

# **OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 23 June 1999**

**The Council met at half-past Two o'clock**

## **MEMBERS PRESENT:**

THE PRESIDENT

THE HONOURABLE MRS RITA FAN, G.B.S., J.P.

THE HONOURABLE KENNETH TING WOO-SHOU, J.P.

THE HONOURABLE JAMES TIEN PEI-CHUN, J.P.

THE HONOURABLE DAVID CHU YU-LIN

THE HONOURABLE HO SAI-CHU, J.P.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE MICHAEL HO MUN-KA

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

THE HONOURABLE LEE WING-TAT

THE HONOURABLE LEE CHEUK-YAN

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

THE HONOURABLE ERIC LI KA-CHEUNG, J.P.

THE HONOURABLE LEE KAI-MING, J.P.

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

THE HONOURABLE FRED LI WAH-MING

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

THE HONOURABLE NG LEUNG-SING

THE HONOURABLE MARGARET NG

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

THE HONOURABLE RONALD ARCULLI, J.P.

THE HONOURABLE MA FUNG-KWOK

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE AMBROSE CHEUNG WING-SUM, J.P.

THE HONOURABLE HUI CHEUNG-CHING

THE HONOURABLE CHRISTINE LOH

THE HONOURABLE CHAN KWOK-KEUNG

THE HONOURABLE CHAN YUEN-HAN

THE HONOURABLE BERNARD CHAN

THE HONOURABLE CHAN WING-CHAN

THE HONOURABLE CHAN KAM-LAM

DR THE HONOURABLE LEONG CHE-HUNG, J.P.

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

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE GARY CHENG KAI-NAM

THE HONOURABLE SIN CHUNG-KAI

THE HONOURABLE ANDREW WONG WANG-FAT, J.P.

DR THE HONOURABLE PHILIP WONG YU-HONG

THE HONOURABLE JASPER TSANG YOK-SING, J.P.

THE HONOURABLE HOWARD YOUNG, J.P.

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE YEUNG YIU-CHUNG

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH

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

THE HONOURABLE MRS MIRIAM LAU KIN-YEE, J.P.

THE HONOURABLE AMBROSE LAU HON-CHUEN, J.P.

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

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE SZETO WAH

THE HONOURABLE TIMOTHY FOK TSUN-TING, J.P.

THE HONOURABLE LAW CHI-KWONG, J.P.

THE HONOURABLE TAM YIU-CHUNG, J.P.

THE HONOURABLE FUNG CHI-KIN

DR THE HONOURABLE TANG SIU-TONG, J.P.

**MEMBERS ABSENT:**

THE HONOURABLE EDWARD HO SING-TIN, J.P.

PROF THE HONOURABLE NG CHING-FAI

THE HONOURABLE WONG YUNG-KAN

**PUBLIC OFFICERS ATTENDING:**

MR MICHAEL SUEN MING-YEUNG, J.P.  
THE CHIEF SECRETARY FOR ADMINISTRATION

MR RAFAEL HUI SI-YAN, G.B.S., J.P.  
THE FINANCIAL SECRETARY

THE HONOURABLE ELSIE LEUNG OI-SIE, J.P.  
THE SECRETARY FOR JUSTICE

MR GORDON SIU KWING-CHUE, J.P.  
SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS

MR NICHOLAS NG WING-FUI, J.P.  
SECRETARY FOR TRANSPORT

MR JOSEPH WONG WING-PING, G.B.S., J.P.  
SECRETARY FOR EDUCATION AND MANPOWER

MISS DENISE YUE CHUNG-YEE, J.P.  
SECRETARY FOR THE TREASURY

MR STEPHEN IP SHU-KWAN, J.P.  
SECRETARY FOR ECONOMIC SERVICES

MR DAVID LAN HONG-TSUNG, J.P.  
SECRETARY FOR HOME AFFAIRS

MRS REGINA IP LAU SUK-YEE, J.P.  
SECRETARY FOR SECURITY

MRS RITA LAU NG WAI-LAN, J.P.  
SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING

MISS YVONNE CHOI YING-PIK, J.P.  
SECRETARY FOR TRADE AND INDUSTRY

MRS REBECCA LAI KO WING-YEE, J.P.  
SECRETARY FOR FINANCIAL SERVICES

**CLERKS IN ATTENDANCE:**

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

MR LAW KAM-SANG, J.P., DEPUTY SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY  
GENERAL

**PAPERS**

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

Subsidiary Legislation	<i>L.N. No.</i>
Public Health and Municipal Services Ordinance (Public Markets) (Designation and Amendment of Tenth Schedule) (No. 3) Order 1999 .....	154/99
Declaration of Markets in the Urban Council Area (Amendment) (No. 2) Declaration 1999 .....	155/99
Conservancy (Urban Council) (Amendment) Bylaw 1999 .....	156/99
Prevention of Bribery (Amendment) Ordinance 1999 (20 of 1999) (Commencement) Notice 1999 .....	157/99

**Sessional Papers**

- No. 130 — Report of changes to the approved Estimates of Expenditure approved during the final quarter of 1998-99 (Public Finance Ordinance : Section 8)
- No. 131 — Statement of Accounts of the Customs and Excise Service Welfare Fund together with the Director of Audit's Report (1998-99)

**Report**

Report of the Bills Committee on Companies (Amendment) Bill 1999

## ORAL ANSWERS TO QUESTIONS

**PRESIDENT** (in Cantonese): Questions. Question time normally does not exceed one and a half hours, with each question being allocated about 12 to 15 minutes. I would like to remind Members again that, when asking supplementaries, Members should be as concise as possible. They should not ask more than one question, and should not make statements. To do so would deprive other Members of the opportunity to ask supplementary questions.

After a Member has asked a main question, other Members who wish to ask supplementary questions will please indicate their wish by pressing the "Request-to-Speak" buttons.

If a Member wishes to follow up and seek elucidation on an answer, or raise a point of order, please stand up to so indicate and wait for me to call before speaking. First question.

### Assault on Speaker of City Forum Programme

1. **MISS EMILY LAU** (in Cantonese): *Madam President, it is reported that on 23 May this year a guest speaker was assaulted after attending the City Forum programme organized by Radio Television Hong Kong (RTHK) in Victoria Park. In this connection, will the executive authorities inform this Council of:*

- (a) *the number of speakers who were treated impolitely before, during and after the City Forum programme sessions, such as being punched, stoned and spat upon, in the past two years; and the number of such incidents investigated and that which resulted in prosecutions by the police, as well as the result of each case prosecuted; and*
- (b) *the measures in place to prevent the recurrence of similar incidents?*

**SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING** (in Cantonese): Madam President,

- (a) According to the records of RTHK and the police, two other incidents similar to the one on 23 May 1999 as mentioned in the question had taken place in the past two years. They happened respectively on 7 February 1999 in which a guest speaker was stoned after attending the City Forum programme, and on 2 May 1999 in which some spectators outside the forum attempted to throw mud at a guest speaker during his departure. These three incidents all happened after the programme sessions and there were no similar incidents happening before or during the programme sessions.

The police had conducted preliminary investigations into the 7 February and 23 May incidents on the spot but could not obtain sufficient evidence. In addition, given that the guest speakers concerned decided not to pursue the matter, the police had not instituted any prosecutions concerning these incidents.

- (b) RTHK has all along invited the Civil Aid Service to deploy its members to maintain order at the forum. The programme producer also notifies the North Point Police Station of the discussion topic and the guest list of the programme in advance so that the police can deploy the necessary manpower as the situation requires to patrol the area outside the forum.

To facilitate the production of the programme, RTHK staff fence off the forum with mills barrier so as to separate the audience inside from the spectators outside the forum. If necessary, RTHK will arrange vehicles to pick up the guests at the end of the forum.

In recent years, in view of the fact that some spectators may get agitated when expressing their opinions, RTHK has employed security guards who will escort the departing guests if necessary.

On the recommendation of the police, RTHK expanded the fenced-off area two months ago to facilitate crowd control. Following the incident on 23 May, RTHK has sought the consent of the management of the Victoria Park to allow vehicles to be driven directly to the pavilion, that is, adjacent to the speaker platform, so that guest speakers can board the vehicles and leave right away at the end of the programme.

RTHK will continue to work closely with the police and adopt effective measures to ensure the safety of the guests as well as the smooth and orderly proceeding of the programme.

**MISS EMILY LAU** (in Cantonese): *Madam President, City Forum has become a symbol for freedom in Hong Kong. In his main reply the Secretary also said in 1999 alone there had been three cases of harassment of speakers. Some harassers even threw things at speakers among whom Members of this Council had been victims as well. Madam President, we can see that the only thing that can be done is to drive vehicles direct to the pavilion so that speakers, especially those speakers who are vulnerable to attacks, may leave by the vehicles as soon as the programme is over. Will the Secretary inform this Council whether this is the only measure that the Administration can take? What message will the Government be sending to the public? Harassers blatantly berate people without any fear of punishment but guest speakers have to dodge and disappear as soon as possible for fear of being attacked. Since we are living in a civilized society, should we not take some measures to tackle unruly behaviour?*

**SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING** (in Cantonese): Madam President, there are two sides to the issue. First, we need to see if the rights of those who attend the forum for free speech are guaranteed. Second, from the point of view of the organization, arrangement and conclusion of the programme, the events happened after the programme had ended. In general, such chaos will not occur when the programme is in progress.

**MISS EMILY LAU** (in Cantonese): *The Secretary has not answered my supplementary question. I believe our focus should not be solely on the time when the programme is in progress. The order before, during and after the programme is all part of the programme. As some guest speakers were attacked, I asked why the Government did not take some measures to ensure prospective speakers will not refrain from attending the programme for fear of being attacked. The Secretary has not answered my supplementary question at all.*

**SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING** (in Cantonese): Madam President, from the information we have obtained from RTHK, guests invited to speak on the programme had never considered declining the invitations because of the incidents. In addition, as I said in the main reply, the incidents did not occur during the programme sessions. The three unfortunate incidents all happened after the programmes had ended. The relevant staff at the scene had separated the speakers from the people on the floor. Furthermore, the fenced-off area has been expanded, so I do not believe there will be any problems of order or security, especially when RTHK and the police have close co-operation.

**MISS MARGARET NG** (in Cantonese): *I think the thrust of the problem is whether such attacks will cause some people to refrain from speaking freely. We note that recently people who hold views different from those of the Government were attacked. Since our concern is that people may refrain from making their views known for fear of attacks, will the Secretary inform his Council what difference there is between incidents happening during or after the programmes?*

**SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING** (in Cantonese): Madam President, first, as I said we certainly do not wish to see people — speakers or those on the floor — who attend the City Forum being scared away from the programme. Second, facts show that no guest speakers contacted by RTHK have declined invitations to speak because of the incidents. Moreover, we need to accept one fact, which is that Victoria Park is a public place and there is nothing RTHK can do to control people outside the precinct under its charge. RTHK is only responsible for

order within the precinct for which it is responsible so that the programme can proceed smoothly. It is open to question if RTHK should do something to control people's free expression of opinions outside its precinct.

**MISS MARGARET NG** (in Cantonese): *Madam President, the Secretary stressed the fact that the incidents occurred after the programmes had ended, not when they were in progress. My supplementary just asked what difference there was. That the Secretary has not answered.*

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

**SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING** (in Cantonese): Madam President, I have stressed time and again that the question today focuses mainly on the City Forum hosted by RTHK. I have explained those parts that warrant an explanation. I have no comments to add.

**MR ALBERT HO** (in Cantonese): *Madam President, the question today is not on the Information Technology and Broadcasting Bureau or RTHK under it. What we are asking is how the Government can ensure that order is maintained during and after the programme to protect guest speakers from attacks or threats of attack so that they would not be embarrassed or harassed. However, what we see in the main reply is that the Government said there were only three incidents and the situation is not too bad. But my past experience in attending this programme has been that on a number of occasions as I left after the programme my car was either spat on or knocked with hard objects. The Secretary did not take these incidents into account but they did occur every time. Madam President, my supplementary question is: Can the Government (including the Security Bureau) not do anything at all? Can it videotape the scene so that hooligans be made aware they may be prosecuted with the evidence? Will the Government not consider this?*

**PRESIDENT** (in Cantonese): Which Secretary would like to answer?

**SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING** (in Cantonese): Madam President, perhaps the Secretary for Security may respond later on the question of whether certain behaviour can lead to prosecution. However, I believe RTHK conducts the programme with a view to letting people freely express their divergent views. We need to accept that Hong Kong is a free and open society. People have the freedom of speech. In exercising this freedom, if one's behaviour is in breach of the laws of Hong Kong, one can expect enforcement action under Hong Kong laws. But as I said in the main reply, we had not obtained sufficient evidence to initiate prosecution in the three incidents mentioned.

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

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the police see the maintenance of order at the City Forum held at the Victoria Park very seriously. Before the programme commences on every occasion, the police will liaise with RTHK. In fact, in addition to 12 members of the Civil Aid Services, the police will deploy on every occasion at least one inspector, one sergeant and two police constables to the venue. If it is decided that the topic is likely to arouse heated debate (such as the programme on 23 May), the police will deploy an extra sergeant and two police constables to maintain law and order at the scene. Moreover, the police confirm to me that, if necessary, they may mobilize within a short time Police Tactical Units, emergency units or officers on patrol nearby to assist. A person who spits or stones another may be guilty of an offence against the person or in breach of security laws theoretically. In the past the police did not take prosecution action because the victims did not pursue the matter further and no one wanted to testify. If there is serious unlawful misconduct at the scene and a complaint is received and witnesses are forthcoming, the police are prepared to prosecute anyone who acts in breach of public security.

**MR ALBERT HO** (in Cantonese): *Madam President, a specific point I mentioned in my question was whether the Government will consider using video cameras to tape the scene. In rallies, we often see one or two policemen with video cameras.*

**PRESIDENT** (in Cantonese): Mr Albert HO, did you mention that in your original supplementary question?

**MR ALBERT HO** (in Cantonese): *Yes, I did.*

**PRESIDENT** (in Cantonese): You did? Fine. Secretary for Security.

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, as I said, the police will liaise with RTHK beforehand to see how it should deploy its staff and what steps to take in the maintenance of order on that day. The nature of the topic at the City Forum on the respective Sunday will be examined to see if it is likely to cause unrest. If trouble is likely to appear, the police may consider further action, including the step suggested by the Honourable Member.

**MISS CYD HO** (in Cantonese): *Madam President, in second paragraph of part (a) of the main reply, it was said that the police had not instituted any prosecution concerning these incidents given that the guest speakers concerned decided not to pursue the matter. But as the Honourable Albert HO said many people there spat, in breach of the Public Health and Municipal Services Ordinance. Did the Urban Services Department take the initiative to prosecute the spectators there for spitting?*

**PRESIDENT** (in Cantonese): Secretary for Information Technology and Broadcasting, or Secretary for Security?

**SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING** (in Cantonese): Madam President, I think neither I nor the Secretary for Security can answer. The deployment of manpower by the Urban Services Department to deal with cases in breach of the Public Health and Municipal Services Ordinance are beyond our ambit.

**MISS CYD HO** (in Cantonese): *Madam President, can I ask through the Secretary the Urban Services Department to provide a written reply? Moreover, will RTHK consider inviting officer of the Urban Services Department to be present?*

**SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING** (in Cantonese): Yes, I can do that. (Annex I)

**MR MARTIN LEE** (in Cantonese): *Madam President, has the Government considered the fact that guest speakers, including me, may want to be interviewed after attending the City Forum, or take the Mass Transit Railway in a peaceful manner, instead of having to hop into a car to get away?*

**SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING** (in Cantonese): Madam President, guests are absolutely free to choose whether or not to use cars provided by RTHK. In the past, many guests chose to walk to leave the forum, instead of taking the car provided by RTHK.

**PRESIDENT** (in Cantonese): Last supplementary.

**DR YEUNG SUM** (in Cantonese): *Madam President, has there been a significant change in the above situation before 1997 and after?*

**SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING** (in Cantonese): Madam President, we have not done an analysis on the pre-1997 and post-1997 situation. The programme started since 1980. It has been in existence for more than 10 years. Whatever the topic, we can see lively discussions at the scene. There may be some who chose to express their views in their own ways outside the forum. But we have not conducted an analysis by contrasting the situation before and after 1997.

**DR YEUNG SUM** (in Cantonese): *Would the Secretary conduct an analysis*

*later and then provide a written reply to this Council?*

**SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING** (in Cantonese): Madam President, I would like to know what exactly it is that the Honourable Member wants us to analyse.

**DR YEUNG SUM** (in Cantonese): *Madam President, my request is a simple one. I hope the Secretary can list in the form of a table figures about the complaints received in respect of the behaviour of the attendants.*

**SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING** (in Cantonese): Fine. (Annex II)

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

(Question 2 was withdrawn)

### **Acid Rain**

3. **MR GARY CHENG** (in Cantonese): *Madam President, it is reported that 63% of the areas in Guangdong Province has been marked by the relevant mainland authorities as acid-rain control area. Besides, according to the results of tests conducted on the Mainland, acid rain accounts for more than 50% of the total rainfall in the Pearl River Delta Region. In other words, out of every 100 rainfalls, over 50 are acid rain. In this connection, will the Government inform this Council whether:*

- (a) *it knows if Hong Kong has been included in the acid-rain control area and the percentage of acid rain in the total rainfall in Hong Kong in each quarter of the past three years;*
- (b) *it has conducted any studies on the main causes of acid rain in Hong*

*Kong and the reasons for the increasing frequency of acid rain; and*

*(c) it has any plans and measures to deal with the problem of acid rain?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Madam President,

- (a) Acidity of rainfall is expressed in pH numbers. Acidic water has a pH value less than 7 and alkaline water has a pH value larger than 7. Because of the presence of carbon dioxide and other gases from natural sources such as volcanic activities, natural rainfall is slightly acidic and has a pH value of around 5.6. It is therefore a common practice to consider rainfall having a pH value below 5.6 as acid rain. Due to emissions from power generation and all kinds of fuel burning activities, rainfall is usually more acidic in populated areas, commonly with pH values between 4.5 and 5.6. The normal international practice is to report acid rain levels in terms of their acidity on an annual average basis. The annual average acidity of rainfall in Hong Kong was pH 4.7 in 1996, pH 4.7 in 1997 and pH 4.3 in 1998. In the first quarter of 1999, the average acidity of rainfall was pH 5.0. The average acidity of rainfall collected in each quarter of the past three years is given at Annex.
- (b) Sulphur dioxide, and to lesser extent oxides of nitrogen, are the main contributors to acid rain. They are emitted from power plants, industrial activities as well as motor vehicles, marine vessels and aircraft. Formation of rainfall involves water vapour travelling often over hundreds or even thousands of kilometres in the atmosphere. Hence the acidity of rainfall in Hong Kong is affected by human activities over large areas in the region. Our acid rain phenomenon is directly related to the development of economic activities such as power generation, industrial emissions and use of motor vehicles in Hong Kong and cities in the Mainland.
- (c) A major means in reducing acidity in the rain is through a reduction in the emissions of sulphur dioxide and nitrogen oxides. Between 1992 and 1997, we have adopted a wide range of measures which helped to reduce the emissions of these pollutants. These

measures include, for example, banning the use of high sulphur fuels, using natural gas for power generation, and installing gas desulphurization system and low nitrogen oxides technology on existing coal power units. As a result, the total amount of sulphur dioxide emitted was reduced by 54% from 175 000 tonnes in 1992 to 80 500 tonnes in 1997, and nitrogen oxides emitted was reduced by 44% from 221 000 tonnes in 1992 to 123 000 tonnes in 1997.

We are also working with Guangdong on a joint study looking into the sources of air pollution in the Pearl River Delta Region. Acid rain is one of the issues to be addressed. We intend to work out joint action plans to effectively control and reduce the regional air pollution problem. This will help reduce acidity in our rain water.

Annex

Average acidity of rainfall in Hong Kong  
in each quarter from 1996 to 1998

<i>Year</i>	<i>1st quarter</i>	<i>2nd quarter</i>	<i>3rd quarter</i>	<i>4th quarter</i>
1996	pH 4.3	pH 4.7	pH 4.7	pH 4.3
1997	pH 5.0	pH 5.0	pH 4.8	pH 4.1
1998	pH 4.0	pH 4.8	pH 4.2	pH 4.1
1999	pH 5.0	-	-	-

**MR GARY CHENG** (in Cantonese): *Madam President, from the Secretary's reply, we know a major cause of acid rain is power generation. Will the Government inform this Council whether there is adequate control on power plants which emit gases causing acid rain? In future, will the Administration consider the acid-rain issue when plans such as power generation by natural gas are implemented?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (Cantonese): *Madam President, it has been a major task of the Government to minimize pollutants, including sulphur dioxide, emitted from power plants. As*

the Honourable Member has put it, pollutants emitted from power plants are a main cause of acid rain. In this respect, the Environmental Protection Department does conduct periodical checks on power plants and keep a close watch on the progresses made in the control of pollutant emission. We expect to have a reduced emission of sulphur dioxide and nitrogen oxides if in future we generate power on an extensive scale by using natural gas.

**MISS CHRISTINE LOH:** *Madam President, I believe that the Secretary has given us an impression that acid rain is not something that Hong Kong needs to worry about. Thus I would like to ask him whether the Government has been collecting evidence of acid rain causing damage to the vegetation, ecosystem, buildings and monuments in Hong Kong. If yes, over what period, and if not, why not?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS:** Madam President, I think, actually, that impression was wrong. If we were not concerned about the effect of acid rain on water, crops, fishery, buildings and everything, we would not have monitored that situation so closely, nor would we necessarily have to put so much effort on the reduction of the emissions concerned. Clearly, acid rain affects the ecosystem. In the case of agriculture, it could reduce soil fertility, and in some cases of acute acid rain, it could even damage particular plants. Thus, we do actually regard reduction of acidity in the rain as a priority. And this is one of the subjects which we will focus on when going through the study with Guangdong.

**MISS CHRISTINE LOH:** *My question has not been answered. I asked specifically whether the Government has been collecting evidence of damage. If the answer is yes, I would like to see the result. If the answer is no, perhaps we need to have a more accurate picture of the evidence.*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS:** Madam President, if we are actually talking about crop loss, I am sorry to say that we do not have that nature of data. But research has been carried out on the effect of acid rain on, for example, the surface of buildings, and we do have documents on the effect of that on different types of surfaces, such as limestone, marble, sand and concrete. Thus, we do know the effect of acid rain at least on buildings.

**MR AMBROSE LAU** (in Cantonese): *Madam President, the last paragraph of the main reply mentioned a study conducted jointly with Guangdong. What is the timetable of that study and when is it expected to complete?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (Cantonese): *Madam President, the joint study with Guangdong will start in September this year and will last for about 18 months. It will be completed in late 2000 or early 2001.*

**MR JASPER TSANG** (in Cantonese): *Madam President, the Government provided the quarterly pH values in the Annex. But we cannot see from the Secretary's reply how the measures taken to reduce the emission of sulphur dioxide or nitrogen oxides have affected the values. Has the Government done an analysis on the causes leading to the changes in the pH values of rainfall in Hong Kong? How were the results in the Annex arrived at?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (Cantonese): *Madam President, the figures I provided, including the average figures for each quarter in the last three years and the first quarter in 1999, were taken in Hong Kong. As I said, there has been a reduction in the amount of sulphur dioxide and nitrogen oxides emitted by local power plants and other sources. But I also said in the main reply, acid rain may not be entirely due to Hong Kong itself. Sometimes, as a result of wind, it will be brought to Hong Kong from kilometres or hundreds of kilometres away. So, to address the problem of acid rain in Hong Kong, we must start with the whole of the South China area. Thus we need to co-operate with Guangdong.*

**MR LEE WING-TAT** (in Cantonese): *Madam President, if a pH value of 7 means neutral, the pH values in Annex show the rainwater in Hong Kong is almost like dilute sulphuric acid or dilute nitric acid. Will the Secretary advise schools to ask students to collect rainwater when it rains so that they can use it for experiments because it is acidic enough for many experiments, so that schools need not bother to purchase materials for that purpose?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS**

(Cantonese): Madam President, I will advise against that as there are other substances in acid rain. For the sake of comparison, the pH value of Coca-Cola is 2.4, acetic acid from rice wine 2.4, lemon juice 2.2 and apple juice 2.9. From the figures alone, the numbers I quoted do not mean the relevant fluids are highly acidic.

**MR LAW CHI-KWONG** (in Cantonese): *Madam President, my supplementary is similar to the one asked by the Honourable Miss Christine LOH. Since all pollution reduction measures involve cost-effectiveness considerations, will the Government consider the pressure Hong Kong suffers from the losses due to damages to the ecosystem and the economy because of acid rain?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS**

(Cantonese): Madam President, indeed we can use scientific methods to estimate from some samples the losses from which Hong Kong as a whole suffers. What we are facing now is not just the acid-rain problem. It is a range of issues such as air pollution, acid rain and others due to emissions from power generation and vehicles. If a study targets at acid rain only, it can only solve part of the problem. In addition to acid rain, other sources that can cause harm to people, diseases and economic losses should be our focus of attention as well.

**MR LAW CHI-KWONG** (in Cantonese): *I know there are ways to conduct the studies but what I was asking was whether the Government will conduct the studies.*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS**

(Cantonese): Madam President, indeed we can conduct such studies. I will discuss with my colleagues whether studies on acid rain alone can cater to the real needs of Hong Kong.

**DR RAYMOND HO** (in Cantonese): *In paragraph (c) of his main reply, the Secretary indicated that in 1992, the total emission of sulphur dioxide and nitrogen oxides was reduced by half as a result of some measures taken. But*

*the data in the Annex show that the acidity of rain increased substantially in 1998. Does that mean it was due to some external factors rather than local factors that caused a high acidity of the rainwater?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (Cantonese): Madam President, it may not be scientific to make conclusions from some simple data. As a whole, however, the gases from Hong Kong which can lead to acid rain has diminished. If the acidity of rainwater remains constant, there is only one possibility — the source is outside Hong Kong causing it. So, to solve the problem, we must work on the entire region.

**DR RAYMOND HO** (in Cantonese): *Madam President, the Secretary has answered from a theoretical point of view only. He did not say whether the problem was mainly due to an external source.*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (Cantonese): In fact, I have given an answer. I said to make a simple inference one may say that.

**PRESIDENT** (Cantonese): Last supplementary.

**MR CHAN WING-CHAN** (in Cantonese): *Madam President, as we are told Hong Kong is working with Guangdong on a joint study looking into the sources of air pollution in the Pearl River Delta Region and the issue of acid rain. Will the Government inform this Council what preliminary progress has been made with the study so far?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (Cantonese): Madam President, we will commence the study in September and we therefore have no data or progress of work to report.

**PRESIDENT** (Cantonese): Next question.

### **Two-way Permits**

4. **MR AMBROSE CHEUNG** (in Cantonese): *Madam President, in recent years, mainland China has become a major source of tourists visiting Hong Kong, and the tourists therefrom must obtain Two-way Permits (TWPs) issued by the relevant mainland authorities before making their trips to Hong Kong. In this connection, will the Government inform this Council:*

- (a) *of the number of TWPs issued by the relevant mainland authorities in each of the past three years; whether such figures exhibit an upward or downward trend; if so, whether it knows the reasons for that;*
- (b) *whether the daily numbers of tourists from the Mainland differ substantially before and after the delivery of judgments by the Court of Final Appeal (CFA) on the right of abode in Hong Kong of persons born in the Mainland to Hong Kong permanent residents; if so, of these figures and whether it knows the reasons for the differences in the figures; whether it has requested the relevant mainland authorities to tighten the criteria for vetting and approving such TWP applications and reduce the number of TWPs issued after the delivery of the judgments; if so, what the reasons and details are; and*
- (c) *whether it has assessed the number of persons who have the right of abode in Hong Kong according to the provisions of Article 24 of the Basic Law, among last year's tourists from the Mainland?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President,

- (a) Mainland residents may visit Hong Kong for sight-seeing purposes on TWPs under the Group Tour Scheme. As the TWPs held by Group Tour members are issued by the mainland authorities, we do not have statistics on the actual numbers issued. But we keep arrival statistics of Group Tour members. Their arrival statistics over the past three years are as follows:

<i>Year</i>	<i>Arrivals</i>
1996	245 840
1997	244 667
1998	281 421
1999	143 617

(January to May)

The number of Group Tour members visiting Hong Kong has been increasing after an expansion of the daily quota of the Group Tour Scheme from 1 142 to 1 500 in July 1998.

- (b) The Court of Final Appeal gave its judgment on two cases involving the right of abode issue on 29 January 1999. A comparison of the arrival figures of Group Tour members over a four-month period before and after that CFA judgment shows a steady arrival pattern overall. Details are as follows:

<i>Month</i>	<i>Arrivals*</i>
October 1998	24 016 (774)
November 1998	21 872 (729)
December 1998	29 618 (955)
January 1999	27 838 (898)
February 1999	38 046 (1 359)
March 1999	28 649 (924)
April 1999	25 015 (834)
May 1999	24 069 (802)

\* Figures in ( ) denote daily average.

The sudden increase in February 1999 was mainly attributable to the Lunar New Year holidays being one of the peak seasons for mainland tourists visiting Hong Kong. The arrival figures over March to May 1999 are also similar to those of the corresponding period in 1998 in terms of quota utilization rate.

The Immigration Department has always maintained close liaison with mainland authorities to minimize possible abuses of the Scheme, such as entry for illegal employment or overstaying. The Immigration Department is aware that, after the delivery of the judgment of the CFA, some mainland residents might wish to visit Hong Kong under the Group Tour Scheme to explore the possibility of lodging right of abode claims. We have drawn the mainland authorities' attention to such possible abuse but have made no specific request to the mainland authorities to reduce the number of TWPs issued under the Scheme.

- (c) We have not made any estimate of the number of persons who have right of abode (ROA) in Hong Kong under Article 24 of the Basic Law amongst the Group Tour members and other tourists who visited Hong Kong in 1998.

**MR AMBROSE CHEUNG** (in Cantonese): *Madam President, I would like to ask a follow-up on part (c) of the Secretary's main answer. With the present daily quota at 1 500, more than 500 000 people may visit Hong Kong under the Group Tour Scheme in one year. Judging from the trend in 1999, for the first time, we will have more than 300 000 people visiting Hong Kong in the whole year. May I ask the Secretary what measures the Administration will take to find out whether these Group Tour members have the ROA? If they apply for the ROA after arriving in Hong Kong, what vetting procedures does the Administration have to vet and approve their applications?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, quite a large number of mainland visitors come to Hong Kong every year. Apart from

those who join the Group Tour Scheme, there are visitors who come to Hong Kong to visit their relatives with other TWPs and a large number of visitors who come to Hong Kong on transit holding ordinary Chinese passports. More than 2 million people come to Hong Kong from the Mainland each year. Therefore, it is impossible for us to assess whether they are entitled to the ROA upon their entry, that is, at the crossings. For instance, if they come to Hong Kong holding a passport, they need not apply for a visa beforehand. So we would not be able to assess whether they have the ROA through the visa application procedure. When they enter Hong Kong at the crossings, the immigration officers will decide whether to allow them to enter according to the normal immigration procedures by assessing whether their purpose is sightseeing or whether it is to apply for the ROA in Hong Kong. In fact, it is generally not easy to judge at the crossings. In order to allow tourists to come and spend their money in Hong Kong and to avoid inconvenience at the crossings, the immigration procedures are usually completed very quickly.

