying to fulfil our duties as Legislative Council Members in spending so much time on discussing the establishment, duties and powers, composition and finance of this West Kowloon Cultural District Authority (WKCDA).

Before expressing my views, first of all, I wish to leave a note in the record of proceedings of the Legislative Council meeting that I want to salute many of the cultural practitioners in Hong Kong. I am also fond of watching various types of performances, ranging from what is commonly called pop songs, singers' shows to Chinese music, Western musical to the so-called operas. I love to watch them all. However, due to my busy work in recent years, often, I have tried very hard to squeeze some time before I could watch a show. Why do I have to salute them? Because in Hong Kong, generally speaking, cultural practitioners have a hard time. Firstly, unlike overseas arts or cultural practitioners, they cannot make a lot of money out of this profession. In Hong Kong, people who can make money in this area are relatively few. Most are inspired by an ideal, belief and even mission. Sometimes, after coming into contact with these cultural practitioners for a longer time, I also find that they are somewhat silly. For their ideals, they would spend a lot of time and effort, but the financial return is very low. If they do not have any ideal, I believe it will be very difficult for them to struggle so perseveringly in this area for so many years. I have great respect for some of them, probably due to the fact that they have their ideals and these ideals are very important to the development of Hong Kong.

The second point that I wish to make is that I agree with the Chief Executive's concept, which is, Hong Kong should be an international financial centre. However, I wish to tell the Chief Executive that all the other international financial centres have a rich cultural ambience as well as a very rich cultural structure, programmes, atmosphere and quality.

Hong Kong always gives me an impression that it is very short-sighted in many a thing. I remember that several years ago, when we began to discuss the WKCD project, we talked about the single-tender development approach. At that time, property development projects and cultural development were given equal importance, therefore, we could see that at that time, some developers invited the internationally renowned arts museum, the Georges Pompidou National Centre of Art and Culture, to come to Hong Kong to organize events and exhibitions. They also invited other international performing groups to stage performances in Hong Kong. Of course, after the Government changed its policy and scrapped the single-tender development approach, this unprecedented level of co-operation can hardly be seen in the last couple of years. We seldom learn that developers have invited internationally renowned performing groups, arts bodies and museums to sign Memorandums of Understanding, and so on. Of course, they are business people and will certainly have such a mentality. However, sometimes I think that in doing so, they will let members of the public see how short-sighted they are. When there is profit to make, everyone will become cultural; and when there is no profit to make, no one will care about this anymore. Therefore, I hope the Secretary can also see that it is not just the Government that has to work hard on this issue. In fact, we also hope that people who have the financial resources in society also understand that if everyone in a financial city talks about money all the time throughout the day and even in their sleep, in fact, it will be very difficult for us to develop into a financial centre. Let us take a look at London and New York. Every evening, there are tens and even hundreds of cultural performance of various kinds and forms in these places. There are high-end ones, ordinary ones, expensive ones as well as cheap ones. Even the streets of New York and London are unlike those in Hong Kong. All that our government departments do is to drive away those cultural workers who want to perform in the streets on their own, whereas those cities highly respect these cultural workers and give them encouragement, considering them to be the characteristic of a city and a metropolis. Therefore, I hope the Secretary can hear this view and understand that putting in place the hardware is in fact not all that difficult as this can be done as long as there is money. This is what emperors throughout the ages did. So long as there is money, this can be done but that cultural quality and ambience cannot be built up overnight.

President, the third point that I wish to raise is related to the establishment of the WKCDA. Of course, basically, we also support the establishment of the WKCDA, as I have said a number of times in discussions with friends in the cultural sector. It was a shame that a few days ago, the Secretary was quite busy and could not attend a public hearing held by us — we have held such hearings many times. Initially, we were not very familiar with the over a dozen groups but since they had come frequently, we gradually became old friends. However, each time they came, the impression they gave me was that they had a lot of grumbles and they thought that many of the Government's policies do not give them encouragement. Of course, what they mean is the policy on funding. Among them, Mr Mathias WOO often tells me — and I think with good reason — that most of the resources for culture are controlled by the Leisure and Cultural Services Department (LCSD). The LCSD is a government department and of course, each government department does things in accordance with rules and has a set of rules. To put it nicely, they have clear steps for everything, but to put it bluntly, they have a lot of red tape.

Several days ago, I also raised some views, that is, in overseas countries, many cultural and performance venues strive to develop what they basically call friends, such as friends of a certain museum, friends of a certain opera, and so on, so that friends in the surrounding areas or friends who like these sorts of things can maintain close links with them. Can this be found in Hong Kong? I am very sorry and to take the Kwai Tsing district, which I am most familiar with, as an example, our Kwai Tsing Theatre was completed 10 years ago but I have never seen any friends of this theatre. It should be mainly government departments that reach out actively to encourage people in the neighbourhood to understand how important the theatre is to the Kwai Tsing district and what good activities there are to enable a lot of people to establish links with this theatre and encourage them to take part in its activities. In fact, this is also the problem faced by government departments in building structures, museums and establishing organizations, that is, there is little creativity and flexibility. Nor are there a lot of so-called beliefs that can help set objectives when developing a certain thing. For this reason, I have great expectations for the establishment of the WKCDA. Secretary, I hope that in future, it will not be a government

department and that it can have greater flexibility, its own goals, vision and mission, so as to turn them into practicable programmes and plans that can actually be achieved through its work.

Of course, the Secretary knows that we hold different views on the composition of the WKCD and that two Honourable colleagues will move amendments. I hope that the Secretary will be able to hear one view concerning the motion relating to the Legislative Council (Powers and Privileges) Ordinance which I voiced when responding to Members. After the reunification, compared with the colonial era, one of the differences is that in the colonial era, although the Governor was not elected by us — of course, the Chief Executive nowadays is not elected by us either — we can at least feel that in that era, they made it a point to include people with very different views in all statutory bodies and statutory committees. What was the purpose? Each committee and each organization always had a couple of such people. When voting, they would definitely lose, but why did the Government do so? Because it was hoped that there would not just be one view in a committee. In fact, the Secretary should also think about this. If there is only one view in a committee, what good would this do to him and the Government?

President, if one hears too many similar views, apart from making oneself light-headed and very happy every day, has the Secretary ever thought about the advantages of listening to different views to the formulation of policies? For this reason, it is not the case that the policies of the colonial government were always wrong.

I remember that in 1991, when Sir David Akers-Jones invited me to join the Housing Authority, the first thing I said to him was, "Sir David, I don't toe the party line". What I meant was that I would not follow the Government's bidding. In reply, Sir David Akers-Jones said that this was exactly the reason he invited me. He invited me to join the Authority because he knew that I would not follow the Government's bidding and that I would monitor the operation of the Authority in the strictest manner.

Coming back to the composition of the WKCD, there are people coming from various cultures, domains and the architectural sector. I do not have any

particular views on the distribution of membership because different sectors will voice views of different spectrums and basically, many people will follow the bidding of the Government. I will not be trite here. In future, of course, the Secretary will have a great deal of power to monitor the formation of this WKCDA. I only hope that the composition can really encompass various views and include people committed to cultural endeavours. I hope the situation of invariably the same people joining various committees will not occur again.

President, the next point I have to say is that the development of the cultural district will take a very long time and it will span some 10 to 20 years. The construction will perhaps start in 2009 and the eventual completion of the district ..... if we are talking about the phase II projects, the construction will perhaps commence only more than a decade later. For this reason, we must have very good planning in order to do a good job of it, in particular, the financial matters, as I pointed out in a meeting of the Bills Committee.

In this regard, of course, I will move amendments. Why am I so concerned? Of course, I know that it is very difficult to measure cultural development in financial terms, but everyone knows that the money belongs to taxpayers. The duty of Legislative Council Members is to monitor the use of public funds strictly. For this reason, I have all along held that since we have to allocate over \$20 billion to the WKCDA, it is hoped that it will manage its finance prudently. I have said that when the phase I project is close to completion, that is, in 2013 or 2014, the WKCDA should carry out a more comprehensive review to give an account of the overall operation to the public, taxpayers and the Legislative Council, including whether the operation of the buildings is in line with estimates. If we can achieve the goals, of course, the phase II project has to be launched, otherwise, we must decide whether or not to postpone the project.

President, what I wish to say next is that in future, the most important principles underlying the entire WKCDA are "people-oriented", "partnership" and "community driven". Achieving these three goals is easier said than done. What being "people-oriented", "partnership" and "community driven" stress is that the participation of the civil society is very important and on many matters, a bottom-up approach has to be taken. For this reason, we propose that if



possible, a larger consultative committee should be established under the WKCDCA to include more people with different views, so that no matter how different their views are, they will all have the opportunity to raise them in the consultative committee as well as participating directly in the consultation process of the WKCDCA. In the event that important policies are involved, more consultation has to be carried out to take on board the public's views. Most importantly, if possible, the meetings of the WKCDCA should be open to the public to truly enhance its transparency, so that the distance between the WKCDCA and civic groups and the people can really be shortened.

President, we can see that the Government actually had a great deal of control over a lot of cultural activities in the past. I hope very much that in the future operation of the WKCDCA, in many of its tasks, medium-term plans, annual voluntary service schemes and even in many other areas of its work, weight can be attached to the engagement and views of the public.

President, I still wish to raise one more point and it is related to cultural software. Last week, when I gave a speech concerning the Report of the Subcommittee on West Kowloon Cultural District Development, I pointed out that putting in place the software is an even more difficult task than putting in place the hardware. A few days ago, when I met with some cultural groups, they also said that in recent years, there had been more young people who appreciated some more serious cultural programmes. However, the numbers they cited only increased from several thousands or some 10 000 attendances each year to 20 000 each year. We also find that the attendance for various types of programmes, be it drama, dancing, orchestral performances or plays, is still a far cry from those of what we commonly call popular culture. Of course, I do not wish to give the impression that they should be divided. This is not so. Popular culture is also culture, but I think there must also be some serious programmes anyhow. It is important to promote culture in Hong Kong as a whole. However, the operating environment facing some so-called flagship groups is really very difficult.

I hope the Secretary will ensure that he will work out an even better strategy together with the Education Bureau and various groups. I agreed that when we discuss the WKCDCA this year, even the Bills Committee responsible

for scrutinizing the Bill did not spend a great deal of time on this aspect. We spent the greatest amount of time discussing the finance of the WKCD and other areas but little time discussing the software. I hope that after the passage of this Bill, the Secretary and the WKCD (that is, after the establishment of the WKCD) will have more communication and exert greater efforts in the so-called cultural education. Thank you, President.

**DR KWOK KA-KI** (in Cantonese): On 21 January 2005, the House Committee of this Council set up the Subcommittee on West Kowloon Cultural District Development in response to the in-depth consultation and study conducted by the Government on this new development called the West Kowloon Cultural District (WKCD) at that time. The Government also tabled the West Kowloon Cultural District Authority Bill before the Legislative Council on 20 February 2008. After 15 meetings held by the Bills Committee, I believe today, it is the time to bring this matter to a conclusion. In a meeting of the Financial Committee two days later ..... President, if we are lucky to have enough time, it is possible that we will also approve the funding. However, so far, do the majority Hong Kong public understand and approve of the WKCD proposed by the Government now? I believe this may not be the case.

At the very early stage, we often asked the Government a very simple question: What is our purpose in doing this? For whom are we doing this? How can the goal be achieved? How much public participation will there be? We also find it very regrettable that whenever we put questions to the Government, it would produce the outcomes of the consultations conducted earlier which made us fairly disappointed, including some consultations of rather poor quality, cards, faulty public opinion polls, and so on. All these are unimportant. In fact, they are really unimportant. Let us look at how this cultural district came about.

Initially when this piece of reclaimed land with an area of 40 hectares came into being, it was intended as a waterfront park. However, as we all know, in 2004, the Government wanted to liven things up a little bit by carrying out some new development. I do not know what the Government was thinking at that time, but it was said that everyone knew at that time, and after the controversies surrounding a series of property developments, the Government

wanted to find ways to settle the disputes among major property developers over certain interests, so the single-tender approach was formulated at that time. All of us will remember and know that at that time, it was designed for some property developers to transfer benefits to them. Fortunately, the Legislative Council and the public did not just turn a blind eye to this. They torpedoed this development project, which everyone could see was not a cultural one. That was the outcome of the efforts contributed by all members of the public. The Government conducted another review and put forward a new proposal. It also proposed early this year that the WKCD be established.

It is a shame and unfortunate that up to now, up to the present, we cannot see how this WKCD or this proposal can turn the Government's so-called ideal into reality. I am not a member of the cultural sector, but whenever I visited a city, I would surely visit the concert halls, modern art museums and museums there. I am very envious and also wish very much that we could also showcase arts projects which we can be proud of in Hong Kong. But what can we find in the entire WKCD project? The most important element, the core now, is still a cultural district that is an offshoot of a property development. Many of the calculations and interests are still founded on property development. Even when we asked whether this prime site at the waterfront would be reserved for the public, the Government was still noncommittal. In fact, apart from the promenade at the waterfront, at this stage, the Government is unwilling to make any undertaking concerning the other major planning issues.

The most important thing is that apart from the many hardware items in this cultural district, what actually will this cultural district achieve in the cultural development of Hong Kong? How can the goals be achieved through the WKCD? When the WKCD was being established, we had a lot of discussions and we even put forward proposals for the Government's consideration, including the appointments to it, how its accountability could be enhanced and how people, be it the public, Legislative Council or people concerned about the cultural sector, can take part in the monitoring — and I stress monitoring — of this new WKCD through an accountable, clear and transparent channel.

The reason is very simple. As we all know, although on the face of it, the allocation will be \$21.8 billion, many members in the property sector have pointed out to the Legislative Council that if the land granted by the Government, on which hotels, office buildings and retail projects will be carried out, is taken into account, it is estimated that the funding will indeed be over \$30 billion and will almost amount to some \$50 billion to \$60 billion. Anyway, this will represent the Government's greatest commitment to the arts. In the future, when we ask the Government what it has done for the arts, it will point to the WKCDA, saying that it has already provided enough money — \$50 billion to \$60 billion is a lot of money — and tell us not to say that this is not enough. When we ask the Government what it has done, it will again point to the WKCDA, saying that it has already made an enormous commitment. Just now, some Honourable colleagues have talked so much that their mouths have become dry. What they wanted to point out is that the software matters the most. How can talents be trained? How can this point be specified? How will this point be made the most important segment in the framework? The Government has been ambiguous on these issues, not talking about them.

The most important thing about the entire WKCDA is that a set of impossible accounts has been suggested. Why do I say that this is a set of impossible accounts? The Government said that based on an annual inflation rate of 2%, this development can yield an annual investment return of over 6%. If such frail figures are adopted as the basis, we feel concerned what would come out of this in the future. Having put in place the hardware, we must commit a large amount of money to enable its operation and meet all the basic overheads, air-conditioning expenses and the recruitment of enough manpower. If this sum of money is well spent, talents can really be groomed.

Many of us have taken part in arts festivals before. To take the Edinburgh Festival as an example, if one has been to Edinburgh, one will know that sorry, no cultural district can be found in Edinburgh. The Edinburgh Festival infuses arts in the entire city. One of the performances was very interesting. It took place in public toilets because the programme used a public toilet as its setting. However, no one would think that due to the absence of a large cultural district in Edinburgh, this city is not qualified to be a cultural city.

Quite the contrary, the Edinburgh Festival is one of the most vibrant arts festivals in Europe. However, this is not due to the commitment of tens of billions of dollars to hardware development.

From the WKCD project, we have learnt another thing. When the Government decided to carry out a landmark project, this reminded me of a number of cities in the Pearl River Delta on the Mainland in which landmark projects were carried out. They invariably wanted these projects to be imposing, grand and some buildings must win architectural prizes. However, the contents do not matter much. Is there any emphasis? The Government has not given an account on this. All in all, this is the amount of capital. In the future, most of the energy will probably be devoted to exploiting these property development projects to build a greater number of such facilities as hotels, offices, retail shops and catering establishments.

To have enough funds to support the WKCDA and the staff manning the venues under its management is in fact no easy task because the greatest experiment can also be found in it — M+. This M+ sometimes sounds laughable. Although its construction has not yet been completed, it can already be confirmed that it will become a visual arts centre of world-class standard and a well-known museum. The Government has bragged and exaggerated too much. Do we have inadequate venues? Of course, insofar as the venues under the management of the Leisure and Cultural Services Department are concerned, this is not the case. Do we have inadequate talents? This is not the case either as there are many artists in Hong Kong. However, all these are not done sooner or later and everything is done only within the context of this M+.

Regarding funds, I know that this M+ will incur the greatest losses. At the peak, it will lose over 80% of the money and it will be the part that will cost the largest amount of money in this project in West Kowloon. However, what will we get in return? No one really knows. Can we get the grooming of next-generation artistic talents in return? Can we make more people in the new generation, including young people, go and visit these museums and visual arts centres? We have no idea. All these are beyond our control and we cannot rely on the WKCDA to bring this about because it lacks even the basic elements — transparency, clarity and accountability.

Just now, Mr LEE Wing-tat talked about why Sir David AKERS-JONES had invited him on board. If we think that nowadays, this Government will look for people who speak the truth according to what is right and wrong instead of people who fawn on the Government, we are day-dreaming. There are two principles that the Government will definitely insist on: First, affinity difference and second, find people who see eye to eye with them. The Government has all along been doing this. With a Government like this and its method of appointment that lacks transparency, what else can we ask for?

There are many public organizations in Hong Kong, including the Hospital Authority that I once served and they all share a major trait: They strive to unify the voices and if they are all rubber-stamps, so much the better. In that case, the Government will feel very much at ease. If the Government wants to show that it has breath of vision and deny such a claim, saying that it can accommodate people from various sectors, why does it reject everything from the basic discussions to the amendments proposed by Honourable colleagues later on, including those on election among Members and election by the relevant groups and accountability to the public? Why? The Government just wants to keep a tight grip on its power to ensure that the voices are unified. To Hong Kong, a city which claims itself to be Asia's World City nowadays and boasts that we have modern management concepts, this is a very bad example indeed. However, this does not matter because the Government has all along been like this and I believe it will continue to display this spirit.

The problem is that this is the hard-earned money of the people and the lifeline of many people who wish to devote themselves to the cultural sector are controlled by these organizations. If the money and resources are used to train people in the new generation who are interested in the performing arts, it is indeed necessary to have a predictable mechanism. Sometimes, we would ask: Can the Government tell us whether a predictable mechanism is in place? How much resources can be allocated to progressive art and experimental art to enable young artists to try things out? There is none. All these are not important. Sometimes, the Government would say that it is enough just to trust it. As long as one trusts it, one will get everything. The magic is that we are asked to believe in it. If we believe in it, we will have everything. Of course, if, after the passage of this piece of legislation, it cannot deliver or if there are problems

in governance, like many statutory bodies ..... I really do not wish to mention those examples that are quite regrettable again, which include the Hong Kong Applied Science and Technology Research Institute Company Limited and the Hong Kong Tourism Board. The examples are innumerable. However, the Government has still not learnt its lesson. All it does is to negate and deny, thinking that this approach is already the best and could not be better.

Madam President, I believe all the amendments today will not be passed. They include the amendments proposed by Mr Alan LEONG, Mr LEE Wing-tat and Miss CHAN Yuen-han. This is because the Government will just continue to adopt this "one-voice" approach and all constructive voices, so long as they come not from the Government, will not be agreeable to it. The design of the Legislative Council has given it a licence to accomplish whatever it wants to do, and whatever it does not want to do will be barred and dispatched. However, this muddled piece of legislation and this muddled WKCDA will come about with the hard-earned cash running into tens of billions of dollars from many members of the public. I wish to put this on record here.

I so submit. Thank you, Madam President.

**MR FREDERICK FUNG** (in Cantonese): President, subsequent to the debate on the Report of the Subcommittee on West Kowloon Cultural District Development last Friday in the Legislative Council, today, we have come to the main action by resuming the Second Reading of the West Kowloon Cultural District Authority Bill (the Bill) and reading it for the Third time. This Friday, the Financial Committee will also examine the funding proposal for an upfront endowment of \$21.6 billion for the WKCDA. The development of the entire West Kowloon Cultural District (WKCD) is ready for launch. The preliminary work has also entered its final stage.

President, the Hong Kong Association for Democracy and People's Livelihood (ADPL) has all along held that developing the WKCD will enhance the cultural standard and quality of life of the people and will also have a positive effect on promoting the development of local culture and arts. In particular, under the impact of globalization, Hong Kong must come up with innovative

ideas, develop its own local characteristics and give play to its pluralistic characteristic, so that while the public can enjoy a quality cultural life, Hong Kong can also secure a place in the global cultural stage. The ADPL believes that through this opportunity of developing the WKCD, a fairly good foundation will be laid for developing Hong Kong into an international cultural metropolis.

Looking back at the past, this unique piece of waterfront land with an area of 40 hectares in West Kowloon once drew extensive public attention and whipped up a heated debate in the community. We can still remember that from the design competition at an early stage to the insistence on the single-tender development approach by the authorities, there were queries among the public about the construction of a large canopy. Property developers lusted for this piece of land. Arts groups were concerned that commercialism would ultimately take primacy over arts. There were also questions about whether sustainable development of culture and arts could be achieved. All of a sudden, the discussions in society on the future development of culture and arts became very lively.

In fact, this is desirable for Hong Kong, which has all along been branded a "cultural desert". This incident has aroused the concern of the general public about cultural issues, also acting a catalyst in the development of civil society. In the end, public concern also forced the Government to give up the controversial single-tender development approach and everything was scrapped and started from scratch again. A new consultative committee was established to take on board the views of various sectors of society. Subsequently, the Government decided to establish a statutory body called the WKCDA and it is given powers and functions in overall planning, operation, and so on. This is also in line with the proposals of the ADPL some years ago on establishing a supervisory framework independent of various consortia for the WKCD and allow relevant groups from civil society and the cultural sector to take part in the operation and management of all cultural facilities, so as to avoid domination by consortia in the direction of cultural development under a profit-oriented approach. In this way, the cultural facilities and activities in the district can meet the needs of the general public, with promoting the development of local culture and arts being the main axis of development and preserving the dominant role of civil society in cultural development at the same time.



The ADPL must admit that this time around, the approach taken by the Government has seen some improvements over that of the past but even as we affirm this, we also hope that this opportunity can be seized to establish a new social engagement mechanism. President, simply put, if we look at the developments relating to the WKCD, we will find that they carry "landmark" significance and represent a kind of quality change in administration, since policymakers can no longer consider themselves superior to the masses as in the past by acting like "a backseat driver" and adopting a "top-down approach" to decide for the public what they want. It can be said that there is no longer any place for the past philosophy of governance based purely on high efficiency, administrative convenience and profit orientation.

In contrast, through public participation, the wishes of the public are directly incorporated into the entire policymaking process and all the details of administration. To take the WKCD as an example, public participation can integrate the vision of society on the development of culture and arts into the concept for the entire cluster of buildings, the financing arrangements, planning and operation. In particular, under the concept of sustainable development, any development must address the present and future needs of society squarely, such that each entity in society can share the fruits of development. Through this process, the public will also deepen their understanding of policies and promote discussions in the entire civil society. This will actually help foster commitments by members of a civil society.

President, if we review the process of scrutinizing the Bill, we will find that this time, the Government has adopted a more positive and open attitude by taking the initiative to rectify a number of inadequacies in the legislation. This deserves our affirmation and reflects the fact that the authorities have learnt a lesson from the black-box operations in the past. Of course, other Members have also proposed amendments relating to various issues of concern. We know that various sectors in society also look forward keenly to the speedy launch of various projects in the WKCD. The ADPL believes that both we and the Government must pay attention to several major principles:

First, the WKCD is not the totality of future cultural development in Hong Kong. I hope the Secretary will pay attention to this point. Although it can provide a fairly good foundation for the development of Hong Kong into a

cultural metropolis, the popularization of culture and arts must be approached through various policies and at the community level. We certainly cannot devote all attention and resources singularly to the WKCD. The authorities still have to bear in mind the overall situation by actively formulating and implementing an overall cultural policy. In the long term, the ADPL advocates the establishment of a cultural council to co-ordinate overall cultural and arts development and promote the enhancement of humanistic qualities among the public.

Second, there must be some degree of transparency in the composition, operation and policymaking process of the future WKCD, for example, on the mechanism for selecting members of the Board, the process of preparing a master plan for developing the entire WKCD, and so on. In addition, it is also necessary to devise a mechanism for constant public participation, so that the policymakers in the WKCD can take on board public views and put them into practice immediately.

Thirdly, the future WKCD must integrate with the neighbouring local communities, in particular, with the entire West Kowloon. The new and the old are intermingled in it and there is a plethora of buildings worthy of preservation in it. How they can tie in with the development of the WKCD and how local characteristics can be preserved is a subject well worth investigation. In addition, the WKCD must ensure that there are adequate facilities to connect the cultural district with local communities, so that apart from offering convenience to visitors, they will also bring economic benefits to the neighbouring areas and revitalize and instill vigour into these old districts.

Fourth, the authorities must respect the monitoring role of the Legislative Council. This time, the WKCD will require a funding of \$2.16 billion. Although this upfront endowment is necessary for its operation and the Government also insists that the overall financial plan is feasible, since the Government has a poor track record in the Hong Kong Harbour Fest, the Disneyland, and so on, it is indeed incumbent upon the Legislative Council to ensure the appropriate use of the funds allocated. The ADPL also supports the

Legislative Council in exercising supervisory power over the use of this sum of public funds. We hope that in the future, the WKCDA can give accounts to the Legislative Council regularly on how the funds allocated are used.

President, I so submit.

**MR ALAN LEONG** (in Cantonese): President, today, on behalf of the Civic Party, I speak in support of the resumption of Second Reading of the West Kowloon Cultural District Authority Bill (the Bill).

President, the Bill could have come into being a decade ago had it not been for the complacency and the high-handed and arrogant attitude of the officials in charge. Had the Government been willing to hold discussions with the public, this 40-hectare site would not have had to wait for more than a decade.

President, the very first motion debate that I moved on joining this Legislative Council was related to Kowloon West. It was December 2004. In January 2005, I had the honour to be Chairman of the Subcommittee on West Kowloon Cultural District Development (the Subcommittee). I must share with President this experience. After I had assumed office, some complete strangers took the initiative to approach me. They included the directors and actors of some theatrical troupes, students from the Hong Kong Academy for Performing Arts, town planners, architects, surveyors, and so on. The surveyors told me, this Chairman, that the so-called PPP, that is, Public-Private Partnership, was only a government proposal to "cry up wine and sell vinegar" and the situation was not like that at all and it was not really a so-called PPP.

The directors of the theatrical troupes not only invited me to drama performances, they also sat next to me to guide me in appreciating the performance. He taught me how to appreciate the drama. I was deeply touched, President, because we can see that civil society and members of the

public in Hong Kong are in fact more far-sighted than our executive bureaucrats and they are capable of seeing more accurately what can be done in the development of cultural and artistic creativity industries.

In 2005, five Honourable colleagues in the Subcommittee, including me, went to Bilbao for an inspection visit. We saw first-hand how this city in Spain was reborn from ruins on the strength of its culture and arts after the decline of its shipbuilding industry, to which it had owed its glory in the past.

Therefore, if Hong Kong wants to boast itself as a metropolitan city, it can by no means do without culture and arts. If we speak from a more utilitarian point of view, President, if any leader nowadays cannot see the positive contribution that creative culture and arts can make to the economy of a country or city, he is not fit to be a leader. As such, the Hong Kong public has been let down for over a decade and despite their long wait, they have not been able to see the launch of a more decent cultural and arts project that can lead to a breakthrough arrangement in Hong Kong, so that Hong Kong can not only rid itself of the infamy of being a cultural desert, but also find a foothold for the transformation of the Hong Kong economy in future.

President, I can sense such an ardent hope from the various contacts that I have made. I hope very much that the government officials in charge will also share this feeling. President, in 2006, after the Subcommittee had published its Phase II report, the then Chief Secretary for Administration, Mr Raphael HUI, declared formally in a meeting of the Subcommittee that from then on, the Government would be amenable to good advice and would no longer insist on the single-tender approach or on the construction of the canopy. Of course, judging from the way he put it then, he was a bit reluctant. However, in fact, I found it very strange because it is ultimately the Government's responsibility to do the work relating to culture and arts properly and to develop a metropolitan of culture and arts for the sake of our city and the people. Furthermore, such a responsibility cannot be shifted onto other people.

President, Members will perhaps remember that at that time, the Government completely passed the responsibility of inviting a single tender onto

property developers. At that time, all in the civil society, including the Legislative Council, do not understand why the Government would believe that property developers would suddenly become so cultured and appreciative of the arts.

Of course, we hope very much that there can be a bottom-up approach that is led by civil society and a West Kowloon Cultural District (WKCD) that belongs to the 7 million people of Hong Kong. Now, it seems we have campaigned successfully for a West Kowloon Cultural District Authority (WKCDA) because this was advocated by the Subcommittee of this Council. We learnt that the Chief Secretary for Administration may assume chairmanship of the WKCDA and again, we can see that in this appointment mechanism, appointments are made by one person — and this person is the Chief Executive — single-handedly. Will the people appointed by him in the future be fat, thin, tall or short? Will they be shorties or tall guys? We really have no idea. Therefore, we are beginning to feel concerned. Although it looks as though we have campaigned successfully for something, the question is: Will Hong Kong people have control over this matter and can Hong Kong people be the advocates? Can Hong Kong people be able to nurture a project methodically under a system, so that not only artists but quality audience, art critics and arts executives can also be nurtured for Hong Kong in the future? This is because our worry now is that bureaucrats will dictate this project. Of course, President, I will discuss this in greater detail when I move amendments to individual provisions later on.

President, it is precisely because this cultural and arts project is so important to Hong Kong and because the amount of resources committed are unprecedented — the commitment amounts not only to \$21.6 billion because this piece of land is also valuable — that we have committed so much resources, so of course, we do not want to see any blunder. This is also the reason why we are so anxious and concerned about this matter.

Since this matter has developed to such a state, President, in fact, our discussion is focused on four points: First, can the planning on the WKCD raise the overall standard of culture and arts in Hong Kong? What is its relationship with the adjacent areas? Will it become a blackhole in culture and arts that will make the Government say, when districts such as Tin Shui Wai, Tung Chung,

Fan Ling, Sheung Shui, Yuen Long request funding for organizing cultural and arts activities, that it cannot provide the funding because all resources have been allocated to the WKCD?

President, another focus is whether the details and implementation of these Core Arts and Cultural Facilities will be appropriate. Is there any complementary education policy that will dovetail with them, so that our young people in future will become a critical audience with quality? How can we develop mainstream arts in Hong Kong? What is minority arts? How should minority arts nowadays that may become popular arts in the future be treated? Do we have a set of well-thought-out and structured policies? This is the second focus.

The third focus is that, of course, in the future, we have to rely on the WKCDA to realize the vision of Hong Kong people on culture and arts, so is there any institutionalized participation in the joint discussion on the appointments to its Board? All these will become our focuses.

Of course, the last thing has to do with the financial arrangements. Does the allocation of \$21.6 billion mean that it will be like spilt water that cannot be retrieved? If the first review is conducted only seven or eight years later, will it become things that are stale and no longer of interest and it will be too late to make amends by then? I believe these matters are understandable not to rocket scientists only and I believe the Hong Kong public who are now watching the live broadcast on television also understand them very well.

In fact, these four focuses can be summed up by two lines of thinking, one being accountability and the other being sustainability. Can we actually rest assured that the WKCDA will not just be seriously accountable to this Council but will also be accountable to the public? Can this sum of \$2.16 billion enable this project to develop on a sustained basis? Or after seven or 10 years, when the relevant sites have been sold and all the hotels, commercial and residential buildings completed, will these core facilities for culture and arts wind up shoddily and cannot be completed? All these are issues of concern to us.

President, we are so concerned about the composition of the WKCDA and whether there is a system that allows participation and deliberation by the Hong Kong public because we believe that for this project to develop in a sustainable way, people are the most decisive factor. If the Bill today is passed in the way the Government wants it to be, that is, with the amendments to be proposed by the Secretary at the Committee stage, and if the Chief Executive appoints Mr Norman CHAN as the Chairman of the WKCDA in future, may I ask what cannot happen? If Mr CHAN repeats the history relating to the appointment of Under Secretaries and Political Assistants in this matter relating to the WKCD, we will then again have our eyes brimming with tears.

For this reason, President, we attach great importance to its accountability and sustainable development. Of course, we hope very much that the Government can hear our voices by taking a step further after changing from the single-tender approach to adopting a considerable body of the recommendations made by the Subcommittee. We hope that it will take one step further in respect of accountability and sustainable development, so that we can put our minds at ease and relax. In fact, it is not impossible for the Government to adopt many of the amendments demanded by us, only that the Government is unwilling to accept them.

Thank you, President.

**DR YEUNG SUM** (in Cantonese): Madam President, as a lover of culture, this time, it is with trepidation that I have risen to speak in support of the resumption of the Second Reading of the West Kowloon Cultural District Authority Bill (the Bill). Why trepidation? Because as a lover of culture, I long to see a world-class cultural district in Hong Kong, that there are a large enough audience, attraction and a pool of talents in Hong Kong to rebuild the humanistic spirit in Hong Kong. I really hope that this can become a reality at an early date. However, I am also worried that this hope may be shattered. Will this world-class cultural district become a useless white elephant that will create more trouble? In the end, will the targets of the project be set so high that they are unrealistic and the project will become unwieldy? Dr LUNG Ying-tai once said that Hong Kong is a region imbued with Chinese culture, which is mainly development-oriented and geared towards the pursuit of economic benefits and

efficiency. In fact, it does not care about the sustainable development of the humanistic spirit, nor does the Government attach any importance to this. The public does not attach any importance to the development of this area either. Even though we have a cultural district with world-class hardware, will our software and culture fail to complement it, thus making it a useless white elephant?

First, we could see that with the so-called single-tender approach adopted for the WKCD and the so-called approach of using property development as the mainstay, to be complemented by revenue from properties, the subsequent appointment of many well-known arts groups by major property developers as consultants and the advocacy of their own development plans or bids, only made me more concerned that the WKCD project would eventually be a repetition of the Cyberport incident. Of course, at that time, we criticized the Cyberport for the absence of tenders and this time around, in any event, one can say that tenders had been invited, even though only a single-tender approach was adopted. However, in any event, please excuse me for having little confidence in letting property developers control, develop and even promote a cultural project, as they are used to using the revenue generated by property projects as the mainstay and commercialism is in their blood. They had brought arts groups into their fold with their so-called cultural absorption but in the final analysis, but these groups were only used as the packaging and for window-dressing. Regarding this WKCD project, I was feeling very worried. However, thanks to the lobbying by Honourable colleagues through various channels, in particular, after the lobbying by the pro-democracy camp through many channels, we finally succeeded in making the Government scrap everything, start anew and accept our proposals in a number of areas. Certainly, we are still not very dissatisfied with some areas and I will also mention them in particular in my speech later.

Madam President, I welcome the creation of world-class cultural hardware. Next, I must talk about the complementary measures in software, in particular, in the development of culture and arts. How can the curricula of our secondary and primary schools align with the development in this regard? Will our university admission requirements still mainly be academically oriented? If some students are very outstanding in sports, culture or arts, can we actually adopt this criterion as an admission requirement? If universities can give



consideration to this kind of diversified qualifications, I believe many young talents will be attracted to culture and arts and even pursue a lifelong career in this area.

Regarding popular culture, in particular, with regard to television, if we look at the BBC, it offers many non-profit-making programmes and basically, the BBC itself is also non-profit-making. The BBC offers many current affairs programmes, arts series and films and it also promotes culture and arts in various ways. Although Radio Television Hong Kong, in particular, Radio 4, has also made a lot of contribution in this regard, I hope very much that radio stations, television stations and even websites, which are now very popular can also make greater efforts of promotion. In particular, more arts groups should be encouraged to stage free performances in primary and secondary schools and community centres. The Chung Ying Theatre Company has also done quite a good job in this regard. I hope very much that the Hong Kong public can have some cultivation from a young age, so that they can have greater artistic exposure. I believe it is only through this approach that this world-class cultural and arts district of ours can have a large enough audience and pool of talents in the performing arts to complement it, as well as being sufficiently attractive in making people from various parts of the world to come and stage performances or even visit it.

Madam President, having talked about the complementary software, I will now talk about the WKCDA. I am very pleased to know that the Government has accepted the proposal on the composition of the WKCDA, so that the establishment of the WKCDA is possible. The WKCDA is a statutory body and it plays an independent role. Detached from the government framework, it values community participation and public consultation. Through its consultation documents, it is able to take on board the demands of various stakeholders and the general public with regard to culture and arts. I hope the Secretary can undertake in his speech that when the Government appoints its members, it definitely will not apply the affinity principle as the Chief Executive does and only bring property developers or people in the royalist camp into its fold. Arts groups, various political parties and even various stakeholders

should also be able to have equal participation. Basically, the WKCDA must have open forums, carry out public consultations, publish open annual reports, take questions from the public and accept their views. I believe it is only in this way that our public funds can be used appropriately.

Madam President, I hope that in the future, the WKCDA will be able to make suitable arrangements with regard to performance venues. There are many new arts groups and small groups in Hong Kong that often find a shortage of performance venues. We can see that in the United Kingdom, there are many performance venues and basically, performance groups have their resident bases. A show can be staged for half a year, three years, four years or even five years. These groups keep accumulating experience and nurturing new blood, so that they can have more opportunities to perform and of course, these groups can also have stable income, so that they can recruit talents in various areas. In the future, when we have a world-class cultural and arts district, can we provide performance venues which are resident bases, so that suitable groups can have fixed performance venues, establish their own brand names, create a pool of new talents, accumulate experience and make a steady income, as well as establishing a reputation for Hong Kong and going to various part of the world to stage performances?

Apart from providing resident performance venues to small arts groups and other groups in general, I also hope that in the future, the WKCDA can care more about the disadvantaged social groups, in particular, people in remote areas or with lower income. I do not wish to see the situation of cultural development being mainly the privilege of the rich. I believe that each person should have equal opportunities in exposure to culture. I hope that in the future, no matter who will assume the chairmanship of the WKCDA, he can attach importance to the disadvantaged social groups and remote districts, so that small arts groups can have more performance opportunities and venues. I personally attach fairly great importance to these areas.

The third point that I wish to stress is the issue of gatekeeping by the Legislative Council. The Government wants us to approve an upfront endowment of over \$20 billion, but I am afraid this will be like throwing a tub of water away, together with the baby. I am very worried about this. I am also

worried that this sum of money may create a burden like a black hole for the whole society. How can we ensure that the future financial plans will be tabled before the Legislative Council for scrutiny, so that the relevant panels of the Legislative Council can discuss them, Members can raise queries openly about them and the persons-in-charge can attend meetings of the Legislative Council, field questions from Legislative Council Members and give replies? I believe it is only in this way that I can have confidence that public funds will be used appropriately. For this reason, I am very pleased that the Government has accepted the proposal made by Mr LEE Wing-tat to conduct interim financial reviews. However, I also hope very much that the relevant financial reports can be submitted to the relevant panel regularly and the persons-in-charge can also attend its meetings to take questions and queries from Members. In this way, I will have greater confidence.

I stress that it is necessary for the Legislative Council to perform its gatekeeping role properly, such that the composition of the WKCDA can be transparent, pluralistic and highlighted by community participation. Its members must be able to reflect the various facets of society and various stakeholders must be able to participate. In addition, complementary software should be available. I hope that this world-class architectural cluster can be completed early to enable us to take this opportunity to develop the cultural and humanistic spirit of Hong Kong, so that the Chinese culture mentioned by Dr LUNG Ying-tai can gradually come to the fore and the quality of life of Hong Kong people and Chinese culture can be upgraded. Moreover, with the special blend of Chinese and Western cultures in Hong Kong, it will be possible to make further contribution to our Chinese culture and even world civilization. At the same time, this development can also prove that Hong Kong is not just an economic city but also a mature civil society that can move towards a democratic and open political system, so that a long and deep tradition of humanistic spirit can be established. Thank you, Madam President.

**MS MARGARET NG** (in Cantonese): Madam President, it is indeed necessary for this Council to have a thousand eyes and a thousand hands to monitor the Government and reflect public opinions. By a thousand eyes, I mean that not even a single eye can doze off because if one overlooks even a small thing, one

would fall into a trap and miss something. By a thousand hands, I mean that there are plenty of talents and good ideas in Hong Kong, but one must be able to retain these talents and good ideas, in particular, talents, and if one fails to do so, they will slip away.

The West Kowloon Cultural District (WKCD) project, the West Kowloon Cultural District Authority (WKCDA) and the development of culture and arts in West Kowloon are a prime example. As a number of Members said just now, the WKCDA was proposed by the Subcommittee of this Council in its Phase II study report. We believe that the project should start afresh, but we hope that cultural development in West Kowloon can be put under the charge of a statutory WKCDA, which will be responsible for building, developing and forging a lively and different cultural and arts scene by linking West Kowloon with cultural development territory-wide. This is our vision at that time.

Today, with the introduction of this Bill, does it mean that the authorities are amenable to our advice? That would be tantamount to taking this matter too lightly. Although the Bill seeks to establish a WKCDA, it is not the one that we want. President, apart from a thousand hands and a thousand eyes, we also have to give a lot of thoughts to the matter and must have great perseverance. We are not negating this Bill completely. Our job is to examine what the key elements in this Bill are and amend them, so that this very unacceptable Bill can become a Bill that can serve as a starting point. This is also the goal that we wish to attain in working for such a long time. Later on, a number of Honourable colleagues will propose amendments. We are pleased to note that in this process, some of the views have been accepted by the Government, which has proposed amendments of its own. I hope that the WKCDA that is created through this process will be closer to the authority responsible for forging a lively culture and arts scene in Hong Kong that we have in mind.

President, I wish to explain what we have in mind and what the shortfall is. In fact, the Government's cultural policies and measures can be divided into three stages. The first stage is the colonial era before 1997. At that time, cultural and arts activities were organized by the Government, that is, the Government was in control of all the resources and public funds were used to

build venues and facilities and the activities that could be conducted therein were all organized and controlled by government departments. Some resources were then allocated from the public coffers to civil groups. Should a philharmonic orchestra be required, the Government would allocate some of the funds to a philharmonic orchestra. If one wanted to have drama, funds were allocated to dramatic troupes. Such was the routine way that such matters were handled and everything was done according to rules. As a result, the style was bureaucratic and our culture was very official and gloomy, with limited development. All parties felt very frustrated and many things could not be done.

Next, we heard of this so-called single-tender development approach for the WKCD for the first time and it is a different approach. What is this approach? It meant that the Government would not control the resources and the cultural and arts activities would not be organized by the Government and they would be assigned to other groups. If one is lucky to receive government support, one would be able to achieve something, otherwise, one would encounter difficulties. This approach is not like this, rather, it is one that combines the Government and consortia.

First, the executive is solely responsible and West Kowloon would be ceded to some consortia for their disposal. In fact, this is an act of concession. Donald TSANG only wanted a landmark in the form of a canopy, so that in future, he would leave an icon or a sign in a district in Hong Kong. Those consortia would then bid for the projects in West Kowloon. At that time, a remark that gained currency was "He who gets the tender for West Kowloon gets the world". Being in possession of such an enormous lot of land, they would get rich. After these people had made a windfall from property development, they would give some cultural facilities to us as a gift. What would the situation be like? It would be one in which the Government would not have full control but it would be partially in control, that is, it would have control over to whom or to which consortium a project should be accorded, after which the consortium will have control. In that event, the Government would say that such and such consortium is a private organization and we have to respect the spirit of contract, so no intervention would be made. Therefore, be it non-government groups dedicated to arts development or the public, they cannot participate in any way

and it is also very difficult for the Legislative Council to carry out monitoring on the consortium. In fact, this is the situation that this single-tender development approach could have brought about.

After a great deal of hard work, we succeeded in having the single-tender development approach and the construction of the canopy scrapped. The original arrangement was a single tender but things are now divided into two stages or two parts. One part is the land auction and the resources so obtained are used for construction, planning, development and management, so that cultural and arts activities can be organized there. Originally, this is also the view advocated by us in the Subcommittee because this approach will enable us to carry out development step by step and it will not be necessary to hand everything over to a group of people and let them carry out the development wholesale. What we want is a planning-centred approach. In that case, has our goal been attained? However, when we look at the WKCDA in this Bill, we find that it is not the WKCDA that we have been waiting for patiently. If we look closer, we will find that it is just old wine in a new bottle: The approach is still one of government appointment, with the public acting as the proxies and the control is still tightly in the hands of the Government. We can see this from several areas.

First, all members of the WKCDA are appointed and this power of appointment is still tightly controlled by one person, namely, the Chief Executive. This is not bound by any rule. We can see from the initial part of the Bill that the Chairman of the WKCDA Board can be a public officer or a non-public officer. Meanwhile, it is also rumoured that the Chief Secretary for Administration will assume this post. Regarding who in the Government will take over, it is also said that the close aides of the Chief Executive will take over. If this is the case, what will we see? Will we see an apparently independent statutory body that is actually still controlled by the Government entirely? In addition, we can see from some provisions that whenever planning is involved, the WKCDA has to completely obey the orders of the Secretary for Home Affairs and his power is totally unrestricted. In view of this, are we looking at a WKCDA that is formed by appointment, with the Chief Executive exercising control over it? However, since it is a statutory body, the Legislative Council must keep a distance from it and allow it to have independent decision-making power, so our monitoring is subject to constraints. This is still a

government-controlled body and if anything goes wrong in the future, the responsibility will then be shifted onto this WKCDA. The Legislative Council has no power to carry out monitoring over this and civil society will not be able to play any role either.

We can still see the shadow of the single-tender development approach. Why? Because the future WKCDA will have some powers. However, it is not the case that all matters have to be handled by it. It can decide how to deal with matters. For this reason, it can still hand over the facilities to other people for management. Of course, we will be happy to see this being done in some circumstances and this is the so-called arts accountability system that we mentioned in the course of discussion — what this means is that in a venue, there are some programmes that are very popular and they will yield profits, whereas some programmes are of interest to the minority or avant-garde and experimental in nature, so they will not be very profitable. However, it will be possible to trim one part to supplement the other, so that these arts venues and centres can organize very interesting activities and make great contribution to the culture in Hong Kong. Therefore, it depends on how the WKCDA proceeds. However, how can we ensure that the WKCDA will act in a desirable way and will not do things arbitrarily by shifting such matters onto some big organizations or consortia out there and consider the job done? Therefore, our only course of action is not to scrap the Bill and start afresh, rather, we have to amend this Bill to push the development of the WKCDA in the right direction.

For this reason, the goal of our work is to introduce an even greater element of monitoring and place great emphasis on institutionalized consultation. In order to achieve this end, the first thing we have to do is to set out what the objectives of the WKCDA are in the Bill to ensure that these objectives can really guide the operation of the WKCDA. Next, regarding the appointments to the WKCDA, we hope that some elements can be added, for example, elements such as the Nolan Principle. Unfortunately, this Government refuses to accept these elements because they will deny the Chief Executive a free hand. For example, a certain person can be appointed if he so instructs and he can appoint a certain person to a post if he says that this person merits it. I hope that such elements can be added, so that the people recruited and appointed by him can really be helpful to our cultural goals and ideals.

Third, this system of consultation is very important. The officials often said to us, "Although what we set down in the provisions is very simple, it is stipulated that there will be consultation. We cannot tolerate the absence of consultation in a modern Government, so how can there be no consultation for the WKCD?" However, we are not simply demanding consultation on important matters only and let it be the end of the matter after consultation. This time, something struck us very much in the Subcommittee, that is, civil groups, experts, and so on, kept coming to us. They had been consulted many times already but each time, they had to state their views anew. This can be attributed to the lack of a system. For this reason, we attach fairly great importance to consultation and believe that it is definitely necessary to set up a consultative committee. In this regard, we are very pleased that this proposal has been accepted by the Government.

Finally, concerning that allocation of \$21.6 billion, we attach particular importance to introducing an element of monitoring by the Legislative Council. For this reason, we will put forward a proposal in the Finance Committee, that is, in asking us to approve the funding, an undertaking must be made to the effect that the future WKCD will provide adequate information to the body established by this Council to monitor the WKCD in the future. It is only in this way that the proper use of our money can be ensured and that the situation will not develop into a shambles that will be very difficult to tidy up in the end, thus making Hong Kong people realize that there are problems in capital injection only when they have got half of what they want but that there are also problems in not injecting capital. I hope the occurrence of such issues can be forestalled.

Madam President, we have neither a thousand eyes nor a thousand hands. We have also exerted our utmost with whatever we have got. We hope that we can do something for Hong Kong people. Thank you.

**MISS CHOY SO-YUK** (in Cantonese): President, I hope that after four to five years of debate and argument, the West Kowloon Cultural District Authority Bill (the Bill) will be passed today. When the relevant appropriation of funds is approved on Friday, the whole matter will come to an end, at least for the present stage, which marks the beginning of a new phase for all of us.



President, I do not have the artistic talent mentioned by Miss CHAN Yuen-han since I know not how to sing, nor do I know how to draw. However, I believe I am absolutely qualified to speak here. This is because, first, I think culture and arts are very important to the development of a society. Personally, I attach great importance to the overall outlook of culture and arts in Hong Kong. Furthermore, as culture and arts can enhance the appeal of a place and draw more people to live in it, they play important roles to the overall competitiveness, quality of life, and even economic development of a society. Of course, more important than that, is how a more civilized humanistic society can be built, to which I attach great importance. With respect to cultural and arts developments, I have all along listened to views of different parties, irrespective of whether they are views of groups attending meetings of the Panel on Home Affairs, or groups with which I meet in other circumstances. Certainly, there is another reason for this. Although I myself do not know how to perform, I like to watch performances, no matter whether they are performances of ballet, acrobatics, drama or opera of Western and Chinese cultures. I also like to watch regional Chinese opera, be it Cantonese Opera, Min Opera, Jing Opera or Qun Opera. I appreciate all kinds of performances. Therefore, I hope that the development of the West Kowloon Cultural District (WKCD) will enter a new phase.

President, after listening to the views of various groups, parties in society, and colleagues of the Council, I think that the Government, being the target of everyone, is in an unenviable position. In my opinion, members of various sectors are groping in the dark in the course of submitting views. They level relentless attacks at the Government's efforts in cultural and arts development from their own perspectives. Views in favour of these efforts are rare. This is understandable as our overall cultural and arts development has really been ineffective over the years. Thus, after all we have gone through this time around, I hope the Secretary will arrive at a conclusion with regard to the following points. Firstly, irrespective of whether the public likes the WKCD or the design of it, nobody wishes there will be a delay of the project, or is not supportive of the project. From what I have heard, although various parties disapprove of the Government, they wish the WKCD project can be expeditiously commenced. Moreover, in respect of the overall cultural and arts development, it is true that we followed old practices rigidly in the past. There have not been significant improvements in many aspects. As far as those with

vested interests are concerned, the Government dares not make even small changes. Nor has the Government given full play to other good proposals or taken steps to make substantial changes, such as the provision of additional resources or the enhancement of flexibility. As criticized by many colleagues, with regard to on-street performances in various districts, the Government dares not ask other departments to let them go and perform with freedom. In general, in many an issue, it looks as if the Government has been hamstrung. Therefore, it is not surprising at all that the Government is criticized by many parties. There are criticisms that the Government should invest resources in software instead of hardware; and there are also criticisms that there is insufficient software, and that it is impossible to develop software without complementary hardware; and there are also criticisms that what we need is "soil", not resources of the Government. But actually what kind of "soil" do we need? It turns out that both hardware and software are insufficient. And when certain hardware is mentioned, it is found that software is also undesirable so that no matter how the hardware is developed, it cannot give full play to its function, giving rise to many divergent views.

Actually, I am sympathetic of the Secretary's position. I hope he will learn a lesson from the bitter experience, and take drastic measures after listening to views of various parties. It is indeed not easy to develop culture and arts. Our colleagues often talk about how brilliant New York or London are, and how advanced their cultural and arts development is. If we ask the council members of New York or London about their views of performing groups and audience, I wonder whether they will grumble just like we do. Nevertheless, we have to be modest and learn with an open mind. Compared to these metropolises, we certainly need to make improvements in many areas.

President, with regard to the Bill, I would like to further talk about the significant issues or issues that need some hard thinking. For instance, on behalf of the Democratic Alliance for the Betterment and Progress (DAB), I have to ponder on whether to support certain amendments, or what key points we should focus on while examining the amendments put forward by the Government. Most important of all, how much power we should give to the WKCDA, how much power we should give to the Government, what degree of stringency should the power be given, and how much room should be given to the WKCDA and the Government. Of course, it is also a question of how much

trust we have in the Government. Many colleagues have many views on the appointment by the Chief Executive. Of course, it is indeed problematic if the appointment is really made by the Chief Executive alone. But in many cases, this carries a symbolic significance only. It is equivalent to the appointment of the Secretaries. The Secretaries are said to be appointed by the Central Government, but in reality, how much does the Central Government know about these Secretaries? I believe this is also a symbolic gesture. However, generally speaking, we are often thrown into mental struggles over these matters. For instance, many colleagues have mentioned that a competition should be held to decide the architectural design; a timetable should be set when conducting consultation; and different stages and various people to be consulted should be specified in the consultation exercise. I can fully understand all these aspirations. However, no matter how many consultation exercises the Government has conducted, how many views it has listened to, whether the Government will really heed the views is the crux of it all. Even though it may have listened to 50 or 100 views, it can still make arbitrary decisions and take peremptory actions, ignoring public opinions altogether. Thus, it all hinges on who is responsible for management at that time. It is these people who are most important.

With the present transparency in Hong Kong society, as well as the great significance the community attaches to the WKCD project, I believe a lot of people are keeping their eyes wide open to monitor the operation of the WKCDA in the future. Thus, I think certainly there will be a higher degree of transparency in the future WKCDA than many current statutory organizations put in place by the Government. I also support the view of many colleagues, that the WKCDA should make reports on the relevant status to the Legislative Council on a regular basis. Not only should the WKCDA submit an annual report to the Legislative Council, the Chairman of the WKCDA should also provide more information for the perusal of Members.

President, another point of controversy is the financial arrangement, which I mentioned in last week's motion debate. We do not wish to see that after the appropriation of \$21.6 billion to the WKCDA, the Government will only draw up a series of duties and objectives for the WKCDA, and then leave the WKCDA to run its natural course. There is nothing wrong with such a practice. I think there is also such a necessity. But I am worried that when there are financial

problems, the WKCDA will again seek funds from the community. There are diverse views among colleagues. Some of them think that it is not necessary to do certain tasks; some of them believe the Government should not approve further funding; and some of them think the amount to be appropriated is too much. I am worried that if the Government does not pledge to provide assistance whenever problems arise in future, there is a possibility that this cultural district will become a white elephant, or the development project becomes such a failure that the Phase II project cannot be launched, or there is a cessation of the whole project altogether. These are neither the practices of a responsible government, nor the actions taken by a community that attaches great importance to cultural and arts development. The Government should not draw up the full list of duties and then give the WKCDA a free hand to handle the problem of sustainable development in future. I hope the Government will seriously consider this point.

President, during the consultation process, many groups have mentioned the issue of the lack of local talents, including the issue of a temporary shortage of management personnel. With the completion of the WKCD project, there will arise a situation of a temporary shortage of management personnel of museums and exhibition venues as well as managers. Talking about the issue of venues, we are also worried that after the completion of the WKCD project, there will not be any construction projects of additional venues, such as the venue for Cantonese opera, as mentioned by Mr LAU Chin-shek. If the Sunbeam Theatre were demolished, the Government should build another long-term performance venue for Cantonese opera in the vicinity. There are theatres in other major cities of the world where certain performances are staged almost daily 365 days a year. It has been 20 years since "Cats" or "My Fair Lady" were premiered, and they are still being performed in London. Why can't we put in place a Cantonese opera theatre for the performance of "Legend of Princess Chang Ping" so that it can be performed for as long as 30 years? We certainly can do that. We can build many performance venues to stage long-run productions. It is not my wish that after the completion of the WKCD, the Government will tell us that whatever performances they are, they have to be staged in the WKCD. I do not believe that the WKCD can completely solve the current problem of a serious lack of performance venues in Hong Kong.