If these people want to apply for the ROA in Hong Kong, they should know that under Hong Kong's immigration laws, they should make these applications in the Mainland in accordance with the Notice on the Application Procedures for the Certificate of Entitlement issued by the Director of Immigration. At present, since parts of the notice are nullified by the CFA judgment delivered on 29 January, there is no complete set of procedures for people from the Mainland to make application, which has given rise to litigation. After the Standing Committee of the National People's Congress has made an interpretation with regard to the ROA issue, we will announce the new application procedures as soon as possible. However, in principle, the mainlanders have to return to the Mainland and make their applications there.

**MR AMBROSE CHEUNG** (in Cantonese): *Just now, in answering my supplementary question, the Secretary did not indicate whether the Government could take measures to ascertain from the data submitted by the Group Tour members in their applications for TWPs whether they have the ROA.*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, we will alert the mainland authorities about the fact that visitors with TWPs may seek to apply for the ROA, so that they will pay attention to certain facts in issuing TWPs, such as the personal data of these persons, whether their parents are in

Hong Kong and whether they may seek to apply for the ROA after coming to Hong Kong. Since the lists of Group Tour members with TWPs are handed to us by the travel agencies, we would not have information on whether their parents are in Hong Kong. Last year, at the request of the travel industry, we cancelled the requirement for a Hong Kong guarantor. Therefore, we cannot ascertain from the information supplied by the travel agencies whether they will apply for the ROA in Hong Kong.

**MR ANDREW WONG** (in Cantonese): *Madam President, I heard it for the first time and then heard it again and again, that the Immigration Department and the Security Bureau appear to equate the TWP with the Group Tour Scheme, but in inverted commas. I would like to know how the Immigration Department and the Security Bureau understand the issuance of TWPs and whether there is any information showing that visitors with TWPs come to Hong Kong mainly to see their family, if not to reunite with them. Are there such figures?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, actually, TWPs can be categorized broadly into two main types. Under our arrangement with the Ministry of Public Security in the Mainland, one type is for visiting relatives. These visitors can stay up to three months. In issuing the TWPs, the mainland authorities mainly consider whether the applicants have relatives in Hong Kong whom they must visit. The other type is mainly for sightseeing purposes. The TWPs under the Group Tour Scheme were launched in 1982. Applicants for TWPs to join these Group Tours are not required to have relatives in Hong Kong. However, their stay in Hong Kong is shorter, from three to 15 days. Therefore, there are in fact two types of TWPs, one is for sightseeing and the other is for visiting relatives, whereby the latter allows a longer stay in Hong Kong.

**DR TANG SIU-TONG** (in Cantonese): *Madam President, according to the Government's main answer .....*

**PRESIDENT** (in Cantonese): Mr Andrew WONG, you are too late. Dr TANG Siu-tong, please continue.

**DR TANG SIU-TONG** (in Cantonese): *Thank you, Madam President. According to the Government's main answer, over 200 000 people come to Hong Kong each year. May I ask the Government approximately how many TWP holders have overstayed and resided illegally in Hong Kong?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the percentage of overstaying among Group Tour members with TWPs was 0.57% in 1996, 1.2% in 1997 and 1.79% in 1998. After we increased the quota so that more people can come to Hong Kong, the overstaying rate has slightly increased. However, on the whole, the overstaying rate is below 2%. It is not too high and has remained stable.

**PRESIDENT** (in Cantonese): Mr Andrew WONG, which part of your supplementary question has not been answered?

**MR ANDREW WONG** (in Cantonese): *Madam President, just now I asked whether the Group Tour Scheme is equivalent to the TWP. Should the Secretary not amend her answer?*

**PRESIDENT** (in Cantonese): Mr WONG, I think this is your personal opinion. You may not agree .....

**MR ANDREW WONG** (in Cantonese): *I would like to know if that is equivalent to the TWP. I want to ask if the Security Bureau .....*

**PRESIDENT** (in Cantonese): Mr WONG, the Secretary has already answered your supplementary question. You may not be happy with the way she answered it. But the Secretary did answer it.

**MR JAMES TO** (in Cantonese): *Madam President, I would like to follow up Mr*

*Andrew WONG's supplementary question. Actually, it is now quite clear. There are TWPs for visiting relatives and TWPs for the Group Tour Scheme. In the main answer, the Government said it did not have any figures on the numbers of TWPs issued, since they were issued by the mainland authorities. May I ask whether we have figures on the number of TWPs issued for visiting relatives? If not, it should be quite easy to obtain these figures from the mainland authorities. Since the public interest of Hong Kong is at stake, could we obtain these figures? Actually, we can see from these figures whether there is a substantial reduction in the number of TWPs issued.*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, with regard to entry of mainlanders holding TWPs, One-way Permits or passports, there are basically two sets of figures. One set of figures is the number of permits issued by the mainland authorities. Those are their figures and we can obtain these figures from them. The other set is our immigration control figures, which are directly kept by us. Our figures might not tally with the figures of the mainland authorities, since people with visas might not come to Hong Kong and there is a time lag between the issue of permits and their arrival in Hong Kong. Therefore, in answering questions, we mainly use the figures kept by us.

**MR JAMES TO** (in Cantonese): *The Secretary did not say whether we have their figures on the number of TWPs issued in order to ascertain whether there is a substantial reduction in the number of TWPs issued.*

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

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I do not have the figures with which we can compare the numbers of TWPs issued by the Mainland to see if there is a huge reduction. I do not know whether Mr TO implies in his question that many people did not come to Hong Kong after they had obtained a TWP. I do not think that is likely the case. In my view, a more accurate way of looking at this is to see whether the quotas have been used up. Actually, the annual quotas are not used up over the years. In this year, for example, only about 58% of the daily quota of 1 500 is used.

**MR HOWARD YOUNG** (in Cantonese): *Madam President, from the figures supplied by the Secretary, it is clear that the daily quota of 1 500 is far from being exhausted. That is why the tourist industry has repeatedly questioned why the tours cannot be handled by more travel agencies instead of just a few. May I ask the Secretary why these quotas are not allocated to more travel agencies? If my question is deemed irrelevant to the main question, I will rephrase it. Are these quotas not allocated to other travel agencies because of the concern that the number of overstayers will increase due to the ROA issue?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, first, let me that there are at present four agencies organizing these Group Tours. These agencies were not selected by the Government of the Special Administrative Region (SAR), but were authorized by the Mainland. Since the TWPs are issued by the mainland authorities, they have decided to allow these agencies to arrange the Group Tours for mainland residents. It is not up to us, but up to the Mainland to decide. Of course, if we are dissatisfied with these agencies or if we think that the number of agencies should be increased, we can talk to the mainland authorities.

We very much agree with Mr YOUNG that there should be more competition. That is why we reached an agreement with the Mainland last year to let one more travel agency organize the Group Tours. However, in terms of quota utilization rate, the new agency has the lowest utilization rate. This means that the quota utilization rate will not necessarily be higher if there are more agencies. Why is it that the new agency has a low utilization rate? One reason is that it is new and less experienced. Another reason is that it hopes to attract more customers from outside the Guangdong and Fujian provinces, especially from the big cities in the north. This agency needs some time to establish its customer network in these northern cities and has therefore a lower quota utilization rate. We have noted that their utilization rate is rising all the time. We will continue to pay attention to this issue and will talk to the mainland authorities about it.

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

**MISS CHOY SO-YUK** (in Cantonese): *Madam President, just now, in answering Dr TANG's supplementary question, the Secretary said that the overstaying rate is below 2%. May I ask how many people out of this 2% have overstayed for a longer period? What measures does the Government have to prevent the overstayers from overstaying in Hong Kong for a comparatively longer period?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I do not have information on the overstaying of Group Tour members with TWPs. However, compared to people with TWPs for visiting relatives, their period of overstaying is usually shorter. Those who come to visit relatives in Hong Kong, especially women, can hide themselves in some villages in the New Territories for a longer period of time. For those holding TWPs for sightseeing, their main purpose for overstaying in Hong Kong is illegal employment. After overstaying for a short time, they will be discovered by us. Therefore, their period of overstaying is shorter.

**PRESIDENT** (in Cantonese): We have spent more than 18 minutes on this question. Mr Andrew WONG, do you have a point of order?

**MR ANDREW WONG** (in Cantonese): *Madam President, the Secretary did not answer the second part of my first supplementary question. However, you forbade me from speaking and said it was too late. The second part of my supplementary question was about how many of these people who come to Hong Kong with TWPs have their "nuclear family members", that is, next of kin in Hong Kong. The Secretary did not answer this part of the question. I just wish to put this question on record. The Secretary needs not answer it.*

**PRESIDENT** (in Cantonese): Mr Andrew WONG, I believe you can follow this up through other channels. If Members think that their supplementary questions have not been answered by the public officers, they can rise immediately to so indicate. Just now, I could not wait for you to rise before calling on another Member to ask questions. Besides, since question time is rather tight, I wish to allow more Members to ask questions.

Next question.

### **East Rail Extension — Ma On Shan to Tai Wai**

5. **MR LAU KONG-WAH** (in Cantonese): *Madam President, regarding the Ma On Shan to Tai Wai rail extension project for the East Rail, will the Government inform this Council:*

- (a) *of the total number of written submissions that it has received which objected to the relevant scheme or any part of it relating to the project, broken down by the types of views expressed; whether it has analysed such views; if so, the results of the analysis; and*
- (b) *of the measures that it will adopt to ensure that the residents along the alignment of the rail extension, which is designed to be a viaduct alignment, will not be affected by noise after the completion of the project?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, the first part of the question is on the objections to the railway scheme. The Ma On Shan to Tai Wai Rail Link (MOS Rail) is one of the priority railway projects recommended in the 1994 Railway Development Strategy. Its alignment falls mainly within the railway reserve in Sha Tin and Ma On Shan to provide a convenient mode of mass transport mainly for those living in the eastern side of Shing Mun River. Most of the stations are hence within walking distance from the residential developments nearby.

The proposed scheme for the MOS Rail was gazetted under the Railways Ordinance on 26 March 1999. Sixty-seven objections to the scheme were received during the 60-day statutory objection period, of which eight are group objection cases involving 1 035 pre-printed letters of the same content. The objections can be broadly grouped into the following areas:

- (a) arrangements for interchanging onto the East Rail at Tai Wai station;

- (b) construction of another rail link from Ma On Shan to urban Kowloon; and
- (c) environmental impact of the viaduct design and the suggestion of using underground railway.

We have also received 47 letters from shop owners and residents in Ma On Shan, requesting early implementation of the MOS Rail.

Under the Railways Ordinance, the railway scheme and the unwithdrawn objections should be submitted to the Chief Executive in Council for consideration within nine months after the expiry of the 60-day objection period. Relevant government departments and the Kowloon-Canton Railway Corporation (KCRC) are now liaising with the individuals and groups who have lodged objections to the railway scheme to get a better understanding of their views. Interviews and site inspections will be arranged, if necessary, to explain to them the design, construction and operation of the railway. These procedures and arrangements are similar to those for the West Rail and the MTR Tseung Kwan O Extension.

The second part of the question is on the viaduct design and environmental impact. In the Government's feasibility study on the section of MOS Rail along Sai Sha Road different options have been examined, including viaduct, at-grade and underground. Having examined the traffic impact, the scale of land resumption required, the construction impact and the railway operational requirements, the viaduct design is considered to be most appropriate. The KCRC's proposal has selected the viaduct design on similar grounds.

The MOS Rail is a designated project under the Environmental Impact Assessment (EIA) Ordinance, irrespective of which design option is adopted. The KCRC is therefore required to carry out a detailed EIA study according to the statutory procedures and requirements. The EIA study, which has commenced since February 1999, should cover the noise and other environmental impacts of the railway construction and operation on the surrounding areas.

Under the viaduct design and operation arrangement, a number of noise abatement measures will be adopted to minimize the noise and other impacts of trains movements:

- (a) to use noise-absorbing linings and special vehicle skirts to reduce the noise from train movements;
- (b) to use tracks supported by rubber pads to reduced noise and vibration from train movements;
- (c) to install central noise barriers at the rail track; and
- (d) to install 1.2 m high noise barriers along the viaduct.

The KCRC will also consider taking a series of measures to minimize the visual impacts of the viaduct on the surrounding areas. These include landscaping along the rail alignment, minimizing the scale of noise barriers in terms of height and scope, and adopting superb designs for all ground-level structures, including their configuration, colour and finishing in order to blend harmoniously with the surrounding area.

**MR LAU KONG-WAH** (in Cantonese): *Madam President, I believe the Secretary will also agree that the reason why there are a large number of objection letters of the same content is that the residents concerned all share the same view, in particular, they all share the same view regarding the construction of a direct link between MOS Rail and urban Kowloon. The residents are of the view that the MOS Rail will be a white elephant if it could not be linked with urban Kowloon. Could the Secretary inform this Council of the progress of the investigation into the proposal to extend the MOS Rail to urban Kowloon; and of the possibility of implementing the proposal?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, the possibility is 100%. As I said before, the construction work of the MOS Rail is divided into two phases, with Phase I being the link between Ma On Shan and Tai Wai, and Phase II, the link between Tai Wai and Kowloon. Regarding the

alignment to Kowloon, there are two options, or two possibilities: one is a westbound alignment with West Kowloon as its terminus, another one is to extend to the southeast towards the direction of Diamond Hill. These two options for the Phase II development of the MOS Rail extension are now under active examination as part of the Second Railway Development Study. Why should the construction work be divided into two phases? As I have explained before, we believe the Phase I MOS Rail should be able to cater for the needs of both the existing and the projected population of Ma On Shan. If we should commence the construction of Phase II now, we would be making far too early a move taking into consideration of both the resources required and the practical needs concerned. In our estimation, the East Rail should be able to cater for the additional passenger needs arising from the MOS Rail till 2010.

**MRS MIRIAM LAU** (in Cantonese): *Madam President, in the first paragraph of the main reply, the Secretary said that the MOS Rail was meant to provide a convenient mode of mass transport mainly for those residents living in the eastern side of the Shing Mun River. I have recently attended a residents meeting held by those living in the eastern side of the Shing Mun River to listen to their views. In this connection, the residents there are opposed to the construction of the MOS Rail; besides, they are also very much resistant to the MOS Rail on the grounds that the Rail cannot provide them with a convenient mode of transport, the stations are not conveniently located, and that serious noise problems will also arise. In this connection, can the Secretary inform this Council of the ways to achieve the original aim of providing the residents with a convenient mode of mass transport, thereby convincing the residents to accept the MOS Rail?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, we have a two-pronged approach. Firstly, before the railway is completed, we will explain to the residents to enable them to understand the function of the proposed railway as a mode of mass transport. In this connection, apart from contacting the individuals and groups who have lodged objections and explaining the case to them, we will also keep up with our effort of explaining to the relevant district boards and local residents concerned regarding the coverage of the railway scheme, as well as the practical role the railway can play as a mode of transport. All these will be done beforehand, that is, before the completion of the MOS Rail. As for the approach after the completion of the MOS Rail, naturally, we can all see how the MOS Rail proves its usefulness.

**MR ANDREW CHENG** (in Cantonese): *Madam President, the residents in Ma On Shan indeed hold the MOS Rail in both love and hate. While the Secretary has made a 100% promise just now, Honourable Members have also referred to the objections raised by residents. What is more, the issue is currently complicated with noise problems. Since the Government has already invested a considerable sum of money in this railway which we consider as a thankless project, can the Secretary inform this Council whether he can undertake to expeditiously realize the 100% promise he has made in relation to the extension of the MOS Rail to urban Kowloon? Besides, can the Secretary inform this Council whether the Government will abandon its stubborn way of thinking and stop deferring the implementation of the railway scheme?*

**SECRETARY FOR TRANSPORT** (in Cantonese): *Madam President, I believe I have already made that undertaking regarding the 100% possibility for the construction of Phase II extension. As a matter of fact, the extension has already been included in the Second Railway Development Study which is now in progress. In this connection, the Second Railway Development Study is expected to be completed towards the end of the year the earliest, after that, the Government would need to conduct a series of discussion and consultation exercises before it could determine the order of priority for the next batch of railway construction works. If we should wait until all these procedures are completed, the construction work for Phase I of the MOS Rail would naturally need to be postponed. But we are now talking about completing the Phase I construction work in a few years. In view of the existing rate at which the population of Ma On Shan grows, we believe there is certainly a need for the provision of a new mode of mass transport.*

**MR HO SAI-CHU** (in Cantonese): *Madam President, points (c) and (d) of the sixth paragraph have both referred to the noise problem. As a matter of fact, the residents are generally very sensitive to noises and attach great importance to noise problems. On the other hand, the Secretary has also referred to the issue of landscaping, the original intention of which I believe has been breached, for it can hardly be possible to see any landscape after a 1.2 m high noise barrier has been constructed. In this connection, can the Secretary inform this Council of the way to strike a balance between the two needs? Can he tell us how he is going to resolve these two equally important issues?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, quoting the Honourable Andrew CHENG's words, this is really an issue of love and hate. By that I mean the noise barrier is loved and hated by the residents. The residents love it because it could block the noises; the residents also hate it, because a noise barrier would inevitably impact on the landscape. Actually, we may be able to strike a balance by using the right material to construct the noise barrier. It should be feasible for us to construct a transparent noise barrier which can let light through. As regards the height of the noise barriers, we may also erect noise barriers of different heights along the rail alignment in the light of the possible impact on the landscape. Basically, we aim at constructing noise barriers that are effective on the one hand, and will not overly impact on the landscape on the other.

**MISS EMILY LAU** (in Cantonese): *Madam President, can the Secretary inform this Council of the information he has received regarding the question of whether or not the residents accept the MOS Rail? This Council has also received some complaints lodged by residents in Ma On Shan. The impression we have gathered is that many Ma On Shan residents do not favour an alignment towards Tai Wai. I wonder if the Secretary has also received information in this connection. As regards the love-hate relation, does it imply that there are also many residents in support of the MOS Rail? If a great many residents are really opposed to the MOS Rail, why should the Government still waste such enormous public funds to construct the railway? Should the Government not wait until the railway could be extended to urban Kowloon to commence the construction work?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, as I have said in my main reply, we have received 47 letters from shop owners and residents in Ma On Shan, requesting an early implementation of the MOS Rail. These 47 letters are letters we have actually received, but I do not know if there are other residents who could not find the time to send us letters to indicate their support. As a matter of fact, we have learnt from our site visits that there are certainly a great many local residents who favour the early provision of a convenient mode of mass transport.

As I had explained before, and just now I have also explained that briefly, the MOS Rail will basically be extended to urban Kowloon in the long run, only

that we need to further consider the possible direct alignments to urban Kowloon as well as the priorities. If we should defer the Phase I construction work until the Phase II development is ready for commencement, how long do we need to wait, five years, 10 years, or 15 years? I really have no idea, for no timetable can be set until after a conclusion has been drawn from the Second Railway Development Study and been thoroughly discussed. If we should wait until then to construct the railway, then the rapid growing population of the area between Ma On Shan and Tai Wai would not be able to enjoy the service of a convenient mode of mass transport. However, if we proceed with the present plan, in slightly more than five years, that is, by 2004, residents in Ma On Shan will be able to take a convenient mode of mass transport to Tai Wai, and then change there for other modes of transport to go to the urban proper.

**DR TANG SIU-TONG** (in Cantonese): *Madam President, according to the Government, the alignment of the MOS Rail will fall within the railway reserve. In this connection, has the Government informed the property developers of the railway development when granting the land lots along the alignment, so that the developers would take into account also the noise pollution factor in designing their property developments?*

**SECRETARY FOR TRANSPORT** (in Cantonese): *Madam President, in regard to the alignment of the MOS Rail, the town planning schemes formulated in the '70s have already reserved land for railway development purposes. Since then, any developments involving the railway reserve would certainly have taken into account this factor at their planning stage.*

**PRESIDENT** (in Cantonese): *Last supplementary.*

**DR RAYMOND HO** (in Cantonese): *Madam President, I should like to follow up the supplementary raised just now. Since Ma On Shan is part of the Phase II Sha Tin Development, a corridor has already been reserved for the construction of a railway. However, the Secretary has referred to a need for land resumption in the main reply. In this connection, can the Secretary inform this Council of the scale of land resumption involved; and whether it can be*

*considered a case of maladministration, since part of the land required has not been reserved?*

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, as the land has been reserved since the '70s, the land resumption involved is in fact of a very limited scale only. Besides, I do not think we will encounter any specific problem in this connection.

**DR RAYMOND HO** (in Cantonese): *Madam President, my supplementary was on the size of the land to be resumed. I want to know the scale of land resumption required because the main reply has referred to a need for land resumption along the rail alignment.*

**SECRETARY FOR TRANSPORT** (in Cantonese): Madam President, the total land area we need to resume amounts to some 67 hectares, a large proportion of which are land lots belonging to the Government. We need to resume those land lots because the Government has rented them out on short-term tenancies.

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

### **Research Group Concerning China's Accession to WTO**

6. **MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, the Financial Secretary and the relevant Policy Bureaux have set up a research group to conduct in-depth researches on the opportunities and implications for the Hong Kong economy upon China's accession to the World Trade Organization (WTO) and liberalization of its market. In this connection, will the Government inform this Council of:*

- (a) the number and the names of members of the research group;*
- (b) the number of meetings held so far and the agenda of each meeting;*
- (c) the progress of the research, the expected time to complete the*

*research report and the cost involved in the group's research work?*

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President

- (a) The Financial Secretary is the chairman of the Research Group. Core members of the Research Group include representatives from the Financial Services Bureau, Hong Kong Monetary Authority, Information Technology and Broadcasting Bureau, Economic Services Bureau, Trade and Industry Bureau, Trade Department and Industry Department as well as the Central Policy Unit. The Research Group would also consult the Works Bureau; Planning, Environment and Land Bureau; Health and Welfare Bureau; Finance Bureau as well as Department of Justice from time to time in respect of individual professional services sectors.
- (b) Since its set-up in April, the Research Group has met five times. The Group is vigorously looking into the implications and opportunities for Hong Kong's businessmen and professionals across the range of liberalization proposals being contemplated by the Mainland, and what might be done to seize the potentially significant economic opportunities following China's accession to the WTO. The Group will also study how the Government could help the local business community, small and medium enterprises in particular, gain access to the mainland markets, thereby boosting the local economy as a whole.
- (c) Under the guidance of the Research Group, relevant bureaux and departments have been consulting with various major business organizations and professional bodies to better understand the present situation of how Hong Kong businessmen and professionals do business in the Mainland, their current operations, problems or difficulties facing the trade, and how they see the potential of the mainland markets. The Government will aim to inform and update the trade about China's market access commitments and liberalization measures as far as possible, so as to allow them to make their own assessment of the impact and potential opportunities that would be brought about to individual business sectors. The Research Group will also examine what the Government could do to facilitate the trade to further exploit the mainland markets. For

example, during his visit to Beijing in June, the Financial Secretary and members of the Research Group met with Minister LONG Yongtu of the Ministry of Foreign Trade and Economic Co-operation (MOFTEC) to achieve a better understanding of the progress in China's accession to the WTO. Both sides also had a useful exchange of views on the implications and opportunities brought about following China's accession. The information obtained through the visit is instrumental to the work of the Research Group.

Given the fact that China's accession exercise is still underway, the Research Group will continue to monitor developments closely, and inform the trade as and when we have more up-to-date information on China's offer. This is necessarily an evolving exercise.

This inter-departmental research does not involve additional costs to the Government.

**MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, in part (c) of the Secretary's main reply, it is said that the research is necessarily an evolving exercise. Will the Government inform this Council if the preliminary research has more merits than demerits, more demerits than merits, or as many merits as demerits?*

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, after a preliminary study, the Research Group believes that China's accession to the WTO will give Hong Kong businessmen a rare chance of investment and participation in the mainland economy in the short, medium and long terms. Therefore, there are certainly more merits than demerits. As Hong Kong businessmen have run business in the Mainland for many years, they know the mainland market very well and have established extensive contact networks there. In addition, Hong Kong has sound infrastructure, first-rate commercial and financial services and outstanding talents, and after China's accession to the WTO, Hong Kong will certainly continue to play an important role as an intermediary between the Mainland and the rest of the world, and it will have more opportunities to directly take part in the economic development of the Mainland.

We also note that the liberalization of the mainland market will surely bring new challenges because many foreign investors or companies can directly

take part in the development of the market economy of the Mainland. Hong Kong businessmen must continue to enhance their competitiveness and provide services of higher quality so that their position can be further consolidated for meeting new challenges after the mainland market has been liberalized.

To sum up, the pace of liberalization of the mainland market will increase after China's accession to the WTO and Hong Kong businessmen will have new opportunities. Therefore, there will surely be more merits than demerits.

**MR CHAN KAM-LAM** (in Cantonese): *Madam President, the Secretary has said that China's accession to the WTO will have more merits than demerits for Hong Kong. I believe Members will agree to this. But the problem is although we appraise highly of China's accession to the WTO, what happens is sometimes unpredictable. Recently, anti-Chinese sentiments in the United States have spread and even President CLINTON feels very anxious. We are not sure if China's accession to the WTO will be supported by the United States as expected, and it is uncertain if China will be able to accede to the WTO. Has the Government made a study in another direction and considered how we are going to cope with the material change and difficulty if China fails to accede to the WTO?*

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, I would like to make a few points on Mr CHAN's supplementary. First, at the summit conference recently held by eight industrial countries in Germany, the leaders of the eight countries reached a consensus that they hoped to promote China's accession to the WTO by the end of this year and they made an explicit statement for this purpose. Recently, we also note that the United States President and financial and trade officials have indicated once and again on different occasions that if the negotiations between China and the United States are fruitful, they will strongly support China's accession to the WTO by the end of this year. Therefore, we are confident of China's accession to the WTO by the end of this year.

The Research Group has paid close attention to the latest progress of the bilateral negotiations between China and other WTO members concerning China's accession to the WTO and it will inform the trade of the latest situation, consult them and make an evaluation. As we are confident of China's

accession to the WTO by the end of this year, we have been keeping abreast of the development of events. However, I would like to take this opportunity to say that China's accession to the WTO at the end of the year depends on two factors; first, the progress of the bilateral negotiations between China and other WTO members; second, the progress of multilateral trade activities of the Group for China's accession to the WTO. But on the basis of the consensus reached by the leaders of the eight countries and the statement made by the United States President and financial and trade officials, there is a good chance for China's accession to the WTO come to fruition this year.

Finally, the Central Government has said on different occasions that its liberalization policy will remain unchanged regardless of whether China can accede to the WTO. This point is closely related to the work of the Research Group because one of the key tasks of the Research Group is to examine how Hong Kong businessmen can make full use of and grasp this new opportunity of a liberalized mainland market.

**MR NG LEUNG-SING** (in Cantonese): *Madam President, in part (b) of the Secretary's reply, it is stated that the Research Group is vigorously looking into the implications and opportunities for Hong Kong's business community. What are the industries involved and will it evaluate the effects on the manufacturing industry?*

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, first, I would like to say that negotiations on China's accession to the WTO are underway and the scope and extent of liberalization in the end is still undetermined, but the Research Group will pay close attention to the progress of the negotiations. We are not sure about how Hong Kong will benefit from the liberalization of which industries. According to the information available to the Research Group, we have made special studies on and evaluated some industries including commodity trade, retail and wholesale, telecommunications, financial services, tourism, river trade and some professional services.

In respect of the manufacturing industry, cutting tariffs is a general measure which will benefit all WTO members, therefore, we have not made a detailed evaluation in this regard because all countries will be equally benefited.

**MR GARY CHENG** (in Cantonese): *Madam President, the election season of*

*the United States will come soon, otherwise, the Cox Report will not have been published; and China's accession to the WTO will likely be on the agenda of lobbyists of Congressmen. Has the SAR Government made efforts by various means such as through our resident offices to lobby Congressmen in respect of the beneficial effects of China's accession to the WTO? Simply speaking, has the SAR Government played an active or lobbying role in fighting for China's accession to the WTO?*

**PRESIDENT** (in Cantonese): Mr CHENG, your supplementary is not directly related to Mr YEUNG Yiu-chung's main question but the Secretary for Trade and Industry may have the relevant information on hand. Secretary, do you have information on the basis of which you can give a reply?

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, first, I would like to state that the SAR Government has always supported China's early accession to the WTO on different occasions. We took up the same position in Geneva where the WTO talks are held, and in the United States. The United States Congress is discussing whether it will continue to maintain normal trade relations with China. When our colleagues in the Washington Trade and Economic Affairs Office and the officials of the SAR Government concerned meet United States Congressmen, their assistants or the United States government officials, they will convey our views that the United States Congress should continually maintain normal trade relations with China.

**PRESIDENT** (in Cantonese): Last supplementary.

**DR LUI MING-WAH** (in Cantonese): *Madam President, in part (b) of the Secretary's main reply, it is stated that the Research Group will study how the Government can help the local business community gain access to the mainland market, thereby boosting the local economy as a whole. The Group has held five meetings so far and I would like to know the outcome. In particular, how can the industrial sector get government aid for developing the mainland market when Hong Kong develops high technology in future? How can the Government help the industrial sector now that many people in the sector have relocated their*

*business to the Mainland?*

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, I have said in my main reply that the Research Group is making some special studies focused on the services industries, and I have just given some examples of such industries. The Research Group will collect information before communicating with the sector, consulting their views and making evaluations. Although the production and manufacturing processes of the manufacturing industry are often completed in the Mainland while a lot of the complementary services are provided in Hong Kong, the Group is making a special study of the direct impact of China's accession to the WTO on industries providing such complementary services. Through the sector, we will be able to know the actual difficulties encountered by the people concerned when they operate or run business in the Mainland, and their views on prospects. We will share with them the relevant information we have obtained through various channels including the MOFTEC, and discuss with them about the actions that should be taken. We should prepare Hong Kong businessmen and the industry well to enable them to grasp the new opportunities.

**PRESIDENT** (in Cantonese): Question time shall stop here.

## **WRITTEN ANSWERS TO QUESTIONS**

### **Clinics for Climacteric Women**

7. **DR YEUNG SUM** (in Chinese): *It is reported that in May 1999 the Family Planning Association (FPA) of Hong Kong opened the first clinic for climacteric women in Hong Kong to provide services such as osteoporosis treatment and health screening. In this connection, will the Government inform this Council of:*

- (a) *the similarities and differences between the services provided by this clinic and those of the maternal and child health centres (MCHCs) and woman health centres (WHCs) under the Department of Health (DH), in tabular form;*

- (b) *the criteria adopted for planning health services for women, and whether it has any plan to provide more clinics for climacteric women, or include osteoporosis treatment in the services of WHCs and MCHCs; and*
- (c) *the reasons for its failure, up to now, to submit the paper on the review of health services for women, which, as indicated by the Secretary for Health and Welfare at the Legislative Council Meeting on 27 January 1999, the Secretary hoped to submit to the Legislative Council Panel on Health for consideration within a month of the above meeting?*

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

- (a) The services provided by the MCHCs and WHCs under the DH and by the clinic for climacteric women under the FPA are tabulated below:

Target clients	<i>Department of Health</i>		<i>Family Planning Association</i>
	<i>50MCHCs</i>	<i>3 WHCs</i>	<i>Clinic for Climacteric Women</i>
	Women of Reproductive age group	Women aged 45-64	Climacteric Women
Services:			
- Ante-/post-natal	Free	Not relevant	Not relevant
- Family planning	\$1 per visit	Not relevant	Not relevant
- Health education and conunselling	Free	Free	Free
- Physical examination	Free	Annual enrolment fee of \$310	First visit and annual visit at \$315
- Breast examination			Follow-up visits at \$135
- Urinalysis			
- Pelvic examination			

- Pap smear

Optional tests:

- Blood test	Free	Covered by annual enrolment fee	Itemized charges
- Mammogram	Not available	\$225	\$800-900
- Pelvic ultrasound	Not available	Not available	\$180
- Bone densitometry	Not available	Not available	\$400
- Endometrial biopsy	Not available	Not available	\$330
Medication	Available for pregnant clients. Contraceptive pills and injection provided to family planning clients	Not provided	Hormone Replacement Treatment (HRT) at \$50 per cycle

- (b) In planning health services, the DH will take into consideration various factors including demographic data, local demand for the services, and the current internationally recognized medical evidence on the effectiveness of the preventive health services.

Services as provided by the FPA's clinic for climacteric women are also available at the three WHCs of the DH. The Department has completed its review on the services in these centres, which covered the utilization rates, the target groups of clients, the nature and effectiveness of the services, and the feasibility of service expansion of the three centres. A number of recommendations have been made. The DH will keep in view local demand for the services for future development. The Department is actively planning the implementation of the above recommendations and currently has no plan to increase the number of WHCs.

As for osteoporosis, female clients are advised through Student Health Service and the MCHCs to build up their bone mass by having adequate dietary calcium intake and regular weight-bearing exercise. The WHCs of the DH also provide health counselling to women with emphasis on their common health problems, including osteoporosis. Female clients who have symptoms or signs of osteoporosis will be referred to the Hospital Authority specialists

for appropriate assessment and treatment.

- (c) The DH has completed the review on the services provided by the three WHCs of the DH and come up with a number of recommendations. These include the relaxation of the age limit for target clients, increasing the serving capacity of the WHCs and the integration of woman health services into the existing MCHCs by phases. The DH and Health and Welfare Bureau are actively planning the implementation of the recommendations. If Members are interested in the details of the review, the Health and Welfare Bureau is ready to submit the related papers to the Legislative Council Panel on Health Services for consideration shortly.

### **Employment Opportunities for Local Truck Drivers**

8. **MR LEE CHEUK-YAN** (in Chinese): *It is learnt that quite a number of transportation companies employ container truck drivers from the Mainland at lower wages to replace local truck drivers in undertaking cross-border transportation work. As a result, many local truck drivers are under threat of unemployment and wage cuts. In this connection, will the Government inform this Council:*

- (a) *whether it has formulated a policy and set a quota for the issuance of Hong Kong driving licences to such mainlanders; if so, the details of them;*
- (b) *of the number of Hong Kong driving licences issued to such mainlanders in each of the past three years;*
- (c) *of the current average daily number of cross-border trips made by mainland container truck drivers holding such driving licences; and*
- (d) *whether it will consider suspending the issuance of such driving licences to mainland truck drivers so as to protect the employment opportunities of and to ensure a reasonable amount of wages received by local truck drivers?*

**SECRETARY FOR TRANSPORT** (in Chinese): Madam President,

- (a) Cross-boundary container trucks are divided into two groups: those owned by Hong Kong-registered companies (Hong Kong container trucks) and those owned by mainland-registered companies (mainland container trucks).

Hong Kong container trucks which cross the boundary into the mainland are subject to a closed road permit system but no quota is imposed on their number. All of the 13 000 Hong Kong container trucks which can demonstrate an operational need to cross the boundary may apply for a closed road permit for the purpose. The number of mainland container trucks that can cross into Hong Kong is regulated by a quota system jointly agreed by the Guangdong and Hong Kong authorities under the border liaison system. At present, there are some 400 mainland container trucks. The number of mainland container trucks has remained quite stable over the years.

Drivers of mainland and Hong Kong container trucks are required by law to be in possession of full Hong Kong Driving Licenses before they can drive on the roads in Hong Kong. As part of the conditions of the quota system, each mainland container truck can only be driven by a maximum of two designated drivers. These designated drivers are required to apply for driving test in Hong Kong and need to satisfy all the requirements specified by the Transport Department before they are issued Hong Kong Driving Licenses. There is no direct issue of Hong Kong Driving Licenses for container trucks to mainland drivers.

Mainland container truck drivers employed by the mainland companies have to obtain the necessary immigration clearance before they can enter Hong Kong and are limited to a stay of not more than seven days. They are permitted to drive only the respective mainland container vehicles for which they are the designated drivers. A valid Hong Kong Driving License will not in itself make them eligible for employment with Hong Kong-

registered companies as cross-boundary container truck drivers. We have no record of mainlanders being employed by Hong Kong companies as cross-boundary container truck drivers.

- (b) The number of driving licenses for container trucks issued to mainlanders over the past three years is as follows:

<i>Year</i>	<i>No. of driving licences issued to Mainlanders</i>
1996	152
1997	49
1998	100

- (c) The average daily number of cross-boundary trips by all container trucks is around 10 000. We do not keep separate statistics on the average daily number of cross-boundary trips made by mainland container truck drivers.
- (d) Please refer to the answer in part (a).

### **Setting Stringent Emission Standards**

9. **MR AMBROSE CHEUNG** (in Chinese): *The Hong Kong Special Administrative Region Government provided a loan of US\$1 billion to the Thai Government during the Asian financial turmoil in 1997. Now that the economy of Thailand has obviously improved compared to what it was during the financial turmoil, will the Government inform this Council whether it will consider asking the Thai Government to make early repayment of the loan; if so, of the procedure to be taken; if not, the reasons for that?*

**SECRETARY FOR FINANCIAL SERVICES** (in Chinese): Madam President, the loan of US\$1 billion to Thailand took the form of a currency swap facility from the Hong Kong Monetary Authority to the Bank of Thailand. It is part of a broad-based financing package organized by the International Monetary Fund

(IMF). Thailand utilizes the swap facility in parallel with and proportional to similar facilities from the IMF and other regional central banks, and needs to pay us market interest rates. Each disbursement to the Bank of Thailand under the swap agreement is to be fully repaid within five years of its initial drawing.

A unilateral request by Hong Kong for early repayment by the Bank of Thailand is not appropriate as it would be in breach of the terms of the swap facility that it is *pari passu* with those from IMF and other regional central banks.

### **Bad-debt Cases Under Special Finance Scheme for Small and Medium Enterprises**

10. **MR HUI CHEUNG-CHING** (in Chinese): *Will the Government inform this Council of the respective amounts of guarantees and facilities in respect of the present bad-debt cases under the Special Finance Scheme for Small and Medium Enterprises, and the respective percentages of such figures in the cumulative guarantees and facilities?*

**SECRETARY FOR TRADE AND INDUSTRY** (in Chinese): Madam President, the figures for bad debts of the Special Finance Scheme for Small and Medium Enterprises from its launch in August 1998 to 22 June 1999 are as follows:

- |     |   |   |              |
|-----|---|---|--------------|
| (a) | Number of default cases   | : | 10           |
| (b) | Total amount of government guarantee commitment in default cases      | : | \$11,550,000 |
| (c) | (b) as a percentage of the cumulative government guarantee commitment | : | 0.92%        |
| (d) | Total amount of facilities in default cases                           | : | \$23,100,000 |
| (e) | (d) as percentage of the cumulative facilities                        | : | 0.96%        |

## **Compensation Package of Business Operators Affected by Redevelopment Project**

11. **MR CHAN KAM-LAM** (in Chinese): *It is reported that some of the business operators at a site in Mong Kok under the management of the Urban Services Department (USD) have not accepted the compensation package offered by the relevant authorities and have refused to move out. As a result, a redevelopment project of the Land Development Corporation (LDC) has been delayed for several years, and the Corporation has incurred financial losses. In this connection, will the Government inform this Council:*

- (a) *Of the details for the compensation package; whether there is any plan to review the package; and*
- (b) *Whether it has assessed if there is maladministration on the part of the USD in handling the above incident?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): Madam President, on the basis of information provided by the USD and the LDC, the replies to the Honourable CHAN Kam-lam's questions are:

- In view of the hardship suffered by the stallholders in being displaced from the current cooked food market, the LDC has offered them *ex gratia* payment. The amount of *ex gratia* payment provided to the stallholders is a matter between the stallholders and the LDC. To facilitate the removal of the cooked food market, the Provisional Urban Council has offered the stallholders either a resite to a vacant stall in another cooked food market or the right to bid in a new cooked food market to be built by the LDC.
- The five stallholders concerned moved out on 15 June 1999 and the problem has been resolved.

## **Proposed Increase in Tai Lam Tunnel Tolls**

12. **MR LEE WING-TAT** (in Chinese): *It is reported that Route 3 (CPS) Company Limited plans to make an early application to the Government for increases in Tai Lam Tunnel tolls as the traffic flow at the tunnel is lower than*

*expected. In this connection, will the Government inform this Council:*

- (a) of the policies and principles to be followed and the major considerations in deciding whether approval should be given to the company's application for toll increases;*
- (b) given that the original estimates of traffic flow and annual net revenue made by the Government and the company are at variance with the actual situation due to changes in the economic environment, whether it will consider holding discussions with the company to review the projected traffic flow of Tai Lam Tunnel and adjust the estimated annual net revenue; and*
- (c) as there is evidence that the original estimates of traffic flow and income are at variance with the actual situation, whether it has formulated contingency plans for dealing with the situation in which the company's income still falls short of the target and cannot meet its loan repayment even with the toll increases?*

**SECRETARY FOR TRANSPORT** (in Chinese): Madam President, the Tai Lam Tunnel, which commenced operation in May 1998, is a "build, operate and transfer" (BOT) tunnel project. It is regulated within the framework provided by the Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Cap. 474), enacted in May 1995, and the Project Agreement, signed also in May 1995.

Under the Tai Lam Tunnel toll adjustment mechanism, toll adjustments are to be made in accordance with an agreed formula set out in the Ordinance. This mechanism is based on calculations that reflect a set of prescribed rates of return for the project over the franchise period, and is intended to provide greater assurance to the franchisee on the return of the project. In assessing any application for toll increase, the Government's main task is to ensure that all the technical requirements spelt out in the Ordinance and the Project Agreement, including the timing of submission and the compilation of financial figures, have been fully complied with. If all such technical requirements are fulfilled, the Government will be obliged to allow the application.

In the Ordinance, the minimum and maximum estimated net revenue levels are specified for each year throughout the franchise period. There are also a total of three anticipated toll increase dates, the first one being 1 January 2003. Under normal circumstances, the Company will be able to apply for a

specified toll increase if the net revenue is less than the maximum estimated net revenue for the relevant specified date. If traffic is so low in any year such that the actual net revenue falls below the minimum estimated net revenue specified for that year, the Company can apply for an advancement in toll increase. Should traffic volume be unexpectedly high in a particular year resulting in the actual revenue exceeding the maximum estimated net revenue specified for that year, the Company is required to transfer the surplus to a "Toll Stability Fund" which can be used as a reserve fund to defer or avoid advancing a specified toll increase.

The various estimated net revenue figures that are set out in the Ordinance have been pre-determined in accordance with the terms of the Project Agreement. Such terms, which also include the original estimates of traffic flows or the estimated net revenue projections, are binding on the Government and the franchisee and the Government cannot unilaterally alter them. There is no provision in the Ordinance or the Project Agreement for the re-negotiation of the terms.

The Government has so far not received any application from the franchisee for a toll increase.

The current average daily patronage for the Tai Lam Tunnel is 39 000 vehicles. While this is still much lower than the original forecast, the patronage figures have to be interpreted against a very volatile economic situation since the tunnel began operation. As the franchise period is 30 years, and the tunnel has been in operation for just over a year, it would obviously be inappropriate to speculate about the financial viability of the project or to talk about contingency plans. The Government will nevertheless monitor the situation closely and will continue to work closely with the Route 3 (CPS) Company Limited to explore ways of promoting the use of the tunnel.

### **Impact of Industrial Disputes on Economy**

13. **DR LUI MING-WAH** (in Chinese): *The industrial dispute occurring in an airline in Hong Kong has affected Hong Kong's trade and industry as well as tourism. In this connection, will the Government inform this Council whether:*

- (a) *it will formulate contingency measures to reduce the losses caused by industrial disputes to the economy of Hong Kong; if so, of the measures formulated; if not, the reasons for that; and*
- (b) *the key industries in Hong Kong, such as the aviation industry, may be required to have a certain proportion of local employees, so as to cultivate a sense of belonging among the employees of the industries concerned?*

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

- (a) The Labour Relations Ordinance (LRO), (Cap. 55) already provides an effective machinery to assist in resolving labour disputes. When a labour dispute is known to the Labour Department, it will immediately offer its conciliation service to the employer and the employees with a view to helping them to resolve the dispute promptly. If conciliation is unsuccessful, other dispute settlement procedures as provided for under the LRO, including special conciliation, mediation, arbitration and board of inquiry may be considered for resolving the matter.

The LRO also has provisions for contingency measures to tackle industrial disputes which are causing severe adverse impacts on the economy and other aspects of life in Hong Kong. Under that Ordinance, where the situation of an industrial action is such that an interruption is likely to occur in the supply of goods or the provision of services which might be gravely injurious to the economy of Hong Kong, seriously affect the livelihood of a substantial number of persons, create a serious risk of public disorder, seriously jeopardize the internal security of Hong Kong, endanger the lives of a substantial number of persons, or expose a substantial number of persons to serious risk of disease or personal injury, the Chief Executive in Council may order a cooling-off period of not more than 30 days which may be extended for another 30 days when necessary. During this period, all industrial actions have to be discontinued to facilitate further negotiation and conciliation. So far, there has been no need to invoke the

procedures of mediation, arbitration, inquiry or cooling off under the LRO in dealing with any dispute.

- (b) Hong Kong is a free and highly competitive economy. We do not consider it appropriate to require individual industry to employ a certain proportion of local employees, as employment of appropriately qualified staff is an important business decision which should be left entirely at the discretion of the industries or companies concerned. However, importation of foreign workers into Hong Kong is subject to the normal immigration procedures or the labour importation scheme as appropriate.

### **Safe Driving Training in lieu of Penalties**

14. **MRS MIRIAM LAU** (in Chinese): *It is learnt that some countries allow drivers who have been convicted of careless driving but have not caused casualties to opt for safe driving training in lieu of fines or incurring penalty points under the driving-offence points system, so as to enhance their awareness of road safety. In this connection, will the Government inform this Council whether:*

- (a) *it knows the details of this measure adopted by some foreign countries; and*
- (b) *it will consider introducing such a measure and implementing a relevant pilot scheme; if not, the reasons for that?*

**SECRETARY FOR TRANSPORT** (in Chinese): Madam President,

- (a) Driver Improvement Schemes (DISs) have been introduced in a number of overseas countries, such as the United Kingdom, the United States and Canada as measures to promote road safety. The approach taken by different countries varies. In general, these schemes provide for drivers who have committed certain types of minor driving offences to be allowed or required to attend driver improvement training programmes instead of being prosecuted or given penalties. Such training courses are usually provided by

private sector driving schools and automobile associations, but the course content, teaching standards and qualifications of professional instructors are approved and monitored by the Government. These courses provide training not only on driving skills but also on driving attitude and civic responsibilities as good road users.

- (b) We are considering the possibility of introducing such a scheme in Hong Kong. We hope to be able to come to a view before the end of the year.

### **Development of Second-generation Internet**

15. **MR SIN CHUNG-KAI** (in Chinese): *It is learnt that the Governments of the United States, Australia, Japan, Singapore and Thailand are actively promoting the development of broadband second-generation Internet. In this connection, will the Government inform this Council whether:*

- (a) *it will consider adopting measures to encourage the development of second-generation Internet in Hong Kong; if so, the details of these; if not, the reasons for that; and*
- (b) *it will consider providing funding to local universities and non-government organizations for conducting researches on the network technology for second-generation Internet; if so, the proposed procedure for making funding applications, if not, the reasons for that?*

**SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING** (in Chinese): Madam President,

- (a) The Internet 2 initiative, which aims at developing advanced Internet technology and applications, is a collaborative research and development project undertaken on a global basis by some universities and other organizations. The Government supports the participation of local tertiary institutions and organizations in this initiative. If these institutions and organizations require

funding assistance from the Government, we shall give active consideration to their applications under established funding mechanisms.

Second-generation Internet technologies are now at a research stage. Notwithstanding this, Hong Kong's expanding broadband infrastructure will provide a favourable environment for the wide adoption of second-generation Internet technologies locally in future. The Government's telecommunications policies will continue to ensure that Hong Kong maintains an environment that is conducive to investment so as to encourage telecommunications services operators to further develop the local broadband networks and to increase the capacity for external telecommunications in anticipation of the introduction of second-generation Internet services. Furthermore, as there are no restrictions on the types of technology to be adopted by the Internet Service Providers (ISPs), they can deploy second-generation Internet technologies as and when such technologies mature without prior approval from the licensing authority.

- (b) The Government will give active consideration to any applications from local universities and non-government organizations for funding assistance in conducting research on second-generation Internet technologies. Funding mechanisms include the Industrial Support Fund. Subject to the approved scope of the Fund, the proposed Innovation and Technology Fund is also a possible source of funding. In addition, the Research Grants Council will consider applications for funding assistance in research undertaken solely by local tertiary institutions.

### **Air Pollution Problem**

16. **DR DAVID LI:** *It is observed that the air pollution problem last winter was acute. In this connection, will the Government inform this Council of the actions it will take to alleviate the air pollution problem in the coming winter?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS:** Madam

President, we face two air pollution problems. First, street level air pollution mainly caused by the intensity of vehicle use in our dense urban environment. Second, visible ambient air pollution caused by emission sources in Hong Kong but is also affected by regional air quality problems.

In respect of the second problem, emissions from Hong Kong and from Southern China each affect the other's background air pollution. The influence of the cross boundary effects in Hong Kong is most noticeable during the winter months when the prevailing winds come northerly directions. This is generally the time when we record the highest levels of air pollution and poorest visibility.

In respect of the street level air pollution problem, a series of measures to reduce the emissions of the present vehicle fleet, in particular from diesel vehicles, are being taken. These include:

- (1) *New diesel vehicles:* all new diesel vehicles having to meet much tighter specifications than the old diesel vehicles they replace. Vehicles meeting the latest standards emit 80% less particulates and 53% less hydrocarbons and nitrogen oxides than pre-1995 vehicles. One significant measure for improving urban air quality is the replacement of buses of the China Motor Bus Company Limited (CMB). The latest planning is that 500 ex-CMB buses will be replaced by end of 1999.
- (2) *Taxis:* we are working to ensure that all taxis will switch from diesel fuel to liquefied petroleum gas (LPG) from end of 2000. In the interim, we are working with the trade to improve the standards of maintenance and to develop particulate traps that can reduce the particulate emissions by up to 20% from individual diesel taxis before they convert to the cleaner LPG.
- (3) *Buses:* the franchised bus companies have agreed to install diesel catalysts on some 2 000 buses that do not meet the latest Euro II emission standards. These can reduce emissions from individual vehicles by up to 50%. At the same time, the Transport Department is carrying out a major exercise to reduce the number of bus stops so as to reduce congestion, improve traffic flow, and thereby reduce emissions.

- (4) *Pedestrianization*: an action group has been set up to identify areas of the city that are badly affected by street level air pollution, and could benefit from pedestrianization or restricted access schemes. We will work together with the district boards and local communities to turn these ideas into practical schemes to reduce the exposure of citizens to street level pollution.
- (5) *Light diesel vehicles*: we are working with the Hong Kong Polytechnic University to develop particulate traps similar to those being developed for taxis for all categories of light diesel vehicles.
- (6) *Heavy diesel vehicles*: we will conduct a trial using suitable vehicles in the government fleet and the private sector to test out catalysts that can be used by different types of heavy vehicles. Subject to the findings of the trial, we would consider whether all suitable government heavy vehicles should be fitted with catalysts and encourage private transport operators to do the same.
- (7) *Cleaner fuel*: we have banned leaded petrol and required the most stringent motor diesel fuel in Asia. We are working to introduce ultra low sulphur diesel fuel initially for franchised bus fleet. We will also be exploring with the industrial sector to improve the standard for industrial diesel to match the present standard for motor diesel.
- (8) *Education*: major education efforts targeted at professional drivers and at the motor vehicle maintenance trade are being launched. We are also launching new programmes to educate every section of the community about what they can do to help tackle air pollution.
- (9) *Enforcement*: the police and the Environmental Protection Department (EPD) are stepping up action against smoky vehicles. The EPD is going to expand its smoky vehicle spotter scheme and the Customs and Excise Department is increasing enforcement against vehicles using illegal motor fuel and against suppliers of illegal fuel.
- (10) *New testing equipment*: the police have already been provided with

portable smoke meter for more effective on-street enforcement against smoky vehicles. Smoky vehicle testing centres for light duty vehicles will have new dynamometer testing equipment in September. Heavy vehicle dynamometers will be introduced in 2000.

- (11) *Legislation*: we will put to the Legislative Council within this year a proposal to increase the level of fixed penalty fine for smoky vehicle offences. We will also set out for public consultation later this year scheme to control over idling vehicles which fail to switch off their engines.
- (12) *Government taking the lead*: a series of measures are being adopted to improve the environmental performance of the government vehicle fleet. We will review the use of the fleet to ensure optimal use of existing vehicles. About 1 000 pre Euro I diesel vehicles will be replaced with Euro II or higher standard vehicles within three years. We will include environmental performance of vehicles as one of the assessment criteria for hired car contracts. Government fleet will be used to test out new technology vehicles.

These measures to contain street level emissions also will have effect on ambient air quality and visibility, but the extent of this effect depends upon other measures being taken to tackle local and regional air pollution. Within Hong Kong, emissions from power generation, industry and construction have all reduced significantly. Sulphur dioxide and nitrogen oxides emissions fell by 54% and 45% respectively between 1992 and 1997. However, the continuing development and urbanization of Hong Kong and Guangdong is putting pressure on air quality in the entire Pearl River Delta Region. Rapidly increasing air pollution emissions from sources such as motor vehicles, power stations, industries and construction activities are having serious adverse impact on both local and regional air quality. The Hong Kong Special Administrative Region Government is therefore working with counterparts in Guangdong to develop regional programmes to address these problems.

### **Collection and Disposal of Used Cooking Oil and Grease Trap Waste**

17. **MISS CHRISTINE LOH**: *Regarding the collection and disposal of used cooking oil and grease trap waste (collectively known as "the waste" below) in*

*Hong Kong, will the Administration inform this Council of:*

- (a) the quantity of the waste generated in Hong Kong in each of the past three years;*
- (b) the proper collection and disposal procedure in respect of the waste;*
- (c) the cost of disposing of each cu m of the waste at landfill;*
- (d) the expected lifetime of the temporary landfill for the waste and its plans for a permanent facility;*
- (e) the current number of licensed restaurants in Hong Kong, broken down by restaurant size and type of waste disposal facility;*
- (f) the average cost of disposing of the waste generated by a restaurant in the urban area;*
- (g) the current number of licensed collectors for the waste;*
- (h) the quantity of the waste collected by licensed collectors in each of the past three years;*
- (i) the methods used by the Environmental Protection Department (EPD) for detecting illegal disposal of the waste;*
- (j) the number of prosecutions instituted against licensed and unlicensed collectors in each of the past three years for illegal disposal of the waste; and*
- (k) the costs of maintenance works on public sewers and storm drains caused by illegal dumping of the waste?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS:** Madam President,

- (a) The quantities of used cooking oil generated from domestic

premises vary according to cooking habits and are discharged into the sewage system or disposed of as household waste. In the case of restaurants and food business, however, these premises are required under their licensing conditions to install grease traps for collection of oily and greasy substances. Some small restaurants mix their grease trap waste with other municipal solid waste. Consequently, we have not been able to compile accurate statistics on the quantities of the waste generated in Hong Kong.

- (b) Small quantities of the waste are normally collected manually from grease traps and mixed with other refuse for disposal at landfills. Larger quantities of the waste are usually pumped mechanically into special tanks by registered collectors and transported directly to the Interim Grease Trap Waste Treatment Facility (IGTWTF) in the West New Territories (WENT) Landfill. There, the oil and grease is extracted and mixed with fly ash before disposal at the landfill. The residual liquid is treated separately in the IGTWTF before being discharged into the sewer system.
- (c) Disposal of the waste at the WENT Landfill costs about \$140 per cu m.
- (d) The WENT Landfill is not a temporary landfill. The IGTWTF at the WENT Landfill is a temporary disposal facility for the waste until an incineration facility is commissioned or other reprocessing facilities are developed that can treat this waste. We are examining plans for the construction of Waste-to-Energy Incineration Facilities and Sludge Incineration Facilities which would be able to handle the waste in the long term.
- (e) The number of licensed restaurants is about 8 400. All restaurants are required under the licence conditions to provide grease traps of sufficient capacity and adequate number of refuse bins. These statistics, which are compiled by the Urban Services Department and the Regional Services Department, do not break down by restaurant size and types of waste disposal facility.
- (f) At present, disposal of the waste at landfills is free. From the information provided by the Director of Environmental Protection, private companies' collection costs range from \$1,000 to \$2,000

per trip in the urban areas. The level of charge depends on a number of factors such as the accessibility and size of the grease traps, and the time of collection.

- (g) Collectors of the waste do not require a licence. However, there are 39 collectors registered with the EPD. Registration enables collectors to deliver the waste to the IGTWTF at the WENT Landfill.
- (h) The amount of the waste that has been delivered to the WENT Landfill by registered collectors from 1996 to May 1999 is as follows:

<i>Year</i>	<i>Amount (tonnes)</i> <i>(Rounded to nearest 100)</i>
1996	23 500
1997	27 000
1998	40 000
Up to May 1999	24 300

- (i) The detection of improper disposal of the waste follows similar methods as for other environmental offences. The EPD's Local Control Office staff conduct regular unannounced inspections and patrols of blackspots and will take enforcement actions against collectors who have contravened the Water Pollution Control Ordinance (WPCO). The EPD also receives and takes action based on public complaints and intelligence collected from various sources.
- (j) As mentioned earlier, the collection of the waste does not require a licence. Prosecutions against contravention of the WPCO for discharging the waste illegally are as follows:

<i>Year</i>	<i>No. of prosecutions</i>
1996	0
1997	0
1998	6

Up to May 1999

13

- (k) All public sewers are regularly maintained and repaired. There is no itemization of costs which can be attributed to damages caused by illegal discharge of the waste.

### **Concessions for the Elderly**

18. **MR LAU KONG-WAH** (in Chinese): *Senior citizens, irrespective of their financial position, are entitled to half-fare concessions when taking franchised buses and to half-price tickets for general cultural and entertainment programmes organized by the two Provisional Municipal Councils. In this connection, will the Government inform this Council whether it will consider providing, for the elderly who are not recipients of Comprehensive Social Security Assistance, half-fee concessions or other forms of medical concessions and housing allowance for those who live alone; if not, the reasons for that?*

**SECRETARY FOR HEALTH AND WELFARE** (in Chinese): Madam President, the Administration has implemented the Senior Citizen Card Scheme (SCC Scheme) to foster respect for the elderly by encouraging the private and public sectors to provide price concessions or priority services for senior citizens. We are delighted to note that franchised bus operators and the two Provisional Municipal Councils have also joined in to promote respect for the elderly. More than 1 600 organizations, including public transport operators, government departments, private clinics and companies, have now joined the SCC Scheme.

At present, over 90% of the cost of services offered by general clinics, specialist clinics and hospitals in the public sector are borne by taxpayers. Moreover, under the Fee Waiver System of the Hospital Authority and Department of Health, medical fees are entirely waived for recipients of Comprehensive Social Security Assistance (CSSA). For non-CSSA recipients who have financial difficulties, medical social workers or doctors may arrange for reduction or exemption of their medical fees as necessary. We have no intention to change the existing arrangements.

Public rental housing is intended for those who are genuinely in need of housing, including elderly persons living alone. A number of priority schemes are in place to provide public rental housing for eligible elderly people living alone who have genuine needs. They may apply for public housing in their capacity as single elderly persons who will have priority over other ordinary applicants. (For these elderly persons, the average waiting time is four years and two years respectively for a one-person flat and a Housing for Senior Citizens unit/Elderly Persons Priority Scheme unit.) Elderly persons living alone who are affected by compulsory clearances are accorded priority for public housing if they meet the eligibility criteria. For special cases, the Housing Authority will work closely with the Social Welfare Department to arrange compassionate rehousing for the parties concerned.

To ensure a fair and reasonable distribution of public housing resources, tenants are generally required to declare their income and assets after having lived in public housing for 10 years. However, elderly tenants living alone are not subject to such a requirement. In the event of financial hardship, they may apply for 50% rent reduction under the Rent Assistance Scheme.

The Government will continue to foster respect for the elderly through publicity and public education. At the same time, the Social Welfare Department will actively promote the SCC Scheme to encourage more organizations to offer concessions to senior citizens.

### **Award of Honorary Degrees by Local Universities**

19. **MISS EMILY LAU:** *Regarding the award by local universities of honorary degrees to outstanding persons and the appointment of such persons as members of the governing councils, will the executive authorities inform this Council:*

- (a) *whether it knows if any such persons had made donations to the university concerned in the 36 months prior to being awarded such degrees in the past three years; if so, the names of such persons and the amount of donation in each case;*

- (b) *whether it knows if any such awardees referred to in (a) above were subsequently appointed as members of the universities governing councils or equivalent bodies; if so, the names of such persons; and*
- (c) *whether it has assessed if such persons referred to in (b) above are able to monitor the work of the universities concerned impartially?*

**SECRETARY FOR EDUCATION AND MANPOWER:** Madam President,

- (a) There are over 500 members currently serving on the governing bodies of the University Grants Committee-funded institutions. On checking separate records of Council membership and honorary degree recipients as well as information on donations to institutions, we note that only three of these serving members are honorary degree recipients who have also made donations in their personal capacity to the institutions concerned within 36 months before receiving the degrees. However, it is not considered appropriate by the Administration and the institutions concerned to disclose the names of these persons and the amount of their donations as this is a matter between the donors and the institutions.
- (b) and (c)

None of the three persons referred to in (a) above was appointed as new member to the governing bodies concerned subsequent to the award of their honorary degrees. They had all been first appointed to the relevant governing bodies before they received the degrees.

## **BILLS**

### **First Reading of Bills**

**PRESIDENT:** Bills: First reading.

## **STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 1999**

**CUSTOMS AND EXCISE SERVICE CHILDREN'S EDUCATION TRUST FUND BILL****LINGNAN UNIVERSITY BILL****ADAPTATION OF LAWS (NO. 18) BILL 1999****SUPPLEMENTARY APPROPRIATION (1998-99) BILL 1999**

**CLERK** (in Cantonese): Statute Law (Miscellaneous Provisions) Bill 1999  
Customs and Excise Service Children's Education  
Trust Fund Bill  
Lingnan University Bill  
Adaptation of Laws (No. 18) Bill 1999  
Supplementary Appropriation (1998-99) Bill 1999.

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

**Second Reading of Bills**

**PRESIDENT** (in Cantonese): Bills: Second Reading.

**STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 1999**

**SECRETARY FOR JUSTICE** (in Cantonese): Madam President, I move that the Statue Law (Miscellaneous Provisions) Bill 1999 be read the Second time.

The Bill is part of the ongoing process of statute law reform directed at repealing obsolete statutory provisions, removing anomalies and inconsistencies in legislation and making a variety of minor improvements which do not justify the introduction of separate bills.

I will turn first to the provisions dealing with criminal matters.

At present, there are no statutory provisions governing what happens to an existing detention order, supervision order or recall order when a detainee in a Detention Centre, or a Drug Addiction Treatment Centre, or a Training Centre is further sentenced to one or other of the centres for a separate offence. Clauses 3 to 5 of the Bill clarify the appropriate treatment in such circumstances.

Clause 8 abolishes the "year and a day" rule which prevents a person from being convicted of the offence of homicide if the victim does not die within a year and a day after the injury was inflicted. This rule is no longer appropriate in the face of medical and technological advances made since it was first established.

Clauses 9 to 12 provide for amendments to the Mental Health Ordinance and the Hospital Authority Ordinance. These will ensure that, where evidence relating to a person's mental fitness is required, it is obtained from psychiatrists who are on the Specialist Register of the Medical Council, established in March 1998.