I am not referring to Cantonese opera only. As far as I know, some years ago, the Moulin Rouge of Paris had attempted to identify a performance venue for its long-run production in Hong Kong, but failed to find a suitable venue. Thus, I hope that the Secretary will take this opportunity when the WKCD project is entering another stage to seriously devote more efforts to the cultural and arts development of Hong Kong. I also hope that he can relay our aspiration to the Chief Executive, that we wish more resources can be allocated with a view to developing our culture and arts in a serious manner.

With these remarks, President, I support the resumption of the Second Reading of the Bill on behalf of the DAB.

**MR LEUNG KWOK-HUNG** (in Cantonese): I speak to oppose the development of the WKCD.

This has always been my established position. I was in Room A just now, discussing the shortage in bed spaces and the absence of delivery suites in Tseung Kwan O Hospital. Moreover, it will probably take 10 years to complete Tin Shui Wai Hospital. Whichever community I visit, residents are complaining that no money is available to the extent that even essential facilities are lacking. While the problems caused by the downpour in the Northwest New Territories have been slightly ameliorated, the Central and the Western Districts of Hong Kong Island have become a flood plain. The Government has failed to provide adequate basic facilities, let alone the construction of a world-class cultural district. This is really a story of "Why do the people not eat cakes?"

There is a need to expand education in Hong Kong, but as the Government claims that it does not have money, the additional funding provided is inadequate. Even financing is needed in health care. The Government is telling us that if people do not make contributions, all of us will have to die, one after another; with the poor people going first, so it urges the poor to pay. Let us do some calculations. If we are to develop the WKCD, we have to spend at least \$100 billion, including the premium. So what actually is our Government doing?

The emperors produced by small-circle elections often hope that some image projects such as ornamental columns and grand mansions can be built before their cessation of service. Prior to the leg pain suffered by TUNG Chee-hwa, he had wanted to develop the WKCD, and hence the canopy. Even though he could not explain why there should be a canopy, he still wanted it to be constructed. What was the reason for that? He had wanted to construct the canopy so that people would be reminded of him when they looked at the canopy.

Members, if we consider matters as they stand, the WKCD development is a must. But how can it be better managed? I do not want to degrade or take the determination of colleagues to monitor the project lightly. But have you ever considered — actually we should have told the Government at the outset — that it is not necessary to implement the project at all? Even if we have to implement the project, we should attend to the matters which we do not have money to implement first. The Government claims that it does not have money to implement expansion and reforms in education. While some children do not have money even for a pair of sneakers or spectacles, the Government insists on not giving them the money. Doesn't the Government feel shameful about this?

If we are to develop the WKCD, I will support the proposal of erecting stone tablets and memorial plaques with inscriptions illustrating the development of the WKCD. Charles DICKENS once wrote, "It was the best of times; it was the worst of times". Right now, it is the greediest of times. Members, will our Government pledge to meet my request and inscribe on memorial plaques to remember at such difficult times, when there are 1.4 million poor people in Hong Kong, and over 400 000 working poor without security, we still have to give tips amounting to \$100 billion out of our pockets.

Members, this has always been my established position. I had written an article on 9 October 2005 to state my position. I would like to quote some of the contents of the article: "A year ago, the Government was still trying to reduce CSSA rates in order to save just \$10 million (it was the year 2005). A year later, it is eager to spend \$100 billion to build a grand district. Take a look at this culture and such values of our Government. Even if we manage to move the Palace of Versailles to the WKCD, what we achieve is just like a scene from Mr LU Xun's fiction — with the words of 'Eating People!' filling the page. I

was originally a child of a poor family. When I was young, I had neither the leisurely mood nor pocket money to take in the cultural essence of the WKCD project or watch brilliant performances attended by those who were impeccably groomed and dressed. However, despite the progress of society, the poor children of today are not in an advantageous position than I was. You need only to go to Sham Shui Po to see that there are poor students who cannot even afford a pair of sneakers and spectacles. So how can they immerse themselves in the enjoyment of exquisite cultural performances? How can they afford the expenses to have a taste of popular culture disdained by the middle class? Or you can take a stroll in Tin Shui Wai. You will find a lacking and a shortage of cultural, recreational and sports facilities. So how can teenagers attain their cultural nurture? This is a large community not even served by a proper general out-patient clinic. To these laymen of culture, such a grand cultural landmark in West Kowloon is only like a picture of the fleeting world. When I look at the blueprint of the WKCD with its collection of beautiful structures and glamorous extravaganza, a surreal picture of an impoverished community that show every sign of prematurely senility flashes across my mind. What I can see is a surreal picture — a glamourously attired lady, whose evening gown reveals a cleavage of plump bosom, looking at a hungry and shabbily dressed baby sucking the breasts of a mother who is as thin as a lath! Buddy, don't you think this is just fabrication. When you are in a big city in India, you can easily see for yourself the reality of this surrealism. A friend of mine had once allowed me a glimpse of this wonder of the world mentioned above. Only that she was holding a photograph. You may be right. How can Hong Kong be compared to India? It's simply unconvincing! But do you know that the per capita saving of Hong Kong still ranks the first in the world, much higher than that of India? However, the disparity between the rich and the poor in Hong Kong goes even further than in India. Arts and culture originates from the aesthetic perception; the aesthetic perception originates from the heart; and the heart originates from the compassion for sufferings of others and the sympathy for ill fates of men. When the pursuit of excessive profits is advocated in a city, the culture of spending will become the axis of life. Life itself is the yeast of culture. When everyone is working hard for labels and fashion, even if billions of wealth is spent to construct the totem of arts, each member of the city is only putting on a layer of cultural gold foil. The WKCD project is a big business. Can ordinary people like you and me afford living in the luxury flats of the district? The commercial developments of the district will only be a place

frequented by the upper and middle classes. With regard to the opera house, probably it will no longer be necessary for the leisure class of our city to go overseas for their visits to opera houses. They can drive their luxury sedans to the WKCD and leisurely attend exalted social functions. In respect of the grand and huge museum, our problem is — what cultural relics are we going to exhibit in it? We cannot loot treasures to display in our museum, just like what the United Kingdom did. So what are we going to do? Well, we can use money to exchange for precious exhibits. As money talks, just go on a shopping spree. Such an act will genuinely put into practice the money culture of Hong Kong, and indirectly shows some of the local characteristics of our city. What is culture? Just as a philosopher said 'Man is what he eats.' Culture is nothing more than clothing, food, lodging, and transportation — the basic necessities; pleasure-seeking; mind wandering; struggling and wavering of generation after generation. While many people are enjoying the shade of this big lush tree, their ancestors — regardless of whether they were rich or poor — had watered and fertilized this ancient tree towering to the sky. With efforts that achieve the effects of trickles flowing together to make rivers, and grains of sand building up into a pagoda, people of all ages and both sexes have contributed to the cultivation and precipitation of the soil of culture for generations. The brewing and developing of any exquisite culture are attributable to the hard work of grassroots, so that talented elites can showcase their abilities and perform exploits, doing little bits for the building of human civilization. Let us imagine, how could the young and talented Mozart have spared his time to play piano and compose his works if he had not been looked after by the nobles? All his clothes and food had been provided by the masters. And when weren't all these ever contributed by the hard work of common people and ordinary folks? Of course, 'Man does not live on bread alone.' Nevertheless, if there were no enlightenments in life brought about by thousands of homes and families, men and women, common people and general public; and no magnificent experiences such as sorrows of partings and joys of reunions; or splendid emotions such as happiness and anger, sadness and delight; how can geniuses be impacted and inspired by various sources so that they can finish a piece at one go, or thoroughly polish their work and still strive for perfection? Culture has never been accomplished at one stroke. Culture can only originate from the interaction and communication of communities, irrespective of races, religions and sexes; and grow to be healthy and strong from continuous expressing of, listening to, integrating into, and clashing with ideas of each other. Taking the



advantage of the globalization of capital, the popular culture monopolized by the American dollar and its economy is terminating this natural growth by using the American dollar to assess the cultural ecology of mutual thriving of pluralism. Those that are not generating profits have to suffer and are metamorphosed ..... today, the WKCD project is hoisting the banner of advocating culture and entertainment to provide a chance for the billionaire developers to reap huge profits, and then offer the opportunity to other tycoons to develop their cultural businesses. Billions of capital (as a matter of fact, the current amount has reached \$100 billion) are not used to improve education, or to foster and promote the moral, intellectual, physical, social and aesthetic developments, or to assist the poor, or to provide infrastructural facilities, or to allow the people make their own decisions of whether or not to participate in cultural and arts activities. In France, there are certainly numerous cultural landmarks available for the worship of people. But there are also two government-operated art channels that serve as gems easily accessible by everyone. It is not surprising that the WKCD, built under the shadow of collusion between business and the Government and illicit deals, is a cultural baby of the devil. Others are throwing a party .....

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, you have spoken for a long time .....

**MR LEUNG KWOK-HUNG** (in Cantonese): President, I am quoting. I will soon end the quotation.

**PRESIDENT** (in Cantonese): Though you are speaking loudly, it is not necessarily that you are speaking with reasons, and not necessarily that you are not speaking with reasons. However, as Members can hear you, you need not speak so loudly.

**MR LEUNG KWOK-HUNG** (in Cantonese): Understood. OK.

"Others are throwing a party, and we foot the bill. Alas! 'I have spoken and saved my soul.'" Of course, I have not finished. I have only finished quoting. The last remark is a favourite remark of Karl Marx.

Members, our Government has always taken advantage of human laziness and greed to serve its own purpose. Today, the Government is providing money to enable the outstanding personalities of the cultural sector to achieve their objectives. They will certainly agree to the proposal. Today, the Government is telling the people of Hong Kong that they need not spend anything because the Government has excessive money to spare \$100 billion. When people walk past the WKCD site in the future, they will feel proud. Even if some members of the public cannot afford drinking a cup of Coca Cola in the district, they can still tell others that there is this WKCD in Hong Kong. The Government also tells Members of the Legislative Council that if they do not vote in favour of the project, they will become sinners. And when people cannot see the WKCD at the waterfront in the future, these Members will certainly be scolded and will stand very slim chances of being re-elected.

Members, like the Satan in the Bible, the Government uses the origins of the seven deadly sins to deceive and threaten us. Members, this Council is elected by members of the public in Hong Kong (many of them are wage earners and poor people). We are duty-bound to say something they probably will not say at this moment, and that is, the WKCD is basically an image project of a dynasty produced by a small-circle election that passes on from one generation to the next generation, from "Old TUNG" to "Old TSANG", with "Old TSANG" finalizing it. What they want is glory, and so businessmen reap all the profits, and we lose the public funds. Our poor people are living in extreme misery and they are enjoying themselves in a land of peace and happiness in heaven.

Members, we know that the senior officer Rafael HUI enjoys operas. He had said in the future, he would not have to fly to Tokyo, Paris or Rome for an opera, but need only to drive to the WKCD for opera performances. Who doesn't know this? It is we who have to pay. The food can be cheaper too. Members, what are we discussing today? We are discussing whether we should use \$100 billion to build a totem or an ugly ornamental column to serve as their embellishment? Should the amount of \$100 billion be used to educate students

properly, implement small-class teaching, provide for old women so that they do not have to collect cardboards, provide for young children so that they have sneakers to wear, and offer retirement security for everybody? What actually should we do? As a matter of fact, it is as clear as daylight.

Mrs FAN is right in saying that a person speaking loudly does not mean that he is speaking with reasons. But the Council is a place where we reason on facts. If this is the case, we will definitely not pay money to the Government so that it can play the role of a pampered fop or a spendthrift. We have to plead for the masses, so we condemn this kind of action. Thank you, President.

**MS AUDREY EU** (in Cantonese): President, Mr LEUNG Kwok-hung has just delivered an impassioned speech to oppose the WKCD project on the grounds that the Government has failed to provide many other social services which are as urgently needed as the WKCD.

The Civic Party agrees that, with regard to many urgently needed social services, the Government is indeed keen to play the role of "Scrooge". It often says that it has no money, but in reality, it is not short of money at all. However, the Civic Party will not oppose other projects that should be developed and in which money should be spent just because the Government is being unreasonable. As an international metropolis, Hong Kong should develop culture. Thus, like many members of the public, the Civic Party has mixed feelings of anxieties and joy for the WKCD project. On the one hand, we are worried that the recent political storm of affinity differentiation will spread to the WKCD project to the extent that it will affect the future development of the cultural district; but on the other, we also aspire for the expeditious implementation of the WKCD project. As a member of a political party, and as a Member of the Legislative Council, I hope there will be a balance between the two emotions. For one thing, we agree in principle that the cultural development of the WKCD should be supported; and for another, just as Ms Margaret NG has just pointed out in her speech, we have to open our eyes wide and bring our strength into full play in order to prevent the WKCD from turning into a white elephant.

As a matter of fact, our worries are not difficult to comprehend because many incidents have occurred recently. There are not only scandals from such statutory organizations as the Hong Kong Tourism Board and the Hong Kong Applied Science and Technology Research Institute Company Limited, it has also been revealed that no unified salary standard has been put in place for the Under Secretaries and Political Assistants. This also reflects the culture of affinity differentiation. From the gravitation of the Government towards certain political parties in the early days, the trend has gradually spread to political appointments, and then to the governance of statutory organizations. This culture characterized by sycophantic officials has continuously gestated and expanded. Will the West Kowloon Cultural District Authority (WKCD) repeat the same mistake?

The West Kowloon Cultural District Authority Bill (the Bill) is under our scrutiny and pending passage. Has the Bill clearly prescribed adequate safeguards with regard to duties and powers as well as planning? As a matter of fact, before the Bill was introduced, the Civic Party had published a submission concerning the electoral element of the composition package, in which the Civic Party had expressed its proposals on the WKCD. One of the most important proposals was that half of the Board members should be represented by members of the cultural sector and professional sector chosen through a selection mechanism. Very often, elections can ensure public participation and monitoring in a direct and effective manner. However, the Government considered this proposal "troublesome", and insisted that the Board members should be appointed by the Chief Executive on the grounds that it was the most flexible and convenient package in terms of administration; thus, closing the door to the public with ease.

Members of the Civic Party had subsequently put forward their views in the Bills Committee, but the Government had remained unmoved. The Civic Party had again proposed amendments and hoped that the Government would appoint Board members in accordance with the Nolan Principles. The Government pointed out that maintaining fairness and justness, as highlighted in the Nolan Principles, had all along been the approach adopted by the Government. As this was the case, there was no need to set this out in the legislation. Margaret NG mentioned many details in her speech just now, so I am not going to repeat them.

In respect of public consultation, the Civic Party has hoped that the Government will conduct public consultation of a higher quality. We had proposed that the Government should set up a consultative committee on WKCD, so as to provide a platform for cultural and arts groups, stakeholders as well as the public to take part in discussions. The consultative committee should consist of representatives of deputations or individuals, the Chairman and the Vice-Chairman of the WKCDA, members and Vice-Chairman of the Board. A public meeting should be held once every three months on a regular basis. The decisions of the consultative committee should not be binding on the WKCDA, but it must be put on record with written explanations if views of the consultative committee were not adopted by the WKCDA. The Civic Party had asked the Government to set out these views in the Bill, but the Government had refused to incorporate this consultative framework into the Bill on the grounds that flexibility was lacking in such a practice. Subsequently the Government indicated that after the establishment of the WKCDA, the proposals of the Civic Party would be implemented in the form of issuance of guidelines. I hope the Government will honour its promise and genuinely commence public engagement and not just public consultation.

With respect to financial commitments, a one-off upfront endowment of \$21.6 billion is not a small amount. In respect of the appropriation of funds, the Civic Party is supportive of two major proposals — a selection mechanism should be put in place for the appointment of the Board of WKCDA; and a report on the financial status should be submitted once every six months on a regular basis. Unfortunately, so far the Government has refused to accept the proposals, at which the Civic Party expresses deep regret. Since the WKCD is the leader of the development of our local culture, I hope the Government will remember the development history of West Kowloon as the last stretch of waterfront land in the Victoria Harbour. It has been pointed out by some academics and community groups that this stretch of land in West Kowloon should be used as open space, since the major reason for the British Hong Kong Government to reclaim the land is to serve as a remedy for the public, and to alleviate the over congestion of residence in the areas around West Kowloon. Therefore, the public should be given the role of the genuine user and the boss.

In view of this, irrespective of whether it is used for arts development or land planning, the key parameter of the usage of the land should be the enhancement of a sense of belonging among the public.

The Civic Party has also carried out many consultation exercises and consulted the residents living in the vicinity of West Kowloon. Frankly speaking, the consultation exercises have not been met with proactive responses. Many people do not know anything about the contents of the WKCD development, and they are worried about the appropriation of funds that amounts to \$21.6 billion. It is obvious that efforts made by the Government in this regard have been inadequate.

All in all, the Civic Party supports the development of culture in Hong Kong. Thus, we support the resumption of the Second Reading of the Bill. However, we certainly have worries about the current proposal of the Government. Because of this reason, Alan LEONG will propose amendments later in the meeting. We hope Members will conduct more in-depth discussions when the amendments are proposed.

Moreover, I wish to specify clearly that even if the Bill is passed, when the Finance Committee discusses the endowment of \$21.6 billion in future, we still have to consider other factors, and in particular, the proposal I mentioned just now — making reports to the Legislative Council on a regular basis. I was pleased to hear Miss CHOY So-yuk mention in her speech just now that the DAB was of the view that reports should be made on a regular basis. Not only should annual reports be released annually, reports on more in-depth information should also be made. Unfortunately, she did not explain in detail the nature of the reports.

As Alan LEONG has already given detailed explanations on behalf of the Civic Party, I am not going to repeat them here. However, after listening to the speech of Miss CHOY So-yuk, I very much hope that she would convince the DAB to support the position of the Civic Party in this regard. If the Government is unable to pledge its commitment to the Legislative Council on the issue of WKCD so that the Legislative Council will be able to give full play to its monitoring role, make detailed reports to the Legislative Council on a regular

basis, ensure adequate monitoring, engagement and consultation of the public through the Legislative Council, the Civic Party has reservations about the endowment of \$21.6 billion. We hope the same attitude will be adopted by the DAB, too.

Thank you, President.

**MISS TAM HEUNG-MAN** (in Cantonese): President, we support in principle that there should be cultural development in Hong Kong. The West Kowloon Cultural Development Authority Bill (the Bill) is heading in the right direction. I remember during my 16-year stay in the United Kingdom, I had lived in the city centre of London for quite a long time. At that time, I could go to the opera houses in the vicinity of London for opera performances every day. But since my return to Hong Kong, there have been rare chances for me to do so, because very often, the operas staged in Hong Kong do not have a long run of production. The major reason for this is a lack of venue. There are insufficient opera houses in Hong Kong for the performances of overseas troupes. Thus, it is worthwhile to support cultural development, and in particular, the development of the West Kowloon Cultural District (WKCD).

However, over the past few years, problems of corporate governance have surfaced in a number of public organizations and statutory organizations. It can be said that one disturbance follows another. In 2004, the English Schools Foundation was picked by the Audit Commission to be the first organization to be reprimanded. It was followed by a series of scandals involving the abuse of business-related allowances and waste of public moneys found in the Office of the Privacy Commissioner for Personal Data and the Equal Opportunities Commission; and use of public funds for the procurement of fung shui consultancy services revealed in the Hong Kong Applied Science and Technology Research Institute Company Limited. All these incidents have become a laughing stock. Finally, the issue of corporate governance of the Hong Kong Tourism Board also kicked up a storm. Incidents like these have undermined our confidence in statutory organizations.

Today, we are going to scrutinize a Bill for the establishment of get another important statutory organization, and that is, the West Kowloon Cultural District Authority (WKCD). This project has been discussed from the era of TUNG Chee-hwa to the era of Donald TSANG, with many twists and turns in the process. Now that the project has finally come to the straight and smooth stretch, it should be a moment for celebration. However, the series of storms related to corporate governance, in addition to the mess made by the new politically privileged appointed by the Government, have made me — a person who has always been concerned about corporate governance — feel obliged to speak more about this.

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

Corporate governance is imperative to the establishment of an organization, and two tasks have to be done to achieve this objective. First, a proper constitution has to be drawn up; and second, a quality board has to be set up as the navigator of the whole organization, taking the driving seat to be accountable to the public.

The Bill is the constitution of WKCD. I believe Honourable colleagues present will scrutinize this constitution carefully. Therefore, I am not worried that blunders will occur with the Bill. However, I am not that sure about the composition of the Board.

It is provided in the Bill that all Board members will be appointed by the Chief Executive. A mess has already risen from the appointments of Under Secretaries and Political Assistants, giving us a taste of the hand-picking culture of Chief Executive Donald TSANG characterized by employing people to his own liking and "black-box" operation. As the saying goes, "once bitten, twice shy". We have to monitor closely the composition of the Board of WKCD; otherwise, the Chief Executive will be able to take this opportunity to appoint his trusted aides in order to influence the operation of the WKCD.

The Bill has provided that at least one member of the Board of WKCD is a Member of the Legislative Council. However, it has not expressly provided



which Member should be appointed. In other words, the Chief Executive will be able to appoint a Member who is "obedient" as a Board member. Members who are usually outspoken and keen on criticizing the Government will certainly be excluded. If the Government wishes to establish an autocratic WKCD, then why should the Bill provide that a Member of the Legislative Council should be a member of the Board? It is the expectation of the public that the Member of the Legislative Council who serves as a Board member of the WKCD will play a monitoring role, so as to ensure that the operation of the WKCD is in line with public interest, and public money is used in an appropriate manner. If all Board members appointed have the inclination of "shutting up" voluntarily, what is the point of such appointments? And how can this be answerable to members of the public?

Clarity and transparency are important factors of good corporate governance. With well-established regulations drawn up, it will certainly pre-empt such scenarios as favouring one's own friends or manipulating the situation single-handedly. In view of this, a detailed and specific mechanism should be put in place for the appointment of a Member of the Legislative Council as a Board member of the WKCD. This Member can be elected from among Legislative Council Members, or specified to be the Member representing certain sector or the Chairman of a certain panel.

Deputy President, apart from the procedure of appointing a Member of the Legislative Council as a Board member of the WKCD, transparency should also be enhanced with regard to the Government's appointment of members of the cultural sector as Board members. I noticed that objective criteria — such as their qualifications and achievements — for appointing cultural personalities to serve as Board members of the WKCD have been drawn up by the Government in its proposed amendment. However, when the system really operates, I have doubts about whether this can ensure each member is appointed on the basis of fairness and impartiality, as well as merits of the individual, so that nobody is allowed to serve in name only, with his sole purpose of angling for fame and honours.

For instance, there are many professional organizations in the arts sector, such as the Chinese Artists Association of Hong Kong of the Cantonese opera sector, and the Hong Kong Performing Artistes Guild of the performing sector.

Is it possible for us to clearly set out which organizations of the cultural sector with representativeness will be able to send representatives to sit on the WKCDA Board? This will greatly enhance the legitimacy of the WKCDA, which is conducive to enhancing the corporate governance of the Authority.

Moreover, apart from appointing Members of the Legislative Council and members of the cultural sector to sit on the WKCDA Board, I believe it is necessary to have representatives of other professions who will provide views on other functions of the WKCDA besides those of culture and arts. Apart from culture and arts, the WKCDA has to be responsible for the management of hotels, restaurants and other commercial projects as well. Members of the cultural sector may not have the knowledge to manage hotels and restaurants, resulting in laymen commanding professionals in these areas. From the perspective of corporate governance, such a practice will certainly have impacts on the operational efficiency of the WKCD.

On the other hand, according to the Bill, three subcommittees responsible for financial management, culture and arts, and public consultation will be set up under the WKCDA. However, the Bill has not specified the details regarding the members, composition and duties of these subcommittees, pending the decision of the WKCDA Board. In this way, does it not mean that the WKCDA will be able to act as it pleases? Then how can the Government and the public monitor the operation of the WKCDA?

Monitoring as well as checks and balances are important constituents of corporate governance. There are commercial projects, residential sites and trading funds provided by the Government in the WKCD. Given that substantial resources are involved, if inadequate checks and balances are exercised, the WKCDA will easily become an independent kingdom, thus enabling it to spend public money in whatever manner it pleases. Frankly speaking, it is not my wish that after the passage of the Bill today, we need the Audit Commission to "expose" any irregularities before adequate monitoring of the WKCDA can be ensured.

I hope that when Secretary TSANG responds later in the meeting, he will be able to assure us that the WKCDA will achieve a high level of corporate governance; there will not be shambles in the WKCDA as in the cases of those

public organizations in which scandals were exposed in recent years; and there will be channels through which the public can effectively monitor the operation of the WKCD. I hope that the Government will put in place specific initiatives in this regard, so as to set our minds at ease after we have completed the scrutiny of the Bill.

Deputy President, the WKCD project had to start all over again in 2006 because the public aspired to having a genuine cultural and arts centre in Hong Kong, instead of a property development project which was like "crying up wine but selling vinegar", giving the Government an opportunity to transfer interests to consortia. In view of this, it is obvious that the public in Hong Kong expects the WKCD to be a cultural district with quality governance, transparent and effective operation, as well as a proper monitoring system. I hope the Government will not disappoint us. I so submit. Thank you, Deputy President.

**MR JAMES TO** (in Cantonese): Deputy President, the WKCD project has gone through many twists and turns over the past few years with issues such as the single-tender arrangement, and so on, until Members of the Legislative Council had, at one time, arrived at a consensus. Subsequent to that, a Member had proposed a motion to which I appended a "tail". The "tail" appended by me was that a statutory authority should be established for the WKCD. If the Bill is passed today, the WKCD will be established eventually.

When I put forward the proposal at that time, I felt that it would be most ideal if such an authority could be different from other authorities set up by the Government. However, according to my observation, in addition to the hints divulged through informal channels, it seems that even if such an authority is established, the Chief Secretary for Administration will be appointed by the Government as the Chairman. And then a number of people will be appointed by the Chief Executive as members of the WKCD. It will be an extension of the Government in another guise. In other words, irrespective of whether this framework is good or bad, it is heading in an increasingly farther direction from the original aspiration of strengthening interaction with the community, selecting outstanding personalities of relevant sectors on an objective basis as the majority

of WKCDA members. Of course, the Government can still turn back before it is too late. This is particularly so as storms have recently been kicked up over the Government's appointment of Under Secretaries, as well as the messes revealed in statutory organizations appointed by the Government over the past few years, resulting in the in-depth investigations conducted by the Public Accounts Committee of the Legislative Council. I hope that the Government, in handling this piece of legislation which may soon be passed into law, will change its established practice of giving full play to its control and power to supervise all the way in each and every appointment process in whatever department. I hope the Government will change.

Today, I wish to point out that the Bill itself, in fact, is just a framework. Its enforcement can give rise to two extreme cases — the good and the bad scenarios. Of course, it can be something in between the two extremes.

Let me talk about the worst scenario first. The worst scenario is that the Government abides by the affinity differentiation, appointing its own people to fill all seats of the WKCDA. According to the present situation, even if we amend the Bill as much as we can, setting out that personalities of experience and reputation of the relevant sectors should be appointed as members of the WKCDA, the Government is still able to find people who side with the Government and appoint them instead. Transfer of interests, in extreme circumstances, can be as terrible as this. First, in respect of build and design, the Government can give all the benefits to those in the related sectors. Second, with respect to the selection of exhibits for the exhibition centres, especially selection for exhibits of M+, our criteria, in fact, are vague. The Government can select certain items for certain areas, so that its own people will benefit from the commercial or professional (even the profession of art) activities. There is a possibility that our grand exhibition centre will become a free exhibition centre for medium-priced exhibits or unknown works bought at low prices, which will take advantage of being exhibited in M+ to affirm their value, so that they may fetch high prices, just like ducks to water, in future auctions.