Clause 13 amends section 153A of the Crimes Ordinance, which relates to the closure of premises in respect of which certain vice offences have been committed on two occasions. The section requires warning notices to be published after a relevant offence has been committed for the first time. The notice must set out the text of certain sections of the Ordinance. The proposed amendment deals with the situation where more than one notice is published in the same issue of a newspaper and provides that the text of the sections need only be set out once.

Clause 14 removes a possible ambiguity in the present section 159E of the Crimes Ordinance, which abolished the offence of conspiracy at common law. The amendment will ensure that acts of conspiracy committed before the commencement of the section on 2 August 1996 may still be prosecuted, under the common law.

Clauses 25 and 26 amend the Transfer of Sentenced Persons Ordinance to allow inward transfer of persons who do not have any mental incapacity and who are sentenced for an indeterminate period. The current law does not cater for

this.

I now turn to other improvements not relating to the criminal law, beginning with property law.

At the moment, a mortgagor of an interest in land will be unable to repay the outstanding amount of the mortgage money if the mortgagee cannot be found, the mortgage documents are missing, or the date on which the mortgage should have been repaid is unknown. Clauses 6 and 7 amend the Conveyancing and Property Ordinance so that, in these circumstances, the amount outstanding under the mortgage can be paid into Court, and the Court may make an order declaring the property free from that particular encumbrance. This will facilitate the sale or development of the relevant property.

Clauses 17 to 24 amend the Audit Ordinance to empower the Director of Audit to delegate to directorate officers of the Audit Commission the duties or powers to certify and report on certain accounts. This would free the Director to perform more important audit work. In addition, legal backing is provided for the Director of Audit to audit suitors' funds held by specified courts and tribunals as well as specified funds which are not "public moneys" in the ordinary sense of these words.

Clauses 44 to 47 remove any doubt about the validity of 20 pieces of subsidiary legislation, that were inadvertently not laid before the Legislative Council. Fifteen of these are commencement notices appointing dates for the coming into operation of Ordinances, three are orders making minor amendments to legislation, and two pertain to changes in title of government offices and officers.

Clause 16 enable former judges of the High Court to be appointed to serve on the Post-Release Supervision Board and the Long-term Prison Sentences Review Board.

Clauses 27 to 39 reflect the change in the title of the former Child Care Centres Ordinance to "Child Care Services Ordinance" in various pieces of subsidiary legislation.

Clauses 40 to 43 amend various pieces of subsidiary legislation to reflect

the changes in name of a number of international organizations.

Clauses 48 and 49 make minor amendments to a number of Ordinances to ensure consistency of terminology and to ensure consistency between the Chinese and English texts.

Clause 50 repeals certain redundant legislation.

As I indicated earlier, this Bill is part of a continuing process of tidying up Hong Kong's statute law and effecting minor reforms.

Madam President, I commend the Bill to the Council.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Statute Law (Miscellaneous Provisions) Bill 1999 be read the Second time.

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

## **CUSTOMS AND EXCISE SERVICE CHILDREN'S EDUCATION TRUST FUND BILL**

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, I move that the Customs and Excise Service Children's Education Trust Fund Bill be read the Second time. The Bill seeks to establish a statutory fund to receive and apply donations made for the purpose of providing financial assistance for education for children of customs officers of Hong Kong.

The purpose of establishing the statutory fund is to set out the objects and applications of the fund and to impose strict regulation on its operation. In addition, the fund proposes that the Commissioner of Customs and Excise shall be the trustee of the fund. He shall exercise his duties as the trustee of the fund in his official capacity.

The Bill proposes that the benefactors of the fund shall be the children of the customs officers of the Hong Kong Customs and Excise Service. In line with other civil servants of similar grades and seniority, the customs officers enjoy children's education allowance provided by the Government. This allowance is paid out usually in the form of subsidies to tuition fees. The establishment of the fund will provide more assistance to the children of the customs officers and for their children who have special needs in education.

Such forms of assistance will usually be paid as scholarships and textbooks allowance. The establishment of the fund will help boost the morale of the customs officers and is welcome by the officers. Similar trust funds also exist for other disciplined forces in the Government such as the Police Force and the Correctional Services Department.

Madam President, may I take this opportunity to give a brief account of the main provisions of this Bill. First, we propose to set up a committee known as the Customs and Excise Service Children's Education Trust Fund Committee in order to regulate the operation of the fund. Second, the Bill provides for the incorporation of the Commissioner of Customs and Excise as the trustee of the fund. He is empowered to invest fund moneys in investments authorized under the Trustee Ordinance or otherwise recommended by the Investment Advisory Board. However, before any investment is made, prior approval from the Investment Advisory Board has to be sought. Third, with regard to the accounts of the fund, the Bill sets out that the trustee has the duty of keeping proper accounts and records of the financial situation of the fund for every financial year and to prepare annual statement of such accounts for submission to the Director of Audit. The audited statement of accounts and the report of the administration of the fund are required to be laid before the Legislative Council.

Lastly, we hope that a mechanism can be laid down through the enactment of this piece of legislation to enable the Hong Kong Customs and Excise Service to formally accept and apply donations for the purpose of education for the children of customs officers. I urge Honourable Members to support the Customs and Excise Service Children's Education Trust Fund Bill. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Customs and Excise Service Children's Education Trust Fund Bill be

read the Second time.

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

## **LINGNAN UNIVERSITY BILL**

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese):  
Madam President, I move that the Lingnan University Bill be read the Second time.

The Bill seeks to give effect to the retitling of the Lingnan College as "Lingnan University" and its adoption of a new internal governance structure.

The Lingnan College started to offer degree programmes in 1991, and became a fully publicly-funded tertiary institution in 1992. Under our established policy, the granting of university title to any of the non-university institutions funded by the University Grants Committee (UGC) would be considered when the following three conditions are met. First, the institution should accept the principle and terms of a differentiation of roles among UGC-funded institutions. Second, it should accept and implement a common basis of funding as applied to other UGC-funded universities. Thirdly and most important of all, it must attain self-accrediting status.

With its unfaltering effort to improve its academic quality and internal quality assurance mechanism over the past years, the Lingnan College attained self-accrediting status in September last year. As Lingnan College has fulfilled the three conditions mentioned above, it is considered appropriate to award university title to the Lingnan College.

Apart from retitling the Lingnan College as Lingnan University, the Bill also provides that, to be in line with the practice of other tertiary institutions, the internal governance structure of the future Lingnan University will consist of a Council, which is the executive body of the University, a Court, which mainly performs an advisory role, and a Senate, which is the supreme academic body of the University.

The Chief Executive is currently the titular head of the Lingnan College, and will continue to hold such a post in the future Lingnan University.

As the Lingnan College has been funded fully on par with other UGC-funded institutions, the award of university title to the College will neither incur additional government resources nor affect the existing basis for funding allocation among tertiary institutions.

The future Lingnan University will continue its mission to become an internationally recognized liberal arts university with Hong Kong characteristics. The institution has expressed its strong wish for the Bill to be passed within the current Legislative Session so that its 1999 graduates can enjoy the privilege of the university title. I hope Members can support the early passage of the Bill.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Lingnan University Bill be read the Second time.

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

## **ADAPTATION OF LAWS (NO. 18) BILL 1999**

**SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING** (in Cantonese): Madam President, I move the Second Reading of the Adaptation of Laws (No. 18) Bill 1999. The purpose of the Bill is to affect adaptations to certain Ordinances within the ambit of the Information Technology and Broadcasting Bureau to bring them into conformity with the Basic Law and with Hong Kong's status as a Special Administrative Region (SAR) of the People's Republic of China.

These Ordinances are: the Television Ordinance, the Telephone Ordinance, the Control of Obscene and Indecent Articles Ordinance, the Broadcasting Authority Ordinance, the Film Censorship Ordinance, and Outer Space Ordinance. We have added Schedule 8 to the Hong Kong Reunification Ordinance in respect of the Interpretation and General Clauses Ordinance to explain the principles upon which the interpretation should be made of laws of

the SAR which continue to be in force after the reunification to bring them into conformity with the Basic Law and with the status of Hong Kong as a SAR of the People's Republic of China. In addition, we need to amend certain terminologies in Hong Kong laws which are inconsistent with the Basic Law. The purpose of this Bill is to appropriately amend some inappropriate terminologies. The Bill also provides that subject to section 12 of the Hong Kong Bill of Rights Ordinance these adaptations when passed into law shall take effect retrospectively as from the date of the establishment of the Hong Kong SAR.

Madam President, in addition to bringing the abovementioned six Ordinances into conformity with the Basic Law and correctly reflecting the status of Hong Kong as a SAR, the Bill will also incorporate the relevant provisions in the Hong Kong Reunification Ordinance and the Interpretation and General Clauses Ordinance into the said Ordinances, which are thus made more comprehensive, obviating the need to make references to the two Ordinances in reading the six Ordinances. I would urge Members to support the the early passage of the Bill into law. Thank you.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Adaptation of Laws (No. 18) Bill 1999 be read the Second time.

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

### **SUPPLEMENTARY APPROPRIATION (1998-99) BILL 1999**

**SECRETARY FOR THE TREASURY:** President, I move that the Supplementary Appropriation (1998-99) Bill 1999 be read the Second time.

Section 9 of the Public Finance Ordinance states that "If at the close of account for any financial year it is found that expenditure charged to any head is in excess of the sum appropriated for that head by an Appropriation Ordinance, the excess shall be included in a Supplementary Appropriation Bill which shall be introduced into the Legislative Council as soon as practicable after the close of the financial year to which the excess expenditure relates".

The expenditure accounts for the financial year 1998-99 have been finalized by the Director of Accounting Services. The expenditure charged to 32 heads out of a total of 90 heads is in excess of the sum originally appropriated

for those heads in the Appropriation Ordinance 1998. In each head, the excess expenditure reflects supplementary provision approved by the Finance Committee or under powers delegated by it. The Supplementary Appropriation (1998-99) Bill 1999 seeks final legislative authority for the amount of supplementary provision approved during the year in respect of particular heads of expenditure by the Finance Committee or under powers delegated by it.

The total supplementary appropriation required in respect of the 32 heads of expenditure is \$4,788.4 million. In addition to the normal increases resulting from the annual pay adjustment and the inflation related adjustments to the Comprehensive Social Security Assistance and Social Security Allowance Schemes, the supplementary appropriation is largely attributable to two payments for which no provision was made in the original estimates. These were the second instalment of the compensation payable to the Hong Kong Telecom International of \$3,350 million for the early surrender of its telecommunications licence and the payment of a one-off grant of \$2,613 million to the Municipal Councils to compensate their loss in revenue as a result of the rates rebate in 1998-99.

Despite these two exceptional un-budgeted payments, total expenditure from the General Revenue Account was within the amount originally included in the Appropriation Ordinance 1998 as a result of savings in various heads of expenditure and the provision made for additional commitments in the original estimates for the year.

President, I hope Members will support the Supplementary Appropriation (1998-99) Bill 1999. Thank you.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Supplementary Appropriation (1998-99) Bill 1999 be read the Second time.

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

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

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the

Companies (Amendment) Bill 1999.

## **COMPANIES (AMENDMENT) BILL 1999**

### **Resumption of debate on Second Reading which was moved on 10 March 1999**

**PRESIDENT** (in Cantonese): Under Rule 21(4) of the Rules of Procedure, I have permitted Mr Albert HO, Chairman of Bills Committee on Companies (Amendment) Bill 1999, to address the Council on the Committee's Report.

**MR ALBERT HO:** Madam President, as Chairman of the Bills Committee on Companies (Amendment) Bill 1999, I wish to report to Honourable Members the deliberations of the Bills Committee. During the course of deliberation, a number of organizations have given valuable comments on the Bill, and I would like to take this opportunity to thank them, particularly the Hong Kong Society of Accountants and the Hong Kong Institute of Company Secretaries, for the assistance rendered.

The Bill seeks to amend the Companies Ordinance in order to provide the benefits of merger relief to companies in cases of mergers and reconstructions and to update and streamline the operation of the Ordinance.

Having examined the legal requirement relating to merger relief of major common law jurisdictions, the Bills Committee supports the proposed statutory accounting arrangements, whereby benefits of merger relief can be provided to companies undergoing certain acquisitions, mergers and reconstructions.

The Bill proposes that an application for deregistration of a company must be accompanied by a written notice from the Commissioner of Inland Revenue stating that the Commissioner has no objection to the company being deregistered. A new fee item of \$350 will also be introduced for issuing the notice. Members had questioned the need to obtain such a notice as there are already existing statutory provisions to safeguard the interests of creditors and other affected parties upon a company's deregistration. Furthermore, as it seems unlikely that an inactive company soon to be deregistered would owe a large amount of tax, Members had also questioned whether the benefit of having

such a requirement would justify the cost.

During the discussion with the Administration, the Bills Committee has noted that although there are existing statutory provisions to safeguard the interests of creditors and so on, the remedial actions to be sought could be both time-consuming and resource-consuming. These actions, which may involve making recourse to the court to redress the position, the lengthy process of reviving a company and taking action against its officers, will be at the expense of public money. The Bills Committee has sought an analysis of past cases of objections raised by the Commissioner of Inland Revenue against striking off of registration of companies and the cost analysis of the additional resources required for issuing the "no-objection" notice. After studying the relevant analyses, Members consider the need of the tax clearance requirement and the charge of \$350 justified. That having been said, I should mention that in the course of examining the Bill, the representative of the Inland Revenue Department undertook to issue a performance pledge to the effect that most of the applications for tax clearance (which I understand to be 80% to 90% of the applications) will be completed in 30 days.

The Bill proposes to add the new section "303B Protection of Registrar etc. where computerized information etc. is used". Members of the Bills Committee are dissatisfied that under the new section, the Registrar of Companies would not be liable for any error or omission of computerized information which he provides for the purposes of the Ordinance. The Bills Committee is particularly concerned that the Registrar would not even be liable for any tortious action such as gross negligence. Having checked corresponding provisions in section 23A of the Land Registration Ordinance and other similar provisions in other ordinances, Members are of the view that the other provisions do not protect government officers to such an extent. In response, the Administration has reviewed the relevant provisions in the Bill and will move appropriate Committee stage amendments to address members' concern.

The Bills Committee notes that the new section 48F(3) proposed under clause 5 of the Bill has the effect that the provisions of regulations made under this section shall prevail over the provisions in the Ordinance. Members find this unacceptable as the making of provisions in ordinances requires more elaborate scrutiny procedures by the Legislative Council than the making of regulations. Besides, regulations are subsidiary legislation to the Ordinance

and should not prevail over the latter. In response to the concern, the Administration has agreed to move an appropriate Committee stage amendment to delete section 48F(3) and to provide that regulations to be made thereunder will need to be approved by resolution of the Legislative Council.

The Bills Committee has examined the amendments to be moved by the Administration at Committee stage, including the amendments to address the Bills Committee's concerns and those technical amendments to rectify technical and drafting aspects of the Bill, and find them acceptable.

Madam President, on behalf of the Bills Committee, I seek the Council's support of the Bill and the Committee stage amendments to be moved by the Administration. Thank you.

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

(No Member indicated a wish to speak)

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): Madam President, the purpose of the Companies (Amendment) Bill 1999 is to update and streamline some provisions of the Companies Ordinance, including those on the arrangements for merger relief and the declarations on directors' particulars. New statutory procedures are also introduced, whereby solvent, defunct companies can apply for deregistration more easily. Besides, the Bill also proposes some other technical amendments.

Let me first thank the Bills Committee chaired by Mr Albert HO for its efficiency in completing the scrutiny of the Bill and its support for many of the Bill proposals. And, I must also make special mention of the valuable recommendations made by the Bills Committee during its process of scrutiny.

I also wish to thank the Hong Kong Law Society, the Hong Kong Institute of Company Secretaries and the Hong Kong Managers and Secretaries Limited for their comments on the Bill. In particular, I must thank the Hong Kong Society of Accountants, because when the Bills Committee was scrutinizing the provisions on merger relief, it assisted us a great deal in supplying professional and technical information to the Bills Committee. Following our discussions with the Bills Committee, and having considered the views of the organizations concerned, I shall move five amendments to the Bill later on. Two of these

amendments are made in response to the recommendations of the Bills Committee. The remaining three are mainly technical or consequential amendments. These amendments have all been scrutinized by the Bills Committee and have received their support. I shall give a detailed account of these amendments at the Committee stage.

During our discussions with the Bills Committee, Members expressed concern over the proposed statutory procedure for solvent, defunct companies applying for deregistration.

We understand that one of the key points is Members expect that all applications for a "no-objection" notice from the Commissioner of Inland Revenue can be processed by the authorities concerned as quickly as possible; they think that only this can achieve the original intent of providing a simple and quick channel for private companies to apply for deregistration when the need arises. We believe that the Registrar of Companies and the Commissioner of Inland Revenue will certainly work closely together to work out a set of procedures for this new service, so as to ensure that all applications can be processed in the most efficient manner.

The provisions of the Companies (Amendment) Bill 1999 have all been formulated to catch up with the pace of our commercial development, and their aim is to create a better business environment for Hong Kong. That being the case, I hope that Members will support the Bill and the amendments that I am going to move in a moment.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Companies (Amendment) Bill 1999 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): Companies (Amendment) Bill 1999.

Council went into Committee.

### **Committee Stage**

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

### **COMPANIES (AMENDMENT) BILL 1999**

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the following clauses stand part of the Companies (Amendment) Bill 1999.

**CLERK** (in Cantonese): Clauses 1 to 4, 6 to 24 and 28 to 44.

**CHAIRMAN** (in Cantonese): 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 5, 25, 26 and 27.

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): Madam Chairman, I move that clauses 5, 25, 26 and 27 be amended as set out in the paper circularized to Members.

Clause 5 of the Bill contains provisions on merger relief; under the proposed section 48(F), the Financial Secretary may make regulations to make provisions for relieving companies from the requirements of the proposed section 48(B) in relation to premiums other than cash premiums, or for restricting or otherwise modifying any relief from those requirements provided by new sections 48C and 48E. These regulations will enable us to make different provisions such as ancillary or supplementary provisions to suit the specific circumstances of individual cases, as well as making flexible arrangements in respect of relevant provisions in the principal Ordinance. Under our original proposal, where there is any conflict between any of the provisions of sections 48B and 48E and any of the provisions of regulations made under this Bill, the second-mentioned provisions shall prevail over the first-mentioned provisions.

In the course of its deliberations, the Bills Committee expressed the view that no express provisions should be set down to stipulate that the regulations made by the Financial Secretary shall prevail over other relevant provisions in case of conflicts. After careful and further consideration, the Government has agreed to amend section 48F(3), specifying that all relevant regulations made by the Financial Secretary must first be laid before and approved by way of resolution of the Legislative Council. This requirement is in line with the relevant merger relief provisions contained in the company law of the United Kingdom and the enabling provisions on making regulations in the existing Companies Ordinance.

The amendment to clause 25 is made in response to the recommendations of the Bills Committee. First, it proposes a textual amendment to section 303B(1) proposed in the Bill, specifying the legal protection accorded to a relevant person who commits an error or omission in the course of providing a service or information involving computerized information. The amendment also proposes to add a new section 303B(1A) which states that the legal protection accorded to relevant person shall not in any way affect any liability of the Government in tort for the error or omission made. The amendments to clauses 26 and 27 are made in response to the request of the Hong Kong Law Society. Sections 322(3)(g) and 328(2) concern the winding up of registered and unregistered companies. The respective references to the respective legal

liability of husband and wife should have been repealed when section 175 of the Companies Ordinance was repealed years ago. The present proposed amendment seeks to address this omission and improve on the drafting of this particular provision.

Thank you, Madam Chairman.

*Proposed amendments*

**Clause 5 (see Annex III)**

**Clause 25 (see Annex III)**

**Clause 26 (see Annex III)**

**Clause 27 (see Annex III)**

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

**MR ALBERT HO** (in Cantonese): Madam Chairman, as I said earlier, the Bills Committee supports the various amendments proposed by the Government. However, I would like to reiterate that in deliberating on this Bill, the Committee found that two of its clauses involve some fundamental legal policy questions which, I believe, may affect other bills as well.

I would especially like to put this on record and to draw colleagues' attention to it. In this morning's discussion, there were two policies that I considered very unusual and against which the Committee had voiced strong objection. The first fundamental policy is to authorize the relevant government authorities to make subsidiary legislation under the Ordinance which will prevail over the principal legislation should any conflict arise. I consider this to be totally illogical and in contravention of general constitutional or legal principles. There is no way that a government official can be authorized to make subsidiary legislation on delegated authority that contradicts with or even overrides the principal legislation. Even if the Committee agreed to this, the Legislative Council cannot accept it since it would destroy the recognized constitutional

order, that is, subsidiary legislation must be subordinate to the principal legislation and there must be no conflict between them. I hope to draw colleagues' attention to this and that the Government will not allow similar provisions to appear in future draftings. Otherwise, if this Council inadvertently passes some legislation, many unnecessary legal disputes or litigation would rise.

With regard to the second fundamental legal policy, the Secretary also referred to it just now. It involves the fact that where computerized information is used, the Registrar of Companies shall not be liable for any errors, including, as I understood it at that time, errors such as negligence or tortious acts. I looked up other Ordinances immediately then and found that none of them were written like this. Thus, the scope of exemption in this provision is too wide. In my view, the Government should conduct an overhaul of all similar exempt clauses. While we would of course consider allowing such exempt clauses, the scope must be reasonable. I also hope that the provisions of all Ordinances would be consistent.

Due to our strong protest, the Government has agreed to amend the relevant provision to make it consistent with the provision in the Land Registration Ordinance. This means that the Registrar of Companies shall not be liable for any damages suffered as a result of errors other than those involving tortious acts and negligence. In other words, the Registrar of Companies will only be liable for his negligence or tortious acts. We consider this to be an appropriate policy. I hope that the Secretary will pass on these views to the Department of Justice so that it will pay attention to these policies in drafting legislation in future. Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): Secretary for Financial Services, do you wish to reply?

(The Secretary for Financial Services indicated that she did not wish to reply)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for Financial Services 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 motion passed.

**CLERK** (in Cantonese): Clauses 5, 25, 26 and 27 as amended.

**CHAIRMAN** (in Cantonese): 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 FINANCIAL SERVICES** (in Cantonese): Madam Chairman, I move that Schedule be amended, as set out in the paper circularized to Members.

The purpose of adding new paragraph 1A to the Schedule is to amend Schedule 1 of the Companies (Fees and Percentages) Order by specifying the relevant fees required to make an application to the Court under section 291AB of the Companies Ordinance. This is a supplementary consequential

amendment.

The addition of new sections 4 and 5 to the Schedule is a consequential amendment made to the Inland Revenue Ordinance for the purpose of introducing a new service to be provided by the Inland Revenue Department. Under subclause (3), the Commissioner of Inland Revenue may issue, upon request made by a person who applies for the deregistration of a private company under clause 22 of the Bill, that is, the proposed section 291AA of the Company Ordinance, a written notice stating that he has no objection to the company being deregistered.

The purpose of adding new section 88B to the Inland Revenue Ordinance is to empower the Commissioner of Inland Revenue to issue the said notice. In addition, I have also proposed to amend the Inland Revenue Ordinance by adding into it a new Schedule 11 which specifies the fee payable in respect of the said service. The fee is determined in accordance with the cost-recovery principle and is fixed at \$350 per application. The inclusion of the said requirement as well as the fee chargeable for the said new service have been submitted to the Bills Committee for consideration and have both received support from the Committee. Thank you, Madam Chairman.

*Proposed amendment*

**Schedule (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 amendment moved by the Secretary for Financial Services 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 motion passed.

**CLERK** (in Cantonese): Schedule as amended.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CHAIRMAN** (in Cantonese): Council will now resume.

Council then resumed.

### **Third Reading of Bill**

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

### **COMPANIES (AMENDMENT) BILL 1999**

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

**Companies (Amendment) Bill 1999**

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

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Companies (Amendment) Bill 1999 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): Companies (Amendment) Bill 1999.

**Resumption of Second Reading Debate on Bill**

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Adaptation of Laws (No. 7) Bill 1999.

**ADAPTATION OF LAWS (NO. 7) BILL 1999**

**Resumption of debate on Second Reading which was moved on 10 March 1999**

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Adaptation of Laws (No. 7) Bill 1999 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): Adaptation of Laws (No. 7) Bill 1999.

Council went into Committee.

### **Committee Stage**

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

### **ADAPTATION OF LAWS (NO. 7) BILL 1999**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Adaptation of Laws (No. 7) Bill 1999.

**CLERK** (in Cantonese): Clauses 1, 2 and 3.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedules 1 to 5 and 7.

**CHAIRMAN** (in Cantonese): 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 6.

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): Madam Chairman, I move that Schedule 6 be amended, as set out in the paper

circularized to Members.

The purpose of the Adaptation of Laws (No. 7) Bill 1999 is to effect adaptations to seven Ordinances and their subsidiary legislation relating to financial services, so as to bring them into conformity with the Basic Law and with Hong Kong's status as a Special Administrative Region of the People's Republic of China.

For the term "state or territory" used in the laws previously in force before the reunification to denote mainland China, Taiwan and Macau, there have been conclusions concerning its adaptation following the passage of the Adaptation of Laws (No. 5) Bill in late April. Therefore, what we are doing now is just to make some corresponding adaptations in this Bill on the basis of such conclusions.

Following the practice adopted in Item 19 of Schedule 8, Interpretation and General Clauses Ordinance (Cap. 1), we originally proposed to amend the reference to "state or territory" in sections 1, 2, 3, 9b and 10 of Schedule 6 in this Bill to read "state or place". But in the Adaptation of Laws (No. 5) Bill 1999 recently passed, the same term carrying the same meaning, that is, "state or territory", has been adapted to read "state, territory or place". So, in order to maintain uniformity among all ordinances and regulations, the Government now proposes to amend the reference to "state or territory" in the various items in Schedule 6 to read "state, territory or place".

Thank you, Madam Chairman.

*Proposed amendment*

**Schedule 6 (see Annex IV)**

**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 Financial Services 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 motion passed.

**CLERK** (in Cantonese): Schedule 6 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

**CHAIRMAN** (in Cantonese): Council will now resume.

Council then resumed.

### **Third Reading of Bill**

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

**ADAPTATION OF LAWS (NO. 7) BILL 1999**

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

Adaptation of Laws (No. 7) Bill 1999

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

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Adaptation of Laws (No. 7) Bill 1999 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): Adaptation of Laws (No. 7) Bill 1999.

**Resumption of Second Reading Debate on Bill**

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Adaptation of Laws (No. 14) Bill 1998.

## **ADAPTATION OF LAWS (NO. 14) BILL 1998**

### **Resumption of debate on Second Reading which was moved on 6 January 1999**

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Adaptation of Laws (No. 14) Bill 1998 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): Adaptation of Laws (No. 14) Bill 1998.

Council went into Committee.

**Committee Stage**

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

**ADAPTATION OF LAWS (NO. 14) BILL 1998**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Adaptation of Laws (No. 14) Bill 1998.

**CLERK** (in Cantonese): Clauses 1, 2 and 3.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedules 1 to 24.

**SECRETARY FOR HOME AFFAIRS:** Madam Chairman, I move that Schedules 1 to 24 be amended, as set out in the paper circulated to Members. The amendments are in line with that agreed by the Administration with the Bills Committee which examined the Adaptation of Laws Bill 1998.

It is proposed to amend the saving provisions covered by the present Bill by deleting the expression, "the rights of the Central People's Government or

the Government of the Hong Kong Special Administrative Region under the Basic Law or other laws", and inserting instead "the rights of the Central Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws". This proposal is made according to the text of item 10 of Annex 3 of the "Decision of the Standing Committee of the National People's Congress on Treatment of the Laws Previously in Force in Hong Kong in accordance with Article 160 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China".

Thank you, Madam Chairman.

*Proposed amendments*

**Schedule 1 (see Annex V)**

**Schedule 2 (see Annex V)**

**Schedule 3 (see Annex V)**

**Schedule 4 (see Annex V)**

**Schedule 5 (see Annex V)**

**Schedule 6 (see Annex V)**

**Schedule 7 (see Annex V)**

**Schedule 8 (see Annex V)**

**Schedule 9 (see Annex V)**

**Schedule 10 (see Annex V)**

**Schedule 11 (see Annex V)**

**Schedule 12 (see Annex V)**

**Schedule 13 (see Annex V)**

**Schedule 14 (see Annex V)**

**Schedule 15 (see Annex V)**

**Schedule 16 (see Annex V)**

**Schedule 17 (see Annex V)**

**Schedule 18 (see Annex V)**

**Schedule 19 (see Annex V)**

**Schedule 20 (see Annex V)**

**Schedule 21 (see Annex V)**

**Schedule 22 (see Annex V)**

**Schedule 23 (see Annex V)**

**Schedule 24 (see Annex V)**

**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 the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Schedules 1 to 24 as amended.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CHAIRMAN** (in Cantonese): Council will now resume.

Council then resumed.

### **Third Reading of Bill**

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

### **ADAPTATION OF LAWS (NO. 14) BILL 1998**

**SECRETARY FOR HOME AFFAIRS:** Madam President, the

Adaptation of Laws (No. 14) Bill 1998

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 Adaptation of Laws (No. 14) Bill 1998 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): Adaptation of Laws (No. 14) Bill 1998.

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

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Adaptation of Laws (No. 18) Bill 1998.

### **ADAPTATION OF LAWS (NO. 18) BILL 1998**

#### **Resumption of debate on Second Reading which was moved on 20 January 1999**

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Adaptation of Laws (No. 18) Bill 1998 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): Adaptation of Laws (No. 18) Bill 1998.

Council went into Committee.

### **Committee Stage**

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

### **ADAPTATION OF LAWS (NO. 18) BILL 1998**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Adaptation of Laws (No. 18) Bill 1998.

**CLERK** (in Cantonese): Clauses 1, 2 and 3.

**CHAIRMAN** (in Cantonese): 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 1.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedules 2 to 13.

**SECRETARY FOR HOME AFFAIRS:** Madam Chairman, I move that Schedules 2 to 13 be amended as set out in the paper circulated to Members.

The amendments are in line with that agreed by the Administration with the Bills Committee which examined the Adaptation of Laws Bill 1998.

It is proposed to amend the saving provisions covered by the present Bill by deleting the expression "the rights of the Central People's Government or the Government of the Hong Kong Special Administrative Region under the Basic Law or other laws", and inserting instead "the rights of the Central Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws". This proposal is made according to the text of item 10 of Annex 3 of the "Decision of the Standing Committee of the National People's Congress on Treatment of the Law Previously in Force in Hong Kong in accordance with Article 160 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China".

*Proposed amendments*

**Schedule 2 (see Annex VI)**

**Schedule 3 (see Annex VI)**

**Schedule 4 (see Annex VI)**

**Schedule 5 (see Annex VI)**

**Schedule 6 (see Annex VI)**

**Schedule 7 (see Annex VI)**

**Schedule 8 (see Annex VI)**

**Schedule 9 (see Annex VI)**

**Schedule 10 (see Annex VI)**

**Schedule 11 (see Annex VI)**

**Schedule 12 (see Annex VI)**

**Schedule 13 (see Annex VI)**

**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 the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Schedules 2 to 13 as amended.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CHAIRMAN** (in Cantonese): Council will now resume.

Council then resumed.

### **Third Reading of Bill**

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

### **ADAPTATION OF LAWS (NO. 18) BILL 1998**

**SECRETARY FOR HOME AFFAIRS:** Madam President, the

Adaptation of Laws (No. 18) Bill 1998

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 Adaptation of Laws (No. 18) Bill 1998 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): Adaptation of Laws (No. 18) Bill 1998.

**Resumption of Second Reading Debate on Bill**

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Adaptation of Laws (No. 14) Bill 1999.

**ADAPTATION OF LAWS (NO. 14) BILL 1999**

**Resumption of debate on Second Reading which was moved on 19 May 1999**

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Adaptation of Laws (No. 14) Bill 1999 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): Adaptation of Laws (No. 14) Bill 1999.

Council went into Committee.

**Committee Stage**

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

**ADAPTATION OF LAWS (NO. 14) BILL 1999**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Adaptation of Laws (No. 14) Bill 1999.

**CLERK** (in Cantonese): Clauses 1, 2 and 3.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedules 1 to 11.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CHAIRMAN** (in Cantonese): Council will now resume.

Council then resumed.

### **Third Reading of Bill**

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

### **ADAPTATION OF LAWS (NO. 14) BILL 1999**

**SECRETARY FOR HOME AFFAIRS:** Madam President, the

Adaptation of Laws (No. 14) Bill 1999

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

**PRESIDENT** (in Cantonese): I now propose the question to you and that is:  
That  
the Adaptation of Laws (No. 14) Bill 1999 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): Adaptation of Laws (No. 14) Bill 1999.

## **MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Members' motions. Two motions with no legislative effect. I have accepted the recommendations of the House Committee as to the time limits on speeches for the motion debates. The movers of the motions will each have up to 15 minutes for their speeches including their replies, and another five minutes to speak on the amendment. The mover of an amendment will have up to 10 minutes to speak. The mover of an amendment to an amendment and other Members will each have up to seven minutes for their speeches.

First motion: the Cox Report.

## **THE COX REPORT**

**MR LAU KONG-WAH** (in Cantonese): Madam President, I move that the motion as set out on the Agenda be approved.

**Mr LAU Kong-wah moved the following motion:**

"That this Council deeply regrets that the Cox Report, recently released by a special committee of the House of Representatives of the United States of America, made unsubstantiated accusations that China had stolen from the United States confidential information on military technology; these accusations involve Hong Kong Special Administrative Region (HKSAR) and have seriously affected the trade relations between China (including Hong Kong) and the United States and the exchange between the two peoples; at the same time, this Council supports the HKSAR Government's continuing to strictly enforce controls over the import and export of strategic commodities, and calls for the Mainland and Hong Kong to continue to actively promote cultural, technological, economic and academic exchanges with the people of the United States."

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr LAU Kong-wah as set out on the Agenda be approved.

Mr SIN Chung-kai will move an amendment and it has been printed on the Agenda. In accordance with the Rules of Procedures, this Council shall now proceed to a joint debate on the motion and amendment.

At this stage, I should invite Mr SIN Chung-kai to speak and move his amendment ..... Mr SIN Chung-kai has just arrived in this Chamber, therefore I now call on Mr SIN Chung-kai to move his amendment.

**MR SIN CHUNG-KAI** (in Cantonese): Madam President, I rise to move, on behalf of the Democratic Party, an amendment to the motion moved by the Honourable LAU Kong-wah in respect of the Cox Report. We have two main reasons for moving the amendment: firstly, we think that any discussion about the motion should be focused on Hong Kong; secondly, we think that there should be concrete proposals in the motion to respond to the Cox Report.

As a Special Administrative Region (SAR) of the People's Republic of China and under the "one country, two systems" arrangements, Hong Kong is a trade system independent of China, with independent customs services at the border with China, while Chapter 2 of the Basic Law clearly stipulates that the Central Government is responsible for all matters concerning the defence and foreign affairs of Hong Kong. When responding to and handling the Cox

Report, Hong Kong should advance arguments in its capacity as an international trading entity and customs territory and within the scope of its autonomy.

Mr ZHU Bangjiao, the Chinese foreign ministry spokesman publicly stated China's stance regarding the Cox Report at the press conference on 25 May, pointing out that "such sensational accusations are ridiculous in the extreme, are totally unsubstantiated and made with ulterior motives." The Cox Report concerns Sino-American relations, and the Central Government will continue to follow it up, and it is undesirable for us in the Hong Kong Legislative Council to take it into our own hands. Further, if foreign countries, the United States in particular, see that the Hong Kong Legislative Council discusses the Cox Report on the international plane of Sino-American relations, Hong Kong's image as a unique trading and customs entity under "one country, two systems" and "a high degree of autonomy" might be undermined, liable to produce adverse results despite our good intentions.

However, the import/export policies of Hong Kong to which the Cox Report referred do not fall within the scope of foreign affairs which are the responsibility of the Central Government. They are trade matters, rightfully to be handled by Hong Kong under the "one country, two systems" and "a high degree of autonomy" arrangements. Therefore, it would be more appropriate for the Hong Kong Legislative Council to discuss the Cox Report on the plane of Hong Kong-American trade relations.

Hong Kong must be concerned about and respond to the Cox Report for two main reasons:

- (1) Chapter 1 of the Report (page 48 in particular) alleges that Hong Kong, enjoying as it is under the Wassenaar Agreement less strict import/export controls from the United States and other signatory countries than those imposed on mainland China, has been used as a shipment centre to bring American technologies into China.
- (2) Paragraph 33 of the last chapter of Volume III of the Report proposes that the United States Congress should regularly monitor the adequacy of customs inspections at the Hong Kong-China border, and to study if Hong Kong should continue to be treated as separate from mainland China in import/export matters. This proposal poses enormous threats to Hong Kong. Irrespective of

the truth and credibility of the Report, such allegations and proposals could seriously affect Hong Kong and undermine its competitiveness.

Hong Kong and the United States have long been very important trading partners. In order to maintain the mutually beneficial relations in Hong Kong-American trade after the reunification, Hong Kong has been treated as separate from mainland China under the United States-Hong Kong Policy Act over many matters, especially trade matters, allowing Hong Kong to enjoy more lenient restrictions than China. Since the enactment of the United States-Hong Kong Policy Act in 1992, Hong Kong has enjoyed such preference, and has been given special treatment in this respect. That Hong Kong has its present international trade status that is different from China is one important factor in maintaining its competitiveness internationally.

In his motion, Mr LAU Kong-wah "calls for the Mainland and Hong Kong to continue to actively promote cultural, technological, economic and academic exchanges" indeed with admirable intentions, and has the support of the Democratic Party. However, such a call does not reach the crux of the issue. This is because Hong Kong should, in its capacity as an independent trade system, do its best proactively and positively in lobbying the international community and clarifying Hong Kong's position. The most important thing is to strive for Hong Kong to continue to enjoy restrictions more lenient than those applied to China over the import and export of foreign strategic commodities, so as to enable Hong Kong to continue to play a role in the international community that is unique and separate from China.

The present response of the Hong Kong Government is worth our support; more importantly, Mrs Anson CHAN, Chief Secretary for Administration, was in the United States last week to explain to and lobby American officials and members of Congress face to face. Though the Government has done some lobbying work, I still think that not enough has been done because the United States Congress has tabled a related bill with a view to restricting the export of high-speed computers to Hong Kong. And on 13 May, the House of Representatives already referred the bill to its International Relations Committee for scrutiny. The Hong Kong Government must continue its lobbying effort so as to prevent the approval of such bills that will do Hong Kong harm.

Hong Kong has always adopted the strictest international standards in the

control of import and export of strategic commodities. The two relevant pieces of legislation of Hong Kong meet the stipulations of the various international treaties and agreements on the control of strategic commodities. Any import and export of such commodities are subject to control under the Import and Export (Strategic Commodities) Regulations and the Weapons of Mass Destruction (Control of Provision of Services) Ordinance.

Hong Kong enforces these two pieces of legislation through a stringent licensing system to ensure that all strategic commodities are subject to inspection before their import into, and export or re-export from Hong Kong. While most countries control the export of commodities, and not import, Hong Kong controls both. It can be seen that here in Hong Kong we have a very strict regime of such control.

The Report alleges that the People's Liberation Army (PLA), because of its special position, can use Hong Kong as a transit centre. The Hong Kong Customs and Excise Department should discuss with the PLA and require PLA vehicles to be subject to inspection when they enter and leave Hong Kong so as to further show the international community how strict the Hong Kong Customs and Excise Department enforces the law.

If the United States tightens the restrictions on the export of high technology products to Hong Kong, hi-tech development in Hong Kong might be impeded, and the Cyberport project might also be affected. What is most worrying is that the United States, a signatory to the Wassenaar Agreement signed by 33 countries with the aim of controlling export of hi-tech products and strategic commodities to countries subject to its restrictions, such as terrorist or autocratic countries, could lobby other signatory countries to do likewise. Such restrictions would deal long-term and grave blows to the hi-tech development in Hong Kong. In fact, paragraph 12 of the last chapter of Volume III of the Report also criticizes the inadequacy of the Agreement, saying that the controls under the Wassenaar Agreement on the import and export of technologies are not tight enough. Therefore there is a need for the Hong Kong Government to continue to rigorously enforce the control on the export and import of strategic commodities, and to strengthen its lobbying efforts.

Hong Kong has been doing its utmost in recent years to encourage hi-tech

development, keenly promoting Hong Kong as the information technology centre of the Asian-Pacific Region as well as a hub of the Internet and e-commerce, so as to enhance Hong Kong's competitiveness in the information era. If the United States, or other countries, for that matter, imposes restrictions on the import of high technologies by Hong Kong, the pace of our scientific and technology development would be greatly slowed. Not only would Hong Kong see less exchange with the outside world in areas of academic and technology development, but it would be less able to attract foreign businessmen to invest in technology development in Hong Kong as well. By that time, the attraction of the Cyberport would also diminish, giving even less incentive for new companies to expand to Hong Kong. Even if some companies are still willing to invest here, the technology transfer restrictions imposed on Hong Kong by foreign countries will directly delay the acquisition of new technologies by Hong Kong, thus weakening Hong Kong's competitiveness.

If Hong Kong is subject to foreign restrictions over import of high technologies, Hong Kong will face a big obstacle in its development into a hi-tech information city. And Hong Kong will have no edge to compete in the international market when we enter the digital era.

Madam President, we must clarify and rebut the allegations in the Cox Report that Hong Kong is engaged in illegal transfer of military technologies; the aim is to protect Hong Kong's interest in international trade. This is a rather important issue. We must face it calmly; we must not evade the issue, or back down from tackling it; we must perfect our regulatory mechanism and must argue forcefully according to reason with the international community.

**Mr SIN Chung-kai moved the following amendment:**

"To delete "China had stolen" after "made unsubstantiated accusations that" and substitute with "Hong Kong had been used to steal and transfer"; to delete "; these accusations involve the Hong Kong Special Administrative Region (HKSAR) and have" and substitute with ", which may"; to delete "affected" after "seriously" and substitute with "affect"; to delete "China (including Hong Kong)" and substitute with "Hong Kong"; to delete "and the exchanges between the two peoples"; and to delete "calls for the Mainland and" and substitute with "urges the Government to vigorously explain to the overseas communities, particularly the United States Congress, the Import and Export Ordinance and stringent control

measures in Hong Kong, and to make efforts to ensure that Hong Kong will continue to enjoy the relatively lenient controls, as compared with the Mainland, over the import and export of strategic commodities; this Council also encourages".

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment moved by Mr SIN Chung-kai to Mr LAU Kong-wah's motion, be passed. We shall now proceed to a debate.

**MR MA FUNG-KWOK** (in Cantonese): Madam President, about the report released by the Cox Committee of the United States House of Representatives on 25 May, what can the people of Hong Kong say?

From a personal angle, I think nothing needs be said. Even though we are correct, there is no need to have any serious discussions with somebody who is not worth any serious attention over an issue that should itself be clear without any such discussions. Common sense of the ordinary readership will enable people to judge that the Cox Report falls into the category of those that are not even worth a rebuttal. However, it is interesting that American politicians, those of the Republican Party in particular, seem to believe to a great extent the ridiculous stories told in the Report. They have been putting on a great show to indignantly accuse China and the Chinese, including ethnic Chinese naturalized as Americans.

Madam President, I wish to look at the Cox Report from an angle concerning the interest of Hong Kong. The motion of Mr LAU Kong-wah points out that the Report accuses China and implicates Hong Kong, affecting trade as well as cultural and technological exchanges between Hong Kong and the United States, and undermining the economic and social development of Hong Kong. The matter might not be regarded as significant, but it has the potential of being blown out of proportion. It is natural that Mr LAU should suggest this Council express its regret. It merits our support.

In his amendment, Mr SIN Chung-kai deletes the words "and the exchanges between the two peoples" and to add "which may" before "seriously affect". Such an amendment seems to suggest that the Report does not have any adverse impact on non-governmental academic and technological exchanges,

or even rule out such possibility, serving to dilute the bad effects the Report has on Hong Kong. I hope that the Report is but a mere storm in a teacup. But the fact is, since the release of the Report, non-governmental exchanges between Hong Kong and the United States have been seriously damaged, and they are developing in an undesirable direction. We must not turn a blind eye to all these, nor should the Legislative Council remain silent.

Two academic bodies, namely, the "Hong Kong Association for the Popularization of Science and Technology" and the Society of Hong Kong Scholars, jointly wrote a letter to President CLINTON of the United States on 7 June calling him to re-affirm his policy of "encouraging academic exchanges, and supporting academic collaborations". In the letter it is mentioned that international academic exchanges in Hong Kong have been dealt a heartless blow by the Cox Report, that the Report has suddenly halted the lively and free atmosphere of academic exchanges originally existed in the United States, and that such phenomenon has extended across the Pacific Ocean to Hong Kong. Recently, visits by some Hong Kong scholars to certain national laboratories in the United States have been indefinitely postponed. Some American scientists who are expected to attend academic conferences in Hong Kong have also indicated that they might not be coming after all. Academic exchanges have indeed been affected.

Prof NG Ching-fai is unable to attend today's meeting. He told me that in the coming summer, international technological conferences planned by at least three universities, namely, University of Science and Technology, Baptist University and City University, met troubles because of the Cox Report repercussions. He cited two examples. One university that is organizing an international symposium on information technology that has nothing to do with national defence received calls from several American scholars inquiring if Hong Kong was safe; some simply said that it was not convenient for them to come. Another faculty member holding a Chinese passport who came from the electronics department of a Canadian university was frankly told by the visa authorities that he was "a subject of surveillance" when he applied to go to the United States. This is a case of presumed guilt before trial. I think it is straightly unimaginable that such things can happen in the present day, in the United States, in Hong Kong.

The amendment moved by Mr SIN Chung-kai obscures the fact that the

Report has inflicted harm on academic freedom in Hong Kong. Is the freedom of academic exchanges one of the basic human rights? We must jointly defend the freedom of academic exchanges to which both the people in Hong Kong and in America are entitled. Does the treatment of Mr LI Wenhe, an ethnic Chinese American, manifest the superiority of the American democratic system?

Madam President, the Chief Secretary for Administration visited the United States to explain to the United States Government and politicians that Hong Kong did not steal any military secrets from the States. What I think should be said was already said by Mrs Anson CHAN. However, some Americans are still vociferously clamouring that Hong Kong is no longer a simple international financial centre, nor is Hong Kong enjoying a high degree of autonomy. Therefore, we must seriously think, if we go to them and explain to them, ask them to come for inspections, or as the amendment suggests, eliminate all references to the word "China", cutting any and all connections with China, and tell the Americans, "Whatever you do to vilify China, we people of Hong Kong will not say "no"; what is important is that you believe we are innocent, that you continue to be nice to us", will the issue be thus resolved? I think, instead, we had better try to make out what actually has happened in the United States.

In response to the letter of the Hong Kong Scientific Association and the Association of Hong Kong Academics to President CLINTON, the American Association for the Advancement of Science, cited the words in the article of Mr I.A. LERCH, Chairman of its Committee on Scientific Freedom and Responsibility, published in the *Science* magazine, "Never since the McCarthy era has our government so severely restricted visits by scientists from countries that do not see eye to eye with the United States over foreign affairs, or prevented American scientists from visiting such countries, as it is doing today. Such acts threaten the scientific enterprise of the whole world, depriving it of its liveliness. We must remember that the International Council of Science, the world's highest non-governmental organization in science, has affirmed the cardinal principle regarding the universality of science, affirmed the freedoms of collaboration, expression, information utilization, communication and exchange by people in international scientific and technological activities. Even in the darkest days of the Cold War era, our government did not dispute that principle; and that made it possible for the scientists of the Soviet Union and the West to maintain exchanges, laying thereby the foundation stone for the disarmament agreements between governments."

Madam President, what an enlightening response of the American

Association for the Advancement of Science. We can see that the Cox Report represents a McCarthyist influence in the United States that is stirring up all the storms against China and ethnic Chinese. The Central Intelligence Agency, the Pentagon and the rightist factions within the Republican Party in the United States have never given up their Cold War mentality against China. Since the end of the Cold War, America, having lost its arch opponent in the Soviet Union, has thought that China is useless as an ally its global strategy. Against this panoramic background, the anti-Chinese powers that be within the United States have made China their imagined enemy, and the ashes of the American tradition against Asians have thus been re-ignited. The most unfortunate victim is Mr LI Wenhe. During the 1980s, when the United States learned that China had produced a small warhead similar to the W88 nuclear warhead of the United States navy, the American logic dictated that, "I have high technology because I am America; when you have it, you sure stole it." The CNN made a most penetrating remark, "The present case against Mr LI Wenhe is a typical witch-hunt, aiming only to look for a scapegoat." Mr LI Wenhe's is a typical case. Nowadays, many Asian scientists in America are feeling they are subject to discrimination and suspicion. Some scientists are told, "You must know that you have become a suspect in the laboratory!"

Madam President, I think that it is insufficient for us to claim our innocence today, nor will it help. The amendment of Mr SIN Chung-kai represents an attitude of "caring only for oneself", but it does not seem to be able to solve the problem. The motion of Mr LAU Kong-wah covers our country and our home city, but it is still not enough. I think that as an international metropolis, Hong Kong should unite with all the Chinese in the United States, support them, and also fight for justice on behalf of all Chinese scientists who have made contribution to America and the whole mankind, but who are treated unfairly.

These are my remarks, which also represent the views of Prof NG Ching-fai. Thank you, Madam President.

**MR AMBROSE LAU** (in Cantonese): Madam President, a commentary in the

*New York Times* remarked that though the Cox Report was an attempt at writing a first-rate spy story, as it turned out, it is no more than a thriller without any conclusion because of its illogicality. This absurdity of a publication has been queried by the mainstream media and various quarters in the United States.

Madam President, the Cox Report listed several types of nuclear weapons, namely, W56, W62, W70, W76, W78, W87 and W88, but their key design information and data were in fact revealed in American open publications long ago. For example, Volume I entitled *The America Nuclear Power and Capability of The Nuclear Weapons Handbook* published in 1983 in the United States and the *An Expose of American Nuclear Weaponry* published in 1988 described in a very specific manner many types of nuclear weapons. In recent years, basic information of American nuclear warheads has been compiled into long lists on the Internet, covering over 100 variants. The Cox Report has the temerity to call such information on American nuclear weapons, long available from publications and on the Internet, "American nuclear secrets stolen by China".

Madam President, the Cox Report, in addition to copying large quantities of public information, contains also fabricated accusations, such as the claim that China stole the American technology of making the electro-magnetic cannon that is capable of shooting down American satellites in space orbit and ballistic missiles. But such technological knowhow will not be mastered by the United States before 2012 at the earliest. That the Report regards the commercial navigation technology now used on Boeing 747 aircraft as the tiptop navigation technology in American weapon system stolen by China further demonstrates its scissors-and-paste characteristics.

Madam President, the Cox Report alleges that China has "all along" been stealing American nuclear secrets for the past 20 years. Such allegation is completely groundless. As early as 35 years ago in 1964, China successfully test-exploded its first atomic bomb when it was subject to American blockade and embargo. In 1970, China again succeeded in manufacturing "the two bombs and the satellite". Facts show that China has wholly relied on itself in developing its national defence capability. The intelligence and talent of Chinese scientists are universally recognized. The Cox Report claimed that China stole American technology for laser nuclear explosion simulation; but in reality, that particular technology was based on the idea of inertial controlled fusion of laser proposed by Mr WANG Jianchang, a scientist of China, in 1964.

Madam President, the Cox Report has in fact been completely rebutted.

The part involving the Hong Kong SAR has also been clarified by the SAR Government point by point. The spokesman of the People's Liberation Army (PLA) garrison in Hong Kong also explained the issue of PLA vehicles crossing border checkpoints. When Mrs Anson CHAN, Chief Secretary for Administration, recently visited the United States, she explained to American Congressmen, including Mr Cox, the strict control measures adopted in Hong Kong in respect of strategic commodities. The Cox Report has attempted to drag Hong Kong into the anti-China political whirlpool with a view to tightening the import by Hong Kong of high technology and strategic commodities. The emphasis of the Cox Report is on the alleged theft by China of American military technological secrets, with accusations that Hong Kong has been used for stealing and transferring American military technological secrets on the side. But as China has never stolen any American military technological secrets, how could Hong Kong be used in the process of stealing and transferring such secrets?

Madam President, the Cox Report was cooked up for a number of reasons: firstly, it involves the political fights between the two American political parties; secondly, it aims to extract concessions from China in the many bilateral negotiations, including that over the World Trade Organization; thirdly, it spreads the "Chinese threat theory" with a view to creating an anti-China counter-current and isolating China. In respect of the Cox Report, this Council supports the actions taken by the SAR Government in offering timely explanation to prove the innocence of Hong Kong, and also support the SAR Government's continued strict enforcement of import/export controls on strategic commodities to maintain first-rate international control standards. At the same time, we must also understand that the Cox Report represents mainly the demands of a small group of Americans deeply entrenched in the Cold War mentality. However, this will not stop the development of Sino-American and Hong Kong-United States cultural, technological, economic, trade and academic exchanges.

Madam President, I so submit.

**MR NG LEUNG-SING** (in Cantonese): Madam President, the Cox Report released by the special committee of the American House of Representatives has described in graphic details Chinese espionage activities in stealing American military technological information. However, the contents of the Report are very much vague and general, arguably lacking supporting material evidence. It is not surprising that public opinions have regarded the Report a tool in the political fights of American political parties.

The Cox Report places all normal activities in the fields of Sino-American trade, cultural and technological exchanges under suspicion. Examples are joint venture enterprises between Chinese and American companies, companies set up by or with investments from the Chinese in America, international academic conferences and exhibitions, and even students from China and ethnic Chinese scientists of American nationality. However, the whole Report is riddled with guesses based on hearsay or groundless judgments. For instance, the Report acknowledges on the one hand that in international business co-operation it is common to request transfer of technologies; it alleges, on the other hand, China uses joint venture enterprises to ask American companies to transfer technologies with a view to obtaining American military technologies. The Report says that according to the American Government and one private professional research organization, there are at most 20 to 30 Chinese companies with military connections operating in the United States, but arbitrarily states that over 3 000 companies have such connections or are engaging in intelligence gathering activities, the reason being merely that such companies use different names, making the job of identifying them very difficult. What is more, the Report vilifies Sino-American technological and academic exchanges, asserting that over 100 000 (Chinese) students studying in America are targets of recruitment as informers for the Chinese Government. But such accusations are not supported by specific cases and information.

Though the Report is lengthy, it is but a concoction of past hostile anti-China speculation in America, the evidence so quoted is nothing more than such past hostile guesses against China, being totally unsubstantiated. The analysis of the Chinese development of nuclear and missile technologies in the Report will not hold water either, and has already been rebutted with factual evidence by the Chinese Government spokesman at the press conference. The Report

also contains half-understood and misquoted information in relation to the development of military and related technologies. Even American broadcasting companies ran special programmes on this. Among them one quoted the words of an amateur German space technology researcher, "The Report contains several dozen mistakes of facts that can easily be identified by amateurs. This is quite disconcerting."

Madam President, the name of Hong Kong appears in the Cox Report no less than several dozen times. The conclusion of the Report even contains a paragraph to deal specifically with Hong Kong, urging the United States Government to rigorously monitor the import/export controls carried out by the Hong Kong Customs and Excise Department. But the Report obviously shows that its writers did not make any first-hand study of the legal control measures of Hong Kong on the import and export of military commodities, nor can they point out any inadequacy in such measures. The Report alleges that Hong Kong has often been used as an illegal shipment point of technologies. However, as everybody knows, Hong Kong is a place with the rule of the law where anybody can do business and make cultural and technological exchanges through lawful channels and where any violation of the controls on the import and export of strategic commodities will be sanctioned under the law. The present problem is that while the Report has no way to query the rigour with which the relevant laws in Hong Kong are enforced and the strict enforcement actions by the Hong Kong Customs and Excise Department, it has blamed Hong Kong for the non-existent so-called illegal technological transfer activities. This is unfair to Hong Kong, and is not acceptable to the people of Hong Kong.

By its very nature, this Report is a product of the Cold War mentality. It can be clearly seen that the writers of the Report have right from the beginning assumed that China is the enemy of the United States, and all normal technological, cultural and trade activities have been labelled as intelligence gathering activities. With such hostility, rational analysis of any issue has become difficult. Just as the saying goes, "You can always trump up a charge if you set out to condemn somebody." Hong Kong being part of the sovereign territory of China cannot stay out of this. Therefore, we must deal with it from a Hong Kong angle, and also from the angle of our country. Through the voice of this Council and the various sectors, and through the normal diplomatic channel at the state level, we must rebut the fallacies of the Report with facts,

clarify to the rational people of the American community to win their understanding, so as to protect Hong Kong's interest as an international city, and to defend the healthy development of Sino-American relations, the friendship between the Chinese and American peoples, and the long-term trade, financial, cultural and technological exchanges among China, Hong Kong and the United States.

Madam President, I so submit

**MR GARY CHENG** (in Cantonese): Madam President, true to our past assessment and impression of American politicians, the Cox Report is full of discrimination, arrogance and unreasonableness against the Chinese and non-Americans.

What the Cox Report is against are not only the government of and trade with China, but all the Chinese around the world, including those in Hong Kong. I do not understand how Mr SIN who moved an amendment to Mr LAU Kong-wah's motion could think that Hong Kong might stay out of this. Over the present issue, how can Hong Kong be separate from mainland China? I do not care how Mr SIN, other people and our opposite numbers look at this, everybody takes Hong Kong and the Mainland as one inseparable entity. We very much understand that under the "one country, two systems" arrangements, we have our own system, but obviously, as I just said, the Report is not only directed against mainland China, but all the Chinese around the world as well. Furthermore, apart from economic and trade matters, academic and non-governmental exchanges are all involved. If other people are taking such a view, why are we doing less?

Mrs Anson CHAN, Chief Secretary for Administration, went to the United States and did what she should. Her visit to America alone does not mean that we can be separate from the Mainland. Just think, suppose if the Chinese Government or the Chinese Authorities concerned did not make any response or take action over the matter, what could be achieved even if the Government of Hong Kong dispatched 10 Mrs Anson CHANs to lobby the United States? Everybody knows what the Cox Report is really about; this, many people have already pointed out, including American politicians and

media, and I am not going to bore Members again. Some people said that there was no evidence. There is none at the moment, and I think there will not be any in the future. If Mr COX wishes to stage a show before the imminent election season, he should take the suggestion of the Chief Secretary for Administration, accept the invitation to visit Hong Kong and do some performance here. But he does not seem dare to come.

Why do Members of this Council try to avoid facing the fact that this is an issue directed against China? Why beat about the bush? Why take it lying down? Why merely echo the words of other people? Why do Members of this Council, when the very interest and trade of China and Hong Kong are involved, behave even worse than American politicians, American media and American experts, nuclear experts I mean? What is more, this is to "alienate the son from his mother". Do you think that by doing so you can stay unharmed? Is this the double standard at present prevalent? Our topic of discussion now is about China, but you want to delete the word China, and substitute it with Hong Kong. When China joins the World Trade Organization later, do you then move another motion to again delete the word of China to keep Hong Kong out? Thank you, Madam President.

**MR JAMES TIEN** (in Cantonese): Madam President, the Liberal Party does not accept the Cox Report allegations that Hong Kong is a shipment point for the illegal transfer of technology and that the People's Liberation Army (PLA) garrison troops enter and leave Hong Kong without control. The Liberal Party also strongly opposes all proposals to restrict import to and export from Hong Kong. We request the Government to continue to maintain close contact with the United States Government and Congress, to make them understand our system of import/export controls, so as to dispel any misunderstanding.

The accusation that Hong Kong is often used as a shipment point for the illegal transfer of technology is unreasonable. The Basic Law provides that Hong Kong is a separate customs territory with absolute autonomy in regulating the import and export of all commodities. Hong Kong has all along had a stringent import/export licensing system on trading in strategic commodities; and import inspections of all sensitive commodities are conducted strictly in accordance with international practice. This system has been effective; there

has not been any change since the reunification. Our import/export licensing system has been highly regarded by many of our trading partners. When Mr COX met Mrs Anson CHAN, Chief Secretary for Administration, he acknowledged that Hong Kong had a first-rate control system. Therefore, Hong Kong cannot be used as a shipment point for the illegal transfer of technology.

Besides, the PLA troops in Hong Kong do not, as the Report suggests, cross the China-Hong Kong border "without any monitoring". According to Article 14 of the Basic Law and Article 16 of the Hong Kong Special Administrative Region Garrison Act of the People's Republic of China, the PLA garrison must abide by national laws as well as the laws of Hong Kong. Therefore, even the PLA crosses Hong Kong's border checkpoints, the Customs and Excise Department will treat its vehicles in the same way as it treats all other vehicles. Further, Hong Kong has not, as is alleged, relaxed controls on military commodities. Since the reunification, PLA troops have been strictly abiding by the relevant laws in discharging their duties, and have never done anything to undermine the interest of the SAR Government. This is a fact for all in Hong Kong to see.

The Report further proposes that the United States Government should study and review our present customs control measures to see if they are adequate, and that whether the United States should continue to treat China and Hong Kong as two separate territories over the matter of import/export controls. Though the Report has no legal effect, nor does it represent the stance of the United States Government, the proposals involving Hong Kong could produce considerably serious consequences if and when they are allowed to develop. The Government must not take them lightly.

Hong Kong is now embarking on the Cyberport project. If the United States tightens its exports, the Cyberport project will be affected because the desire of American companies interested in participating in the Cyberport development might be dampened by the intention of Congress. The computer business in Hong Kong might also be dealt a blow. At present, import of computer products to Hong Kong has to go through over-elaborate procedures. If the United States tightens export control, small and medium sized enterprises engaged in the trading of computer chips will face many difficulties in operating their business.

Madam President, since the release of the Report, academic exchanges between Hong Kong and the United States have been affected. One American national laboratory has recently terminated two exchange activities with Hong Kong, refusing to let American academics to come to Hong Kong, and cancelling its invitation for Hong Kong academics to visit America.

The Liberal Party opposes any attempt to tighten the export of strategic commodities to Hong Kong as well as any act to hinder academic exchanges. If the United States takes retrogressive measures, the bilateral trade relations as well as the economic interest between Hong Kong and America will suffer. This will benefit neither the United States nor Hong Kong.

The Liberal Party thinks that the Government must take immediate actions to explain our stringent laws and import/export control measures to the United States Congress. The recent visit by Mrs Anson CHAN, Chief Secretary for Administration, to the United States to explain the situation and stance of Hong Kong to members of the Congress was a good start. The Government should in future maintain close contact with the United States Congress and Government to ensure they obtain the latest trade information on Hong Kong.

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

**MR YEUNG YIU-CHUNG** (in Cantonese): Madam President, the Cox Report is a so-called investigative report, but it is "bold in presumption, lacking in proof". Its accusations against China, including Hong Kong, are unsubstantiated. Its ulterior motives are everybody's guess. Many analysts have pointed out that the bunch of Republican Congressmen who oversaw the compilation of the Report had their own agenda. Their true purpose was to use national security as the issue to strike a blow at the CLINTON administration, to pave the way for the general election next year.