Regarding the construction projects, there is a possibility that with the adoption of the design and build mode, just as the professor has pointed out,

many arguments may arise in the issue of budget control, or the presence of certain "spendthrift" may result in cost overrun. The consequence is that the public space available to the people will be very limited. At present, although we can draw up a definite number for certain items, consequently caps may be imposed for a lot of items. In the end, there is a possibility that the whole project may be turned into grand venues for extravagant social functions in which only the upper class will be able to afford paying expensive tickets for participation, while the general public cannot afford of. It does not mean that what I have described will certainly happen, but this can be the worst scenario.

What can we do to the Bill in our attempt to avert a desperate situation? Is there anything we can add to the Bill? Let us cite the example of the composition of the Board. We have tried our best to make it follow the practice of the Legislative Council. For instance, we have decided among ourselves which 20 Members will make the trip to Sichuan this time around. The WKCD is an important project carrying high expectations of the public. If we can elect from among ourselves a Member to sit on the WKCD, in terms of accountability, the legitimacy of this Member will certainly be greater than the one selected by the Chief Executive, thereby the chances of making a blunder are also lower. The Member elected from among us will certainly be accountable to the Council. We will also monitor the development on a regular basis. There will be additional pressure on the colleague elected to sit on the Board as he is accountable not only to the Chief Executive, but also to colleagues in the Legislative Council. Thus, he will face greater pressure, and greater courage may be required from him. When he sees something wrong, he should all the more have the determination to blow the whistle and seek help from others.

Moreover, we hope that members of the sectors will elect from among themselves appointees to the Board. This is the most desirable scenario. However, the Government has repeatedly indicated that it is impossible to draw up a definition, and therefore, it is also impossible to write this into the law. Nevertheless, the Government can try as much as possible to prepare the relevant sectors for the election. The example I remember — of course, it may not be the best example — during the drafting of the Basic Law, there were several sectors in the Consultative Committee, such as the community political groups.

These groups had also made arrangements themselves to convene joint meetings. However, it is very difficult to define political groups and political concern groups. In brief, after the preparations of election made by those groups, the Consultative Committee offered appointments in accordance with the list of electees provided by them. In this way, at least it will not be so easy for the Government to make prior arrangements with those who comply with their affinity differentiation and then offer appointments to them. As a matter of fact, on the surface, these people may have certain qualities; however, after they are appointed, they can collaborate within the Board. The so-called Nolan Principles, first put forward by the Democratic Party, have been incorporated into the amendment proposed by Mr Alan LEONG, so we need not propose any further amendment. We will support his amendment.

In respect of making appointments to public offices, I believe the requirements should be such qualities as selflessness, honesty, objectivity, openness, integrity, and leadership. There are a lot of objective criteria available for assessment. Regarding open meetings, it is understandable that open meetings cannot be held under special circumstances, such as meetings that involve the appointment or removal of relevant officers, or commercially sensitive information, or tender procedures. However, apart from these meetings, since the WKCD is an organization of accountability and transparency, we hope that there should be a provision in the legislation to specify that meetings of the WKCD should be conducted as open meetings by all means.

Regarding the interim review, it seems that the Government has agreed to this. We believe that this is actually very important. If the WKCD turns into a white elephant in the future — at present the Government is unable to spell out what the worst scenario is, how much we have to invest to establish the WKCD, and since the WKCD will not knock itself out of operation — if something has gone wrong, will the Government actually bail it out? If the Government refuses to bail it out, it will become a big scandal of Hong Kong, or a laughing stock. If it is prepared to bail it out, it may develop into a bottomless abyss. Just as I said, according to the hints intimated through informal channels, the Government seems to think that if the Chief Secretary for Administration is in charge of the WKCD, the possibility of making a blunder will be slimmer. However, insofar as accepting the views of the community, arts groups or members of the arts sectors are concerned, the Government seems

to be rather conservative. Thus, I think the Government must be more accurate in its assessment of these aspects in the interim review. Of course, given the aspiration to democratization among the community, the Government may spontaneously be aware that it has to develop more contact and interaction with members of the public.

In respect of planning with inputs from members of the public, as a matter of fact, the provision in the legislation is very simple. Is there actually a so-called "the best practice" or "the best scenario"? I hope the Government will consider this carefully and inform us expeditiously what it considers to be the best, especially since the Government has now learnt from the experiences of the rally on 1 July over the past few years since 2003. It seems that the Government hopes to develop more interaction with members of the public. I remember that the former Secretary for Home Affairs, Dr Patrick HO, organized activities of online interaction with people of the middle class. But after a few years, there is now no trace of such an activity. It was said that views he had received were neither serious nor sharp, resulting in the failure to develop into good engagement (that is, the interactive relationship between them). What actually has the Government done over the past few years? I understand that the Government seems to be sincere in developing online discussion boards, and has been successful in contacting many groups organized voluntarily by the public and initiated a lot of voluntary participation. However, how can the Government really achieve interaction with them? For the time being, it seems that the Government does not have a clue. If it is hoped that members of the WKCDA will have a better performance than the Government, the current situation seems to attribute to our worries. The present discussion in this regard may seem to be rather irrelevant to the examination of the framework of the WKCDA, however, I hope I may provide some input to the Government.

Deputy President, I had been appointed a member of a statutory organization, which was the Land Development Corporation (LDC). As the LDC was responsible for a lot of projects, the size and scale of the LDC was certainly comparable to that of the WKCDA. On the one hand, the LDC resembled the operation of land developers, but on the other, it had to take into account the interface with the public, including the input of public opinion. At that time, the demands of the public in terms of heritage conservation and environmental protection were not as strong as they currently are. Therefore,

theoretically, the work of the Urban Renewal Authority is more difficult now. However, from my limited experience, I have to mention several points. And in particular, I would like to remind the Government of some important factors in its appointment of members, as right now it has so much authority in this regard. Based on my experience, I am sure that if the majority or all members of the WKCD are appointed by the Government, the way of thinking of these members will be similar to each other. This will only lead to a situation of "mutual burden". Of course, nothing will happen when everything is fine. However, once there is a downturn, it will be impossible to give full play to the healthy inherent strength, or the healthy condition of having dissenting views which may give an opportunity of turning back before it is too late. I remember that when I was with the LDC, at that time, insofar as many projects were concerned, it was just because of the strong belief of one or two members who had the courage to put forward their views — of course they had carried out a lot of researches — that started to change the minds of one or two members in the beginning, thereby changing the views of the entire Board eventually. There are many merits in this practice. In recent years, in many consultative committees, the expression of views is getting increasingly homogeneous; there is an increasingly common trend of "inbreeding of good friends"; and it is becoming increasingly impossible to accept dissenting views. Especially since the incumbent Secretary for Home Affairs got his start from the Central Policy Unit, he certainly knows if the views expressed by these committees are getting increasingly homogeneous and not diversified, insofar as the administration by the Government is concerned. This is certainly asking for troubles. I hope that the Government will be more careful in appointing members of the WKCD. It must identify and appoint those who are able to genuinely advise the government officials in their execution of duties on a broad front; otherwise, it will be a very dangerous initiative.

Finally, I would like to point out that I know many people have, in fact, set their eyes on those appointments. They very much hope that they will have a slice of the pie in the appointments of the WKCD Board. Irrespective of whether they are from the professional sector, political parties, groups, or other sectors, they have the intention of reaping benefits. Equipped with fierce tricks, they have even attempted to ask the Government for "a seat" already. I only hope that the appointment will be able to comply with the Nolan Principles



this time around, so that members of the public will be struck with admiration. Otherwise, I believe after the appointment, the popularity ratings of the Chief Executive will drop further.

**MR ALBERT CHAN** (in Cantonese): Deputy President, in respect of the WKCD project, at the time when the Government introduced the design of Sir Norman FOSTER, I was impressed by this large-scale development project and admired it as if it were a divine development. I thought finally there was a chance for Hong Kong to develop into a genuine international metropolis; and we finally had an opportunity to develop one single building, or a cluster of buildings, in which Hong Kong people could take pride.

Nevertheless, despite the project being an impressive one, at that time, I opposed the WKCD project though. I had put forward two basic requisites. If the Government undertook to meet these requisites, I would accept or support this large-scale development project. First, the Government must absolutely not adopt the single-tender approach, and must separate the property development project from the cultural project. Second, a statutory organization, with representativeness and independent finance, must be charged with the responsibilities of construction, design and management of the cultural facilities of the WKCD. At that time, I had also cited a model similar to the two former Municipal Councils for the reference of the Government.

Time flies. It has been eight to 10 years since. After repeated thoughts and due to the pressure from all parties — especially as the arrangement was proactively, completely and strongly opposed by major property developers — the Government has recently backed down. However, it was not because of our opposition. The Legislative Council did not have such power to do so. I believe if it had not been the joint opposition of property developers against the single-tender approach, the Government would still have insisted on the adoption of this single-tender arrangement. It was the unity of the property development sector which ultimately forced the Government to give up the single-tender approach.

According to the Bill, the Government has to establish a statutory authority. Financially, this authority should, in general, comply with the proposal of being financially independent. With respect to the development area and the cultural facilities, the basic management and design would also be handled separately. Given this, the requisites I put forward all those years ago should be met up to 80%, or at least 60% to 70%. Thus, in terms of history and concept, I should support the Bill and the development of the WKCD.

However, Deputy President, after all these years, based on two other factors and the changes in circumstances, today I must oppose the resumption of the Second Reading of the Bill unequivocally, resolutely and clearly. First of all, the overall development and financial arrangement of the WKCD project fully reflects the current uneven and unfair distribution of resources. Secondly, the policy of affinity differentiation has made me lose all my confidence in appointments by the Chief Executive.

Deputy President, the uneven distribution of resources has caused many disadvantaged groups and grassroots of Hong Kong to live in hardship and difficulties. In Hong Kong, there are suicides almost every day. People are under great pressure of financial difficulties, poverty, old age, sickness, hardship, and unemployment. Some people have no option but to jump from height because of the unbearable pressure exerted by "loan sharks" that try to recover their debts. Of course, if the Government does not have much surplus or is powerless because of financial constraints, we cannot say anything but to tolerate the situation. However, the Government now has a surplus amounting to \$100 billion. It can afford not only reducing wine duty, but also distributing money to consortia — from reduction and waiving of rates, to offering profits tax rebates or income tax rebates — it just simply refuses to increase the amount of "fruit grant" by slightly more than \$300. Many elderly people are extremely disappointed with the Government, so much as that the popularity of the Government has "nosedived".

At a time when people live in misery, and under a social phenomenon of high inflation and unreasonable price increases, the Government actually asks us to support this large-scale development project which puts on a false show of

peace and prosperity. However, regarding the disparity between the rich and the poor, the uneven distribution of resources, and the hardship faced by the disadvantaged groups, the Government has not put in place any specific measures to improve these unbearable conditions.

Deputy President, cultural sponsorship is also a kind of transfer of benefit. I do not know how much it costs to sponsor an opera these days. But I remember when I was still working for the Regional Council more than a decade ago, tickets of the performance of a large-scale international philharmonic orchestra or an internationally renowned art troupe at the City Hall ranged from \$300 to \$500. But this amounted only to 10% to 30% of the cost. In other words, when a person attends a government-sponsored large-scale and internationally renowned opera performance at the City Hall, it is possible that taxpayers have to sponsor him with an amount of \$500 to \$700. Thus, it is a kind of sponsorship. I will not be convinced if the Administration tells me that culture and arts leads to a substantial increase in the revenue of the Treasury, because before the revenue can increase, taxpayers have to pay a large sum of money to sponsor the wealthy people, gentlemen and ladies, and the social celebrities to attend these operas.

I know nothing about the policy to be formulated or the percentage of sponsorship to be provided by the future West Kowloon Cultural District Authority (WKCDA) to these programmes. But when the Government is not prepared to increase the "fruit grant" for the elderly by \$300, why should we provide a sponsorship of several hundred dollars or even more than a thousand dollars for each person to attend and enjoy the performance of an internationally renowned opera?

Moreover, Deputy President, there is the issue of affinity differentiation. Until now, this Government is still abiding by this golden rule in its governance and administration. I absolutely and strongly oppose it. As the Government has insisted on affinity differentiation in recruiting Under Secretaries and Political Assistants, affinity differentiation will also be adopted in its appointment of the WKCDA Board and managing personnel in the future.

Deputy President, the Chinese is most afraid of inbreeding. Many of the offsprings produced in inbreeding marriages are mentally retarded, or would develop serious problems. By the same logic, political inbreeding will also produce mentally retarded governments and "dumb" governments. When the Board or the relevant management is appointed on the basis of affinity differentiation, it will certainly lead to direct or indirect transfer of benefits, to the extent that separatist regimes will be set up. Under the charge of a certain person, this group of people will fight vigorously for their own interests; while another group will divide the spoils through another cultural activity. Under the scenario of affinity differentiation and inbreeding, the WKCD project will only become a hot-bed for transfer of benefits. This will certainly happen.

Nowadays, many statutory organizations are lack of monitoring. Take the Urban Renewal Authority (URA) as an example. We had asked the URA to release information on their gains and profits from property developments many times already, but all our requests were refused. The MTR Corporation Limited, the "super alien", is tyrannizing and terrorizing the people of Hong Kong, exploiting the interests of the public. These scenarios have happened repeatedly. Once the legislation is passed, we will have no say in it. The Tourism Board is just the same. The problem of abuse of powers for one's own interests was gradually exposed only after the investigation of the Audit Commission. Therefore, abuse of powers for one's own interests will certainly happen when the management and the Board are produced through inbreeding and affinity differentiation. Under the guidance of the concept of affinity differentiation initiated by Donald TSANG, the scenario of the WKCD project will certainly further deteriorate because the interests involved in the WKCD project are definitely 10 times to 100 times more than those of the Tourism Board.

I am not going to talk about things that will happen in the faraway future. Just a few years ago, at the time the Government had just introduced the WKCD project, and when certain syndicates had shown their support for programmes of certain cultural and arts groups, many cultural lackeys came out to lick the boots of and speak for those syndicates from various aspects and under various

circumstances. Thus, whenever interests are involved, it is certain that some people will be willing to speak for certain greater interests, and lick the boots of those in greater power, while the interests of the public will be totally forgotten,

Therefore, Deputy President, from the perspectives of value and concept, I can say that the WKCD project is admirable — a Utopia aspired by many. But if the project is executed under the circumstances in which a credible and reliable mechanism that operates with transparency and effective monitoring is lacking; and this hot-bed for transfer of benefits, inbreeding, seizing ill-gotten gains and profiteering is not managed by an organization that abides by impartiality and selflessness, Members should not support it. We should neither support the Bill nor the appropriation of funds. As long as such a system, such an administrative guideline and such a mode of administration remain unchanged, we should not support the appropriation of funds for any newly established statutory organizations, or any management authorities produced through inbreeding.

Thus, Deputy President, the League of Social Democrats will continue to resolutely oppose the resumption of the Second Reading of the Bill. We must plug the loophole of these management bodies and development authorities that operate in a "small-circle" mode, and eliminate the opportunities of a group of people netting exorbitant individual profits by means of managing public affairs and public moneys. Otherwise, in the end, it is the entire Hong Kong, our public coffers and all Hong Kong people that suffer losses.

**MR JAMES TIEN** (in Cantonese): Deputy President, we are debating on the resumption of the Second Reading of the West Kowloon Cultural District Authority (WKCDA) Bill. In my opinion, as this is a debate neither on the budget nor the policy address, we should, therefore, focus our discussion on this aspect.

Deputy President, it is a fact that Hong Kong is found lacking in cultural development. Of course, I myself do not have much knowledge of culture. I attend cultural activities and functions because my wife loves to watch performances. That is why I have many opportunities to attend these functions

in Hong Kong. When we are on overseas trips, such as visiting London and New York where there are many museums, I will accompany her to visit museums. We also watch many performances held in Hong Kong. Sometimes we fly to Tokyo to watch performances, too.

Although I do not have much knowledge of culture, from the perspective of society as a whole, I have very different views on these activities from those of Mr Albert CHAN. Insofar as the society of Hong Kong is concerned, I believe these performances are not only beneficial to those who have knowledge in culture or the intellectuals. It is not only female celebrities who attend these performances. Hong Kong is a multi-cultural place and our economic activities cover various areas such as finance, tourism, logistics, factories, as well as imports and exports. If we look at it from the perspective of pluralism, providing more chances to members of the public, including the grassroots, to attend cultural activities, such as performances of ballet and concerts will result in the enhancement of the overall knowledge of culture of the general public.

When I am on overseas trips, I have noticed that in Tokyo, there are tens of so-called opera performances per year. Many people fly to Tokyo from various cities of Japan for these performances. I believe with the completion of the cultural district in 2015, the large venues built will be able to attract many renowned orchestras and famous artists from overseas countries to perform here. Many people from Southeast Asia, including those from the Mainland, will certainly be attracted to come to Hong Kong for these performances. It is estimated that by the year 2012, the economic situation in the Mainland will be so established that people from Shanghai, Chengdu, or any other places in China will be able to come to Hong Kong to attend these activities.

According to the experience of Japan, their tickets are very expensive. Each ticket costs about \$3,000, so the Government does not have to subsidize a large amount for the relevant performance. Generally speaking, performers cannot afford coming to Hong Kong or Tokyo to perform just one or two shows as they have to purchase air tickets and build the stage. As a matter of fact, it does not make much economic sense to perform just one or two shows. If they are allowed to stage their performances for two to three months in a venue with a

capacity of 2 000 to 3 000 seats, and with the average price of each ticket amounting to \$2,000 to \$3,000, they will be able to attract more visitors from the neighbouring regions to come to Hong Kong. If this is the case, will the situation be like that described by many Members, only the female celebrities, hotels of four stars to five stars, restaurants of four stars to five stars will be benefited? I believe it is not necessarily so. The majority of visitors who come to Hong Kong will also tour our city and spend money here. Our small and medium enterprises, small and medium restaurants, retail sectors, as well as the entire society will certainly stand to benefit. We should not say that organization of such cultural and entertainment activities will only bring benefits to the upper class of society, the intellectuals, and those who have knowledge in culture, while the public interest will be jeopardized.

I am more concerned about another issue instead. My recent visit to St. Petersburg has given me another perspective. Now I am not sure whether the concept of the Government's appropriation of \$1 billion to set up a museum works. Deputy President, I have said that I am not familiar with culture. However, during my visit to the museum of St. Petersburg, I visited the part where an exhibition room specially featured the works of MONET. There were less than 20 paintings inside. Less than 20 paintings of PICASSO were exhibited in another room. The total value of these paintings amounts to billions of dollars. With \$1 billion, we may only be able to buy a very limited number of paintings as featured in those two rooms for display. If this concept is adopted by us, we will have to ask ourselves whether we actually wish to "compete for glamour" with other museums. Talking about the phrase of "compete for glamour", that will mean we have to compare our exhibits with those of the museums in London and the United States. However, many of the art exhibits of those museums were bought at very low prices. Nowadays, if we have to follow the example of these museums — I do not know how to calculate — we will probably spend about \$100 billion and still fail to do so. Thus, I am not supportive of this practice.

After the establishment of the museum, are we actually going to attain the exhibits by borrowing? We can borrow exhibits from countries with precious artifices for display in Hong Kong, and we can persuade the Central Government to land some exhibits to us. This concept may be more feasible. How many

collectors are there in Hong Kong? How many precious collections will be available to the Government for free display? Certainly, I very much hope they will do that. However, how many items will be available? I really do not know. Many colleagues said that even \$1 billion might not be enough, and more should be allocated. I believe this may become a bottomless abyss. It is said that \$1 billion is not sufficient. In fact, \$10 billion, or even tens of billions may not be sufficient to pay for the auction prices in the current market. Therefore, it is impossible for us to have a museum comparable to those in London, New York or St. Petersburg.

Instead, if all our existing performance venues are operated well, the cultural level of the local public can be upgraded. It can also help to alleviate the discontent and grievances in society if members of the public can enjoy these facilities. Of course, as I said just now, from the perspective of tourism, the project will certainly have a positive impact on the tourist industry. According to the current approach of the Government to the whole project, the part of property development is going to be handled separately. The Liberal Party welcomes this certainly. Mrs Selina CHOW will talk in detail about the entire Bill, the overall management of the West Kowloon Cultural District (WKCD), and the overall support facilities in her speech later. How many members will the WKCD Board be composed of? How about the experts? However, no matter what the arrangements are, people will still have other views. Some Members believe that we should consult some experts who have already established a good reputation in Hong Kong. The views of these experts may be the same and they may not be able to provide any new input. But we have no other alternatives. If we do not draw any reference from the views of the learned, surely it does not mean that we have to adopt the views of those who are utterly ignorant of the subject. By then, the end product we attain may be even more undesirable.

I, of course, hope that the Government will expeditiously launch the project, because in any case, this stretch of land in Western Kowloon has been left unused for more than a decade. When I travel abroad, I can notice that Hong Kong has made a name and enjoys the title of an "international metropolis". And such a simple title is sufficient to attract overseas visitors to come to see this international metropolis for themselves. Today, the Tourism



Board has just released a piece of news, and that is, the South Korean Government has announced in the Internet that Hong Kong is their most favourite city in Southeast Asia, and that they consider Hong Kong an international metropolis. Over the years, ever since the completion of our new airport, many people have perceived Hong Kong as a genuine international metropolis and a first-class city because of the new airport. I have confidence that after the Government has completed the construction of the WKCD and the cruise terminal, Hong Kong will certainly present a new scenario. We should no longer continue with what we are doing currently, and that is, relying on private developers to complete the construction of IFC on Hong Kong Island, and then build ICC, ELEMENT or whatever in Kowloon — is it called ELEMENT or ELEMENTS? Right, the name is ELEMENTS. What I mean is, we cannot entirely rely on developments by private organizations. I believe the completion of the two major projects, provided with good support facilities, will certainly enable Hong Kong to scale new heights. Thus, I support the Government in its expeditious implementation of this project. Thank you, Deputy President

**DR FERNANDO CHEUNG** (in Cantonese): We debated this subject last week, so I am not going to repeat what I had said. On the whole, just as Mr CHIM Pui-chung said last week, the WKCD project is a project valued at hundreds of billions of dollars. Insofar as such a "fat meat" is concerned, will the Government devote a substantial part (in terms of gross floor area), appropriately 60% of the facilities, to culture and arts for no apparent reasons? It is unbelievable that the Government will do this — based on the important hardware to promote a key centre for the future development of culture and arts in Hong Kong. It is not surprising at all that many colleagues have doubts about this.

I share certain viewpoints put forward by some Members, such as "Long Hair" and Mr Albert CHAN. We are facing so many problems of people's livelihood. In the face of inflation, the grassroots are really living in untold misery. And we are allocating so many resources to a project which is likely to develop into the backyard of luxury flats and a venue for some members of high

society to enjoy elegant cultural activities. This is something to which I absolutely object. However, on the other hand, I am also pondering on whether this means that as long as the issues of people's livelihood remain not properly tackled, we cannot allocate resources to cultural development? I do not agree with that either. I believe the WKCD project has genuinely created an opportunity. How can we grasp this opportunity to give impetus to the cultural and arts development of Hong Kong that will answer the aspirations of people in Hong Kong? I believe this aspiration may not necessarily meet the vision of the Chief Executive or the SAR Government in engaging the so-called international financial centre, or the international financial centre in Asia.

During the meeting of the Panel on Home Affairs last week when we were holding discussions on home affairs here, many who attended the meeting, including Prof CHAN Wing-wah, mentioned that even if we adopted the vision of the SAR Government, what kind of a financial centre Hong Kong would be. If we do not have the complementary cultural and arts development, in fact, we cannot be called a financial centre. It is because other financial centres, such as London and New York, are also cultural metropolises. An international metropolis does not rely on the development of a single item only. Just a single activity of speculation, or gambling, or a single item of finance, or a single item of property development will not make Hong Kong an international metropolis.

It is against such a background that I cautiously hope that, perhaps through the passage of this Bill today, we will provide an organization or a framework to this WKCD project, so that the resources and decision-making involved will answer the aspiration of Hong Kong people, giving impetus to the development of culture and arts in Hong Kong to a higher level fully characterized by the participation as well as aspiration of Hong Kong people. It will also enable friends from various classes, irrespective of whether they are rich or poor or middle-classed; living in remote areas or in the city; belonging to different races; disabled or healthy; coming from a single-parent family or an ordinary family; to enjoy this facility of ours. It is also my wish that this organization, established as a result of this project, will give us the impetus to move forward in our search for a cultural life.

Deputy President, I am more concerned about the needs of the disabled. In fact, some organizations, including the Arts with the Disabled Association, have been devoting their efforts to promotion in this area. I hope that arts development and cultural life are allowed to give full play in the lives of people with disabilities. However, during the discussion on inclusive arts and its relevant policies, and when we first put forward this concern, the response of the Government was that it could only be considered from the angle of welfare or the angle of rehabilitation. I was shocked when they mentioned this. If inclusive arts are perceived as equivalent to rehabilitation, it is an insult to many inclusive artists because their level of art has reached the international level. This is similar to the situation of our athletes. We have disabled athletes, too. Their performance in the Paralympic Games is world-class, with their level reaching the level of the elites. When compared to other international disabled athletes, they are not at a disadvantage at all.

Thus, we can see that the concern of the SAR Government for people with disabilities in the area of culture and arts is inadequate. During the meeting last week which was also attended by Ms Emily LAU, we asked whether the policy purview of inclusive arts was actually under the purview of the Home Affairs Bureau or the purview of the Labour and Welfare Bureau. At that time, the official from the Home Affairs Bureau replied that the policy on art was under its purview while that of inclusive arts is under the purview of the Labour and Welfare Bureau. The official from the Labour and Welfare Bureau who attended the meeting was the Commissioner for Rehabilitation. He was shocked and stated that there must be some mistake. As a matter of fact, the policy on inclusive arts is under the purview of the Home Affairs Bureau. After repeated discussions, and of course, with the help of other officials by his side, this Deputy Secretary for Home Affairs became aware that it was really under the purview of the Home Affairs Bureau. That was why Ms Emily LAU said she had just realized that the policy regarding inclusive arts was under the purview of the Home Affairs Bureau.

Deputy President, the present inadequate efforts the SAR Government has devoted to the promotion of culture and arts in Hong Kong can be seen from such a discussion at a meeting. In the past, the resources we invested in culture and arts were quite substantial. An annual amount of \$2.7 billion cannot be said to be a small figure. However, we can see that the majority (over \$2 billion) of

the resources have been used by the Leisure and Cultural Services Department (LCSD) in its assistance to provide venues or invite famous overseas arts groups to perform in Hong Kong. In other words, the majority of resources have been, in fact, under the control of our bureaucrats. As for the remaining amount of approximately \$200 million, it has been allocated to some arts groups, including some flagship arts groups and some small and medium arts groups. The resources genuinely released by the Arts Development Council amount to less than \$200 million. As we can see, this is disproportionate. Some organizations with participation from the community hope that their organizations will be able to promote culture and arts. Compared to the resources allocated to large-scale government organizations, the resources under the control of the organizations of those stakeholders are relatively minimal.

It is against such a background that the appropriation of funds for the WKCD is sought, and the organizational framework is formulated. The Bill has provided that we should establish the West Kowloon Cultural District Authority (WKCDA). How should the composition of the WKCDA be? How should the policy of uneven distribution of resources be addressed so that it will not be too slanted to the extent that resources remain in complete control by the bureaucrats? Deputy President, I am not saying that bureaucrats are definitely undesirable. Sometimes we need bureaucrats. We need the Government to implement many polices and provide many services for us. However, it would be best to adopt the "people-based" approach. We need government officials to provide certain facilities and implement certain services, but during the process of decision-making and overall planning in how resources should be allocated and how different ..... We have fought for so long, this Bill has finally added the term "diversified" under the item of "mission". This is a good thing. But how can we realize "diversity"? What does diversity include? Will it be possible for the diversified culture of the minority races in Hong Kong to make contribution through the WKCD project and facilities? Will the project give full play to the potentials of people with disabilities? I am worried about these issues.