After the release of the Report, five people who intend to seek Republican nomination for next year's presidential race immediately began bombarding the CLINTON government. Madam President, let me quote two excerpts of the speech by George W BUSH, Governor of Texas, who leads in the polls, to

CNN:

First excerpt: He criticized the CLINTON government for its failure to properly and seriously handle the theft acts of China, and for its attempts to minimize the effects of the damage concerned.

Second excerpt: He criticized the CLINTON government for wrongly taking China as a strategic partner. He opined that China should be viewed as a competitor who shared not their values but their nuclear secrets.

Thus it can be seen that he was attacking the China policies of the CLINTON government.

In fact, some of the Republican presidential hopefuls have been blasting the CLINTON administration from different angles, aiming to strip him of two of his top officials by demanding the resignation of Samuel BERGER, the Assistant to President on National Security Affairs, and Janet RENO, the Attorney General. Their ulterior motives are pretty transparent.

Similarly, as the Democratic Party presidential candidate, Bill CLINTON also attacked the China policies of President BUSH seven years ago so as to undermine the president's image. Now history is repeating itself. The Cox Report brings back to life the ghost of the "Chinese threat theory", using unfounded accusations to stir up anti-Chinese sentiments in America. According to the latest poll of CNN and the *Time* magazine, 46% Americans think that China poses the greatest threat to America. Such results are to be regretted.

How much credibility has the Cox Report? I believe that the Chinese Government as well as many experts, scholars and even the mainstream media in the United States have already provided us the reply, and have rebutted the Report. This 700-odd-page report is full of fallacies, and is a laughing stock. I am not going to repeat here.

The struggle between political parties in the United State has hurt Sino-American relations, and its ramifications even spread to harm the trade and non-governmental exchanges between Hong Kong and the United States. The Cox Report vilifies Hong Kong as a shipment point for illegal import of

American military secrets. As far as the people of Hong Kong are concerned, such accusations are just beyond imagination. Though Richard BOUCHER, the United States Consul General in Hong Kong, stressed, "Hong Kong has in place the world's first-rate monitoring system..... Past experience shows that Hong Kong has all along vigorously enforced stringent restrictions involving weapons of mass destruction and sensitive scientific instruments..... The basic American policy towards Hong Kong will remain unchanged." While the words are still ringing in our ears, there is a press report that the computer ordered by the Hong Kong Observatory from the United States in February might be barred from being exported to Hong Kong. Non-governmental academic exchanges have also been seriously affected.

Madam President, rebutting the Cox Report is not minding other people's business as far as the people of Hong Kong are concerned. On the contrary, this is an issue involving our own interest, involving the major principles of right or wrong. The fate of Hong Kong is closely tied to that of the motherland, they are tightly knotted together. I hope that Members would not be so naive as to think that by amending the motion to narrow down the issue to concern only Hong Kong, we could stay out of the matter and mind our own business. Just think, the allegation of the Cox Report that there exist loopholes in border controls involving the garrison troops implies that Hong Kong is a centre of Chinese espionage activities where the window companies of China are used to collect intelligence. If we do not comprehensively refute the Cox Report, are we not telling the whole world that we quietly admit the accusations therein?

Hong Kong has inseparable relations with Mainland China. Earlier when the United States bombed our embassy in Yugoslavia, the Legislative Council immediately held a debate and passed a motion to condemn the atrocity. China also has countless economic ties with Hong Kong. The former Legislative Council debated on the issue of the most favoured nation status given China by the United States. All these serve to illustrate the theory that Hong Kong depends on China for survival.

Madam President, I hope that the citizens of Hong Kong would recognize the anti-China counter-current in the United States and that some Americans still cling to their hegemony dreams. We must not let them spread, nor can we connive at them. We must also pay close attention to the development of the party struggles in the United States. Otherwise it would only be Hong Kong that suffers eventually.

With these remarks, Madam President, I support the motion moved by Mr LAU Kong-wah.

**MR CHAN WING-CHAN** (in Cantonese): Madam President, on 25 May, the special committee of the United States House of Representatives released the Cox Report, accusing China of stealing American high technologies in nuclear weapons through thousands of its students in the United States or even ordinary tourists who collected from various channels confidential information on high technology. The American *New York Times* described the Report as "a first-class espionage novel". I think instead it is the most ridiculous "spy story" of the world. A spy novel usually has a protagonist who is highly trained with all sorts of craft, such as 007 James BOND, so that he or she can access places where secrets are kept. The Cox Report alleged instead that students and ordinary tourists from China can gather information on high technology. Such allegations are downright ludicrous.

The many Cox Report accusations against China are completely unsubstantiated. People in the American intelligence community also stressed that there is not a bit of evidence to prove that China has obtained such high technologies from the United States. The White House spokesman pointed out even more clearly that the Report could not name any specific technologies that were considered stolen, nor could it name the perpetrators or their destinations.

American nuclear experts also openly said that the nuclear technologies the Report suspects were stolen by China were nothing secret, and most were in the public domain 10 years ago. Mr ZHAO Qizheng, Director of the News Office of the Chinese State Council, also demonstrated at the press conference how the nuclear information concerned could be easily obtained on the Internet. It can be seen that the allegations in the Cox Report were fabricated before the matter was thoroughly investigated.

It is unfortunate that with ulterior motives, the American politicians have cooked up the Cox Report by making up the charges of stealing American military secrets to vilify China, taking advantage of people's general ignorance of nuclear weapon secrets. This is a deliberate ploy on the part of the American politicians to divert public attention, to undermine Sino-American relations and to use the Cold War mentality in dealing with China.

The nuclear military secrets mentioned in the Cox Report are nothing

secret at all, but open material obtainable from the Internet. The Cox Report also accused China of stealing the most advanced American navigation technology. Such technology has in fact been used extensively on Boeing 747 aircraft and sold to China under a commercial licence. Before the establishment of diplomatic relations between China and the United States, China already produced its own atomic bombs, hydrogen bombs and satellites strictly by itself. This was covered just now by other Members. The first Chinese satellite was successfully launched in April 1970 and President NIXON only stepped on Chinese soil to start a dialogue two years after that. The Cox Report is in fact a farce and will become a laughing stock in the international community.

There is a political agenda that comes with the Cox Report:

1. To continue the Cold War strategy and to shape public opinion for the containment of China. The United States and Japan signed a security treaty that encompasses Taiwan within the joint United States-Japanese defence zone; the United States further attempts to include Taiwan within the Theatre Missile Defence system. Our government already made a grave statement to strongly oppose such intentions.
2. Since the breaking up of the Soviet Union, the United States has been doing its utmost to say that China is the "enemy" threatening American security, so as to keep on expanding its military capacity. The fabricated contents in the Cox Report serve to convince the American people that the so-called theft of sophisticated American nuclear bomb and missile technologies constitutes a threat to United States security. Therein are hidden the most vicious political objectives.
3. The Cox Report was released shortly after the NATO bombing of the Chinese Embassy. The United States has not responded to the four reasonable and legitimate demands so far, instead it veered off in another direction and slanderously made up the lies that China "stole" their nuclear weapon secrets, to stir up anti-Chinese sentiments, so as to gain some bargaining chips to coerce the Chinese Government, and in the process dragged the Hong Kong SAR into the issue, putting some of the blame on the SAR and

vilifying the PLA garrison in Hong Kong.

Lastly, the Cox Report has been the product of the "party struggles" between the Republicans and the Democrats in the United States, and is one of the weapons used by the Republican Party to attack their opposite numbers in the presidential race next year.

The Cox Report has made all scientists and academics of the Chinese stock fear for themselves. Academic exchanges have been interrupted, and some do not even have a date for future resumption. I fear that the impact of the Cox Report will push Sino-American relations back to the era of the McCarthyism terror. But I do hope things would not be that bad.

Madam President, I so submit.

**MISS CHOY SO-YUK** (in Cantonese): Madam President, less than one month after our embassy in Yugoslavia was bombed, the United States Congress, with gross deceit, released the Cox Report, trumping up charges that our country had by bit and pieces stolen and gathered American military high technologies with a view to building new weapons against the United States. As if that is not enough, the Report deliberately mentions Hong Kong many times, alleging that Hong Kong has been used as a shipment point for the introduction of military technologies. These are blatant anti-Chinese talks, and sound an alarm for economic sanction against our country and restrictions on export of technological products to China.

Some people think that the Cox Report is only a political power game between the two American parties, aiming to tarnish the image of the United States Attorney General and the Assistant to President on National Security Affairs so as to achieve the goal of dealing a blow to the political life of Bill CLINTON. However, things are not that simple because, firstly, the Report was approved unanimously by the nine Congressmen from both the Democratic and Republican parties, a similar thing only happened when America decided to use force against Iraq; secondly, contents of the Report have been disseminated by the White House recently, albeit in small doses. Now the pieces have come together into a report, despite the lack of evidence, openly alleging that China "stole" military technologies from America. What follows will surely be restrictions on export of technologies to China, change of the American policies

towards China, and further containment of China. It can therefore be seen that though strictly ridiculous, the Cox Report is a link in a well-deliberated strategic scheme against China, aiming to hasten the hegemonic status of America and to prevent China from becoming a strong power.

The ugliness of American hegemony has been fully exposed in the Cox Report, because the case, if substantiated as alleged in the Report, would represent the most serious intelligence gathering activities against the United States since the Second World War. The seriousness of the case would be even greater than the Luxemburg case in which atomic bomb secrets were passed to the Soviet Union, and even it does not give rise another McCarthyist wave against Communism, it would strike up fear a large number of ethnic Chinese scientists. However, the American authorities have not been able to arrest any ethnic Chinese scientists for having allegedly taken part in the "theft" of American secrets on strength of the Cox Report; nor can they produce any concrete evidence, for that matter. Throughout the whole report, ambiguous words such as "it seems", "probably", "might" or "perhaps" are used. There have been no witnesses nor evidence, all accusations are simply subjective and sheer nonsense. The fabrication of facts shows a lack of logical thinking. It is as the saying goes, if you set out to condemn somebody, you can always make up some charges! However, the United States is still using this extremely lousy spy novel to shamelessly and loudly vilify China, allowing no defence. Such hegemonistic way of doing things is really scornful.

Madam President, the United States is dragging Hong Kong into this whirlpool with obvious objectives. Judging accurately China's determination to maintain prosperity in Hong Kong, the United States deliberately mentions Hong Kong in the Report. Their purposes are apparent. They only wish to gain additional bargaining power over Hong Kong and to strengthen their influence over Hong Kong affairs.

Hong Kong has all along maintained a sound monitoring system over the import and export of strategic commodities. The monitoring is done objectively and in accordance with the highest international standards. The current Import and Export Ordinance and the Weapons of Mass Destruction (Control on Provision of Services) Ordinance require all strategic commodities going in or out of Hong Kong to be subject to inspection; and persons or corporations engaging in the import and export of any strategic commodities without a licence are criminally liable. The controls in question are in line with the principle of equity and justice in that all persons and corporations, irrespective of nationality and background, are governed by the same laws and control measures. The Basic Law further provides that under the "one country,

two systems" arrangements, Hong Kong remains an independent trading entity and customs territory, with complete autonomy over the regulation of import and export of goods, including strategic commodities.

Madam President, though the Cox Report is a pack of fantasies, such trumped-up accusations must not be neglected. This Council must take follow-up actions. Members of this Council should jointly sign a letter to the United States Congress, together with the result of today's debate, so as to state the stance of this Council. If possible, this Council should send a delegation of Members to the United States to personally deliver the letter and to argue our case with reasons, to rebut the unfounded and absurd accusations.

With these remarks, Madam President, I support the motion of Mr LAU Kong-wah.

**DR RAYMOND HO** (in Cantonese): Madam President, in the Cox Report released after the United States House of Representatives investigated the flow of sensitive technologies to China, Hong Kong is said to be the channel for China to secretly transfer these technologies. Such remarks arguably cast a shadow over Hong Kong's present positive efforts to develop high technology. Even the import of technology to Hong Kong will be affected in the future.

Citizens of Hong Kong are naturally very disappointed in and helpless about such accusations. Hong Kong as an independent customs territory has all along exercised very stringent statutory control on strategic commodities, and has through a strict licensing system enforced such controls. This practice continues after Hong Kong's reunification with the Motherland in 1997. Hong Kong's major trading partners including the United States have on many occasions praised our control system on the trade in strategic commodities. This is why the accusations in the Report make us even more aggrieved.

In the State Department Report of 1999 released pursuant to the United States-Hong Kong Policy Act last April, the United States Government stated, "There have not been any particular problems over the Hong Kong-United States co-operation in export controls. As provided in the Sino-British Joint Declaration and the Basic Law, Hong Kong has maintained its status as an independent customs territory, and also its high degree of autonomy as well as its highly regarded world-class control system over export control. We do not

have any evidence to show that the Chinese Central Government has been involved in or interfered with Hong Kong's export control decisions."

What makes us more worried is that the high technology development as the Chief Executive proposed in his last policy address and the Cyberport project announced by the Financial Secretary in his Budget speech might be affected by the Report and its recommendations. If the present issue is not resolved satisfactorily, not only would there be adverse effects on Hong Kong's technological development in the future, other undesirable impact might also be felt in other areas such as certain super-computers, highly secret technologies to be used in e-commerce as well as the encryption technology used in mobile phones. This will undermine our ability to obtain civilian and commercial technologies, and will greatly hamper our future development.

We need to clarify the truth of the facts to the various sectors in America so that such misunderstanding does not spread to the extent that the United States Government might tighten controls on exports to Hong Kong under public pressure. The visit by Mrs Anson CHAN, Chief Secretary for Administration, to the United States and her lobbying efforts are commendable. Apart from similar efforts, to resolve the present crisis, the Government should work together with the business sectors both in Hong Kong and in the United States to explain to and lobby the Americans through various channels, stressing that Hong Kong has been rigorously enforcing our stringent export control system.

Madam President, I so submit.

**MR ERIC LI** (in Cantonese): Madam President, the Cox Report released by the United States Congress has stronger political than security motives, more propaganda than economic relevance, and bigger psychological than actual effects, because the whole Report, though accusing other people from points of view most in line with general observations, has failed to produce any evidence.

The viewpoints of the Report are readily accepted by the general American public with the exception of experts and politicians. American media, recognizing audience preferences, have been having a field day attacking China, thus providing ammunition for the Republicans to batter the CLINTON government. It can be seen that the party struggles in the United States

presaging the presidential election next year have started in real earnest.

However, that involves only the internal political horn-locking in the United States. On international relations, the Cox Report shows that the political powers in the United States are looking around the globe for a new imagined enemy after the Cold War. On the surface, national security is used as a reason; in reality, it is for the protection of the vested interests of existing political cliques.

Having understood the background from which the Cox Report emerges, it is not hard to deal with that part of it that involves Hong Kong. Firstly, the return of Hong Kong to China is an indisputable fact. Though we have the protective "one country, two system" shield, we are not left alone despite our wish. In any rivalry between states, Hong Kong has very limited ability to safeguard its rights and interests. Therefore "inaction against action" is our best tactic.

Secondly, Hong Kong must hold fast to the bottomline of a policy of mutual benefits. Any measures the United States might take that affect the bilateral trade relations will harm its own interest. Therefore, while we see through the intention of some people in the United States to stage a "political show", we must make adequate judgment of the scope of the impossible impact, and must maintain close contact with the Central Government; we must not fight alone.

Thirdly, Hong Kong's edge is that we have long-standing financial and trade relations with the United States. The historical link has provided the peoples on both sides a common language. Strengthening non-governmental exchanges is conducive to eliminating any misunderstanding and enhancing mutual trust. Communication with the mass media is of particular importance; in this respect, Hong Kong can exert a greater influence.

We can believe that things without any substance cannot exist for long. No matter how low Sino-American relations have fallen at present, once practical interest is involved, any country, any government will not base its diplomatic policies on ground of intangible illusions, even less will the American people whose values have always based on "pragmatism, honesty and loyalty". There is no unavoidable conflict of interest between China and the United States, therefore, Sino-American relations are sure to be able to ride out

the present storm to a better, more practical and satisfactory future.

With these remarks, I support the amendment.

**MR JASPER TSANG** (in Cantonese): Madam President, in 1985 I became the principal of a secondary school some people called pro-China; a teacher who had then been teaching there for only a short while visited the United States. When he returned, he told me that he was treated quite impolitely when applying for a visa. At that time, an interview was needed during which he was asked a lot of questions concerning politics. He eventually got his visa, but what he said to me made me unhappy. He said, "Mr Principal, I could not but told that official that I did not know what kind of school Pui Kiu was. I knew nothing, it was just a job to me. I did not approve whatever political beliefs they had and I did not know what their beliefs were, nor did I know what sort a school it was. Then I passed the interview."

Two years later in 1987, when the Democratic Alliance for the Betterment of Hong Kong had yet to be established, I acquired another position in addition to being principal of the school, and that was as a member of the Guangdong People's Political Consultative Conference. My first visit to the United States was with a package tour to Hawaii. When my family and I arrived at the immigration counter, the officer took a glance at my visa and very courteously asked me to wait for a moment. By his side were two small sticks, one green and one red. He pulled up the red one, that is, he raised the red stick, and soon a man in uniform came and took my family and me to a room on the first floor for further questions. As we were part of a tour, the tour guide could not but wait anxiously, because he was not allowed to enter that room. That man asked about my occupation, my wife's occupation and where I was born. When I replied that I was the principal of a secondary school, that officer probably did not know Hong Kong had something called pro-China schools which at that time were allegedly hostile to the United States Government. Therefore he was puzzled and asked me why as a school principal I got certain remarks on my document. He further asked me about my job before I became a principal. I told him I was a mathematics teacher, which was the truth. He commented that even a mathematics teacher should not carry those remarks. At the end, the interview took over an hour. He admitted me, courteously as ever. When I went outside, the whole tour in the coach had waited for us for over an hour. The look on their faces when they welcomed us back was neither worried nor angry, but everybody was curious, not understanding why this family had to stay

there for over an hour. I visited the United States again four years later, and also entered via Hawaii. I met the same treatment, as it was a rule. I was again delayed for over an hour. I entered Hawaii two times, but on both occasions failed to receive the welcoming lei from a Hawaiian girl as the tour brochure described because when I cleared immigration, whatever ceremony there was already finished, I could only board the coach in a hurry.

In 1993, I accepted an invitation by the United States Government through its Consulate General in Hong Kong to participate in the international visitors project. I visited the United States for one month to study the education situation there. The whole visit was naturally entirely different, I simply walked through immigration when I arrived there. The United States Government representative who was my host asked for my opinion at the end of the visit. I told him that I had no complaints, and felt that the arrangements for the whole visit were very good. They were in fact really good. But I told him the experience of my two previous visits. That official said that that would not happen again in the future. I said that I hoped that I was spared all those troubles not because I was a guest of the United States Government, and that I hoped other people from Hong Kong like myself would not get such troubles. That official then told me not to worry any more, and that their policies were becoming more and more open, and those things in the past would not be repeated. True to his words, I visited the United States one or two times since then and the previous treatment was not repeated.

Madam President, just now Mr SIN Chung-kai mentioned the part of the Cox Report involving Hong Kong and its impact on our external trade and high technology development, and the attitude we should adopt. I agree with all of them completely. However, I wish to point out that there is more to the Cox Report than it appears. In the Cox Report, there are other accusations against Hong Kong, affecting the people of Hong Kong outside that particular paragraph. I hope that the Cox Report will not push American politics back several decades, to the era of Joseph McCARTHY. Thank you.

**MR CHEUNG MAN-KWONG** (in Cantonese): Madam President, well I am embarrassed. I did not expect to have my turn as soon as I raised my hand. Thank you very much.

Madam President, I wish to respond to the viewpoints of Mr Gary

CHENG and Mr Jasper TSANG with the goodwill of the Democratic Party. On the issue of the Cox Report, I fail to see any difference between the Democratic Party and the Democratic Alliance for the Betterment of Hong Kong in both the principle and the most important stance that China and Hong Kong have their fates tied into a single entity. Our difference exists only over the approach and strategy. Such difference has an important bearing on the interest of both Hong Kong and China, therefore I would like to talk about it.

Mr Gary CHENG said that we must see Hong Kong and China as a single indivisible entity, and that Hong Kong cannot simply mind its own business, or stay outside the matter. This is right of course. As a Hong Kong citizen and a Chinese, I would not separate Hong Kong and China, nor would I take the Shenzhen River as the boundary between China and Hong Kong. It is precisely because we do not want to simply mind our own business or stay outside the matter that we are today discussing the Report and are concerned about the impact of the Report on Hong Kong and China. While we have absolutely no intention to separate Hong Kong and China, this does not mean that Hong Kong and China must play the same role on the international stage, or take unison steps. On the contrary, the two must actually do their respective parts. Yes, we and China are one country, politically we are one. After the reunification, Hong Kong and China are one. However, on the basis of being one single entity, we must still maintain "one country, two systems", must have the Basic Law with which to maintain a capitalist, free and internationalized Hong Kong, and to connect with the whole world. Why must this be so? It is because though Hong Kong has returned to China, it still serves a very important function as a window for China trade, for obtaining capital and technology, and a window open to the world. This window is extremely important, and has long-term values. Such values must not be destroyed or closed because of a moment of anger. I feel that we have never been separate Hong Kong from China, not even the 4 June incident had made us separate from China, because we have accepted that we are one.

However, at the same time we see Hong Kong and China as one union of national fate, we must recognize that we do not want to only mind our business; but we have different parts to play. We are not trying to stay out of it, but we must actually complement each other and to supplement each other in terms of systems so as to protect the long-term common interest of the whole nation. Therefore, regarding the Cox Report, the stance of Mr SIN Chung-kai and the Democratic Party is that we are not to be passive, but to really aim at strengths,

"strengths" of Hong Kong. Only when Hong Kong actually gives full play to its strengths and fulfill its function as the window can Hong Kong make the most and long-term contribution to China. If Hong Kong is exactly the same as all Chinese cities, what part can Hong Kong play? Hong Kong would then only be another Shanghai of China. That in fact is a disguised way of ruling out the value of the "one country, two system" arrangements. This benefits neither Hong Kong nor China.

Everybody naturally hopes that each political party would fully show its patriotic sentiments over all matters. But being patriotic does not mean that one has to swear allegiance all the time, or to declare one's loyalty over each and every issue. What we must do is to play our own parts well. What then are our parts? That is, we must develop the strengths unique to Hong Kong as well as our economy, and to do well as a window for trade, capital, technology and global connections. This window is very important. Therefore, I must say that we need not lose our cool over the Cox Report which was written by a handful of people, and close the window of China as well as the window of Hong Kong, because we still have a longer and farther way to go. Hong Kong must also play its role better on the international stage or the Chinese stage. Therefore, as far as I see it, from a patriotic angle, it is a show of worthy sentiments if we become angry; but from a trade angle and an angle of the long-term interest of Hong Kong and China, to become angry is to lack wisdom.

Madam President, I so submit. Thank you.

**MISS CHRISTINE LOH:** Madam President, there is a common saying, "my country right or wrong". I surely prefer my country to be right. If I can put it in another way, "my mother drunk or sober", I also prefer my mother to be sober. I do not feel that there is always a need to defend my country on issues where things are not very clear. It seems to be generally well accepted that countries do awful things to each other. They spy on each other and they steal things from each other. This is the whole industry that goes on. We really do not have all the information to comment on part of the details of the Cox Report.

Madam President, from the bit that I have read of the Cox Report, it reads like a thriller. It is certainly extraordinary of the Americans to have claimed that China had been able to steal, and even more extraordinary that the American security system could be so poor. However, I really do not think

that we have all the information to be too forceful about what really has happened. I agree with my Honourable friend, Mr CHEUNG Man-kwong, that this is really not a matter of nationalism or patriotism. I repeat, I prefer my mother to be sober, however, sometimes she gets drunk. But I still love her.

So I do not wish to take sides on the allegations that are made or to comment on the counter-allegations from China back to the United States. I think that this Council should stick to what we know which are the implications for Hong Kong. And it is for that reason that I prefer the amendment to the original motion. Thank you.

**MR JAMES TO** (in Cantonese): Madam President, I am not going to repeat what Mr CHEUNG Man-kwong just said; I only wish to share with Members some of my views about this motion. As at present, Hong Kong enjoys less strict controls over the import of strategic commodities than the Mainland. And as far as I know, the Central Government has so far voiced no objection against this difference. This means that the Central Authorities do not wish Hong Kong to be joined into one with the Mainland. Therefore, we sometimes must not harbour the idea that since it is now "one country, two systems", Hong Kong must play some roles. As a matter of fact, even before the reunification, Hong Kong always had some roles to play. Therefore, I feel that we must not think that the Report is sure to have an impact on us, or it is directed against us. In fact it is directed not only against Hong Kong, but all the Chinese, including naturalized American Chinese, as Mr MA Fung-kwok pointed out. The problem however is that when we act we must be clear where Hong Kong stands, particularly what the position of this Council and of Hong Kong as a whole is; what strategies we have, how we do it, how to divide the work among ourselves; what is involved is not merely nationalism or loyalty, nor the claim that there is no loyalty if we do not stick together. It would be awful if we harbour such ideas, and it would also spell trouble for Hong Kong.

The present incident is not an isolated case. Our national leader had out of goodwill said that the linked exchange rate of Hong Kong had to be maintained, the Chinese Renminbi would certainly not devalue, and the linked exchange of Hong Kong would be maintained come hell or high water. But we must not forget, though he said so out of goodwill, the problem is, China has a much bigger job running the whole country, if its Renminbi really devaluated, how would other people have viewed the Hong Kong dollar? By that time, we

could have great troubles, and what kind of impact could Hong Kong stand? Therefore, I have personally thought that the leader in Beijing might find it laughable if and when he thinks about those assurances now. He might wonder why we say that we must be one with the Mainland, what we have, we have together, and when we do not have, we lose it together. When something is under concern, we must be concerned about it as one entity, otherwise it would be unsatisfactory, there would not be loyalty, it would be a show of avoidance, it would be "alienating the son from his mother". In the last few days, I have seen Mr LAU Nai-keung writing on the *Hong Kong Economic Journal* using such arguments, that is to say, approach the Central Authorities when there is advantage to be taken, approach the Central Authorities also when there is something that we fail to handle, otherwise, it is "one country, two systems". In a nutshell, all we seek is advantage. Sometimes I also ask myself, does Hong Kong only take advantages? I do not think it is true. As I see it, the policies of the Central Authorities have long represented one stance, and that is, the most important thing is for Hong Kong to do well its own part, it is most important for Hong Kong to independently achieve good results in respect of economy, technology and other areas. Never say that we join the Mainland as one because it would mean trouble. That Hong Kong can do well is a great contribution to the country; if Hong Kong lessens its own contribution in this respect, it means in fact Hong Kong has less contribution to the country. Therefore, in this respect, I would like to share my feelings with Members.

We must look at the nature of the facts which is the political struggle within the United States. If we all believe that this is the nature of the incident, then the issue must be handled cautiously. As by nature it is such, then what is true, what is false, all will be part of the struggle. Then, of certain possibilities, how do we go about them? At present, from the questions-and-answers script of Mrs CHAN on the Internet, we can see that the SAR Government has in fact been taking the line of claiming that controls in Hong Kong have always been very strict, and that Hong Kong is fine; in other words, all serve to explain that Hong Kong has not changed or has not been used after the reunification, imploring all readers to perish such thoughts. All information is about Hong Kong. In fact, if I understand it correctly, I believe that over this incident, in particular the portion involving diplomatic issues, the TUNG Chee-hwa Administration must already have come to a certain understanding with China. Therefore, I hope that Members would handle this with care. In fact, I think that there can really be some improvement to certain systems, so as to render our systems beyond criticism. Naturally, what I am referring to is the situation in

Hong Kong, I dare not involve the Mainland.

For instance, over the last few days, the issue of customs declaration has been discussed in the press. I hope that the Government would come out to clarify if there really is a problem. If the declarations really lack details when military material is involved, there can be improvement in this respect. Only thus can the system convince other people that it is worthy of trust. As to routine inspections of military vehicles, if other goods vehicles are subject to sample inspections, say two in every 100 vehicles, then two military vehicles out of 100 should also be inspected. This then will be equal treatment. As Secretary CHAU Tak-hay said, this could be implemented even more stringently. I think that as far as this issue is concerned, we could take this approach. If other people are bent on attacking us with ulterior motives, we can tell them we do conduct inspections, and that it is not a case of "zero" action, because "zero" naturally does not sound good. In any case, this matter can be resolved by improving the system. I suppose we can even in the future adopt a method that would not put the PLA garrison in any difficult position, because we will later have a colossal piece of equipment to conduct inspections. Since 1992 and 1993, we have been asking the Government to employ more technology to help the conduct of inspections instead of asking the customs or police officers to squat down to peep at the bottom of the vehicles as they did several years ago. That was quite a silly and improper way of making inspections, resulting in the officers concerned inhaling much exhaust fumes. At present, inspections are fully computerized — employing X-ray scanners that can reveal any suspicious objects when the vehicles pull in front, there is no need to actually open the vehicles for inspection to the embarrassment of the drivers. The old practice was discontinued. I believe that with the present practice, even the PLA would not be embarrassed.

I also wish to speak from the bottom of my heart, and that is I do not think our country will be so foolish as to make use of Hong Kong, because Hong Kong is a complicated place; there are spies from all countries. Many things could easily be exposed. Further, it is pretty easy to ship anything by way of smuggling. There are better ports in other places for this purpose, therefore, there is no need to use Hong Kong. So it is not tenable in theory, I think, to allege that the matter involves only Hong Kong. I believe the United States Government will not believe it either. The Assistant Secretary of State whom I met also shared my view. Lastly, I hope everybody would handle this matter with caution.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr LAU Kong-wah, you may now speak on the amendment moved by Mr SIN Chung-kai. You have five minutes.

**MR LAU KONG-WAH** (in Cantonese): Madam President, my motion has already clearly stated the attitude the Legislative Council should have, and there is no need for me to elaborate. My colleagues have also made ample rebuttals against the contents of the Report. I mainly hoped to listen to the logic behind the amendment of Mr SIN Chung-kai. But regrettably, the reasons for his amendment are weak.

Madam President, the present way in which the United States vilifies China is different from its previous ploys. The Cox Report attempts to implicate Hong Kong, and has created a real impact. I wish to point out that the accusations in the Cox Report against Hong Kong cannot be successfully dispelled by strengthening the internal controls in Hong Kong and by Hong Kong minding its own business alone, as some Members have suggested. Naturally, I also support the continued strict controls employed by the Government over strategic commodities. But despite your wish, you might not be left alone. An article in the *Los Angeles Times* again voiced its suspicion of Hong Kong when it examined the development regarding the Cox Report. The most important point is that towards the end, that article quoted the latest thinking of Mr COX: the Chinese troops garrisoned in Hong Kong could affect Hong Kong's independence. These words seem to suggest that if Hong Kong wishes to maintain its independence, it had better send the garrison packing. Now the fox has shown its tail. Madam President, this is the real intention. In the past, some people advocated that there was no need to have a garrison in Hong Kong, and now some other people are hinting the same. So the targets are not the obvious ones, after all; and the hidden motives are now plain to the eyes. Therefore, regarding the suggestion in Mr SIN's amendment that explanation must be made, we have no objection. But we must do it in a manner that is neither overbearing nor servile. If members of the United States Congress made unreasonable accusations, we should not swallow them quietly. I must caution those who proposed to handle the issues separately: they will not

be satisfied even we maintain strict controls. I just received a piece of information, the United States Senate approved a bill to tighten the controls on the sale of high technology products to Hong Kong; some Senators even wanted to apply the same controls on Hong Kong and the Mainland alike. Very obviously, our explanations will not make them stop. They wish to play games, and we cannot will them to stop.