Many colleagues have also mentioned the Nolan Principles. As a matter of fact, a major part of the Principles requires the Government to first set up a commission for public appointments prior to making these appointments. The commission will be independent of direct control by the Government. It is not required to report to any bureau but to the top leader, who will be charged with

the duty of specially monitoring whether the Government is able to make appointments on the basis of openness and fairness, as well as on the principle of assessing the merits of individuals instead of employing people to its liking. Deputy President, it is rather unnecessary for me to say, all the recruitment exercises of Under Secretaries and Political Assistants in the past were recruitments marred by a lack of openness and the clearly defined basis of assessing the merits of individuals; the absence of principles, rules and systems. If we are going to repeat this scenario, I am afraid this WKCDA will surely run into troubles. In the end, our worst fear may come true — it will only provide service to the wealthiest group, as well as the group that holds existing powers and takes this as the backyard of their residences.

The Hong Kong Arts with the Disabled Association has also suggested several points, which are very important. With regard to the needs of people with disabilities, first of all, they think it is necessary to consult people with disabilities and their representatives. In the past, there were a number of these consultative frameworks in the Government. There was a framework in the Transport Department which held half-yearly meetings. Unfortunately these meetings only serve as introduction, that is, the organizations of people with disabilities were informed only of new items introduced. Consultation in the form of genuinely listening to their relevant views was not conducted.

Deputy President, nowadays, there are many consultative meetings. It is my observation that their "speaker cone" has been placed in a reversed position after the reunification. In the past, these consultative frameworks served to listen to the voices of the people, listen to the voices of representatives of the community, or elites of different sectors. They were accountable to their respective sectors, or they collected views or needs put forward by members of their communities, and then reflected them to the relevant government departments. These consultative frameworks "absorbed" voices, and their function was listening. The "speaker cone" faced the officials, so that they might be able to understand the situation of the public, with a view to adjusting policies that could most aptly address the needs of the general public. Nowadays, the "speaker cone" is placed in a reversed position. The functions of these consultative frameworks serve to sell or even "hard sell" the policies of the Government. This is the kind of consultation they do now. With regard to

this Bill, this is the first time the Government attempts to place some kind of a consultative committee in the Bill. And I am worried about the actual operation of this consultative committee.

Secondly, will the relevant programme arrangements meet the needs of people with disabilities? Will the programmes only cover popular arts, public ..... may be not public ..... at least arts which are well-received by the public, or arts that are commercially bankable, or some exquisite arts which the general public may not necessarily know how to appreciate? Will it provide a chance for popular arts, that is, arts performed by people with disabilities, to be staged in the facilities of the WKCD? Recently I visited the Hong Kong Blind Union. It was a very good experience. The programme of activity was very simple during that visit. I saw the performance of singing by a group of blind people. I thought they had reached a high standard in terms of performance by amateurs. The songs had also expressed their strength of will as well as self-reliance. Such performances may not have any commercial value, but they serve as great encouragement to people with and without disabilities. Will these arts performances be able to be staged in the WKCD? Will outreach programmes be conducted in the WKCD? Will these performances be staged in the WKCD only? How about staging these performances in other districts? Will they be staged in hospitals or schools of people with disabilities, or residential homes, or remote areas? Will people with disabilities and the elderly enjoy concessions in ticket prices? Will publicity programmes reach people with disabilities so as to let them know about such information? Moreover, it is necessary for the design of the venues to meet certain standards.

Deputy President, I so submit.

**MS EMILY LAU** (in Cantonese): Deputy President, several months ago, the Consul-General of the United Kingdom was interviewed by many people prior to his retirement. Many interviewers asked him from the perspective of an Englishman, what his opinion was when people frequently compared Hong Kong with New York and London. He replied that every time he was asked this question, he would answer in English, "I can't keep a straight face". The general meaning of this sentence is, after translation, how can Hong Kong

compare with London and New York? He later added that he was mainly referring to the aspect of culture — an area Hong Kong has no way to compare with them.

Moreover, some members of the public were rather upset when they heard that we are going to spend \$26 billion to establish a cultural and arts district. They asked whether culture could be bought by money, and whether culture could be conjured from money. They pointed out that the Government was outrageous in that it kicked up a storm when it recovered the medical insurance amount of more than \$100,000 for the Tourism Board, but not a word was uttered when the amount was \$26 billion. I said it might be because the amount was so huge that people could not understand the details. It might be easier to understand if the amount was only about \$140,000 or \$170,000. However, Deputy President, I also believe that the amount of funding sought by this project is really difficult to handle.

One of the reasons for it being difficult to handle is the media have not made in-depth or lively reports on it. Deputy President, the media can make lively reports on the recovery of more than \$100,000. In fact, at that time, there were dozens of live broadcasts. If there are dozens of live broadcasts of this project, people in the whole territory would have known about it. However, so many meetings of the Subcommittee had been held, nobody came to record our meetings or broadcast them in such a manner. Sometimes it is really too bad. Nobody came to make live broadcasts of a discussion that involved tens of billions of dollars, but there were live broadcasts of a matter that involved only an amount of more than \$100,000. I wonder whether this reflects our cultural level or whatever level.

Actually, I very much agree to certain points in the speeches made by Dr Fernando CHEUNG and Mr Albert CHAN just now — in particular, Dr Fernando CHEUNG's speech. He said today — he also mentioned it last week — he said that how the Government could be so nice to the public as to allocate more than \$20 billion or more as well as a stretch of land to construct a cultural and arts district for the public with no apparent reasons. This is unprecedented and improbable. He said he believed luxury flats would certainly be built

adjacent to the district in the future. These flats would be similar to the luxury flats on the peak or in the Southern District, so that the cultural district will become the backyard of the wealthy. In the future, many impeccably groomed and dressed ladies and gentlemen would be there, sipping expensive wine and attending operas with the ticket price amounting to several thousand dollars.

Deputy President, if this is really the case, I believe we have done Hong Kong people injustice. In fact, Hong Kong people are keen on culture and arts. Several weeks ago, many people attended the public forum organized by a certain political party at the Mongkok pedestrian precinct. They scolded with severe tones. Members of that political party also joined in the scolding, insisting that there was no way they would support the appropriation of this amount of money. They asked why the Government did not take a look at Apliu Street instead if it needed to learn from overseas experience. Some speakers went further to say that Hong Kong people did not know anything about culture and arts. I told them to take a look at the City Hall and the Cultural Centre where many people gathered to watch various programmes. I told them these places were not completely empty without audience, although there were very few visitors. Given that very few visitors visit our museums at present, I am very much worried about what will happen after the completion of M+. If very few people visit the existing museums, the gross area of the museums in the cultural district will be 50 times that of the total area of all other museums. I am really worried. After his visit to Russia, Mr James TIEN should be very worried, too.

Will the WKCDA currently planned by us be really able to help Hong Kong develop a proper cultural district for the use and enjoyment of various sectors, and to upgrade the qualities of culture and arts in Hong Kong? I believe not only I myself, many members of the community also have doubts about that. One of the most important factors is the composition of the Board. Many meetings of the Subcommittee had been held, but nobody had ever come for a live broadcast. Frankly speaking, if somebody had broadcasted the meetings live, Deputy President, I believe this would have hit media headlines. When compared to Clara CHONG's incident, our meetings might have been more popular than the other incident might not have hit media headlines.



However, irrespective of whether our meetings would have hit the media headlines or not, we have to begin the process of making an appropriation amounting to over \$20 billion.

The Chief Executive had said that members had to be appointed by him. He also specified that affinity differentiation would be applied. We do not have to look far, the recent appointments of Under Secretaries and Political Assistants have already scared us stiff. Deputy President, a colleague mentioned just now that the Bill had already been passed, and the appropriation of funds had also been approved. Under this circumstance, the project would begin soon. I do not know whether the Chief Executive will be celebrating, or whether he will be crying secretly. After the recent event, the sensitivity of Hong Kong people has risen dramatically. Many people were grumbling during the rally yesterday. A lady told television reporters that she had not attended any rally over the past few years, but this time around Donald TSANG had really gone over board. She asked why we should appropriate such a huge amount of money without convincing reasons, and what kind of a project it was when we had to identify all those people to work on it.

The Board members of the WKCDA may not have much remuneration, but the benefits they can reap from it may be so much that nobody dares to mention them. That was why a colleague mentioned that he did not know at present how many people were fighting for a slice of this chunk of "fat meat". Deputy President, I believe the leader of your party had also said before, "He who gets the West Kowloon gets the world". Someone said that the value of that stretch of land was about \$100 billion or more. These figures are awesome. I really do not know what to say. However, if all the members appointed by the Chief Executive are people to his own liking — we will have to wait and see — as all those appointed by him were like that, there is no reason that this time around there should be any difference. If he has not learnt a lesson from the incident of the Under Secretaries and Political Assistants — then he is in the scenario depicted by Joseph WONG (or John CHAN, I do not remember who it was because many senior officers had scolded him before), it can be forgiven for the first time, but it cannot be forgiven for the second time.

Therefore, I am very much worried. We had discussed at the meetings of the Bills Committee that electing candidates from the sectors could be considered. He had said that at least one Board member should be a Member of the Legislative Council. Then Members of the Legislative Council should be allowed to elect the candidate from among themselves. Just like the practice of several universities, for their ordinances have set out that a representative will be elected from among themselves. The Member elected from among ourselves will be accountable to us, and will carry certain representativeness. With regard to the persons elected from various sectors, they will be accountable to their respective sectors. However, the Administration said this would not be allowed. What is the reason for that? It claimed that the person nominated by the Legislative Council and the representatives of various sectors serving as Board members would undermine the effective operation of the Board. Why? The Administration said they would only represent sectoral interests, regardless of the overall goals of the Board. This has been often emphasized by the Administration. The Administration believes that even the elected Members of our party are representatives of very narrow interests. If this is the case, I would like to ask who can best represent public interest. The Government said the executive authorities could best represent public interest. All I can say is people will really laugh at this ridiculous argument. How many votes do you get to be elected as representatives?

He would always present his own arguments. Why do we say that we must have people with representativeness to join the WKCDA? It is only through this practice that we can be ensured of more monitoring of the WKCDA. If the chunk of "fat meat" taken from the WKCDA fills the pockets of the beneficiaries, resulting in them being so fat that they cannot even pull up their own socks, then it is all the more necessary for us to strengthen our monitoring. However, the current situation is not like this. Now, everything is controlled by what he says alone. That is why some colleagues say that he is like a local overlord. Deputy President, he not only adopts affinity differentiation, but also abides by no standards at all. Mr Alan LEONG is very brave. He is going to propose amendments later. But it looks that eventually he will fail.

As a matter of fact, I have to be fair to the Secretary. He has accepted certain proposals — I am a fair person — he has accepted certain proposals. Nevertheless, he has refused to accept some proposals which are even more

important. Thus, whether we will support this Bill does not depend on whether the Secretary has accepted several of our proposals or not. Originally, an exchange of this kind is not too bad. It is reciprocal. However, the Administration has refused to accept certain proposals which are based on some very important principles and at a very critical moment. This will lead us to ask whether such a composition is healthy and whether transparency is high enough. Moreover, we have indicated that we hope all the meetings held by the WKCDA will be open meetings. We understand that some matters under discussion are sensitive, no matter whether they involve money or personnel matters, so we suggest it is not necessary for these meetings to be open meetings. But the Government refuses to accept this. We ask for the enhancement of transparency, the Government also refuses to accept such a proposal. We ask the Government to let others help by electing candidates as Board members, and the Government again refuses to do so. So what can we do about this?

With regard to disclosure of interests, there is a cobweb of interests in the whole structure. As a matter of fact, cases of conflict of interests have already emerged repeatedly. Even if there is a provision for disclosure, its effect will be very limited. Some people may be wearing many hats when they are appointed members of the Board, and they may not be required to make disclosure at all. However, these vested interests will engage in a continuous contention with each other when they serve on the Board. I have no idea how the Secretary or the Chief Executive is going to deal with this in the future.

Moreover, I am very much concerned about the remuneration. According to clause 8(b) of the Bill as currently amended by the Government, a Remuneration Committee will be set up. However, the manner in which and the extent to which the remuneration and remuneration packages are to be drawn up is not stipulated in the legislation. This makes me think of the incident of appointing Under Secretaries and Political Assistants. Even though the establishment of the Committee is stipulated, the duties covered by the Committee are not clearly stated. This makes us very worried. Deputy President, we are worried that this may become a club of retired senior officers or certain group of good friends. We have no idea who will be appointed to

form the top echelon of the Board. Anyway, they will use certain titles to benefit this person and use other titles to benefit another.

It is not surprising that Mr Albert CHAN said just now it was transfer of benefits, that is, transferring some of the benefits to certain friends while transferring some other benefits to someone who is so fat that he cannot even pull up his own socks. Under such circumstances, how can we support this Bill? Where can our confidence come from? Deputy President, if dozens or several hundreds of members of the public are present at the Chamber now, they may ask us why we are supportive of this Bill; why we are supportive of the appropriation of \$21.6 billion; whether this appropriation will actually benefit the public; and just as Dr Fernando CHEUNG asked, whether the funds will benefit the disadvantaged groups, people with disabilities, as well as the residents living in Tin Shui Wai, Yuen Long and Tung Chung; and whether they will be able to dress glamorously for the grand occasions here, drinking wine and enjoying the elegant interpretations of culture. Deputy President, how am I going to reply? The Secretary had better answer them for us later on.

I have said on many occasions before that I agree to the sponsorship of arts activities. I am saying this not only today. I have said so to many groups as well. I agree to the sponsorship of these arts activities. I know that many countries have been working on this. We have to promote these activities in the community, so that students, children and adults will know how to appreciate them. Thus, we have continuously put forward proposals on how talents and new talents should be trained. We have put forward our proposals at the meetings of the panel over and over again. But it seems the Government still has no idea on how to start. On the one hand, some members of the public ask us whether there are so many people who know how to appreciate these activities. On the other hand, even if they really know how to appreciate these activities, it will be like what Mr Albert CHAN and Dr Fernando CHEUNG said, they may not be able to afford the tickets. When a certain orchestra comes to perform in Hong Kong, the ticket may cost as much as \$2,000 to \$3,000. Even if the ticket price is \$500 to \$600, they will have to take public transport to the performing venue. Deputy President, you know very well how expensive transport fares are. They need to have dinner as well. Just one single person

will have to spend approximately \$1,000 for the dinner and the ticket. A family of four has to pay for various expenses to travel from Tin Shui Wai to the venue. So how can they afford such expenses?

Deputy President, I believe the Administration has a certain method of calculation. Let us take a look at our reserve — our reserve amounts to \$1,000 billion — the Administration plans to take \$21.6 billion from the reserve to pay for this project, which in fact, is not a very substantial amount. As this is the case, why has the Administration all along refused to grant us the wishes of the majority of the general public, and act in accordance with the consensus arrived in the Legislative Council? The elderly are provided with five health care vouchers, each valued at \$50. We have asked to increase the total value to \$1,000. The Government has refused to do so. Furthermore, the vouchers are still not available to the elderly. The proposal was announced last year, but the vouchers will not be available until next year. We have asked for an increase of the amount of transport subsidy for residents living in remote areas; as well as the increase of "fruit grant" to \$1,000, which have been agreed by the entire Legislative Council. But all these requests have been turned down by the Government.

And now the Government asks us to give away a one-off endowment of \$21.6 billion. In my opinion, the Secretary has indeed presented us an issue which is difficult to handle. I hope the Secretary will attempt to explain to the public living in extreme misery why the Government believes that now is the right time to commit more than \$20 billion to developing this project, with assurance that all Hong Kong people will certainly be benefited from this development.

I so submit.

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

**MRS SELINA CHOW** (in Cantonese): Deputy President, many colleagues said earlier that the discussion had tired them out. As a matter of fact, debates on

the WKCD had been held for numerous times, and Members had expressed many different views.

During the debate in 2003, the Liberal Party indicated very clearly — the concept of establishing an authority was not mentioned at that time — we had advocated for the establishment of an authority to co-ordinate the development and operation of the WKCD project. Therefore, I am very happy that today will mark a conclusion of this stage. In fact, insofar as this Bill is concerned, the progress to be made this week is very important. Today, we are scrutinizing the West Kowloon Cultural District Authority Bill (the Bill). The Government has indicated that subsequent to this, it will seek funding approval from the Legislative Council on Friday. If the Bill is passed, I believe that we can look ahead. The project is really given the green light this time around.

Given the importance of this Bill, the process of scrutiny of the Bill is relatively not very long. Despite the fact that so many discussions were held in the past, it does not mean that the discussion of the Bills Committee was inadequate. In fact, discussions during the meetings were quite adequate. All the interested parties had been invited to the discussions, and they did come to attend these meetings. This time around, they had come for the umpteenth time. So when some colleagues query whether consultation is adequate, I can say with my hand on heart — I myself have participated and listened to a lot of views — the consultation is, in fact, most adequate.

Let us come back to this Bill. Members have mentioned just now that we are concerned about several points, among which the objective of the WKCDA is one of them. I believe we are arriving at a consensus generally. What we need is just some fine-tuning. Moreover, the composition of WKCDA has given rise to a lot of controversies. Some colleagues opine that there should be elections; while some colleagues hold that though it is by appointment instead of election, the hurdles put in place during the process is almost equivalent to those of an election. Although the purpose of the process is to propose candidates for the consideration of the Chief Executive, if all these details are stipulated in the legislation, they will become a series of requirements that must be met; or else it will be a violation of the law. Insofar as the WKCDA is concerned, is this an appropriate practice? The Liberal Party still believes that the WKCDA, as a

team subject to collective responsibility and with the target of achieving efficiency, if members of its Board have to be elected or nominated through an external process, while the power is not completely in the hands of the Government or the Chief Executive, the relevant candidate for consideration may represent various sectors, certain organizations or groups. This may have impacts on the operation of the WKCDA as a team in the future. We should understand that the current subject under discussion is the entire cultural district, in which there are many conflicts of interests. If these conflicts of interests are brought into the WKCDA, it will be difficult to ensure that the WKCDA can effectively operate in the overall interests. This can only be perceived if the perspective of overall interests means the interests of the WKCDA only and not those of Hong Kong. However, this is not the case at present. It is clearly stipulated in clause 4 of the Bill that the WKCDA must comply with public objective and public interests when it discharges its duties. The WKCDA absolutely cannot consider the interests of the WKCDA or commercial interests of the WKCDA or gaining of profits only. This definitely cannot serve as the WKCDA's single consideration, because the WKCDA is different from other commercial organizations.

Deputy President, there may be some merits in the end. There are many points for discussion in this regard, but I do not intend to dwell on that. Instead, after listening to the speeches of colleagues, I would like to offer certain relevant responses. A colleague mentioned just now that if the Chairman of the Board was to be appointed by the Chief Executive, the position might be taken up by a public officer or non-public officer, which might be a conspiracy of the Government with the intention of controlling the Board. However, on the other hand, if the Chairman is not someone from the Government or a public officer, it will be criticized as "shirking of responsibilities" by the Government. If the position of the Chairman is taken up by a non-public officer, the Government will bear no responsibilities. In other words, it is not necessary for the Government to be accountable to the public even if the WKCDA turns into an independent kingdom. Criticisms like these are bound to arise. Thus, I believe, whether the position of the Chairman is taken up by a public officer or non-public officer in the end is not of the utmost importance. There are advantages as well as disadvantages if the position is taken up by a public officer. Similarly, there are positive and adverse impacts if the position is taken up by a non-public officer. Therefore, in my opinion, it is not necessary to introduce

any rigid pledge for not allowing a public officer to take up the position. The overall operation of the WKCD A will not be controlled solely by the public officer who has taken up the chairmanship. Basically this is a world that does not operate in this manner now.

So I do not think there is any problem at all. If there is flexibility in the law, I do not think there is any problem at all. Some colleagues have mentioned that accountability should be strengthened so that the meetings of the WKCD A should follow the examples of other councils, such as the Construction Industry Council, to be conducted in the form of open meetings. Ms Emily LAU mentioned just now that Mr Alan LEONG had often asked for public meetings; and believed that the more public meetings the better. But I wish to point out that the WKCD A is an Authority, not a council. A council represents various interests. It may all the more represent various interests on public occasions. That is why the meetings of a council should be conducted in the form of open meetings, because people would like to know what is discussed, which group is represented, what has been said, and what arguments are advanced. This is absolutely meaningful. However, many matters have to be discussed in the meetings of the Authority, among which, some may involve commercial secrets. We have also discussed this aspect in our meetings.

There is another important point. When we are operating as a team, during the meetings where decisions are to be made, we need to have room to conduct frank discussion and frank brainstorming before making decisions. If this is the case, we need to have room. Otherwise, it will be like councils. Once open meetings are conducted, everything is out in the open. There is no turning back at all. This may not be conducive to the brainstorming of the entire discussion, deliberation and negotiation.

Therefore, we hold that we should allow some meetings, particularly the meetings of the highest level, to be conducted in camera. This is equivalent to meetings of the Legislative Council. The Council meetings are open meetings, but we do not open some of our meetings. What is the reason for that? We admit and understand that some of the issues discussed in the meetings should not be conducted in the form of open meetings. In fact, all of us understand this clearly. However, I would like to state clearly that meetings that are not open do not mean that it is not necessary for them to be accountable. Like other



meetings, they have to be accountable as well. It is only because of the reasons I mentioned just now, and the need to enable the discussion to be conducted in a more desirable manner that the meetings are not conducted as open meetings. It does not mean that those who attend the meetings need not be responsible for their own decisions; need not offer their explanations to the public; need not be absolutely accountable to the public for all the reasonable decisions made when the meetings are over.

We have to understand that the WKCDA will have to operate as an enterprise after all. If some of the matters related to its operation are written "too rigidly" into the legislation, they will obstruct effective operation. For instance, we have always said that it is necessary to cut red tape for enterprises, and it is advisable not to introduce undue rigidity into every detail, while it is desirable to avoid writing everything "too rigidly" into legislation — such as specifying that it is imperative to meet certain quantitative targets. The more all these are written "too rigidly" into the legislation, the more it is not going to help in bringing flexibility to the entire operation of the WKCDA, instead, it will make the WKCDA pay more prices.

Moreover, another point of controversy is related to planning. Miss CHAN Yuen-han has already explained that she will introduce some amendments. But in my opinion, we are no longer making a fresh start at this stage. Many aspects of the project have already been drawn up. For instance, how many hectares of public open space should be provided, how many percentages of the district are allocated for commercial activities, how many percentages of the site will be used as core facilities. All these development parameters have, in fact, been drawn up. Thus, at this stage, I believe we should continue to devote our efforts to devising development plans. If we have to take a retrogressive step every time, it will be really a waste of time that results in a failure to move forward. This is particularly so when a colleague put forward a proposal on organizing an international competition. Once we decided to organize an international competition, it will take at least two years — if not three — to have the final result of the competition. Don't we have to balance the aspirations of the public? We hope to start the project as soon as possible. Of course, in drawing up the Development Plan, we have to accept the views of the public as much as possible, take into account the views expressed by members of the public over the past few years, and provide

adequate opportunities for the public to respond to the Plan initially published by the Government. We certainly have to perform all these tasks. However, I believe we cannot afford to spend too much time on the "back-and-forth" debates on the legislation.

As a matter of fact, since we have been hoping that there will be some "iconic", very outstanding, globally recognized and appreciated buildings in the WKCD, we are not completely without any guarantee. As we have depicted the WKCD to be a district, we have considered that there should be special venues such as museums and Xiqu Centres. Maybe we should organize architectural competitions for the design of these venues. We can spare some time here because we are referring to the design of certain buildings. We still have some time to do that.

I am not going to talk about whether the amount of \$21.6 billion should be a one-off upfront endowment, because this is the issue to be discussed by the Finance Committee of the Legislative Council. Instead, I would like to respond to the speech of James TIEN. In fact, James TIEN pointed out in his speech — we do not have tens of billions or even hundreds of billions of dollars to buy exhibits — so they think of the name "21st Century Visual Centre" for our museum. There are local movies, television programmes made in Hong Kong. Many contemporary artists are planting their roots in Hong Kong. That is why we should set up a museum with the unique characteristics of Hong Kong. We do not want to follow the examples of St. Petersburg, or E & A. We want a museum with the unique characteristics of Hong Kong. Some colleagues and certain consultants have said that it is easy to use up \$1 billion in buying exhibits for the museum, so they suggest borrowing exhibits from other museums, or inviting others to come here at a small amount of expenses? But we should not do that. If we are going to put in place a museum with the unique characteristics of Hong Kong, we will certainly have to devote our own efforts to it.

Finally, I wish to say that if we have a vision — I think we have a dream in the WKCD — right now, nobody can tell us whether the WKCD will be successful in 30 to 50 years' time, and whether the amount of \$21.6 billion will be money well spent. However, I have confidence. I am particularly confident after we have held discussions with our cultural and arts sector for so

many times, and after we have conducted repeated rounds of consultation. I am confident that they have an absolute determination to make the WKCD a success. I hope that the WKCD will become not only the arts and cultural centre in Hong Kong in the future, but also the arts and cultural centre in Asia and the world (*The buzzer sounded*) ..... Thank you, Deputy President.

**DEPUTY PRESIDENT** (in Cantonese): Your speaking time is up. Does any other Member wish to speak?

(No Member indicated a wish to speak)

**DEPUTY PRESIDENT** (in Cantonese): If not, I now call upon the Secretary for Home Affairs to reply. This debate will come to a close after the Secretary for Home Affairs has replied.

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Deputy President, I am very pleased with the resumption of the Second Reading debate of the West Kowloon Cultural District Authority Bill. The WKCD project has been in the making for years. For a relatively long period of time, the local cultural and arts sectors have been short of venues. I noticed a joint statement by the Cultural Sector Concern Group for WKCD in today's newspapers. Among the signatories are those from the Cantonese opera circles and other members of the cultural and arts sectors. They expressed a keen desire to implement the WKCD project as soon as possible so as to develop cultural excellence, to give more room to the industry and to enhance Hong Kong's standing as a metropolis. Now the Government and the Legislative Council indeed should put in resolute efforts to implement the WKCD project for the long-term development of our culture and arts.

I heard the different views just now put forward by Members with regard to the Bill. Before giving my reply, I would like to thank the Chairman of the Bills Committee, Mrs Selina CHOW, and other members of the Bills Committee for their efforts in scrutinizing this Bill. During the past three months or so, the Bills Committee held a total of 15 meetings to discuss the Bill in detail, making a

lot of valuable suggestions which, covering many different opinions, contributed to the perfection of the Bill. I also have to thank again the Subcommittee on West Kowloon Cultural District Development chaired by Mr Alan LEONG for views made by them over the past 10-odd months with regard to the WKCD project and the Bill.

Ever since February this year when the Bill was introduced into the Legislative Council for consideration, the Government has been engaged in frank and exhaustive discussions and dialogues with Members on the Bills Committee. We, in response to members' ideas, are going to make 57 amendments to the Bill at the resumption of the Second Reading debate. To be affected are 21 clauses of the Bill. I am going to explain these amendments in detail later at the Committee stage of the whole Council.

First of all, I would like to speak on the main concepts and principles of the Bill.

The establishment of the West Kowloon Cultural District Authority (WKCDA) is to take forward the WKCD project. The Bill clearly states that the WKCDA should go along with and take forward the WKCD vision so as to discharge its responsibility towards the long-term development of our culture and arts. Having considered Members' opinions, we are prepared to make amendments to more clearly spell out the specific objectives of the WKCDA so as to ensure its direction to be taken in carrying out duties. These objectives include the development of new and experimental works of all kinds of arts and culture. Inclusive arts is certainly included. Two months ago, the Central Library held an exhibition of paintings by people with disabilities. Those paintings were definitely of first-class standard and characteristics. It is also the objective of the WKCDA to identify and nurture talents in the local arts sector, local arts bodies and local arts-related personnel. It is believed that eventually the WKCDA will also consider including talents of inclusive arts.

(THE PRESIDENT resumed the Chair)

The structure of governance of the WKCD is based on the best arrangement long proven to be effective by local statutory organizations. At the same time, reference has been made to relevant overseas experience. The structure of governance set for the WKCD by the Bill is going to strike a reasonable balance between high accountability and high transparency on the one hand and effective operation on the other. The framework to be established by legislation should provide the WKCD with adequate flexibility to operate in such a way to play its role in full according to the different needs of the WKCD at different stages in carrying out its functions and deploying its resources, as well as attracting talents from around the world.

The WKCD belongs to all Hong Kong people. The WKCD, entrusted with important mission, has at its disposal huge public resources. It surely should be accountable to the public. To define the duties of different parties, such as the Authority, the executive, the legislature and independent monitoring bodies, the Bill contains various provisions imposing restrictions and accountability.

I would also like to point out that the WKCD is a project to promote the long-term development of local arts. However, it is just part of our overall culture building. We cannot expect the WKCD to solve every problem of our cultural development. It is perhaps not realistic to expect the WKCD to successfully strive for "the right of everyone to take part in cultural life". Take the promotion of Cantonese opera as example. The WKCD opera centre definitely is going to be conducive to the development of Cantonese opera. However, just as stated by Mr LAU Chin-shek earlier on, we should not let Cantonese opera bank entirely on the completion of WKCD. As a matter of fact, it is not advisable to wait for the total completion of the WKCD to promote the development of Cantonese opera. The HKSAR Government will, on top of the WKCD project, keep putting in adequate and suitable resources and take active measures for the development of cultural software and hardware. The Government's recurrent expenditure on the development of cultural software has already increased for the year 2008-2009. The recurrent funding for the existing work of professional cultural and arts groups, the Hong Kong Arts Development Council, the Hong Kong Academy for Performing Arts, and the Leisure and Cultural Services Department has also been increased. There has also been more support for inheriting, promoting and developing Cantonese

opera, including the provision of easily accessible performance venues, in addition to Ko Shan Theatre, for Cantonese opera groups to have priority to stage shows. Places outside the WKCD will also develop dedicated cultural and arts facilities, for example, an inter-district cultural centre will be built in Kwun Tong. Also Yau Ma Tei Theatre will be converted into a Cantonese opera centre. At the same time, arts education and the training of talents will also be beefed up. These measures are also of great importance in complementing the vision of the WKCD project.

Now I would like to make a comprehensive response to views on certain important aspects of the Bill expressed by Members who spoke earlier on.

The Bills Committee has had in-depth discussions on the composition of the Board. The duties to be shouldered by the WKCDA are wide-ranging and numerous, covering the planning of land use in the WKCD as well as the construction and operation of arts and cultural facilities. So, it is necessary to appoint to the Board individuals with different expertise and knowledge in various fields at different stages of the development to form a strong and cohesive team for dedicated performance of the duties of the WKCDA. There shall be not fewer than eight and not more than 15 non-public officer members to be appointed to the Board. As it is necessary for the WKCDA to develop a number of cultural and arts facilities, the Board shall have at least five members with arts and cultural background.

I must stress that this is a body for the promotion of cultural development. So it is not necessary to equate it with any political structure. With regard to the criteria for the appointment of Board members, both the Bills Committee and the deputations have expressed the view that the appointment criteria in respect of the five or more non-public officer members with arts and cultural background should be set to the effect that those appointees enjoy reasonable recognition and standing in the cultural and arts sectors. Having considered all the opinions, we are going to move an amendment to stipulate to the effect that those five or more members with arts and cultural background should have extensive knowledge of, experience in, and exposure to arts and culture, or have good standing in the fields of arts and culture in Hong Kong, the Mainland or internationally.

In addition, there is also the opinion that the appointment criteria in respect of other non-public officer members should also be written into the Bill. Heeding such views, we will introduce an amendment to add these criteria, including those on relevant professional knowledge and experience.

Besides, the Bill also stipulates that among members of the Board there should be at least one Legislative Council Member appointed by the Chief Executive. Although the Bill does not stipulate that a member of this category should be elected from among Members, it has not ruled out having such member selected by the Members among themselves.

It is believed that these amendments can, on the one hand, cover individuals of different categories coming from a wide spectrum, and, on the other, preserve suitable flexibility for individuals to be appointed to the WKCD Board according to the needs of the WKCD at different stages.

The WKCD shall be responsible for the development and operation of the WKCD. In the opinion of certain Members, the Bill should require the WKCD to open to the public meetings of the Board. Regarding this issue, we think that it should be left to the WKCD to decide whether or not, and how to, open its meetings to the public, and that there is no need to make specific stipulation in the Bill.

During the discussions at the Bills Committee, some Members expressed the view that we should refer to the approach contained in the enabling legislation of the Town Planning Board (TPB) and the Construction Industry Council (CIC), that is, to open all meetings to the public except in specified circumstances. However, the nature of the WKCD is different from other regulatory and consultative bodies. The principal function of the WKCD is to plan, develop, operate and maintain the WKCD. It is a body corporate and the Board is the governing and executive body of the WKCD. The Board and committees have the statutory duty to deliberate and make decisions on many matters concerning the development and operation of the WKCD which include not only the management of arts and cultural facilities, the organization of arts, cultural and entertainment programs, but also the management of commercial facilities such as retail, dining, and entertainment facilities. It is expected that a vast majority of the meetings of the Board and committees will involve

discussions on sensitive matters, including facility management contracts, selection and assessment, evaluation of the performance of individual artists or arts groups and the programmes of museum exhibitions, and the pricing and the budget for commissioning different programmes, procurement of services, venue management, and so on.

All of these matters are commercially and market sensitive, the disclosure of which will make it very difficult for the WKCDA to operate effectively and efficiently. As the Board and committees have to deal with these matters as part of their daily business, most of their meetings cannot be held openly.

We have made comparison with a number of local statutory bodies with regard to their practices and procedures of holding meetings. Except in the case of the TPB and CIC, which are regulatory bodies with no executive functions of their own, most provisions of the relevant legislation contain no stipulation requiring the meetings to be held openly. However, provisions of the relevant legislation usually allow the board of directors to regulate the procedures of their own meetings. Individual bodies do open their meetings to the public through administrative means. Moreover, in the relevant statutes of comparable overseas statutory bodies, we have not found any provision requiring board meetings to be held openly.

Surely, the WKCDA will have to operate with a high degree of public accountability and transparency. However, holding meetings in public is not the only means to enhance the transparency of work. There are still some other means, such as uploading information on the work of the WKCDA regularly onto its dedicated website, distributing regular newsletters, organizing meet-the-media sessions to report on discussions and decisions of the Board after Board meetings, and so on. Furthermore, the Bill stipulates that the Legislative Council or any of its committees may, at any time, require the Chairman and the CEO to attend their meetings to answer questions. The Bill also provides that the WKCDA shall, in relation to matters concerning the development or operation of arts and cultural facilities, related facilities, ancillary facilities, and the preparation of a development plan, consult the public. The Government will also move an amendment to require the WKCDA to set up a consultation panel to gather public views. Hence, there are going to be enough opportunities for members of the public to learn of the work of the WKCDA and present their views.



The Bill already stipulates that the WKCD has the statutory duty to consult the public when developing and operating the WKCD. We are going to move an amendment to further require the WKCD to set up a consultation panel as a regular mechanism so that public opinions can be gathered in a systematic manner by the WKCD at different stages of developing and operating the WKCD. To ensure that the panel is composed of members coming from a broad and evenly represented spectrum, the WKCD may consider making nominations through different channels. Meetings of the consultation panel will have to be open to the public. It is believed that these provisions can institutionalize the public consultation of the WKCD.

The Bills Committee has discussed in detail the governance of the WKCD as well as ways to protect public interests. Having considered Members' opinions carefully, we are going to propose a Committee stage amendment to beef up the provision on monitoring.

Regarding financial management, the Bill provides that the WKCD must manage its financial resources with due care and diligence, and invest in the categories or kinds specified by the Financial Secretary in the interest of prudent financial management. It is also our plan to propose an amendment to require the WKCD to set up an Investment Committee to keep an eye on the management and investment of the financial resources (inclusive of the upfront endowment) of the WKCD. The chairman and members of the Investment Committee are required to have expertise and experience of relevance to the work of the Committee.

So, the Bill has, as we can see, set up a watertight governance structure for WKCD, striking a reasonable balance between high accountability and high transparency on the one hand and effective operation on the other.

I understand that there are Members advocating for setting up an appeal mechanism for the WKCD. However, the WKCD will not be a regulatory body, and it is going to be necessary for it to perform a broad scope of duties. It would not be practicable to identify and specify in the legislation the specific types of decisions of the WKCD which should be subject to appeal. We, however, are going to ask the WKCD to set up a complaint-handling mechanism in the light of operational experience upon its establishment.

I fully understand Members' concern that there must be high accountability and transparency when making use of the upfront endowment. Hence, in addition to arranging in the Bill all the provisions on accountability and restrictions, we are going to make appropriate arrangements to report to the Legislative Council the position regarding the spending of that sum of public money. There will have to be an interim review of the progress of the development of facilities of the first phase as well as the planning of the development of facilities of the second phase by the WKCDA upon the completion of the core cultural and arts facilities of the first phase, or not later than the year 2014-2015. The outcome of the review will also be required to be reported to the Legislative Council and its committees.

When making the report, the WKCDA must provide information on the overall position in respect of the development of facilities of the first phase, inclusive of progress and all unfinished facilities, capital expenditure on the development of facilities of the first phase, the overall financial and operational position of the WKCD including an audited Statement of Accounts, and the initial outlook and plan of facilities of the second phase, inclusive of an initial financial estimate.

Madam President, the WKCD is a strategic investment for the long-term development of our culture and arts. It can help to develop Hong Kong into an innovative metropolis of global culture. With these remarks, I implore Members to support this Bill as well as all the amendments by the Government to be proposed by me at the Committee stage of the whole Council.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the West Kowloon Cultural District Authority 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.

(Members raised their hands)

Mr Albert CHAN rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Albert CHAN has claimed a division. The division bell will ring for three minutes, after which the division will begin.

**PRESIDENT** (in Cantonese): Will Members proceed to vote.

**PRESIDENT** (in Cantonese): Will Members check their votes. If there are no queries, voting shall now stop and the results will be displayed.

Mr Albert HO, Dr Raymond HO, Mr Martin LEE, Mr Fred LI, Ms Margaret NG, Mrs Selina CHOW, Mr James TO, Mr CHEUNG Man-kwong, Miss CHAN Yuen-han, Mr Bernard CHAN, Mr CHAN Kam-lam, Mrs Sophia LEUNG, Mr SIN Chung-kai, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Ms Emily LAU, Miss CHOI So-yuk, Mr Andrew CHENG, Mr TAM Yiu-chung, Ms LI Fung-ying, Mr Frederick FUNG, Ms Audrey EU, Mr Vincent FANG, Mr WONG Kwok-hing, Mr LI Kwok-ying, Dr Joseph LEE, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr Alan LEONG, Dr Fernando CHEUNG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Prof Patrick LAU, Mr Albert CHENG, Mr KWONG Chi-kin, Miss TAM Heung-man, and Mrs Anson CHAN voted for the motion.

Mr Albert CHAN and Mr LEUNG Kwok-hung voted against the motion.

Dr KWOK Ka-ki abstained.

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

THE PRESIDENT announced that there were 49 Members present, 45 were in favour of the motion, two against it, and one abstained. Since the question was agreed by a majority of the Members present, she therefore declared the motion was carried.

**CLERK** (in Cantonese): West Kowloon Cultural District Authority Bill.

Council went into Committee.

### **Committee Stage**

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

### **WEST KOWLOON CULTURAL DISTRICT AUTHORITY BILL**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the West Kowloon Cultural District Authority Bill.

**CLERK** (in Cantonese): Clauses 3, 12 to 16, 19, 21 to 24, 26 to 29, and 35 to 39.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 1, 2, 5, 10, 11, 20, 25, 31, 32 and 34.

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam Chairman, I move that the clauses read out just now be amended as set out in the paper circularized to Members. I will briefly explain these amendments now.

In response to the expectation of the community to establish the West Kowloon Cultural District Authority (WKCDA) as soon as possible to take forward the West Kowloon Cultural District project, I propose to delete clause 1(2) so that the Ordinance will commence upon publication in the Gazette after passage by the Legislative Council without the need to set a specific effective date.

Clause 2 defines the terms used in the Bill. I propose to amend the definitions of "approved development plan", "SWK approved plan", and "SWK drafted plan" in clause 2 such that these terms will better tie in with the town planning procedure under the Town Planning Ordinance. I also propose to delete the definition of "development plan" as it is clear that the term refers to a development plan prepared under clause 18(1) of the Bill and renders the definition not necessary. Besides, I also propose to make textual amendments to the definitions of the terms "ancillary facilities" and "committee member".

With regard to the amendment to clause 5, I propose to delete clause 5(2)(n) and clause 5(3). Clause 5(2)(n) empowers the WKCDA to engage in such activities as the Chief Executive in Council may, after consultation with the Authority, permits or assigns to it by order published in the Gazette. Clause 5(3) specifies that an order under clause 5(2)(n) is subsidiary legislation. Having taken into account the views of the Bills Committee and considered the functions and powers of the Authority under other provisions of the Bill, we believe that it is acceptable to delete these two clauses, and that there will be no impact on the functions of the WKCDA.

Clause 10 deals with the appointment of employees of the WKCDA and related matters. I propose to make a technical amendment to clause 10 to replace references to "委任" by "聘任". Also, consequential upon clause 8(B) to be proposed later, the WKCDA is required to have regard to the advice of the Remuneration Committee when determining the terms and conditions of the employment of its employees.

To regulate the scope of functions that may be delegated to the committees, I propose a consequential amendment to clause 11 such that when delegating any of its functions to the committees, the WKCDA shall have regard to the committee's functions as specified under the legislation. At the same time, I also propose to make a technical amendment to clause 11.

The technical amendment to clause 20 seeks mainly to match clause 8A to be introduced later, specifying the WKCDA shall have regard to the advice of the Investment Committee when making investment.

Clause 25 specifies that the statement of accounts prepared by the WKCDA has to comply with the manner in which the statement is to be prepared and any accounting standards, as may be listed for the Authority by the Financial Secretary. I propose to amend clause 25(5) by adding a new subclause such that on top of the existing requirements, the Authority has to comply with any other requirement as notified to it by the Financial Secretary in writing. This will enable the Financial Secretary to impose any other requirements on the preparation of the statement of accounts with a view to further strengthening the Government's financial monitoring of the WKCDA.

Clause 31 requires the WKCDA to submit to the Financial Secretary annually a report on the activities of the Authority, a copy of the statement of accounts and a copy of the Auditor's report. To match clause 30A, a new clause to be proposed later to incorporate these documents into an annual report, I propose to make a consequential technical amendment to clause 31. I am going to explain in detail the content of the said clause when proposing the new clause 31A.

The amendment to clause 32 is also a technical amendment designed to amend the wording of the Chinese text to more accurately reflect the policy intent.

Clause 34 provides for matters related to the disclosure of interest. It requires a Board or committee member to disclose his interest upon his first appointment and on such occasion as the circumstances may require after the appointment. To make the responsibility of the Board or committee member in this respect clearer, I propose that, in addition to the existing requirement of disclosure of interest upon first appointment, a Board or committee member is required to disclose his interest at the beginning of each calendar year after the appointment, on first becoming aware of the existence of an interest not previously disclosed and after the occurrence of any change to an interest previously disclosed.

All of these amendments are made after consideration of the views and suggestions of members of the Bills Committee. They have also been scrutinized and accepted by the Bills Committee. I implore Members to support the passage of these amendments. Thank you, Madam Chairman.

*Proposed amendments*

**Clause 1 (see Annex III)**

**Clause 2 (see Annex III)**

**Clause 5 (see Annex III)**

**Clause 10 (see Annex III)**

**Clause 11 (see Annex III)**

**Clause 20 (see Annex III)**

**Clause 25 (see Annex III)**

**Clause 31 (see Annex III)**

**Clause 32 (see Annex III)**

**Clause 34 (see Annex III)**

**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 Home Affairs 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 Members present. I declare the amendments passed.

**CLERK** (in Cantonese): Clauses 1, 2, 5, 10, 11, 20, 25, 31, 32 and 34 as amended.



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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clause 4.

**CHAIRMAN** (in Cantonese): The Secretary for Home Affairs and Mr SIN Chung-kai have each given notice to move an amendment to clause 4.

Members may proceed to have a joint debate on the original clause and the amendments proposed by the Secretary for Home Affairs and Mr SIN Chung-kai. I will call upon the Secretary for Home Affairs to speak first, to be followed by Mr SIN Chung-kai; but no amendments are to be moved at this stage.

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam Chairman, in order to tie in with the new clause 18 to be proposed later on, I am going to move an amendment in due course to make a technical amendment to clause 4(1) so as to make it tie in with clause 18.

In due course I will also move an amendment to clause 4(2) of the Bill. The existing clause 4(2) provides that the WKCDA, when performing the functions under that clause, is to have regard to one or more objectives listed in

that clause. Having considered the views of the Bills Committee, we propose to amend clause 4(2) to bring out the objectives of the WKCDA in a more forthcoming manner and to stipulate more clearly that the WKCDA is to aim at achieving a number of specific objectives when performing its functions.

Coming under these objectives of cultural development are promoting Hong Kong's development into an international arts and cultural centre, upholding freedom of artistic expression and creativity, enhancing and promoting excellence and diversity in arts, nurturing local artists, promoting the provision of arts education, encouraging wider participation of the local community in arts and culture, promoting cultural exchange and co-operation, and providing or facilitating the provision of free and accessible open space. The amended clause will more clearly bestow upon the WKCDA the mission, one chiefly for the development of culture and arts, so as to realize the vision of the West Kowloon Cultural District (WKCD).

The amendment to be moved by the Government in due course is introduced after consideration of the views and suggestions from members of the Bills Committee. I implore Members to support the passage of this amendment by the Government.

Here is my response to Mr SIN Chung-kai's amendment. Just as stated by me earlier on during the resumed Second Reading debate, the WKCD is going to be an integrated district of culture and arts fitted with world-class cultural and arts facilities to meet Hong Kong people's constantly growing needs for culture and arts, encourage creativity, and help Hong Kong upgrade to a knowledge-based economy. So, we agree that the overall planning and architectural design of the WKCD must be of world-class, and that the tendering process of construction works must be open, fair and highly transparent so as to give expression to the principle of fair competition.

With regard to matters concerning planning, clause 18 of the Bill already provides that the WKCDA has the statutory duty to draw up development plans, and that there must be public consultation in the process of drawing up such plans. However, with regard to the question as to whether or not to conduct open design competitions for the planning of the WKCD, we believe that it

should be left to the WKCDA to determine the suitability to have open design competitions when drawing up the development plans of the WKCD with regard to the actual situation and after giving consideration to all relevant factors (for example, the impact on the WKCD project on account of the resources and time involved in competitions). We, therefore, consider it to be not advisable to make rigid stipulations in the Bill.

Regarding the architectural designs of the various arts and cultural facilities, according to the recommendations of the Consultative Committee on the Core Arts and Cultural Facilities of West Kowloon Cultural District, the M+, Xiqu Centre, Concert Hall and Chamber Music Hall in the WKCD are to seek designs through competitions for them to be constructed as iconic architectures. We believe that the WKCDA will definitely consider this suggestion when launching the projects of these venues. However, there is actual difficulty in accurately defining in the legislation terms like "open design competitions". So, it is not advisable to write such provisions into the Bill.

In addition, Mr SIN Chung-kai further suggested that another item, namely, "to recognize the right of everyone to take part in cultural life", be added to the objectives of the WKCDA. This is also not advisable. As a matter of fact, already mentioned among the objectives of the WKCDA is one on "encouraging wider participation of the local community in all forms of arts". This objective has already blended in Mr SIN's proposal. There is no need to have it spelt out separately. So, I implore Members to support the Government's amendment, and negative the amendment proposed by Mr SIN Chung-kai.

Thank you, Madam Chairman.

**MR SIN CHUNG-KAI** (in Cantonese): Madam Chairman, first of all, I would like to thank the Secretary for making an elaboration for my amendment. However, I still would take the trouble to go over it once more. The first part of my amendment seeks to amend clause 4(1) to add subclause (ba) so as to

require the WKCDA to conduct open design competitions for the overall planning of WKCD as well as for the construction of its arts and cultural facilities and exhibition centre.

In promoting the WKCD, the Consultative Committee on the Core Arts and Cultural Facilities of West Kowloon Cultural District (the Consultative Committee) only proposed to conduct open design competitions for the WKCD's three iconic architectures, namely M+, Xiqu Centre and the Concert Hall/Chamber Music Hall. However, at the public hearing of the Bills Committee, the response from the public was an expression of a wish to conduct open design competitions for all facilities (including the Exhibition Centre) apart from those three facilities mentioned so as to enhance public engagement.

Beside venues for performing arts, the WKCD is also going to have a waterfront promenade overlooking the Victoria Harbour and 23 hectares of public open space (15 hectares at ground level, 3 hectares of piazza areas, and 5 hectares on terraces). How all such public open space is to be mapped out and what kinds of facilities to be provided there are also going to have impact on those enjoying the extensive public open space in the WKCD. Members of the public will be able to present different views on the overall planning of the WKCD through open design competitions, thus attracting creative ideas and even providing overall planning concepts and design for the consideration of the WKCDA. Then the WKCDA may carefully consider the features of every plan, work out detailed and feasible plans embracing public ideas, conduct consultation to confirm matters and then arrange to have the projects contracted out for construction. This is what we want to see with regard to our desire for better safeguards for the planning of the WKCD and its various facilities.

Open design competitions of different scales (inclusive of international and local ones) can, in addition to providing members of the public with more avenues to engage in competitions in relation to the designs of big projects or architectures, stimulate more public discussions and involvement so as to enhance people's identity with, and involvement in the WKCD. This can help to promote the development of the WKCD. It is hoped that there can be support

for my amendment at least from our architect friend Prof Patrick LAU as he is invariably (in the Housing Authority as well as on other occasions) very much in favour of conducting competitions for architectures of this kind.

The second part of my amendment seeks to amend clause 4(2) to add the words "to recognize the right of everyone to take part in cultural life". Odd though this provision appears to be, it in fact comes with a reason. This amendment of ours is founded on a wish to have regard for elements of culture, and incorporate the relevant amendment proposed by the Government.

According to the Basic Law, the International Covenant on Economic, Social and Cultural Rights is applicable to Hong Kong. Article 15 of the Covenant stipulates that the States Parties to the Covenant recognize the right of everyone to take part in cultural life. I have copied the wording from the Covenant. The issue on how to carry out its functions is, of course, the responsibility of the WKCDA. To facilitate the development of Hong Kong into an international arts and cultural metropolis, to encourage wider participation by the local community in arts and culture, and to facilitate the development of culture and arts are the missions to be shouldered by the WKCDA. I wonder if it is proper for the recognition of such an important right to be left out from the prerequisites.

When revising the objectives of the WKCDA, the Government, in addition to having regard to "arts", has also accepted the amendment introduced by the Democratic Party at the Committee stage of the whole Council to bring in cultural elements. We are aware that the Government has accepted fusing "cultural" elements with "arts". However, what matters most is what I said just now, namely, "to recognize the right of everyone to take part in cultural life". In our opinion, this amendment will implement the provision of the Basic Law, affirming the International Covenant on Economic, Social and Cultural Rights. We hold that such an approach is not only in line with the requirement of the Basic Law, but also bestows upon the WKCDA a function to make it possible for it to give the public opportunities of involvement on all fronts in relation to its work arrangements in the days to come. The Secretary just said that this clause

is not necessary. But we think otherwise. It is in fact the other way round. We are of the view that such a provision should also be added to the functions of other organizations related arts and culture.

I so submit.

**PROF PATRICK LAU** (in Cantonese): Chairman, first, let me thank Mr SIN Chung-kai for proposed this amendment. Just as he said, it is also my ardent wish that the planning of the WKCD can provide an opportunity for planners to take part in competitions. The reason is very simple. This approach should be adopted if it is to make all those in Hong Kong understand the importance of the planning of the WKCD. In the past, I already repeatedly put forward such a proposal in the Legislative Council, and there have been countless design competitions in history.

Now nobody makes further mention of these opinions. I consider it to be a great pity. Secretary, I have in fact kept all those design plans. Should anyone want to take a look, I am happy to show them. Public involvement is very important. The whole WKCD is not just a cultural district. There is also going to be a vast waterfront promenade. I understand that the questions as to how such open space is to be designed, and whether or not it can be for the enjoyment of the people are of considerable concern to Dr KWOK Ka-ki. Also, many Members are aware that such a massive planning project ought to have connectivity with the neighbouring areas, and would like to know how that can be done in the district.

According to the Secretary, the Authority will definitely proceed in this way. However, Chairman, I still have a big worry. Why? It is because its advisers once proposed to construct the entire WKCD by adopting an "absolutely clueless" Design and Build approach. I very much disagreed with that. After a long period of discussions, I now understand that the Government has given up such an approach. If "design" and "build" go together, then the contractor will have the say. This will deprive design of its importance, which is very significant. We are not talking about building just a car park or some simple structures. For these, it is fine to adopt a Design and Build approach.

Furthermore, the contracts can be different, too. So, at this stage I would like to know something about its design. There is in fact going to be a M+, a showcase of design ideas of our architectural sector. If we know nothing about its design, I wonder how it is possible to have discussion at all. My worry is that if the Authority knows how to handle it professionally, my wish surely is for it to handle the matter rationally. The problem is that members of the Authority will be appointed by the Government. So, I very much hope that those appointees know how to deal with the matter.

Chairman, there is another point that I have to clarify. In the case of the Mainland (that is, our country), all public or major buildings are constructed by way of competitions. Why is Hong Kong, on the contrary, not acting on the same premise? I feel greatly concerned that if we do not set the design of the WKCD as an example, future designs by our architects are going to lose their importance. Hence, it is very much hoped that Members can understand the reason why members of our industry want there to be architectural competitions. What should we do now? If we trust the Government, then, just as stated by Honourable colleagues, it is hoped that the Government can readily accept good advice. With regard to the question as to what to do, I feel a little worried. The reason is that SIN Chung-kai has put two matters together, placing me in a dilemma. I know not what to do. If the two matters were separated, I would choose to support the proposal on architectural competitions put forward by Mr SIN Chung-kai.

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

I hope that the Government can give me an explanation in this respect so that I can have confidence in matters of concern to me. Thank you, Deputy Chairman.

**MISS CHAN YUEN-HAN** (in Cantonese): Deputy Chairman, on this, perhaps please let me have some sort of interchange with the Secretary. When making mention of design competitions earlier on, he indicated that it should be left to

the Authority. I am keenly aware of what he said. In my case, the saying that "once bitten, twice shy" aptly applies. Never again will I believe. The reason is that I was involved in the examination of legislation for the Urban Renewal Authority (URA) and Chinese medicine. Likewise, independent authorities were left to implement the Bills then passed. However, it is a great pity that the work done by the two bodies, namely, the URA and Chinese Medicine Council, turned out to be a far cry from what we asked for when we examined the Bills. If it is our view and expectation that the planning of a big project like the WKCD is to bring on board the involvement of those in the entire community who are interested in, devoted to or have the expertise in the matter, then it is tantamount to starting a movement of concern for all the citizens of Hong Kong. If I am to choose between setting it clearly in the Bill now and leaving it to the discretion of the Authority in the future, then I would rather set it clearly in the Bill now, that is, to set it clearly in clause 41. So, I support Mr SIN Chung-kai's amendment. There are two reasons.

First, in the past, we had all along thought that the authorities would proceed in accordance with the ideas put forward by this Council when examining the Bills. Deputy Chairman, let me share with you one most unhappy experience. It is about the URA. At that time, we were in favour of redeveloping old districts. However, we made the request that when old districts undergo redevelopment, there has got to be an assessment of the needs of members of the community, inclusive of economic activities. Yet, in operation now, the people's needs are being ignored completely. For instance, the "unit for unit" exercise previously put forward by the Land Development Corporation (LDC) is no longer there. Here is another example. In the past, the LDC allowed private developers and stakeholders to be involved. It is not so now. Besides, the URA should have made available a team of social workers to help the people. However, I notice that it is now another story. It has even come to our notice that in some cases, the URA has in fact ignored the fact that operators of small businesses must make their living in the cultural environment of their neighbourhood, for example, Lee Tung Street, and Beech Street in Tai Kok Tsui. Often, operators have to make difficult choices at the last minute. Secretary, it is not that we do not trust the Authority. I, however, hold that if we do not make our intention clear to them, by the time it goes into operation,



such people will, at any moment, make decisions according to their likes or dislikes. In such case, our original ideas, the ones about social aspirations put forward by us when examining the Bill, will never be fulfilled. From start to end, those authorities often do not give consideration to the suggestions made at the time of the examination of the Bills. These include the Government's promises. As a result, all these are ignored. So, despite the Secretary's statement, and I understand that it should be left to the WKCDA, I, in view of this, am going to support Mr SIN Chung-kai's amendment with regard to clause 41.