The Democratic Alliance for the Betterment of Hong Kong (DAB) does not agree to deleting the part involving accusations against China. Some Members have already said that it is undesirable to have the attitude of minding our own business and "alienating the son from his mother". It is like two families living in two rooms in the same flat, when one of the families is accused of stealing, it is inappropriate for the son of the other family to open the door to their own room and claim that nobody inside his room stole anything, adding that he does not know if those in the other room can say the same. This is not a matter of strategy, nor is it a matter of angle, it is a matter of stance. Silence suggests acquiescence — silence suggests acquiescence, and we cannot bear to do this. If the nest falls down, can the eggs survive? Therefore, we cannot support Mr SIN's amendment; the reason is simple, my motion is more comprehensive and expresses the stance of Hong Kong as part of China.

Madam President, within this Chamber, whenever universal issues are mentioned, some people would always say that they are international citizens, and that they have to discuss them, to participate, and are proud of doing so. But when it comes to matters concerning China, they wish to draw a clear line, and act in an evasive manner. What is bugging them? Madam President, with these remarks, I ask Members to support my motion.

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, let me first explain the policy of the Government on the control of strategic commodities and its position on the Cox Report.

It has always been the policy of the SAR Government to impose strict control on the trade in strategic commodities. Our aim is to foster the confidence of our trading partners in our system, in the hope that they do not have to worry about the possibility of their hi-tech exports to Hong Kong being transferred or used illegally. We know very well that this is the only way to enable Hong Kong to obtain from its partners those hi-tech products required by its industrial and commercial sector and financial and academic institutions.

These high-tech products, ranging from hi-performance computers, telecommunications equipment to encryption facilities, are vital to the economic development of Hong Kong. That is why a strict system of control for the trade in strategic commodities is extremely important to the economic and industrial development of Hong Kong.

Under the principle of "one country, two systems", Hong Kong continues to maintain its status as a separate trade entity and customs territory. That is why our system of control for strategic commodities also continues to maintain its independence and autonomy. Our system of control is based on a comprehensive system of import/export permits, a vigorous enforcement mechanism, an impartial legal framework and close international co-operation. Under our current system, all strategic commodities imported into or exported out of Hong Kong are required to apply for import/export permits from the Trade Department, and the Customs and Excise Department of Hong Kong will also conduct various forms of on-site inspections to ensure that permit-holders do comply with the relevant requirements. Our system is highly transparent; all the regulations on control are clearly stipulated in the Import and Export Ordinance, and the commodities under control are all listed in the Schedules to the Import and Export (Strategic Commodities) Regulations. The lists contained in these Schedules can meet the highest international standards, as they are modelled after the lists drawn up by international organizations and covenants on proliferation control.

Apart from the basic regulatory measures I have just mentioned, Hong Kong as a trade centre does need to adopt some other special control measures, so as to ensure that despite our extremely busy import/export activities, we are still able to effectively monitor the trade in strategic commodities. Several Members have already mentioned the unique features of our system, but I would still like to highlight several special aspects of our preventive mechanisms.

First, in addition to the system of export permits which other advanced countries generally adopt, we also adopt the system of import permits. This system of import/export permits also applies to sensitive strategic commodities moving into and out of Hong Kong in transit. Such a comprehensive control system can enable us to monitor the import and export of commodities.

Second, special measures have been built into our system to prevent sensitive commodities with permits from being illegally transferred to a third

party after import.

Third, in the case of sensitive commodities, unless the Hong Kong exporter concerned can produce evidence that the country of origin of the commodity concerned has given express approval for the commodity to be re-exported to another designated place, we will not issue any export permit. This mechanism can ensure that we will not weaken the control imposed by the exporting country.

Fourth, consignors are legally obligated to ensure that the strategic commodities which they import into or export out of Hong Kong can meet the relevant permit requirements. This has enhanced the ability of the Customs and Excise Department to monitor the import and export of strategic commodities.

Finally, import and export control aside, Hong Kong is also one of the first places to enact legislation prohibiting any person to assist knowingly in the development of weapons of massive destruction. Under the Weapons of Mass Destruction (Control of Provision of Services) Ordinance enacted in 1997, it is an offence for any person to render services such as financing to any schemes for the development of weapons of massive destruction, and the person concerned is liable to prosecution.

The control system which Hong Kong has put in place for the trade in strategic commodities has received very favourable comments from its trading partners. The reports written by the special group of the United States Congress on Hong Kong transitional affairs, the United States Government and even the British Government have all highly commended the strict control system of Hong Kong. In particular, they have spoken very favourably of the effective and impartial enforcement actions which we have taken against all those companies which violate our export regulations. They view that such actions can aptly reflect the independence of our system. Actually, our control system has always been operating under the principle of fairness, and all individuals and companies, regardless of their background, are required to comply with the same laws and control measures. Our enforcement records, whether before or after the reunification, can all prove this point.

Hong Kong has had an excellent record of controlling the trade in strategic commodities, and it has won the recognition of all its trading partners. That is

why we can never accept the accusation of the Cox Report that Hong Kong is being used as a centre of transferring strategic commodities. We must say that the Report's assessments and conclusions about Hong Kong are entirely groundless. And, once again, let me reiterate this position of the Hong Kong Special Administrative Region Government on the Cox Report.

The contents of the Cox Report relating to Hong Kong consist of four main points. First, the Report says that Hong Kong companies have been found involving in several cases of illegal import and export of strategic commodities. But when describing such cases, the Report focuses only on the involvement of Hong Kong companies without mentioning anything whatsoever about the enforcement actions taken by the Hong Kong Customs and Excise Department. The truth is that the Hong Kong Customs and Excise Department did investigate all these case very vigorously, and it did initiate prosecutions; the law courts of Hong Kong then handled these cases and made their verdicts. So, all the cases quoted by the Report are in fact very good examples serving to illustrate that the control system of Hong Kong is both effective and impartial. When handling this kind of cases, and when deciding whether actions should be taken, the Hong Kong Customs and Excise Department will only consider the factor of evidence. The background and connections of the companies involved will not be taken into account.

Second, the Cox Report claims that Hong Kong is frequently used as a centre of illegal technology transfer. This accusation is entirely groundless, and it fails to take account of our existing mechanisms of preventing illegal technology transfer. As I pointed out at the beginning of my remarks, we have already put in place a number of special measures to prevent people from using Hong Kong as a centre of illegal strategic commodities transfer. One of these measures, which has proven effective in stopping illegal transfer, is that all importers of sensitive commodities are required to declare the end-uses and end-users of the commodities concerned before they are allowed to import their commodities into Hong Kong. And, the Hong Kong Customs and Excise Department will conduct inspections relating to the handling and end-uses of all those strategic commodities imported into Hong Kong for local uses. If it is found that the commodities concerned are being used for purposes other than those already declared, the importer concerned will be prosecuted for breaching the conditions stated in his permit. Because of all these effective preventive mechanisms, anyone who tries to use Hong Kong as a centre of illegal transfer

are bound to run very high risks. So, the Report's claim that Hong Kong is a centre of illegal transfer is in fact entirely groundless.

Besides these two points, the Report also mentions the "unmonitored" boundary crossings by vehicles of the local garrison. This is entirely wrong. Under Article 14 of the Basic Law, the garrison stationed by the Central People's Government in Hong Kong must obey the laws of the Hong Kong Special Administrative Region. All garrison personnel and their vehicles, when going through boundary check-points, must undergo customs clearance. To begin with, well in advance, a liaison officer designated by the local garrison has to submit detailed information about the garrison personnel and vehicles scheduled to go through a customs check-point. If the Customs and Excise Department finds the information incomplete, it may ask for further information from the garrison. When the garrison personnel and vehicles concerned arrive at the check-point, the staff of the Hong Kong Customs Department will verify the information submitted, check the documents concerned and enter all the relevant data into the computer system of the Department. If there are any suspected offences, Customs staff will notify the garrison headquarters, which will then despatch an officer to the site to conduct inspections and examinations in the presence of Customs staff. Any offences, if found, will be dealt with in strict accordance with the law. The Central People's Government has made it very clear that all agencies stationed by it in Hong Kong, including the local garrison, must strictly obey the Basic Law and all the laws of the SAR. The personnel of all these agencies have never engaged in, and will never engage in, any activities which break the laws of the Special Administrative Region. So, the worry expressed in the Report about garrison vehicles moving across the boundary is totally groundless and unnecessary.

Finally, the Report recommends that the United States Government should study and review the appropriateness of continuing to treat the SAR differently from the Mainland for United States export control purposes. In response, we wish to stress that the control system of Hong Kong has always been highly transparent. We have maintained a close partnership with the United States to ensure the implementation of effective export control. This partnership has recently been enhanced, following the signing of a discussions record between the Secretary for Trade and Industry and the Department of Commerce of the United States in October 1997. This discussions record provides a framework for information exchanges and bilateral co-operation between Hong Kong and the United States with respect to strategic commodities control. Moreover,

there are also frequent secondment arrangements between us and our trade partners. An expert from the Department of Commerce of the United States was seconded for six months to the Trade Department of Hong Kong in 1997, and another expert from Australia was once seconded to the Trade Department.

We are always prepared to conduct constructive dialogues with our trading partners on the control of strategic commodities. But we are opposed to any attempt to tighten the export of strategic commodities to Hong Kong. The current treatment accorded by the United States to Hong Kong with respect to export control is largely a result of the sound control system which Hong Kong possesses. If the United States takes any retrogressive steps, it will send a very wrong message to the international community, especially those economies which wish to establish a sound system of control similar to that of Hong Kong.

The Government has been making strenuous efforts ever since the days before the reunification to explain to our trading partners how our system is operating:

- (1) At the international level, we have, as a separate customs territory, attended many talks and seminars by different organizations on proliferation control, so as to enhance our trading partners' understanding of our control system;
- (2) in Hong Kong, we have been keeping close contacts with foreign consulates, supplying the latest information on our system to them; and
- (3) with respect to the United States, we have maintained close co-operation with it on the basis of the discussions record signed in 1997. As agreed in the discussions record that half-yearly reciprocal visits should be conducted, a multi-departmental delegation of the SAR Government will visit Washington D.C. in July this year, and the delegation will meet with the relevant United States government officials to discuss the issue of controlling the trade in strategic commodities. We have also made arrangements for United States Congressmen and their assistants to visit Hong

Kong, so that they can obtain a first-hand understanding of how our system operates. Our colleagues in the Washington Office of the Hong Kong Economic and Trade office also visit United States government officials, Congressmen and their assistants and businessmen regularly to introduce our control system to them, and to explain the reasons why Hong Kong should be treated more leniently by the United States with respect to its export control. Whenever necessary, we will lobby against any congressional bills which seek to tighten the export of strategic commodities to Hong Kong.

A moment ago, Mr SIN Chung-kai and Mr LAU Kong-wah both said that the Senate of the United States had passed a bill yesterday. This bill proposes that if Hong Kong ever forbids the United States to inspect the commodities concerned before they are exported out of Hong Kong, the United States should cease treating Hong Kong and the Mainland differently for the purpose of export control. I wish to take this opportunity to make a few points here. First, the bill must be passed by the House of Representatives before it can become law. We do not know when the House of Representatives will discuss this bill, but we will continue to monitor the development of this issue. Moreover, I also wish to stress that the SAR Government has never forbidden the United States to carry out the inspections concerned in Hong Kong, and it has no intention whatsoever of forbidding such inspections. Therefore, we maintain that the provisions of this bill on Hong Kong are wholly unnecessary. We will step up our lobbying efforts both in Washington and in Hong Kong.

My final point is that top officials of the SAR Government have always tried to make use of their overseas visits as opportunities to introduce our control system to our trading partners. One example, as mentioned by some Members a moment ago, is the meetings which the Chief Secretary for Administration held during her recent visit to the United States with United States government officials and Congressmen (including Mr COX) on the position and practices of Hong Kong regarding the control of the trade in strategic commodities.

In the future, the Government of Hong Kong will continue to maintain and develop close ties with our trading partners and to strengthen our control system both in terms of transparency and stringency. We will also keep up our vigorous lobbying efforts in Washington. We hope that through these efforts we can maintain our leading position in the control of the trade in strategic

commodities and thus continue to obtain the hi-tech products necessary for the development of our economy. We think that this can bring immense benefits to Hong Kong in terms of its technological, economic and academic exchanges with other places. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr SIN Chung-kai be made to Mr LAU Kong-wah's motion. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr SIN Chung-kai rose to claim a division.

**PRESIDENT** (in Cantonese): Mr SIN Chung-kai has claimed a division. The division bell will ring for three minutes.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): If there are no queries, I declare that voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Kenneth TING, Mr James TIEN, Mr Michael HO, Dr Raymond HO, Mr Eric LI, Miss Margaret NG, Mr CHEUNG Man-kwong, Mr Bernard CHAN, Dr LEONG Che-hung, Mrs Sophie LEUNG, Mr SIN Chung-kai, Mr Howard YOUNG, Mrs Miriam LAU and Mr LAW Chi-kwong voted for the amendment.

Mr LEE Kai-ming, Dr LUI Ming-wah, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr CHAN Wing-chan, Dr Philip WONG, Mr FUNG Chi-kin and Dr TANG Siu-tong voted against the amendment.

Mr Ambrose CHEUNG and Mr Timothy FOK abstained.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss Christine LOH, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr LAU Chin-shek, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah and Mr HO Sai-chu voted for the amendment.

Miss CHAN Yuen-han, Mr Gary CHENG, Mr Jasper TSANG, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr David CHU, Mr NG Leung-sing, Mr MA Fung-kuok, Mr CHAN Kam-lam, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Miss CHOY So-yuk voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, 14 were in favour of the amendment, eight against it and two abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 27 were present, 14 were in favour of the amendment and 12 against it. Since the question was agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was carried.

**PRESIDENT** (in Cantonese): Mr LAU Kong-wah, you may now give your reply.

**MR LAU KONG-WAH** (in Cantonese): Madam President, the results of the voting are now known. But I know that many Members support both the amendment and the motion. We would later support the amended motion, because this is the view of Members.

However, the motion today is one concerning both trade and politics. The Secretary for Trade and Industry has already covered the trade issues. We will naturally continue to support the actions of the SAR Government, but I wish to focus on our attitude towards the political side of the issue.

This motion concerns, apart from certain issues of American internal affairs as some Members just mentioned, also the political relations between China and the United States. But more importantly, the debate on this motion serves to reveal the attitudes of the various political powers in Hong Kong. The motion is like a demon-detector. Let me explain.

I note that Miss Emily LAU of the Frontier was always eloquent in her arguments over a wide range of topics. But when we are to express our regret against the United States Congress, she kept her mouth shut. Just now she disappeared altogether. When we strongly condemned NATO for bombing our embassy by way of a debate last time, Miss LAU did not utter a word, not even asked "How could they do so?" What does that signify? Whose Frontier is it actually? Why does she have to leave when regret is expressed against the United States?

Mr Martin LEE of the Democratic Party made a speech that echoed the American Consulate General last time when we debated on condemning NATO. This time when we move a motion to express regret against the United States Congress, he also remained silent, and even walked away. Why? Only he knows the reason. What is more vital is that the Democratic Party, through Mr SIN Chung-kai, moved to amend my motion to delete all references to China. This is surprising.

If we check the record of Members of the Democratic Party, we can see that they spoke and showed their stance on issues such as the most favoured nation treatment and the condemnation of NATO. Such motions concerned China. So why have they drawn the line when it comes to the anti-China Cox Report? Why such discrepancy of attitudes; why the double standard?

Madam President, the NATO bombing and the trumped-up charges in the

Cox Report form a double bladed sword, plunging direct into the heart of China, and also the heart of Hong Kong people. On 12 May when we debated the motion to condemn NATO, Mr Albert HO of the Democratic Party loudly spoke about "blood is thicker than water", "vividly felt pain" and "human conscience". But today they talked about the need to remain separate, the need to draw a clear line. In this way, where have the relations that make "blood thicker than water" gone? Where has the "vividly felt pain" gone? Now the whole family is the target of the trumped-up accusations, if we do not say something as one family — the present case is worse than that, they have deleted what we wanted to say — will they search their souls and ask themselves where has their conscience as Chinese gone? Where has their human soul gone? Just now, Mr CHEUNG Man-kwong talked about "allegiance", just to whom do they owe allegiance?

Madam President, if the Democratic Party thinks that we should not get involved in the affairs concerning China, why did they made a show when we moved to condemn NATO? If they are concerned about Chinese affairs, why have they deleted that part of the motion today? Does this signify insensitivity? I really hope that Members from the Democratic Party would think hard whether it is desirable to canvass for American politicians, to take the blame for "having tacitly admitted (the charges)", and pay the price of putting the Chinese Government, the PLA garrison in particular, in an untenable position?

I am glad that Mr CHEUNG Man-kwong put forward the idea of a "union of fate". But if it is a matter of different strategy, please note that in history there had been the doctrine of appeasement and the policy of tolerance; are they not lessons we have learned? If you say Hong Kong is a window, now the whole house has disappeared, where do we place the window? When people come to pull down your house, what use is it for you to hold onto the window? Therefore, I hope that the Democratic Party would change direction.

Madam President, when issues concerning China are under discussion, the Democratic Party has arguably always "played tricks". I very much like to give some convincing examples. I did some research and got some information which shows that the most favoured nation treatment and the Cox Report are both weapons of the United States, and the impact they have include: first, arousing anti-Chinese sentiments in the United States; second, disrupting the relations between the Mainland and Hong Kong; third, having an effect in constraining China.

On the topic of most favoured nation treatment, Members from the Democratic Party at that time did not support extending such treatment to China; they asked that a human rights clause be added, just to echo a similar demand by the United States Congress. Today, in respect of the motion concerning the Cox Report, they again thought that the motion should not refer to China, nor should we make any rebuttal. Sometimes they talked about the internal affairs of China of their own volition; at other times, they thought that China should not be mentioned at all. This is double standard. Sometimes they beat the drums for the United States Congress, sometimes they remained silent even when they were beaten up. In fact, all these were done to match the direction of the United States Congress. Therefore, Mr CHEUNG Man-kwong was right in saying that we have different strategies.

Madam President, I have mentioned this point out of my own feelings. When we moved this motion, we clearly stated that we attached great importance to the affairs of Hong Kong, but we must not ignore the harm America has inflicted on the whole of China. The Cox Report, if you care to read it, pointed out that China has over 100 000 students or scholars, including those from Hong Kong, in the United States, who might all be involved in stealing information; even those making video recording or taking notes in some open exhibitions were implicated as suspects in the Cox Report. That is really "How can that be?" In essence, we must not be apathetic; I must therefore speak out my feelings more strongly here.

Recently, I read in a weekly magazine that it elected the book "*Nahan (Outcry)*" by Mr LU Xun the best Chinese novel of the century. In the preface of the book, Mr LU explained why he gave up his original intention to become a medical doctor and changed to a writing career. There is a paragraph there that I would like to share with Members. This is what he wrote, "On one occasion, I saw on the picture the faces of many Chinese whom I long missed. One was tied up in the middle, many others stood on both sides, all were strong built, but all appeared indifferent. The caption said that the one tied up was a spy who gather military intelligence for the Russians and was about to be beheaded by the Japanese troops to warn others, milling around were people who came out for the great show." Madam President, history sometimes repeats itself, and if we have no feelings when some people are hurting the overall development of our country, we may be the ones who will suffer eventually.

Madam President, in this debate on the damage the Cox Report has done to Hong Kong and on the amendment, many Members have clearly showed the various attitudes of the people of Hong Kong. I must appeal to all Members not to be influenced by such attitudes. In fact, the peoples of China, America and Hong Kong should continue to nurture friendship, the continued academic, economic and cultural exchanges should not be hindered by such accusations. I think this is exactly the attitude that the Chinese in Hong Kong should have. I so submit. Thank you, Madam President.

**MR JAMES TO** (in Cantonese): Madam President, a point of order. Because the Honourable LAU Kong-wah said some members of the Democratic Party were against Hong Kong ..... China, I would like to clarify.

**PRESIDENT** (in Cantonese): Mr James TO, I know you want to clarify. But I must state one point. You can only clarify that part of your speech which has been misunderstood. This is the meaning of "clarify". I hope you think about it.

**MR JAMES TO** (in Cantonese): ..... I want to explain. Why? Madam President, I want to mention a point of order again. If a Member says another Member has said certain things, what should that other Member do if he or she is present? The debate just now was not about MFN at all, was it? But there has been bad-mouthing regardless of the topic we are debating about. That is something we can do nothing about. But the problem is: if the comments are about something which is not true and the Members concerned are present, can the President tell me whether the Members can explain?

**PRESIDENT** (in Cantonese): Mr James TO, please sit down first. According to the rules about clarification, a Member may only clarify the remarks he or she has made during a debate. But the rules are made by Members and I am the person to enforce them. So, I want to seek clarification from you whether you have mentioned what you think is being misunderstood.

When Mr LEE Wing-tat raised his hand, why did I not invite him to speak? Because he did not speak during the debate. Dr YEUNG Sum also raised his

hand. Was that a point of order? Members who did not speak in the debate just now are not entitled to clarification.

**MR LEE WING-TAT** (in Cantonese): Madam President, actually I wanted to speak.

**PRESIDENT** (in Cantonese): You wanted to speak. Fine.

**DR YEUNG SUM** (in Cantonese): Madam President, I also wanted to speak but my speech will be short.

**PRESIDENT** (in Cantonese): I declare the meeting adjourned so that I can decide whether Members should be allowed to speak at this stage.

6.59 pm

Meeting suspended.

7.05 pm

Council then resumed.

**PRESIDENT** (in Cantonese): Honourable Members, Council has resumed in a very short time because I can recall that I have once given permission for Mr Gary CHENG to speak in a motion debate after the mover of the motion, Mr SZETO Wah, had made his reply. At that time, I also suggested the Committee on Rules of Procedure reviewing expeditiously the Rules concerned, for fear that debates would drag on forever in that manner. Nevertheless, since I granted a permission before, this time I will also allow Mr LEE Wing-tat and Dr YEUNG Sum to speak. Other Members may also ask permission to speak if they so wish, and then I will allow Mr LAU Kong-wah to make another reply.

**MR LEE WING-TAT** (in Cantonese): Thank you for your wise decision, Madam President. *(Laughter)*

Madam President, I did not intend to speak today. I just wanted to reply to certain points. First of all, I adore the Honourable LAU Kong-wah who made a beautiful and sentimental patriotic declaration. In fact, Mr LAU was formerly a member of the former "United Democrats of Hong Kong". At that time he was a follower of the "very problematic" Martin LEE, our party leader. Mr LAU remained a member for several years. But he might have forgotten his identity. I do not think people should be too aggressive and use terms such as "indifferent", or "demons". Mr LAU said if passed, the motion would become a "demon-detector motion", but then he said he would support the motion, as amended. Would he then be dancing with the demons, or embracing them? If he feels the amendment is utterly unpalatable, he should reject it all the way. Moreover, when Mr LAU said aggressive things he was insulting the 15 Members who supported the Democratic Party. So, totally there are 28 colleagues who in his description have all become demons. He was so aggressive. It was just like a "replication of the Yihetuan". If he is so anti-America, I would like to see him lead several ten thousand people to the American Consulate to protest against American demons invading Hong Kong, against American culture making its way onto the Motherland, when the Disney theme park is completed. Even without the Disney theme park, he may still protest in this way. That is, he may urge several ten thousand people to hold a rally outside each McDonald's to protest against American food and culture invading our Motherland.

Sometimes, when we are being too aggressive in our words, we would leave ourselves in a dilemma. I think we may hold different views on the issue but I do not think we should dig at old wounds, such as China's accession to the WTO. I hope China succeeds so that we do not have to deal with the issue again.

If I remember it correctly, even when the Sino-American relations are under strain, the Central Government of China still receives the United States Secretary of State to discuss the issues. If Mr LAU sticks to his opinions, he should lead a group of people to protest at the American Consulate when China receives the United States Secretary of State. I think if there were unfounded allegations against our Motherland, we should protest. I do not think it is necessary to employ the tactic of attacking another political party by tabling the

matter before this Council, and then when the time comes to speak, the first few minutes were not used to say what was needed and then the remainder was used to attack another political party, with words even people with some common sense would not believe. This is not a debate. This is an abuse of a motion debate to undermine political opponents. This is not a serious issue though, as political debates are common. However, I think the tactic was too mean.

So, Madam President, I hope Mr LAU would withdraw his words and apologize to the 28 Members, otherwise they would become what he described: demons.

Thank you, Madam President.

**DR YEUNG SUM** (in Cantonese): Madam President, I said just now my speech was going to be short. It is short.

Mr LAU Kong-wah has set a precedent in this Council, in which the mover of a Council can ignore the content of the motion. I was surprised at first but then I realized he reserved the last 10-odd minutes to severely criticize each Member in turn. Whoever refuses to lend support to his motion or amends it was condemned as someone without any Chinese conscience. But this time I think Mr LAU would be embarrassed by one thing. Most of the Members support the amendment by Mr SIN Chung-kai. My question is: Is it true that other than Mr LAU and the party to which he belongs all others in this Chamber lack a Chinese conscience? We should think this over.

I think there may be repercussions when we criticize others too much. Strangely, since Mr LAU condemned Mr SIN's amendment as one lacking a Chinese conscience he later said he would support such an amendment. This is bizarre. Why can he do that?

Thank you, Madam President.

**MR SZETO WAH** (in Cantonese): Madam President, what I want to say is very

simple indeed. I think Mr LAU Kong-wah is like the character LU Pu in the Chinese historical novel "*The Romance of the Three Kingdoms*". I would like to suggest that Mr LAU go get it and read it.

**MR ALBERT HO** (in Cantonese): Madam President, I only wish to raise one point. I feel that after the reunification, citizens have often worried that their freedom of speech might not be adequately protected; they further worry that there might appear a trend in which they might not even enjoy the freedom of not speaking. When most people stand up to express their patriotism, to show their heart, those who have not similarly done so at an opportune moment might be regarded as unpatriotic, or even accused of treason. This is the most terrorizing part. Unfortunately, in the decades between the founding of the People's Republic of China and the downfall of the Gang of Four, the most painful part of our Motherland's history is that certain people were found guilty because they chose not to express, or thought that expression was inappropriate, or did not know how to express, or even preferred not to express for certain reasons, they were all criticized with utmost exaggeration for such crimes they committed. This is absolutely the sorriest and most terrifying of all things.

Mr LAU Kong-wah named a number of Members today. For instance, he queried why Miss Emily LAU did not speak up, deciding that her silence signified that she had curried favour with certain powers, or even she was conspiring with the Americans and to canvass for them. In this example, she was convicted because she did not speak. This is not even done nowadays in many autocratic countries. The most they would do is to forbid people to speak, if they do, they would be accused of instigation or disruption of law and order, and charged with disrupting law and order. However, I believe very few countries around the world would do that, even in Communist countries such as North Korea or Cuba, not speaking might not be a crime.

I also wish to talk about myself, because Mr LAU Kong-wah also named me. He said that when we debated on the motion concerning the bombing of the Chinese Embassy in Yugoslavia, I only expressed a kind of feeling. At that time, I pointed out that the feeling I expressed was not a feeling only Chinese could express, everybody should feel sad at the bombing of an embassy that represents peace, at the unnecessary death of civilians. Of course, that was not the first time I expressed such feelings. In the past 20 to 30 years, I took part in many activities, some of which Mr LAU Kong-wah also participated, such as

demanding the Japanese to compensate China for invading our country; this we have been doing for 20 years. We also have many other people attending various other campaigns, such as demanding the vindication of the 4 June incident. All these represent a form of care, a form of longing towards our country and our nation, hoping that it will progress. Please do not categorize feelings, and say that it is patriotic only if you stand up in certain circumstances to support the Central Government and the stance of the central leadership; you are Chinese only if you use a specific manner to lay your heart bare. This is the biggest fallacy in logic.

Lastly, I wish to point out that the reasons for our amendment, which in fact have been clearly explained when Mr SIN Chung-kai spoke, are that we absolutely feel that many problems exist in the Cox Report, and much of what it claims is utterly untenable. We only think that given Hong Kong's present position, the most useful approach is for us to stick to the stance of Hong Kong, and with the information in our hands to rebut that portion of the Report that involves Hong Kong. As to the issues concerning the Central Government, I believe the Chinese Government has its own adequate arguments, its own strategies and plans. Over diplomatic matters, please do not think that to strive to speak on behalf of the Central on every issue would make us very smart and able. This is not always the case. Of course, not speaking up does not mean not supporting the Central Government, or support America. This is a matter of basic logic.

I only wish to stress that as far as the debate today is concerned, I think that our focus should be placed on that part of the Report I just mentioned. I believe the Central Government has many ways to handle the various issues. Naturally, I have not the least intention to rule out the possibility that there might come an appropriate time when adequate arguments are available to us, and there is an absolute need for us to speak up. Nevertheless, within this Chamber today, what we need to do is to do our job well, that is, to defend Hong Kong. That will be sufficient. This is my view.

Lastly, Mr LEE Wing-tat just pointed out, Mr LAU Kong-wah was a former member of the United Democrats of Hong Kong, and is now no more. Of course, each person has his own choice as to which party to join. However, having heard the speech of Mr LAU Kong-wah, I feel somewhat fortunate that

he is not a member of the Democratic Party, otherwise, I, as a representative of the Democratic Party, would definitely feel greatly ashamed.

Thank you, Madam President.

**MR TAM YIU-CHUNG** (in Cantonese): Madam President, the Democratic Alliance for the Betterment of Hong Kong (DAB) has all along been patriotic and has loved Hong Kong. Our stance is very clear cut. Therefore, nothing needs to be said about our fervent love for our country and our nation. However, a Member said just now that we speak on behalf of the Central Government, I wish to say that we absolutely are not qualified to speak for the Central Government, and that the Central Government does not need us to speak on its behalf. But, having seen such a report released by the United States Congress, and in the Report we in the DAB found a lots of fallacies, even the many Members who spoke had pointed out many such mistakes, we should express our views in a direct way.

When the Mainland did something wrong, or something nobody liked, some Members of this Council often did their best to castigate the Chinese Government. But when the United States Government vilifies us, they give us the feeling that they are deliberately evading the issues. If you analyse it carefully, you would see that is really the case. It could be that too many things have happened, and that have affected their memory. Or sometimes they are so preoccupied in scolding others that they fail to scold themselves. This happened very often. For example, I still remember that during a certain debate, Members of the Democratic Party pointed out that certain Members from the DAB did not speak and queried why they did not. It seemed that not speaking was a crime. However, other people doing the same are criticized, and they ask if they do not have the freedom to remain silent. I would refrain from recalling other similar incidents, because such incidents often appeared. To recall them one by one would seem very trivial and garrulous. But I remember such incidents, despite my poor memory, happened not too long ago. Mr Albert HO just now used words like "utmost exaggeration". But then when another Member from the Democratic Party spoke, he suggested that as Mr LAU Kong-wah did not like Disneyland and McDonald's, Mr LAU might as well oppose them all, lead citizens to stage a petition against their coming to Hong Kong. Well, when Mr LAU Kong-wah spoke, he did not mention any of

those things, he only spoke on the Cox Report; and he does not oppose all things American. I believe he is not such kind of a person. He is only fervently loving his country, furious that his country has been framed up and having a desire to speak out. I think that is only that.

The amendment today has the support of many Members, I believe those who support it have their own views. The words of Mr LAU Kong-wah just now mainly concerned what the Democratic Party has said in connection with the amendment. Then why does the DAB support the amended motion? Because we think that fortunately one very important sentence in the originally motion has not been amended, and that is, this Council deeply regrets the issues given rise by the Cox Report. I think that is a very important point. Though the original motion has been amended in some relatively significant parts, as the one sentence "this Council deeply regrets" is retained, which the DAB deems very important, we support the amendment.