Thank you, Deputy Chairman.

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

**DR KWOK KA-KI** (in Cantonese): Deputy Chairman, I speak in support of Mr SIN Chung-kai's amendment.

As a matter of fact, when discussing the WKCDA just now, we also mentioned a very important point, namely, our wish to realize, through the WKCDA, the hope of having the entire WKCD belonging to the people. If the Government indeed adheres to the principle that all items in the cultural district to be launched by the WKCDA are for the people, then there is no reason not to conduct open design competitions for the overall planning as well as for the key arts and cultural venues and exhibition centres, namely, the two indispensable components.

In fact, regarding the many projects besides the WKCD that we consider to be of importance, we strongly believe that there should be open competitions for their designs, too. Many architects also subscribe to this view. This is especially so in the case of overall planning. As we all know, apart from the OU, that is, the optimal use of land, set by the Town Planning Board (TPB), there is actually no clue regarding the overall planning of the WKCD at present. The Government has some development parameters but they are merely

parameters. As far as the people are concerned, these parameters can give them neither assurance or guarantee with regard to the way in which they will enjoy the new reclamation area of West Kowloon in the future.

We have pointed out time and again that way back in the days when the Government carried out reclamation in the harbour, an important promise was made, that all Hong Kong citizens (especially West Kowloon residents) shall be able to enjoy the new land or new area yielded as a result of the damage done to the harbour. To conduct competitions for the overall planning is precisely to bring in a mechanism giving other important stakeholders in the community — I mean members of the public — the chance to realize, via design competitions and participation in voting as well, the idea that the people decide the development and planning from start to end. This is an important process.

Why is it necessary to so provide for it in the legislation? The Secretary pointed out in the speech delivered by him just now (that is precisely what we consider to be most problematic) that it should be left to the WKCD to decide in the days to come. However, it is necessary not to forget that up to the present moment, we still hold that the appointments and the appointment mechanism of WKCD members cannot fully give expression to the mandate from, and the accountability to, the people. Unless there are some other ways, including having the key parts clearly set out in the provisions, that is, giving expression to such spirit in both planning and design, the whole Bill, in my opinion, does not deserve a single sniff. I am of the view that it is absolutely not against the original intent of the Government to add the point on design competitions. If the Government really believes and agrees that the WKCD belongs to the people, then why is it objecting to this? I really cannot think of a better reason.

According to what a certain colleague said just now, it is going to be hard to make a decision for Mr SIN has put the two matters together. I, however, see no problem. In fact, to recognize the right of everyone to take part in cultural life, and to recognize the right of everyone to present views on open planning and designs are logically compatible. We must not forget that the sum of \$20-odd billion, plus \$30-odd billion, is not owned by the Government; nor is it "generated" by the WKCD itself. It is accumulated, penny by penny, by all the taxpayers in Hong Kong. This is not the precious property of the WKCD

nor the Government; nor is it architecture only for their own use. So, in my opinion, if the Government, on such a simple amendment, that is, to let the people have the right and the onerous responsibility to take part in the design and planning ..... The reason is that the most important point for holding the planning competition and design competition (I think Prof LAU will also agree) is, from start to end, the people are able to express their views through open competitions.

We do not quite understand the mechanism of the WKCD, not knowing whether it is good or bad. It can be one operating in a black box. It can also be a mechanism running in a way totally trustworthy to us. Given the fact that the Government also finds its way of doing things dependable and acceptable, I wonder why it is so insistent here. Of course, the Administration also considers it to be more advisable to have design competitions in the cases of M+, the Grand Theatre, and so on. However, it should also understand that the most important part is in fact the overall planning. That is the most important part of the entire new cultural district.

Basically, we are not in favour of an approach lacking uniformity, that is, with certain part of the design probably not congruous with the overall planning. It is also not our wish that the people will have no chance to present their views on the overall planning. So, I think this point is important. If we make reference to other districts, including new cultural districts like Bilbao that our colleagues once visited, such spirit can then be reflected. It is through open competitions of design and planning that they give expression to the concept which really puts the people first, which really is people-based and which is indeed for the people.

So, I think I am going to support this amendment without reservations.

Thank you, Deputy Chairman.

**MISS CHOY SO-YUK** (in Cantonese): Deputy Chairman, I believe that nobody will consider conducting competitions for planning to be a bad approach. However, if such an approach is rigidly specified in the legislation, then I have some questions to ask (just as what I said earlier on). Must it be so clearly

specified? Is it necessary to have complete control over the operation of the future WKCD, including something as trivial as this?

I remember that I once discussed this matter with Mr Alan LEONG on the radio. We probably shared the same view, but there was some difference. I disapproved of micro-management, that is, to specify in the legislation such fine procedures. Surely, the Government agrees to adopting a competition-based approach and undertakes to give it proactive consideration, but balks at specifying it in the legislation.

Besides, I have another worry. What if the outcome of a future competition fails to produce one that is suitable, or to the liking of the public? Is it going to be necessary to conduct competitions again and again? So, I am personally prepared to let the future Authority adopt the best method. For the ultimate planning, of course, there must be public consultation.

Deputy Chairman, I am taking the floor out of a desire to bring up one point, namely, the entire planning must be people-friendly, that is, user-friendly to such an extent that people can go there anytime. I remember that at the time of panel discussion, Miss CHAN Yuen-han repeatedly made mention of the inconvenient transport situation in the WKCD. I recently had an opportunity to make a visit personally. One of our colleagues was driving. It was quite a long way. Another colleague went there on foot, spending a total of 20 minutes after leaving the MTR station but only reaching the outskirts of the district. Picture this. It will probably take 10 more minutes to go from the outskirts of the district to a certain museum. In other words, it will probably take half an hour to travel from the MTR station to that museum. Time required for the return trip has yet to be taken into account.

Furthermore, I also mentioned the issue about rents in the business districts. Will someone in the future go there specifically for a play or a concert? I definitely will not take a walk of half an hour in order to go there to hang around or do shopping, especially when there are many shopping malls of this kind in other districts. So, with regard to planning, I hope the future WKCD will be very careful. Though I do not have much knowledge of this, generally speaking, I still insist on accessibility for the public. Going there

should not be a hard trip. I often say this. Suppose we are walking from Lockhart Road in Wanchai to the Golden Bauhinia Plaza. Though the distance is not that long, one has to walk up and down some footbridges and then walk some distance. It is also necessary to know which footbridge to go up and which to come down before reaching the Golden Bauhinia Plaza.

We have quite a few places like this. For instance, today someone in the Legislative Council asked me how to get to the "circle" near Connaught Centre. I was unable to tell. It is because to go there, it is necessary to walk up a footbridge on the way. I think Hong Kong has a lot of such designs which are not user-friendly to pedestrians. It is hoped that future planning can indeed make it possible for members of the public to gain easy access to these cultural and recreational facilities by bus, by MTR or by any means of transport.

Deputy Chairman, this is the only point that I would like to raise. Thank you.

**MR ALAN LEONG** (in Cantonese): Deputy Chairman, regarding the future planning of the WKCD, Miss CHOY So-yuk has a subjective wish of her own. However, the problem is how we can ensure that the authorities will implement and realize such a wish.

Deputy Chairman, clause 4 is among the three crucial issues of this Bill. What are the other two crucial issues? One lies in clause 6 and clause 7, provisions regarding the appointment of the Board and the CEO to be dealt with in due course. What is the third crucial issue? It is public consultation in clause 17. These three crucial issues are actually interrelated.

Just now, Miss CHOY made known her wish. I also very much hope that I can simply believe and need not ask. It is hoped that the WKCDA can indeed realize her wish and achieve things that she would like to see. However, here is the problem. As far as these three crucial issues are concerned, if we do not see that the Board to be appointed will actually heed Miss CHOY, and if public

consultation will not be able to sway the decisions of the WKCD, then I can understand why Mr SIN Chung-kai seeks to add clause 4(2)(ba). It is because in this way, there can be specific stipulation on the conduct of competitions.

As a matter of fact, Deputy Chairman, the Civic Party indeed has great reservation about the Design and Build approach. It is because we are not just building a hospital or school now; nor are we building bridges or roads, items with clear construction purposes. Nor is it a case in which it is possible to foresee the end product on the day the contract is assigned. That is to say, matters such as the total number of classrooms, whether or not there will be air-conditioning in the classrooms, the type of air-conditioning to be used, the kinds of chairs and desks to be used, how many restrooms and water closets, so on and so forth, are all listed. We are now talking about the planning of a cultural district. What it encompasses ought to be Hong Kong people's vision of the enhancement of our arts and culture. How can Hong Kong people be enabled realize such a vision? As a matter of fact, design competition is an approach very specific, very real and tangible. So, in principle, we are strongly in favour of having such competitions.

During the Second Reading, I heard certain Members saying otherwise, that it would take at least two or three years to conduct competitions. The undertone is that there should be no further delay. Right, we have had a long delay. However, the blame for such delay lies not with this Council; nor does it have anything whatsoever to do with the 7 million citizens. Deputy Chairman, as stated by me earlier at Second Reading, the long delay of the project is due to the high-handed approach adopted by the administrative bureaucrats in power right at the start without putting in the design the bottom-to-top concept. Had there been extensive solicitation of opinions from bottom to top for public engagement (I now would like to use the words "public engagement", and will say more about the difference between "consultation" and "public engagement" when it is time to discuss clause 17 later on), the situation would have been different.

Deputy Chairman, I would like to say that to conduct competitions at this stage is likely to somewhat delay the progress. However, will it take as long as two or three years? Perhaps Prof Patrick LAU can advise us on this. Well,

what then even if there is indeed some delay? Does a difference of a day or so matter to us? The delay of 11 or 12 years was due to administrative bureaucrats "losing balance right at the starting point". Does a difference of a day or so matter? Is it necessary to be mindful of a difference of one year or half a year? For the purpose of getting this done properly, cash investment alone has cost us \$21.6 billion. The land value has yet to be taken into account.

We, of course, well understand Mr SIN Chung-kai's insistence on clause 4(2)(a) because in some cases, it is always better to have it set out. The question actually boils down to whether or not we have sufficient basis to fully believe that the executive will faithfully and fully realize Hong Kong people's vision to build this WKCD for the people.

Deputy Chairman, on reading today's Script, I came to realize that the Secretary's amendment would come up for discussion first. In other words, if I am to support Mr SIN Chung-kai's amendment without reservations, I should first vote against the Secretary's amendment. However, Deputy Chairman, after comparing the original blue bill with the amendment proposed by the Secretary following much brainwork — I do not know if that was done with or without some struggle — namely, the amendment to clause 4(2), Deputy Chairman, I indeed do not want the original blue bill to become the future ordinance.

We need not study it item by item. We only need to study one of them. For instance, under the original clause 4(2)(b), the Authority, when performing its functions, is to have regard to contributing to the enhancement of appreciation of a diverse and pluralistic range of the arts. What is contributing? If they are to hold the view that the greatest contribution is to let things take their own course and do nothing, this can also be taken as compliant with the provision.

So, Deputy Chairman, for a long time, the Civic Party has been insistent on the point that, with regard to the first one of the three crucial issues, that is, clause 4(2), there must be some positive and forward-looking expressions and wordings. Here are some examples. We can see that after revision, clause 4(2)(c) in the amendment proposed by the Secretary provides for upholding and encouraging freedom of artistic expression and creativity; and clause 4(2)(d) provides for the enhancement and promotion of excellence,

innovation, creativity and diversity in arts and culture. This is indeed very different as it is a positive or forward-looking way of writing. If we indeed are to evaluate the WKCD, we may put back the clock to the previous year to take a look at its efforts at encouraging freedom of artistic expression and creativity, and make comments as to whether it has done enough.

So, Deputy Chairman, it can be said that today's sequence of voting puts the Civic Party in a dilemma. If the Secretary's amendment was negated, then the fate of Mr SIN's amendment, I believe, is also not going to look good. That is to say, it will not have a better fate than the Secretary's. In such case, both will end up in nothing. If both amendments end up in nothing, then the blue bill is going to be the written text of the future ordinance. This is something which the Civic Party absolutely does not want to see.

For a project carrying the vision of 7 million Hong Kong people with regard to arts and culture, Design and Build is indeed not quite suitable as a means of implementation. It is hoped that both the Secretary and the Administration do hear this. If possible, we really would like to conduct a design competition so that Hong Kong people can, by means of discussion among themselves, give expression to, and realize, their vision with regard to the WKCD when making their picks from the entries in the course of their scrutiny.

So, Deputy Chairman, with regard to the amendment to clause 4, the Civic Party will support the Secretary's amendment first. However, we are very much in favour of Mr SIN Chung-kai's amendment in principle.

Thank you, Deputy Chairman.

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

**MR JAMES TO** (in Cantonese): Deputy Chairman, first, I would like to respond to one point mentioned by Mr Alan LEONG just now. There is in fact something wrong with this point. Firstly, Mr SIN Chung-kai's amendment and the Secretary's amendment are not mutually exclusive at all. Hence, page 19 of



the Script also mentions that no matter the Secretary's amendment is passed or not, it is still fine to support Mr SIN Chung-kai's amendment to insert subclause (ba) into clause 4(1). So, in the first place, even though Mr Alan LEONG and the Civic Party are in favour of the Secretary's amendment to clause 4(1)(a), it is still my wish for them to remain supportive of clause 4(1)(ba). There in fact is no problem in this.

Secondly, according to page 19 of the Script, Mr SIN Chung-kai's amendment to clause 4(2) appears to conflict with the Secretary's clause 4(2). So, if the Secretary's amendment does pass, then Mr SIN Chung-kai will be barred from introducing his amendment. However, our colleagues are indeed very clever. Since the Government issued its draft amendment first, our colleagues simply copied the Secretary's amendment and incorporated the contents into Mr SIN Chung-kai's amendment. There is just one sentence added, namely, "to recognize the right of everyone to take part in cultural life".

In other words, even if you do vote against the Secretary's amendment, all the contents of the amendment introduced by the Secretary will remain so long as all Members vote for Mr SIN Chung-kai's amendment. Surely, if we support the Secretary's amendment, then Mr SIN Chung-kai will be barred from making his further amendment because there is just one sentence added. The point is that we copied in full the Secretary's amendment. In other words, by making a comparison between the two, Members who vote for the Secretary's amendment are, in a certain way, repudiating the idea of "recognizing the right of everyone to take part in cultural life".

Of course, I understand that sometimes voting has got to be strategically tactful. The reason is that Members probably think that Mr SIN Chung-kai's amendment will not get enough votes. So, we must give this some strategic consideration. That is to say, even if we do not support the Secretary's amendment, his amendment will be passed all the same. As there is going to be zero impact, then why not clearly affirm that everyone has the right to enjoy culture? This is purely a technical response.

Deputy Chairman, I would like to speak on Mr SIN Chung-kai's amendment first. Having heard Prof Patrick LAU's argument, we adhere even more firmly to the belief that there is an even stronger ground for Members to support Mr SIN Chung-kai's clause 4(1)(ba). This especially applies to Miss CHAN Yuen-han if she indeed "has darkness phobia because of an encounter with ghost" on having been let down before — or, to put it in a slangy way, on having been double-crossed by others, so to speak. Why? Because all along the Government thought that the Design and Build approach is in fact different from construction after the completion of design. It was very explicit on this. After examination of the whole Bill, it said recently that it is going to give the matter active consideration.

However, let us think it over. If the requirement is not written into the legislation, eventually there is going to be a lot of room for the Government to claim that Design and Build is in fact what it desires, and that since Design and Build go in parallel, it very much wants to adopt such an approach. Given this, I wonder if it will adopt the approach of holding open design competitions. So, there is almost zero chance to have open competitions, unless it is so specified in the legislation to make it mandatory. As present in its draft is already a strong preference, in this respect I hold that if the approach required to be carried out is not set out in the legislation, then it can be anticipated well in advance that it is not going to do that. This is comparable with what CHAN Yuen-han said about previous ordinances, the ones not carrying provisions for, say, shop for shop, apartment for apartment, or local rehousing. That is to say, no such provisions have been written into the ordinances. The Government just said it would give the matters active consideration. Then, it is almost beyond expectation to see the Government doing it.

Surely, if you think that it is definitely wrong to insist on the requirement to have open design competitions, then Members should not render it support. The reason is that this will be written into the legislation. However, if you think that it is right to insist on the requirement to have open design competitions, then metaphorically (or almost metaphorically) it is tantamount to repudiating the Government's claim that the two processes of design and construction can proceed together. There can be even an affirmation from Prof LAU that it is almost impossible to conduct open design competitions. So, if there are Members who find it definitely not okay to use the approach of Design

and Build, especially for arts and cultural facilities — now we are not discussing the construction of a car park, a standard school building or a factory building (I am talking about conventional factory building; it is not necessarily possible in the case of the new type) — then the need to conduct open design competitions is even greater. If the requirement to have open design competitions is written into the legislation, then it is definitely not possible to adopt the approach of Design and Build.

The second item is on clause 4(2), that is, "to recognize the right of everyone to take part in cultural life". I have yet to hear from the Secretary any specific reason explaining why it is not okay to write this point into the legislation. He just said it lacked flexibility, or provided no flexibility. I some time ago learnt from someone that (I am not referring to the present Bill) the Government in fact balks at incorporating into legislation draft clauses recognizing "the right of everyone to do this and that". Because they once said that a ticket to a concert by Elton John often costs several thousand dollars. When the time comes, one never knows whether or not some utterly destitute persons will make the following claim. As they have the right to take part in cultural life, so they also have the right to watch Elton John's show. Penniless though they are, they must be allowed to become members of his audience. The reason is that according to law, every person has the right to participate. Those who have money surely have the right. However, so do those with no money. At the worst, there is air-conditioning for those paying for their seats whilst there is none for the seats of the utterly destitute. Or, those paying for their seats will sit in the front whilst the utterly destitute will sit in the back. That's it. After all, the right is there. To put it bluntly, the Government fears that some people might seek judicial review. If those words are allowed to be written into the legislation, there may arise the possibility of judicial review.

However, according to certain authoritative precedents, certain domestic law has set out provisions of the International Covenant on Economic, Social and Cultural Rights, the reason being that the rights stated therein are positive rights. As a matter of fact, there are precedents overseas. Suppose someone makes the claim that destitute though he is, he still has got to have cultural life and is thus entitled to watching a show in Hong Kong by Elton John or Madonna. That is to claim for oneself the right to watch the show. I think that the Government

need have no worry even in such a case. Honourable colleagues need have no worry, too. It is because numerous precedents have shown that even though it is so written in the legislation, such an extreme situation still will not arise.

Of course, you may say that "to recognize the right of everyone to take part in cultural life" is to be set as an objective. However, in a comparison between this and the objective of promoting culture and arts, both are similarly abstract. Is it right? If you say that the objective is to promote culture and arts, I in fact still can seek judicial review with regard to the question as to whether or not the Government is promoting culture and arts. In my opinion, to be successful in making the challenge is not going to be that easy. It is especially so when it is an objective. So, given the fact that there is no further or more detailed stipulation with regard to the clause on how "to recognize the right of everyone to take part in cultural life", I hold that to recognize this as a principle is in fact just an acknowledgement of our commitment consequential upon our joining the said international Covenant.

(THE CHAIRMAN resumed the Chair)

Insofar as cultural elements are concerned, I think it is even more undeniable. There is also no need to worry. Will someone seek judicial review if it is said that there is to be no regard for cultural elements? However, I wonder if the Government is of the view that there should be no regard for cultural elements. I am only too happy to listen to the Government's explanation in this respect.

So, here is my conclusion. No matter it is clause 4(1)(ba), the provision for mandatory open design competitions, or clause 4(2), my wish is for Members to give their support assured so as to affirm the explicit guiding principle that comes as a matter of course in every area upon our joining the international Covenant in order that the WKCDA can achieve that whilst members of the public can enjoy the rights to which they are entitled.

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

**MRS SELINA CHOW** (in Cantonese): Madam Chairman, first of all, I would like to state clearly that the Liberal Party supports the Secretary's amendment to clause 4(2). It is undeniable that there was in-depth discussion on this when it was being examined by the Bills Committee. We, generally speaking, have come to the consensus that the original wording of "to contribute to", "to contribute to", "to contribute to", appears to be unsubstantial. The reason is that there is, more or less, bound to be some contribution after doing something. However, the objective of doing all this is not clear enough.

Now, after the rewriting, the whole objective is undeniably much clearer. It has led to a situation in which the judgment on, or monitoring of, the attainment of the objectives in the end actually becomes something expected even though to a certain extent, it is hard to quantify those objectives. So, we also agree that quantification is not possible. However, it at least is still better than the original wording of "to contribute to". So, the Liberal Party supports it.

With regard to overall planning, earlier on at the resumed Second Reading, I already made it clear in my speech that we find nothing wrong with the Secretary's current amendment because that is the task of the WKCDA. It is their responsibility. However, Mr SIN Chung-kai proposes to conduct competitions of planning and design. We are not in favour of that. So, it is hard for the Liberal Party to support it. The reason for our objection is unlike what Mr Alan LEONG said just now, namely, as the Government has already delayed it for so long, a further delay of a year or two does not matter. Also, there would probably be no objection from the people, he added. As far as the Liberal Party is concerned, the people's voice is very clear. They have aspirations.

At the same time, we have also considered the point that this project is of very great importance to our overall development, our employment situation and the acceleration of the whole district is commissioning. With regard to time, it is not advisable to say frivolously "just let there be a delay of two more years!" In my opinion, it is not that simple. Perhaps Prof LAU can, in due course, give us some enlightenment. However, according to my understanding, it is not

possible to rush through the matter when conducting international competitions. Why? Because there has got to be a process, one acknowledged internationally. To go through this is a must. For instance, there has got to be a big publicity exercise, which is going to take at least six to nine months. Also, after there has been enough time for publicity, contestants will have to be allowed time to submit entries. Then an international panel of judges will have to be established. These persons must be prominent figures of repute in the field. All these take time.

There is, in my opinion, no time for us to strike a balance. However, this does not mean that the quality of the WKCD's planning will suffer because we do not set aside time for holding competitions. Take a look at the development of various districts in the world, especially those cultural districts, such as the Millennium Park. Anyway there are many — as for Bilbao, I am not sure whether or not there had been design competitions with regard to Bilbao; we may have to look into this. Why didn't they adopt the approach of holding design competitions? Perhaps Prof LAU can respond to this. In many cases, top-notch individuals or top-notch professionals are invited to do planning and design. And these people do not participate in competitions lightly. For them to do any design work, it is necessary to give them special invitations. There can be no assurance if they will take the assignment even if they are so invited, not to mention inviting them to participate in competitions.

What kind of planning and design does Hong Kong want? I do not know. I, however, think we share a common target, namely, to make this planning and design perfect. If the target is to achieve excellence, then why bind it with a rigid rule that stipulates the requirement to conduct competitions? The Liberal Party definitely does not think that the best approach is to conduct competitions. If both methods are feasible, our preference is to let the WKCDA do the evaluation and strike a balance. It is necessary to strike a balance in relation to different aspects, such as time and costs. However, the basic idea is that quality must not be sacrificed. I think this is attainable. However, for its attainment, competition is not the only way. In my opinion, there is some misunderstanding, thinking that it is impossible, yes impossible, to get things done, and that there must be competition for everything. Now under discussion is international competition of planning and design, not a painting contest among secondary school students. So, my wish is for every one of us to have some understanding about professionalism. Perhaps Prof LAU is again able to give

us an explanation, and see if my understanding is correct. However, as far as I know, it is not necessary to hold competition for every international design event. Is this correct, Prof LAU? Sorry, Madam Chairman. The question should be put to Prof LAU through you.

Also, with regard to Mr SIN Chung-kai's amendment to clause 4(2), I really cannot make head or tail of it. We know that the Covenant places requirements upon the Government. Now we are talking about the WKCD. To require the WKCD to recognize the right of everyone to take part in cultural life is not a point that the Covenant seeks to promote. Generally speaking, an international covenant seeks to bind a government, obliging it to do something. Not very refined, the provisions of these covenants only go after the fulfillment of certain duties in terms of concept or policy, for the purpose of satisfying the concept. The concept here is to recognize the right of everyone to take part in cultural life. However, we are talking about the WKCD, that is, the tasks required to be carried out by the WKCD. The WKCD cannot perform this task in place of the Government. It probably also is not going to have the power to perform all the tasks. Conversely, the Government has the power to do so. I, therefore, think it is not appropriate to put here the provision of the Covenant. Thank you, Madam Chairman.

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

**PROF PATRICK LAU** (in Cantonese): Chairman, even if you did not raise this issue, I still would have indicated my wish to speak. The reason is that Mrs CHOW spoke on how the professionals should compete.

Chairman, competitions can take different forms. First, I agree with Mrs CHOW that it is possible for us to quickly hold an open competition that is open to all people to ask them to spell out their visions with regard to the WKCD. This may take the form of writings or pictures. It does not matter whether it is a competition among secondary school students or whether it is a competition among kindergarteners. This should not be a problem. As for time, that can be put under control, too. It may proceed anytime, or even right away. However, if professionalism is involved, in fact it can take many forms. In the

first place, I believe that Mrs CHOW and I have both served as judges at the earliest competitions of planning and design. She also understands why it was necessary to have more than 170 proposals for our screening and endorsement. Mrs CHOW does not necessarily agree with me that the design picked by me is the top one. I also do not necessarily agree with her that the design picked by Mrs CHOW is the best. This is a matter of choice. Why are choices not provided?

Chairman, in my opinion, what matters most is that people should be given the opportunity to make choices. This is most important. (Staff helped fixing the microphone) OK, thanks. Why is there a proposal to conduct competitions? This is the most important question. As a matter of fact, if there is a time restraint, there will be, I believe, an opportunity for the WKCDA to consider when to conduct design competitions. This can be managed. Often times, in the case of the so-called restricted design competitions, the terms are clearly listed, for example, discretion to determine the number of planners entering the competition. Also, some are international open competitions. In my opinion, to put in place the stipulation on conducting competitions is out of a wish that there can be reference for the WKCDA. As for the need to conduct competitions and the form to be adopted for the competitions are matters entirely up to them. It is not bound to take long. So, I think they can be compatible. The advantage is that in fact it takes time to do any sort of planning. Time is under the control of the WKCDA. As for the ways expected to proceed, and if there can be a few more architects or planners entering the competitions, then the WKCDA can have more choices. If only a planner is to be picked — I know not how to pick that planner — it is still going to take time to make the selection. So, no matter how it is to be done, it is still going to take time. It is impossible not to take time. However, time can be managed.

Chairman, in my opinion, the problem does not lie here. It lies in the question as to whether or not the WKCDA is wish to have a few more options for people's consideration. At the same time, the people may get involved. I think this is the most important point. So, I am not too concerned about this, that is, the issue just now mentioned by CHAN Yuen-han regarding the need for a lot of time. In fact there is no need to think so. As we all know, the design competition for the World Expo in Shanghai that I referred to was to give



everybody the opportunity to savour all the different designs in order that one of them could be picked. At that time, the Government also found it not likely to be achieved as time was tight. However, the Chief Executive gave the green light. Wasn't it done in the end? So, time is under our control. The problem does not lie here. The problem is that the WKCDA must know why competition is an important element. This is the most important point. So, in my opinion, Mr SIN Chung-kai's amendment only brings up the need to conduct competitions. The form to be adopted for the competitions is only a proposal. There is no detailed stipulation specifying the form to be adopted for the competitions. I, therefore, consider this to be very important.

Mrs CHOW probably does not understand that the WKCDA or a property owner must be able to see the different options at important places around the world and make comparisons before they can pick their planner. So, in the end there will still be competitions of different forms even if the approach is different. If a world-class open competition is to be conducted, then, prior approval will have to be sought from the International Union of Architects to determine what form is to be adopted. It can be seen that, for the September 11 Memorial, the form of an open competition was also used. It was a selectively open competition. So it took less time. In my opinion, competitions can take on many forms. If there is a proposal in the legislation to conduct competitions, in many cases it does not mean creating a lot of obstacles for the WKCDA. On the contrary, it may provide a course leading to choices. Thank you, Chairman.

**CHAIRMAN** (in Cantonese): Mrs Selina CHOW, speaking for the second time.

**MRS SELINA CHOW** (in Cantonese): Many thanks to Prof LAU for giving us a lesson.

However, having gone through the amendment once more, I noticed that it clearly stipulates "conducting open design competitions". I have already given my explanation. We are not in favour of conducting open design competitions for Design and Build. As for other buildings, Prof LAU knows and as we have

said, there can be different design competitions for different buildings. This in fact takes into consideration the need to strike a balance as well as the time factor.

However, I would like to raise two points. In the first place, earlier on I put questions to Prof LAU because we have some very basic conditions or very fundamental requirements, that is, this is going to be a world-class cultural district, not one built in a slapdash manner. It will be a cultural district up to international standard that we can be proud of. So, I think planning should not be done in a slapdash manner. We cannot say things like "I give you three months to finish this job." If it is to be done, then it must ..... Last time when we carried out the task in 2001, as everybody probably still recalls, there were more than 170 entries. On that occasion, the job took two years. Here is the problem. If there is to be a genuine open competition, does he mean that we just pick a few designs and then treat it as open? That is impossible. If it is to be fully open, there must first be some publicity to make it known to the world. Or, does he mean that it does not matter and that it is okay just to let Hong Kong planners participate? If it is only for the participation of Hong Kong planners, then it cannot have the status of a competition meriting international attention. If it is to proceed in this way, it is tantamount to having a Mickey Mouse competition. In that case, we had better not do it.

However, from start to end I hold that Prof LAU is right on one point. He said when making selection ..... If it is said that selection will have to be made, then this already can no longer be considered to be really open. In the event that there has to be selection (probably to pick one or two most internationally renowned planners from around the world, and to ask them to come here with some design plans), then from this point onward, it is no longer an open design competition. It is only to give us some more choices. Perhaps the WKCDA can take this course. It may do so even if there is no such provision. However, once there is such a provision, it, conversely, will not be able to do so. It is going to be mandatory for it to conduct open design competitions. In this connection, I earlier on heard a certain colleague say that the said amendment would allow the Authority to do one more thing. However,

now I have the feeling that this amendment in fact reduces the options open to it. Of course, this is a matter of view and standpoint. We "agree to disagree", so to speak. However, I in fact hope that Members will consider my arguments.

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

**MR LEUNG KWOK-HUNG** (in Cantonese): Chairman, I am against the funding. Having listened to the debate for this long, I think I have something to say. Here is an example. For those appointments, the ones to further enhance accountability, there is already funding provision. However, requirements are yet to be set. In the end, it results in "a big mess". As for the project of the WKCD, we in fact have experienced a setback, namely, the canopy insisted upon by TUNG Chee-hwa. The canopy, of course, would have been the work of a prestigious master. We have talked about it here many times. However, Donald TSANG said that if there was no canopy, it would be death. It was because at that time TUNG Chee-hwa taught him to say that that was to be an icon, and that the WKCD would be meaningless and without sense of unity without the canopy.

I am absolutely ignorant of design. You can tell by taking a look at my apparel. Seldom have I put on good looking clothing. The problem is that I too understand logic and concepts. That is to say, as a matter of fact there would still be concepts. Whether or not selections were made then made no difference. It did not matter whether there were some 170 designs or some 1 700 designs. Is it right? Well, with us having had so many setbacks and so much hardship, the Government now repents on learning its mistakes, and turns to this Council for funding. It is very difficult for us to blame the Legislative Council Members, (surely, I basically am in favour of not funding it). However, those in favour of the funding must be accountable to the voters. Is it right? He definitely cannot afford to repudiate again, or when some scandal happens — as in the case of the illegally-erected appointment system, it is like some illegally-erected structure that we now call dangerous buildings, one likely to come down and crush people to death; in fact there are now deaths and a political disaster has emerged — we have no reason to let history repeat itself.

So, what in fact is the whole issue? Competition is in fact just a formality. It is meant to make the Government first state what its vision is. At present, no interpretation is available. It has to be type-written on a typewriter. If the Government has vision, it will say "let there be open competition". Suppose I now say that the WKCD is a cow. Those people will do the planning according to this theme, that is, the WKCD being a cow. Here is the problem. The Government has not ..... In fact the Government has been saying very nice things. Much has been said. When actually coming to culture and arts, it in fact has not got a single vision. This is not necessarily a problem of Secretary TSANG because he does not know, and he was not involved then. This is a problem left behind by TUNG Chee-hwa. It is a problem left behind by history. Donald TSANG says it has to go ahead. He, very much against his will, just "stands in". Honestly, if you ask the Secretary, he is just the "scapegoat". He, however, has got to succeed in selling this project because he is a salesman.

If Honourable colleagues are fair, they should in fact help us keep an eye on the Government. Of course, Hong Kong has some matters requiring very urgent attention, for instance, the fight against inflation. This brooks no delay, and should be dealt with ahead of others, buddy. A lot of efforts have been used. Donald TSANG asks us to refrain from internal arguments. Then those issues should be given attention first. In the case of certain matters, there should be more consideration and further discussions. Then why do we not give more consideration and have further discussions? There is one problem with more consideration and further discussions, that is, you have to restrain the person given the power to make him follow, in an orderly manner, the expectations of the Legislative Council or the public and proceed step by step. This is precisely the objective of the Member now proposing the amendment. To copy from the Covenant is something that I also can do. Why do we have to copy from the Covenant? Let me tell you. Because since the recovery of the sovereignty, the HKSAR Government has not enacted local legislation for the two Covenants. Given this, different persons are saying different things. Once there is legislation by the Government, I can seek J.R., or judicial review, against you in the event that something happens. Is it right? The reason is that you already have the statute. If you do not even observe the statute, then you are definitely doomed. Now the Covenant is being embodied in Article 39. Because of this, it is being hung in mid air and cannot be put into effect. It is

just like what Chief Secretary TANG said. With all pieces of legislation yet to be put into effect, controversies arise. This is the dilemma in which Legislative Council Members are caught, that is, the Government takes out the Covenant, but does not arrange for local legislation. As a result, it is open to interpretation by the people. So, there has got to be litigations because the Court cannot interpret legislation without a cause. So, in order that there can be an interpretation, there has got to be litigations. The people have to take legal proceedings once problems are discovered. At the end of the legal proceedings, the judges and the Court of Appeal will do the interpretation. Is such an approach not very problematic?

We are now talking about competitions. I can see no reason (it is said that we will have to spend a lot of money; I will definitely object if it is to cost about \$100 billion) for not proceeding according to logic. We, through this piece of legislation, authorize the Government to authorize the WKCD to carry out such a process in accordance with justice for the people whom the Legislative Council represents. The meaning is here. It is shameless of the Government to do without competitions. Or, it has no vision. If it has, well, put it on the discussion table. However, it has none. It will show its true colours in the course of the competitions. No matter what the Government has got, just let the participants interpret the vision. In fact, the public engagement referred to by Mr Alan LEONG starts here. There should be a banker. Betting on a ball game too has a banker. Is it right? For such a big topic, there must be a banker. If the Secretary walks away with the funding today, I wonder what other safeguard we can have. If you at least put in the covenant on human rights ..... People might find this unnecessary. You might say that as there is already the Basic Law, is it still necessary to wage litigation again? Then I would apply for judicial review, and say that according to Article 39, there has got to be such an element, which, however, is absent from the authorization bestowed upon the WKCD by you. Even if I prove that there is none, it has already jumped the gun because we have affixed the seal to it by means of local legislation. It is already a statute. It may be said that in fact there has been no mention. There is no mention about everybody's right to enjoy culture. Then I will definitely go down in defeat. It is because this process of legislation has already put a stamp on this concept via the legislation on the WKCD. If I

argue further, the judge will definitely rebuke me for being nuts. The reason is that it is already provided in the statute. Should Mr LEUNG wish to argue, do so in the Legislative Council.

This is our Government. You cannot accuse it of being shameless. It, however, is devoid of logic. It is because harmony between the executive and the legislature cannot be improved with the Chief Executive coming here only when he has the time without giving any prior notice. Instead, members of the Chief Executive's cabinet should come here so as to show that the administration under the Chief Executive is open, fair and well-intentioned. What is meant by being well-intentioned? It means that all correct views in the legislature, whether from the opposition side or from the royalists, should be accepted. If it is otherwise, on every occasion votes are counted well in advance. Once there, civil servants are told to see how many votes there are, who have gone upstairs, who are having a meal and who have gone home. What sort of harmony can be there if harmony is to be come by in this way? So, I originally did not want to speak on this topic. I know that many people are unhappy. Why is "Long Hair" speaking again? But I really can't help it.

Well, Secretary, you really should give it some thoughts. It is in this manner that you strike down or discard the reasonable ideas not supported by enough votes from Members of the Legislative Council. However, this world has something known as record. There is the verbatim record. There is indeed retribution, because you must not disregard reasons. Everybody says that I am unreasonable. I, however, would like to seek advice from the Secretary through the Chairman. If, according to the two Members, Mr SIN Chung-kai's amendment is accepted, what damage can be done to the WKCD? What damage can be done to the Legislative Council's duty to keep a watch on the Government? What damage can be done to Hong Kong people's participation? There should be none. In such case, if you still hold the view that you are in a position to have your own way unwaveringly because you already have enough votes, then I wonder how I can possibly have confidence in you. Hence, this is in fact a political issue. The Government has held so many meetings with us. When the Bill on the WKCD was under examination, I was in fact relatively "lazy". However, Alan LEONG was present all the time. Given the considerable time spent by him, I wonder how you possibly can treat

him like that. You are free to disregard my views and say that this guy, after all, will vote against the funding. To those wishing to offer you well-intentioned assistance and inclined to approve some funding, you must not treat them like that, and show utter ungratefulness. You just ask whether or not he will vote for the funding. If yes, then there will be enough votes. Is it that you won't be happy unless all those of the opposition unanimously refuse to approve the funding? It is unacceptable for you to do so.

So, I wish the Secretary could really ..... I know there are probably enough votes tonight. It is useless to say any more. However, you really have got to accept good advice readily. Think for a moment. You are now in a grey area. Even if your amendment is passed tonight, will you, in the future, really hold a competition with public engagement? It is because it is up to you. You only have to show your goodwill here today. Tonight, after getting the chop mark by relying on your rubber-stamps, you may tell the Chief Executive that you in fact have made a promise to the Legislative Council, and thus you hope to honour it — I do not know whether or not you will in due course handle matters involving such a huge sum, and have the chance to "oil your palm" — So my wish is really for you to solve these few issues and state your innermost thoughts when giving your reply in due course. Even if victory does go to the Government and legally it needs not shoulder this responsibility, I wonder if the strategy and measure of the Government are entirely inclined to do so. If the answer is in the affirmative, then it is still curable. Otherwise, it is futile to make any rescue. I, therefore, would like the Secretary to show more goodwill. Though the majority is to defeat the minority, you should not disregard the minority's logic altogether. Thank you, Chairman.

## **SUSPENSION OF MEETING**

**CHAIRMAN** (in Cantonese): It is now 10 pm. I think it is impossible to finish all items on the Agenda today. I even cannot predict whether or not the examination of the amendment to clause 4 can finish because the progress of the meeting up to this point has gone beyond my expectation. Hence, I think the Council should be adjourned until 9 a.m. tomorrow.

*Suspended accordingly at two minutes past Ten o'clock.*

## STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 2008

## COMMITTEE STAGE

Amendments to be moved by the Secretary for  
Justice

<u>Clause</u>	<u>Amendment Proposed</u>
2	By deleting the clause.
Part 2	By deleting the Part.
Part 3	By deleting the Part.
Part 4	By deleting the Part.
64	In the proposed section 13A(1), by deleting everything before paragraph (a) and substituting - “(1) Unless the contrary intention is expressed, a purchaser of land shall be entitled to require the vendor to deliver to him, for the purpose of giving title to that land, the original of both of the following only -”.
64	In the proposed section 13A(2), in the Chinese text, by deleting everything before “普通法” and substituting - “(2) 凡根據任何普通法的規則，賣方可藉向買方交付



政府租契或文件以外的方式，履行其給予上述土地的業權的義務，則第(1)款並不影響該”。

64 In the proposed section 13A(4), by deleting  
“arising from the deposit of the document with that  
other person”.

66 In the cross-heading “**Pneumoconiosis (Compensation)  
Appeal Rules**” immediately before the clause, by  
adding “**and Mesothelioma**” after “**Pneumoconiosis**”.

66 By adding “and Mesothelioma” after  
“Pneumoconiosis”.

**Annex II**

## FIXED PENALTY (SMOKING OFFENCES) BILL

**COMMITTEE STAGE**Amendments to be moved by  
the Secretary for Food and Health

<u>Clause</u>	<u>Amendment Proposed</u>
2(1)	By deleting the definition of "scheduled offence" and substituting -  " "scheduled offence" (表列罪行) means an offence prescribed by a provision of the Smoking (Public Health) Ordinance (Cap. 371) specified in column 2 of the Schedule."
6(2)	By deleting "may" and substituting "shall".
6	By deleting subclause (3) and substituting -  "(3) A notice under subsection (2) shall be served -  (a) where subsection (1)(a) applies, within 6 months from the date of the notice given under section 3(1); and  (b) where subsection (1)(b) applies, within 6 months from the date on which the person refuses to accept the notice."

- 7 By deleting subclause (4) and substituting -
- "(4) Where a notice under section 3(1) or 6(2) is withdrawn under this section, proceedings in respect of the scheduled offence specified in the notice may only be commenced if -
- (a) the ground, or one of the grounds, on which the notice is withdrawn is that it contains incorrect information; and
- (b) the incorrect information was supplied by the person to or on whom the notice was given or served."
- 8(4) (a) In the English text, by deleting "The" and substituting "A".
- (b) In the Chinese text, by adding a comma after "通知書".
- 9(3) By deleting paragraph (c) and substituting -
- "(c) the address specified in the certificate was, at the date specified in the certificate in relation to the address, the address of the person."

- 10(2) By deleting "applied for the order" and substituting "served the notice under section 6(2) in respect of which the order was made".
- 13(2) In the Chinese text, by deleting "的2天前" and substituting "不少於2天前".
- 17(1) By deleting "by notice specify" and substituting "specify by notice published in the Gazette".
- 17(2) By deleting everything after "subsection (1)" and substituting "is subsidiary legislation".
- Schedule (a) In item 1 -
- (i) in column 2, by deleting "3(2)" and substituting "7(1)";
  - (ii) in column 3, by adding "or in public transport carriers" after "no smoking areas".
- (b) By deleting item 2.

## Annex III

## WEST KOWLOON CULTURAL DISTRICT AUTHORITY BILL

## COMMITTEE STAGE

Amendments to be moved by the Secretary for  
Home Affairs

<u>Clause</u>	<u>Amendment Proposed</u>
1	By deleting the heading and substituting -  "1. Short title".
1	By deleting subclause (2).
2	(a) By deleting the definition of "approved development plan" and substituting - " <u>approved development plan</u> " (核准發展圖則) means -  (a) subject to paragraph (b), the approved development plan referred to in section 18(11), as from time to time amended, revised or otherwise having effect as an approved plan under the Town Planning Ordinance (Cap. 131); or  (b) where any approved plan under that Ordinance has replaced the plan, the approved plan currently having effect in respect of the plan area under

that Ordinance;".

- (b) In the definition of "committee member", by deleting "section 8 or 9" and substituting "this Ordinance".
- (c) By deleting the definition of "development plan".
- (d) By deleting the definition of "SWK approved plan" and substituting -  
""SWK approved plan" (西南九龍核准圖則) means the approved plan currently having effect in respect of the lay-out of South West Kowloon under the Town Planning Ordinance (Cap. 131);".
- (e) By deleting the definition of "SWK draft plan" and substituting -  
""SWK draft plan" (西南九龍草圖) means any draft plan for the lay-out of South West Kowloon -
  - (a) which is exhibited under section 5 of the Town Planning Ordinance (Cap. 131); or
  - (b) any amendment to which is exhibited under section 7 of that Ordinance;".
- (f) In the Chinese text, in the definition of "附屬設施", by deleting everything after "外" and substituting "附屬於為準備或提供藝術文化設施而提供的設施; ".

- 4(1) By deleting paragraph (a) and substituting -
- "(a) to prepare a development plan under section 18(1) and to perform the other functions imposed on it under section 18;".
- 4 By deleting subclause (2) and substituting -
- "(2) The Authority shall perform its functions under subsection (1) in ways which aim to achieve the following objectives -
- (a) to facilitate the long-term development of Hong Kong as an international arts and cultural metropolis;
  - (b) to uphold and encourage freedom of artistic expression and creativity;
  - (c) to enhance and promote excellence, innovation, creativity and diversity in arts and culture;
  - (d) to enhance the appreciation of a diverse and pluralistic range of the arts;
  - (e) to develop new and experimental works in arts and culture;
  - (f) to cultivate and nurture local talents in the arts (including local artists), and local arts

- groups and arts-related personnel;
- (g) to encourage wider participation by the local community in arts and culture;
- (h) to promote and provide arts education to the local community;
- (i) to facilitate the development of cultural and creative industries;
- (j) to facilitate and enhance cultural exchange and cooperation between the Mainland of China, Hong Kong and any other place;
- (k) to facilitate and enhance cooperation between any government or non-government body or organization and providers of the arts, within and outside Hong Kong;
- (l) to encourage community, commercial and corporate support and sponsorship of arts and culture;
- (m) to provide or facilitate the provision of free and accessible open space within



the leased area to the general public; and

- (n) to strengthen the position of Hong Kong as a tourist destination."

- 5(2) (a) In paragraph (f), by deleting "purposes under" and substituting "objectives specified in".
- (b) In paragraph (h), by deleting "attainment of the purposes under" and substituting "achievement of the objectives specified in".
- (c) In paragraph (j), by deleting "purposes under" and substituting "objectives specified in".
- (d) In paragraph (m), by adding "and" at the end.
- (e) By deleting paragraph (n).

5 By deleting subclause (3).

- 6(3) By deleting paragraph (c) and substituting -
- "(c) not less than 8 and not more than 15 other members who are not public officers, including -
- (i) at least 5 members who, in the opinion of the Chief Executive -
- (A) are of good standing in the field of arts and culture in the Mainland of China, Hong Kong or any other place; or
- (B) have extensive knowledge of,

or wide experience in or  
exposure to, arts and cultural  
activities;

- (ii) at least one member who is a member of the Legislative Council; and
- (iii) such other members who possess experience in management, engineering, planning, architecture, landscape architecture, surveying, accounting, finance, education, law or community service, or such professional or other experience as would, in the opinion of the Chief Executive, render them suitable for appointment; and".

6 By deleting subclause (8).

6(9) By deleting "or (8)".

6(10) By deleting ", (8)".

8(2) (a) In paragraph (a), by deleting "and" at the end.

(b) By adding -

"(aa) to deal with any matter delegated to it by the Authority under section 11; and".

8

By adding -

"(3A) At least one member of the Audit Committee is to be a member who, in the opinion of the Board, possesses such appropriate professional qualification or expertise in accounting or financial management as would render the member suitable for appointment."

8

By deleting subclause (4) and substituting -

"(4) Each of the members of the Audit Committee, whether or not the member is a Board member, is to be appointed by the Board."

8

By adding -

"(4A) A person is not eligible for appointment as a member of the Audit Committee if -

- (a) he is the Chief Executive Officer or any other employee of the Authority; or
- (b) he is the chairman of any other committee established under this Ordinance."

8(7)

In the English text, by deleting "as" and substituting "that".

New

By adding -

**"8A. Investment Committee**

(1) There is established by this section a committee to be known as the Investment Committee.

(2) The functions of the Investment Committee are -

- (a) to advise the Authority in relation to its functions under section 20;
- (b) for the purposes of paragraph (a), to monitor any investment made under section 20 and oversee the management of such investment;
- (c) to deal with any matter delegated to it by the Authority under section 11; and
- (d) to consider any other matter relating to investment or finance that is referred or assigned to it by the Board for consideration.

(3) The Investment Committee is to consist of -

- (a) the Director of Accounting Services, or his representative; and
- (b) such number of other members,

not being less than 2, as the Board may determine who, in the opinion of the Board, possess such expertise or experience as would render them suitable for appointment.

(4) Each of the members of the Investment Committee specified in subsection (3)(b), whether or not the member is a Board member, is to be appointed by the Board.

(5) The Board is to appoint a Board member to be the chairman of the Investment Committee.

(6) The Board may -

- (a) withdraw any matter referred or assigned under subsection (2)(d); or
- (b) revoke any appointment made under subsection (4) or (5).

(7) An appointment made under this section is to be made public in the manner that the Board considers fit.

(8) Meetings of the Investment Committee are to be held as often as may be necessary for the performance of its functions.

(9) The Investment Committee may, subject to the requirements of this Ordinance, regulate its own administration, proceedings and business in such manner as it considers

appropriate.".

New

By adding -

**"8B. Remuneration Committee**

(1) There is established by this section a committee to be known as the Remuneration Committee.

(2) The functions of the Remuneration Committee are -

- (a) to advise the Authority in relation to its functions under section 10(2) and (3);
- (b) to advise the Authority on any other matter relating to the remuneration, allowances or benefits made available to its employees, former employees or their dependants that is referred or assigned to it by the Board for consideration; and
- (c) to deal with any matter delegated to it by the Authority under section 11.

(3) The Remuneration Committee is to consist of such number of members, not being less than 3, as the Board may determine.

(4) Each of the members of the Remuneration Committee, whether or not the

member is a Board member, is to be appointed by the Board.

(5) The Board is to appoint a Board member (other than the Chief Executive Officer) to be the chairman of the Remuneration Committee.

(6) The Board may -

- (a) withdraw any matter referred or assigned under subsection (2)(b); or
- (b) revoke any appointment made under subsection (4) or (5).

(7) An appointment made under this section is to be made public in the manner that the Board considers fit.

(8) Meetings of the Remuneration Committee are to be held as often as may be necessary for the performance of its functions.

(9) The Remuneration Committee may, subject to the requirements of this Ordinance, regulate its own administration, proceedings and business in such manner as it considers appropriate."

9(7) In the English text, by deleting "as" and substituting "that".

- 10 In the Chinese text, in the heading, by deleting "委任" and substituting "聘任".
- 10(1) In the Chinese text, by deleting "委任" and substituting "聘任".
- 10 By deleting subclause (2) and substituting -  
    "(2) The Authority may determine the terms and conditions of the employment of its employees, having regard to the advice of the Remuneration Committee established under section 8B."
- 10(3) By adding ", having regard to the advice of the Remuneration Committee established under section 8B" after "dependants".
- 11(1)(b) By deleting "section 8 or 9" and substituting "this Ordinance".
- 11 By adding -  
    "(1A) In delegating under subsection (1)(b) any function to a committee established under section 8, 8A or 8B, the Authority shall have regard to the committee's functions as specified under this Ordinance."



11(6) By deleting "section 8 or 9" and substituting "this Ordinance".

New By adding in Part 2 -

**"17A. Establishment of consultation panel**

(1) Without limiting the generality of section 17, the Authority shall establish a consultation panel to gather public views on matters relevant to the functions of the Authority.

(2) The consultation panel is to consist of a chairman and such number of other members as the Authority may determine.

(3) Each of the members of the consultation panel, including its chairman, is to be appointed by the Authority.

(4) In appointing any member of the consultation panel, the Authority shall have regard to the purpose for which the panel is established under subsection (1).

(5) The Authority shall from time to time issue guidelines in relation to -

- (a) the functions of the consultation panel;
- (b) subject to subsection (8), the administration, proceedings and business of the panel; and
- (c) any other matter relating to the panel that the Authority

considers appropriate.

(6) A guideline issued under subsection (5) is to be made public in the manner that the Authority considers fit.

(7) In performing its functions, the consultation panel is to have regard to any guidelines issued and published under this section.

(8) The consultation panel is to hold at least one meeting each year and any such meeting is to be open to the public."

18(2) In the Chinese text, by deleting paragraph (b) and substituting -

"(b) 可規定為所有或任何目的而言須根據該條例第 16 條取得批給許可。".

18 By adding -

"(13) Where the Chief Executive in Council refuses to approve a development plan which is deemed to be a draft plan by virtue of subsection (8), the Authority shall, as soon as reasonably practicable after such refusal, prepare another development plan for the purposes specified in subsection (1)(a), (b) and (c), and this section, other than subsection (1), applies to that other development plan."

20(1) By adding ", having regard to the advice of the Investment Committee established under section 8A," before "invest".

25(4) In the Chinese text, by deleting "管理局與該等附屬公司之間" and substituting "管理局及該等附屬公司".

25 By deleting subclause (5) and substituting -

"(5) The Authority shall ensure that the statement of accounts prepared under subsection (2) complies with -

(a) the manner in which the statement is to be prepared;

(b) any accounting standards; and

(c) any other requirement,

as may be notified to the Authority in writing by the Financial Secretary."

New By adding -

**"30A. Annual report**

(1) The Authority shall, in respect of each financial year, prepare an annual report of the Authority for that financial year.

(2) Without limiting the matters that the Authority may include in it, the annual report must -

(a) specify the work and activities of the Authority for that financial year and how they

- relate to the Authority's functions and the objectives specified in section 4(2);
- (b) specify the work and activities of the committees established under this Ordinance for that financial year;
  - (c) include the statement of accounts prepared under section 25(2) for that financial year;
  - (d) include the report submitted under section 26(3)(b) for that financial year; and
  - (e) include information on how the Authority, during the financial year, conducted or implemented the activities and projects set out -
    - (i) in the corporate plan sent in the previous financial year to the Secretary for Home Affairs under section 29(1); and
    - (ii) in the business plan sent in the previous financial year to the Secretary for Home Affairs under section 30(1).
- (3) In this section, "previous financial

year" (前一個財政年度) means the year immediately preceding the financial year to which the annual report relates."

- 31 In the heading, by deleting "**Reports, etc.**" and substituting "**Annual report**".
- 31 By deleting subclause (1) and substituting -  
"(1) The Authority shall, within 6 months after the end of each financial year, submit to the Financial Secretary the annual report prepared under section 30A(1) for that financial year."
- 31(2) By deleting "documents" and substituting "report".
- 32(1) In the Chinese text, by deleting "獲得穩當的營運、" and substituting "的安全運作或獲得穩當的".
- 34 By deleting subclause (1) and substituting -  
"(1) A Board member or a committee member shall disclose to the Authority any interest that he has which is of a class or description determined by the Authority under subsection (2) -  
(a) on his first appointment;  
(b) at the beginning of each calendar year after the appointment;

(c) on becoming aware of the existence of an interest not previously disclosed under this subsection; and

(d) after the occurrence of any change to an interest previously disclosed under this subsection."

34(5) By adding "; by such means as it considers appropriate," before "make available".

Schedule,  
section 4 By adding "(including any change of the status of the member by reference to which he has been appointed for the purpose of complying with section 6(3) of this Ordinance)" after "cause".

Schedule,  
section 9(1) (a) By deleting "Without affecting the generality of section 15, where" and substituting "Where".  
(b) By deleting everything after "it" and substituting a full stop.

Schedule By deleting section 9(2).

Schedule,  
section 15(1) By deleting "who is in any way directly or indirectly interested in any contract or any other matter which is to be discussed or considered by the Board at a Board meeting" and substituting

"present at a Board meeting is in any way directly or indirectly interested in any contract or any other matter which is to be discussed or considered by the Board at the meeting".

Schedule,  
section  
15(1)(a)

By deleting "(if he is present at the Board meeting)".

Schedule,  
section 15

By adding -

"(1A) The Board may from time to time issue a guideline to set out the circumstances in which a Board member is to be regarded as being directly or indirectly interested in any contract or any other matter for the purposes of subsection (1)."

Schedule,  
section 15(3)

In the Chinese text, by deleting "該合約的各方須以董事局認為合適的方式公布" and substituting "須以董事局認為合適的方式，公布該合約的各方".