Thank you, Madam President.

**MR CHAN KAM-LAM** (in Cantonese): Madam President, I believe Mr TAM Yiu-chung in fact has a very good memory, only that he might not wish to recall things too clearly. As to the allegation that there was no freedom not to speak as made by Mr Albert HO, I have personal experience. When we had the debate last time, Mr SZETO Wah gave me a good dressing down because he accused me of not speaking up. Many Members shared my resent. If Mr Albert HO admonished Mr LAU Kong-wah, it would only be fair if he also berated Mr SZETO Wah.

I think that insofar as the present debate is concerned, we have different stances. The analysis offered by Mr LAU Kong-wah and the views expressed by Members all stemmed from their feelings about history. Over the years, we have our share of divergence over certain political issues. I believe most of the Members who voted in favour of the amendment today are patriotic, many cherish very fervent affection for Hong Kong and China. I have no wish to divide those 20-odd Members. Our past stances are all very clear, this Mr TAM Yiu-chung already pointed out. The stance of the DAB in loving both China and Hong Kong is enormously strong. Everybody knows this for a fact. As to other people who claimed to be patriotic, some people are bound to ask whether it is China that they love, or if it is another country. This we do not

need to dwell on; history will be the witness, history will tell us all.

Mr Albert HO said that he felt fortunate that Mr LAU Kong-wah was not a member of the Democratic Party, lest he would feel greatly ashamed. We are all too clear why Mr LAU Kong-wah left the United Democrats of Hong Kong. This he would talk about later. It is always a very painful decision to quit one's organization. There must be very good reasons, one of which, I believe, was that he believed that particular party or association was no longer the one that met his ideal. That was why he quit. When the association he belonged to went further and further down the wrong way and in the opposite direction of his ideal, I believe he was surely very sad, and it was not easy to make a decision to quit. I believe he would say later that he also feels fortunate for having left an organization that has abandoned his ideal.

As to the need to stage protests at the Disneyland or McDonald's, the DAB has always held that political stances, however different, should not be mixed up with normal trade relations and the friendship between peoples. Better Sino-American relations, I believe, will benefit world peace and friendship among the peoples of the world. And mutual trade relations among the various places of the world are perfectly normal. Even during the 1950s and 1960s when the Sino-American relations were greatly strained, Chinese goods were still shipped to the United States, and American goods still found their channels to reach China. Such trade relations and friendship have never been interrupted. Naturally when over certain political issues some people deliberately act against China, and even show a hostile stance, I believe it is time we must stand up to expose such actions.

The DAB thinks that in the short period since the issue emerged, we have already clearly seen that we are in fact very close in our queries of the Cox Report, and that is, many observations and accusations in the Report are fabricated and groundless. I believe that the citizens of Hong Kong all see very clearly that the stationing of the PLA garrison in Hong Kong has not created for Hong Kong any economic or technology transfer problem that may undermine Hong Kong; that the PLA garrison in Hong Kong is only a manifestation of Chinese sovereignty. The Members from the Democratic Party present today had in the past few sittings deliberately raised doubts in the context of the Cox Report about the issue of certain military commodities of the PLA crossing customs check-points. It is quite natural that some Members have been suspicious of the stance of the Democratic Party. In every debate, the truth

becomes more clear with the progress of the debate, and this is the true meaning of any debate. I hope that through this debate, our stances will become clearer, so that the people of Hong Kong and even of the international community will see what our stances over this issue are. Thank you, Madam President.

**MR SZETO WAH** (in Cantonese): Madam President, I wish to elucidate.

**PRESIDENT** (in Cantonese): Mr SZETO Wah, you only spoke one sentence just now. Do you wish to elucidate that sentence?

**MR SZETO WAH** (in Cantonese): No, I .....

**PRESIDENT** (in Cantonese): Mr SZETO Wah, I am sorry.

**MR SZETO WAH** (in Cantonese): Just now a Member mentioned my name, and I only wish to speak one sentence to elucidate.

**PRESIDENT** (in Cantonese): Mr SZETO Wah, I am very sorry. According to the Rules of Procedure, if you did not speak then, and now you speak.....

**MR SZETO WAH** (in Cantonese): I only wish to elucidate.....

**PRESIDENT** (in Cantonese): Please listen to me, I am making the point clear. If you wish to make an elucidation about his speech, you should have stood up when he was speaking to interrupt and ask for an elucidation, and let him decide if he would accept your request for an elucidation. But now you are asking for elucidation, then you can only elucidate that part of the speech you claimed to have been misunderstood. But you made only one sentence in your speech earlier. I do not know which part you would like to elucidate.

**MR SZETO WAH** (in Cantonese): I only wish to say, those who did not speak only got my praise. I only expressed my appreciation, I did not dress them down.

**PRESIDENT** (in Cantonese): Does any other Member wish to speak? I hope that today's debate would not drag on. If no other Members wish to speak, I now invite Mr LAU Kong-wah to reply again. And that will be the end of this debate.

**MR LAU KONG-WAH** (in Cantonese): Madam President, my speech will be very short. I think this "re-inforced" debate today is very good, because some matters become clearer and more definite with more detailed debate.

I have in fact said very clearly that this is a political debate, the topic is political. Mr LEE Wing-tat just went too far with his remarks about me. He said I was against McDonald's, against Disneyland. I would like to ask other Members, did I ever say those words? Mr LEE Wing-tat seemed to have learned from Mr COX the art of making trumped-up charges. I think that is not right. I said nothing of that sort, I only talked about the Cox Report. I harbour none of the so-called hostility towards the United States. At the end of my speech, I made it clear that the United States and China must maintain their good relations. I put it very clearly, and Members should have heard it clearly. What in America am I opposing? I oppose American hegemony. This I made clear when I spoke during the debate on the motion to condemn NATO. Now I oppose the framing by the United States Congress. This is also very clear.

Mr SZETO Wah just said I was like LUI Bo in the *Romance of Three Kingdoms*, and told me to read it up carefully. Well, I heard that LUI Bo was a great warrior. As "Uncle Wah" regarded "Wah the Junior" as LUI Bo, I also wish to ask "Uncle Wah" to read some history, not the *Romance of Three Kingdoms*, but to find out who was NG Sam-kwai. I would ask him to think carefully about it.

Certain Members said that my words might have hurt some other Members. I did not mean it that way. Everybody heard my words loud and clear, what I said was that some Members in fact supported both the original motion and the amendment; those Members did not move any amendment, nor did they delete the most important parts of my motion. I did not criticize them.

I mentioned some things the Democratic Party or some other Members had said in the past, please point out if any Member can say that any of such things is not a fact. I am sure everything I said is a fact. I have brought with me today all the material I need, I can show you and let Members challenge me as to which of the things is not a fact. Some people might say that all such things are old stories, but you all know that in this Council we do sometimes talk about some old stories. Why can some people talk about old stories, and not I as well? What kind of democracy is it? What sort of democrats are they? Somebody pointed out that I followed Mr Martin LEE at that time, but the present circumstances serve to prove that I was right in quitting, particularly after that occasion condemning the bombing of the Chinese Embassy by NATO. After he made his speech on that occasion, I was further convinced that my decision was right. I have made an analogy, and that is, if I boarded a vehicle that was meant to head towards a destination, but that vehicle instead went to Wo Hop Shek; of course I got off. I did say that, and that is nothing secret.

We have already said that the DAB would eventually support the amendment. The reason is very clear. It is because the amendment retains the sentence of "this Council deeply regrets". We hope that all Members will support this expression of regret over such trumped-up accusations by the United States Congress. Therefore, we will support the amendment.

Mr LEE Wing-tat said that my words were too inflexible. However, I think that one must be clear and definite in declaring one's political stance or attitude. So I will not retract the words that represent my stance and attitude. This is crystal clear. In Hong Kong, some people are pro-China, some pro-America, and still some are for others. This does not matter, it represents diversification. Each person has his own stance, his own attitude. There would be other motions in the future that might bring to light other problems, would there not? I think it is best for each person to have his or her stance, this can reflect the multiplicity of Hong Kong's political culture.

Madam President, that is all for my reply. I think that it has been a very good debate. It has served to reveal the stances and attitudes of many people. I so submit. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr LAU Kong-wah, as amended by Mr SIN Chung-kai,

be passed. Will those in favour of the motion 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 each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion as amended carried.

**PRESIDENT** (in Cantonese): Second motion: Enhancing Hong Kong's status as an aviation centre.

### **ENHANCING HONG KONG'S STATUS AS AN AVIATION CENTRE**

**MR FUNG CHI-KIN** (in Cantonese): Madam President, if the deep harbour is Hong Kong's unique natural heritage, then the Chek Lap Kok new airport is the fruit of Hong Kong people's painstaking labour. In fact, if we combine our edge in the harbour with the wisdom and vigour embodied in the new airport and utilize this potential to the full, the Hong Kong economy will have even better prospects.

From the planning to the inauguration of the new airport, the Government and the people had great hopes that the world-class new airport would open up new horizons for Hong Kong's service industries such as freight forwarding and tourism, as well as the overall economic development. But since the opening of the airport, it has been plagued by problems such as the breakdown of the operation of the Hong Kong Air Cargo Terminal Limited (HACTL) and the Asian economic recession as a result of the 1997 financial turmoil. Even though the new airport has world-class facilities built on a world-class scale, its utilization rate has been barely satisfactory and it has failed to achieve the

optimal economic benefits. Together with the recent labour disputes of the Cathay Pacific Airline and the reduction of flights by some airlines due to the exorbitant charges of the airport, this has aroused the concern of the industry and members of the public about the competitiveness of the new airport, and about the question of whether Hong Kong's status as an aviation centre is declining.

Madam President, the new airport has had a difficult start in the first year of its opening. While it boasts of 24-hour operation, the daily number of flights is only 460, which is one seventh less than that handled by the Kai Tak Airport which had to be closed at night and only one third of the designed capacity of the Chek Lap Kok airport. As a result, the Airport Authority (AA) was burdened with a \$400 million deficit in the first year of its operation. As we all know, after the opening of the second runway, the capacity for the take-off and landing of aircraft, which already exceeds the demand, will drastically increase by more than three times. Meanwhile, Hong Kong's competitors in the region, including Singapore, Malaysia, Taiwan and even Macau, Shenzhen, Zhuhai and Guangzhou, are wolfishly waiting on the wings.

With regard to the key to the problem of competitiveness, the aviation industry thinks that the excessive charges of the airport are to blame, while the AA blames the Government for refusing to open the skies. As for the Government, it considers that first, the skies cannot be opened lightly and second, they are already quite open and the aviation rights have not been used to the full. The low utilization rate is the result of the poor economy and insufficient demand. With the change in the Board of the AA and the second runway of the new airport coming into full operation shortly, I consider that it is now high time to comprehensively review the existing aviation policy. This we can afford no delay.

I especially hope that the Government can adopt appropriate measures to open up the aviation market so as to explore new routes, realize Hong Kong's potential to build a network for air and sea freight services and lower the charges of the airport as far as possible, in order to stimulate the demand for passenger and freight transport. This will prevent the airport that Hong Kong people have spent tens of billions of dollars in building from turning into a "white elephant" wasting considerable public resources over the long term, and ensure that Hong Kong will not lose its status as an international and regional aviation hub.

The Government should produce an independent, third-person report to respond to the public. Actually, the relevant issues not only involve the question of strength for the future development of the aviation market of Hong Kong, but are also vitally linked with the recovery of its overall economy.

Madam President, I am fully aware that the Government's so-called flexible "one route, one airline" policy and the question of the "fifth freedom" rights have been the focus of the community's discussion and the subject of the industry's debate over the last month. Actually, my motion also includes a review on the relevant policies. To be more explicit, the fact that the motion does not expressly ask the Government to abolish the "one route, one airline" policy and to open up the "fifth freedom" rights does not mean that I support the Government's existing policies. Nor am I advocating protectionism in Hong Kong or "letting slip a golden opportunity" as some people say. I just wish to let the Government conduct a comprehensive review and explain the reasons first.

Madam President, the most crucial issue in the Hong Kong aviation market now is not whether to open up the market or not, but rather how and to what extent it should be opened up. The aim is to ensure the new take-off of the aviation industry in the 21st century, enhance the status of Hong Kong as an aviation centre and derive long-term benefit for Hong Kong's overall economy.

The "one route, one airline" policy must certainly be reviewed at once. The "one route, one airline" policy involves the question of competition between airlines in Hong Kong, as well as competition between Hong Kong's airlines and other national or regional airlines. If the competition only carves up the market, without achieving economies of scale, or even involves the use of cut-throat tactics in an unhealthy scramble for business, it would surely not be in Hong Kong's interest in the long run.

If there is greater demand for certain routes, we may as well allow one more locally registered airline to operate them. For the consumers, they can obtain service of the same or even higher quality or they might bargain better deals in pricing. In that case, I am sure we will all support it. However, if airlines engage in unhealthy competition, they might launch "cut-throat" price wars to drive competitors out of business. In that case, will the most important interest of consumers, that is, safety, be neglected as prices are reduced and the

airlines cut back on expenditure, including expenditure on maintenance and repair? Equally important is the question of the chances of the forming of a third local airline and of its survival in view of the large number of competitors for a share of the same pie and the increase in the risks of the investment of airlines.

Madam President, in my view, the policy of "one route, one airline" must certainly be discussed. The Government cannot have a muddled policy.

The second focus of discussion is the opening up of the "fifth freedom" rights. If foreign airlines are allowed to load or unload passengers and cargo in Hong Kong and fly them to a third destination, this should be able to increase the number of passengers and volume of freight, provide consumers with more choices and bring additional income to the AA. However, the "fifth freedom" rights are a valuable asset and a bargaining chip for Hong Kong. We cannot hand them out free to anyone who comes along asking for them

Indeed, even if Hong Kong obtains reciprocal "fifth freedom" rights, it might not be able to get reciprocal economic benefits. Hong Kong has the unique advantage of being situated at the heart of Asia, of being within a flying radius of five hours from regions with half of the world's population, and of having rare commercial and strategic value. Naturally, overseas countries (especially the United States and Hong Kong's greatest rivals such as Singapore) hope to have a finger in the pie of Hong Kong's "fifth freedom" rights as a stepping stone for developing their business. However, the "fifth freedom" rights of the other country might not be useful to the development of Hong Kong's aviation industry. For instance, if the United States does not open up its domestic market, even if it gives Hong Kong its "fifth freedom" rights in return, it would not help the Hong Kong aviation industry to enter the United States market. Another example is, whether in terms of the volume of cargo loaded or unloaded, nine out of the top 10 routes for Hong Kong's international air cargo movement are north of Singapore, while one major route is to Singapore. The majority of the 20 most popular routes for Hong Kong's international civil aviation are also north of Singapore, except for the Sydney and Singapore routes. Therefore, if Hong Kong wants to tap the international market for passenger and cargo transport, it does not need Singapore's "fifth freedom" rights.

I reiterate that while I call for active consideration to open up the "fifth

freedom" rights, it should not be done collectively. Rather, we should examine each route, each market and each country repeatedly. The bargaining chip should be treasured and no decision should be made before finding out which way to open up the rights is best for Hong Kong.

Actually, the Government should follow the example of our competitors in the region in separating the aviation policies on cargo and passenger traffic. In terms of the opening up of air freight transport, it should take the lead in abolishing the "one route, one airline" policy and the restrictions of the "fifth freedom" rights. This would be more consistent with the overall and long term interest of Hong Kong and would fulfil the urgent need to attract more airlines to choose Hong Kong as a main base.

Madam President, Hong Kong used to maintain an edge in aviation business. In terms of software and hardware, it was superior to the major cities in China and it has a more favourable geographical location compared to the Southeast Asian countries. However, with the building or expansion of numerous international airports in Hong Kong's neighbouring regions (including the Mainland) and the adoption of far more aggressive and open air freight transport policies by Singapore, the Philippines, South Korea and Taiwan, Hong Kong's edge has been gradually eroded and it is being gradually replaced as a transshipment port. For instance, before Hong Kong officially received the firm backing of China in January 1997, Singapore signed an agreement with the United States to open up the "seventh freedom" rights in air freight transport, so that its aircraft can carry cargo outside its own territory without having to return to Singapore. Such an arrangement has especially given a great boost to the highly effective express delivery air services. Very soon, Singapore has become the regional centre for express air delivery. Further, thanks to the efficient express delivery services, enterprises are able to reach clients and suppliers at any time. As a result, Singapore has attracted more hi-tech, high value-added multinational companies of supplies management to set up their headquarters in that country. Actually, in terms of the value of air cargo, each kilogram of cargo handled in Hong Kong has an average value of only US\$62, lower than the average standard value of US\$79 in Asia, and a far cry from the US\$140 in Singapore. As we can see, the freight forwarding industry in Hong Kong has shown a lack of innovative ideas and seem to be harping on the same string without offering anything new.

In view of this, apart from considering whether to open up the "fifth

freedom" as well as the "seventh freedom" rights, the Government should also actively study the possibility of building an additional cargo terminal at the new airport, making use of the unique advantage of the proximity of the new airport to the sea, in order to combine sea and air freight transport. This would allow the provinces and cities in the Mainland and the neighbouring regions to tranship their cargo to other parts of the world through the sea-air transport system of the new airport. This would help Hong Kong regain its status as an air cargo hub in the region.

Madam President, while it is important to formulate a set of policies for the opening up of the aviation market in tune with the size of the new airport, we must also consider whether the airport charges are in keeping with the policy of opening up the aviation market.

I urge the Government to re-formulate (rather than just review) the financial arrangements for the new airport. The fact that I urge the Government to reduce (rather than just review) its operating costs and charges as far as possible does not mean that I am blind to the \$400 million deficit of the new airport. I merely wish to remind the Government and the AA not to hesitate to move forward because of some financial difficulties at present and make light of the relationship between airport charges and market demand. If the airport charges are not important, why should Hong Kong's main competitors (such as Manila, Bangkok, Singapore, Kuala Lumpur and so on) set their airport charges lower than those of Hong Kong?

While admitting that all facilities of the new airport are better than the Kai Tak airport and while they are willing to accept higher charges, the airlines have complained collectively. In view of the intensified competition in the aviation industry, the raising of the charges by more than 60% by the AA upon opening (this figure is supplied by the airlines, the AA's figure is naturally lower) has created a stumbling block for airlines trying to enhance their competitiveness. It is imperative that the AA should explain clearly to the public on what economic factors were the current financial arrangements determined. If the designed capacity was determined by the AA based on the development of market demand for the new airport over the next 20 or even 50 years, why should the financial arrangements be made in such a way as to ensure a profit in a few years? If the present excess capacity of the new airport is due to miscalculations of the Government or due to market factors, is it fair and reasonable for the AA to shift the burden of the relevant costs onto the industry immediately?

One might argue that if the charges are reduced, the AA's deficit would increase. One must pay a price for the reduction. In the end, not only would taxpayers be subsidizing the AA, they would be subsidizing users as well. This would be unfair to taxpayers. My reply is: the fierce competition in the international aviation market looks increasingly like a zero-sum game. If the AA takes no action to stimulate demand and resigns itself to fate, it will lose customers and our competitors will take advantage of the situation. Ultimately, the AA will have a deficit and taxpayers will have to subsidize the AA.

Madam President, I do not wish to assert that the high charges of the airport or the Asian economic recession are the reasons for the underutilization of the airport. This is probably a chicken-and-egg question. In my view, since everyone agrees that lowering the airport charges will have the effect of stimulating the market demand, why do the Government and AA not lower the airport charges as far as possible and see if that will produce any golden eggs? This way, at least airlines will not have an excuse to send a message to the international community that Hong Kong does not place importance on competition.

Madam President, I do not wish to see the new airport which was built with tens of billions of hard-earned dollars of Hong Kong people turn into an expensive installation and an aviation expo. I hope that the Government and the new Board of the AA can have a broad vision and an open mind in order to forge a new and bright future for Hong Kong's aviation industry in the 21st century. I urge Members to support my motion.

Madam President, I so submit.

**Mr FUNG Chi-kin moved the following motion:**

"That, in view of the great potential and competitiveness of the Hong Kong International Airport, this Council urges the Government to comprehensively review the existing civil aviation policy and the development strategies for related services, in accordance with Article 128 of the Basic Law which stipulates that "the Government of the Hong Kong Special Administrative Region shall provide conditions and take measures for the maintenance of the status of Hong Kong as a centre of international and regional aviation"; in the review, active consideration

should be given to opening up the aviation market so as to explore new routes and provide more choices for the tourism and freight forwarding industries; the Government should also study vigorously the combined advantages offered by the new airport and the fine harbour in developing air and sea freight transshipment services; furthermore, the Government should seriously consider the aspirations of the industries and discuss with the Airport Authority, under the premise of ensuring high quality services and having regard to the present economic situation, the formulation of new long-term financial arrangements for the new airport and reduce its various operating costs and charges as far as possible, so as to ease the burden on the industries and promote the development of the tourism and other related service industries."

THE PRESIDENT'S DEPUTY, DR LEONG CHE-HUNG, took the Chair.

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr FUNG Chi-kin, as set out on the Agenda, be passed.

Mr Fred LI is to move an amendment to this motion. Mr MA Fung-kwok is to move an amendment to Mr Fred LI's amendment. The two amendments have been printed on the Agenda. In accordance with the Rules of Procedure, the motion, the amendment, and the amendment to amendment will be debated together in a joint debate.

I will first call upon Mr Fred LI to speak and move his amendment to the motion. Then, I will call upon Mr MA Fung-kwok to speak and move his amendment to Mr Fred LI's amendment. Members may then debate the motion and the amendments. After Members have spoken, I will first put Mr MA Fung-kwok's amendment to Mr Fred LI's amendment to vote. Then, depending on the result of the vote, I will put Mr Fred LI's amendment, either in its original form or in the amended form, to vote.

I now call upon Mr Fred LI to speak and move his amendment.

**MR FRED LI** (in Cantonese): Mr Deputy, I move that Mr FUNG Chi-kin's motion be amended as set out on the Agenda.

Mr Deputy, the Hong Kong International Airport has been one of the busiest in the world in terms of either passenger throughput or cargo throughput. In 1997-98, 83% of the visitors and 63% of the air cargo going through Kai Tak Airport came from or were on their way to airports in the Asia Pacific Region. Thus we can see Hong Kong is indeed an aviation centre internationally and in the Asia-Pacific Region. The continued maintenance of this status is hence conducive to promoting the development of the economy, commerce, tourism and freight forwarding industry of Hong Kong.

The new airport at Chak Lap Kok has provided a great edge to maintaining Hong Kong as an international and Asia-Pacific aviation centre. But an excellent new airport must be backed up by suitable aviation policies before it can bring the greatest possible benefits. I think the Government need to be more open in its aviation policy, including abolishing the "one route, one airline" policy and opening up the "fifth freedom" rights, as this can make full use of the resources and potential of the new airport. This can also bring in more competition in the Hong Kong aviation market to induce more opportunities for the development of its aviation services.

In the past, as the Hong Kong Government has been following the "one route, one airline" policy, competition in the Hong Kong aviation market has been absent. As a result, the Cathay Pacific Airways (Cathay Pacific) has been monopolizing the local aviation market for some time. In 1985, when Dragonair was established, it intended to compete directly with the Cathay Pacific by operating international routes. Unfortunately, Mr Brembridge, who was previously employed by the Swire group and then became the Financial Secretary, suddenly announced the "one route, one airline" rule. So, Dragonair was barred from entering the market. Later, it became a partner of the Cathay Pacific, operating second or third liner short routes in the Mainland and Southeast Asia with Cathay Pacific continuing to focus on international routes. There has been no competition to speak of.

The "one route, one airline" policy constitutes a barrier to fair competition in the market. It stifles development in the local aviation industry. This is not in any way in the interest of the market or the consumers. The Democratic Party therefore urges the Government to abolish the policy.

Officials from the Economic Services Bureau said it was not possible to allow more than one local airlines to operate similar routes the capacity of Kai Tak was limited. Now the new airport is in operation and with the full

operation of the second runway to take place later on, the hourly capacity of the Hong Kong airport will be as high as 40, being a significant increase from 31 at Kai Tak. With such a substantial increase in the capacity of the new airport, the Government has no reason to limit free competition between Hong Kong airlines. The policy of "one route, one airline" should be abolished to attract more investors to compete in the local market. This will help to raise the operational efficiency and standard of service of Hong Kong airlines. Prices will fall and quality of service improve to the benefit of visitors to Hong Kong.

The opening up of the "fifth freedom" rights is a determining factor to making aviation services in Hong Kong more diversified, and to attracting airplanes from all over the world to come to Hong Kong so that Hong Kong's status as an international aviation hub can be further reinforced.

Put simply, "fifth freedom" rights mean the rights of overseas airlines to pass through Hong Kong and take passengers, and to use the Hong Kong airport to stop over on their way to other destinations. Opening up the "fifth freedom" rights means a lot to Hong Kong. If that is done, more flights will enter Hong Kong. In other words, more visitors will come. This will not only help to promote tourism, but also upgrade the status of Hong Kong as a commercial centre. Opening up the "fifth freedom" rights will also bring more aviation services to Hong Kong. In addition to having more flight choices, passengers may enjoy lower ticket prices as a result of competition.

Undoubtedly, opening up the "fifth freedom" rights will certainly have an impact on local airlines. But since Hong Kong is a cosmopolitan city, its aviation policies must have an international outlook. It must not confine itself to protectionism for individual enterprises. In fact, the objective of aviation policy in Hong Kong is very clear. Article 128 of the Basic Law stipulates that the Hong Kong Special Administrative Region shall maintain the status of Hong Kong as a centre of international and regional aviation. To achieve that objective, a more open aviation policy is necessary. With more openness of our skies, the AA will obtain more revenue and the aviation services and tourism industry become more prosperous. When that happens, both local airlines and Hong Kong as a whole will benefit.

Opening up the "fifth freedom" rights will also have a positive impact on the freight forwarding industry in Hong Kong. At present, about 60% of the air cargo is transported by passenger planes. More flights will mean increased cargo handled by the Hong Kong airport. With competition by more flights,

people in the trade will have more choices, and air cargo handling will be more efficient. To ensure Hong Kong becomes an important international air cargo centre, a prerequisite is that it has an international network of air services. Relaxing the "fifth freedom" rights will help expand Hong Kong's network of air services.

In neighbouring Southeast Asian regions, there are a number of international airports in competition with Hong Kong. Changyi Airport in Singapore is a good example. The orientation of the aviation policies in these regions will have certain impact on Hong Kong. It has been reported both Singapore and Taiwan have signed open skies agreements with the United States. I think the Hong Kong Government can ill afford to ignore this. It must conduct a comprehensive assessment of the impact on Hong Kong of the policies of neighbouring regions to open up their skies. It must implement strategic measures in response. If the Government continues to be complacent and to impose undue restrictions on the "fifth freedom" rights, it will in the end fail to surrender its aviation hub status to our competitors on a plate.

Another issue that has caused much concern among the air services is the charges of the new airport. Understandably, the new airport should charge more because of the enormous investment made and the larger and better facilities compared to the former Kai Tak Airport. But I want to point out that at its opening in 1998 the Asian financial turmoil was raging, the Hong Kong economy was in a recession, and the tourism industry was shrinking. So, the aviation industry was faced with great difficulties. But the greatly increased airport charges then must have increased the burden of the industry substantially. The downturn of the economy was not what the AA or the aviation industry could have expected. Nor indeed was it expected by anyone. Therefore we think both the Government and the AA should review again the financial agreement with the new airport and its various charges in the light of the present economic situation.

However, we do not think that the new airport is an investment targeted purely at returns. It is a significant infrastructure item, a pillar of the local tourism industry and a favourable factor for Hong Kong in maintaining its status as an aviation centre in the world and in the Asia-Pacific Region. Neither the Government nor the AA should be short-sighted by focusing only on the present financial position of the AA. In fact, for such a heavy investment as the new airport, there is no need for the Government or the AA to expect profit at the initial stage of its operation. Faced with the present difficulty, both parties should strive to maintain the competitive edge of the airport to ensure flights will

not be lured by neighbouring airports charging lower fees. Therefore, the Democratic Party would urge the Government and the AA to review the financial agreement of the new airport and its various charges taking account of all factors.

Lastly, I would like to talk about the amendment by the Honourable MA Fung-kwok. After taking a careful look at Mr MA's amendment I cannot find any significant difference between it and my amendment. Mr MA simply seeks to give a slightly more detailed explanation to part of my amendment. Regarding the opening up of the "fifth freedom" rights, we need to stress and we should also state our stance with the Government. The Democratic Party is not asking that the Government unilaterally open up the "fifth freedom" rights immediately. We just hope that in dealing with the "fifth freedom", rights the Government will not just consider protecting the interests of Cathay Pacific. It should also consider the interests of Hong Kong as a whole. It should consider factors such as our competitive edge, tourism, the freight forwarding industry and the interests of consumers. It should relax the principles of the exchange of rights and deal with the issue with some flexibility so that more planes will find it easier to come to Hong Kong to load or unload passengers.

Since, freedom rights usually include passenger and cargoes and 60% of goods in Hong Kong are transported by passenger planes, to make Hong Kong a forwarding centre in the world and in the Asia-Pacific Region means the same thing as maintaining that status. So, what confuses me most is Mr MA's proposed deletion of the wordings "financial arrangements". Airport charges are fixed basing on the financial arrangements, and so in reviewing the airport charges, we must review the "financial arrangements".

With these remarks, I beg to move.

**Mr Fred LI moved the following motion:**

"To delete "active consideration should be given to opening up the aviation market so as to explore new routes and provide more choices for the tourism and freight forwarding industries" and substitute with "the Government should abolish the "one route, one airline" policy, open up the "fifth freedom" rights, introduce competition and provide consumers with more and better choices of flight services, so as to promote the development of the tourism and freight forwarding industries"; to delete "aspirations of" from "the Government should seriously consider the aspirations of" and substitute with "difficulties faced by"; to add ", " after

"the industries and"; to delete "discuss" from "discuss with the Airport Authority" and substitute with "in conjunction"; and to delete "under the premise of ensuring high quality services and having regard to the present economic situation, the formulation of new long-term financial arrangements for the new airport and reduce its various operating costs and charges as far as possible, so as to ease the burden on the industries and promote the development of the tourism and other related service industries" and substitute with "review the financial arrangements for the new airport and the various airport charges, so as to ensure that the new airport can provide high-quality services and maintain its competitive edge"."

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Fred LI to Mr FUNG Chi-kin's motion, be passed.

I now call upon Mr MA Fung-kwok to speak and move his amendment to Mr Fred LI's amendment.

**MR MA FUNG-KWOK** (in Cantonese): Mr Deputy, I move that Mr Fred LI's amendment be amended, as set out on the Agenda.

The development of Hong Kong's aviation industry has all along been hampered by the "main commercial base" and "one route, one airline" policy. Since its establishment, Cathay Pacific has been taken care of by the Government, which allows it to form a dual monopoly in Hong Kong's aviation market with the airlines of the signatory states to the air services agreements.

Mr Deputy, while Cathay Pacific claims to have its main base in Hong Kong, its employment policy and operation suggest otherwise. The principal shareholder of Cathay Pacific is the British Swire Group, which is responsible for its management. Each year, apart from receiving a management fee, it receives 2.5% of the profit before tax. Last year, it received a management fee of \$185 million. How much tax does Cathay Pacific pay to the Government annually? The former colonial government granted Cathay

Pacific full and free use of the valuable public asset of the aviation rights of Hong Kong, with the argument that Hong Kong was its "main commercial base".

As Hong Kong is an open and cosmopolitan city, we hope that airlines of different countries could make profit and develop in Hong Kong. While the Government is duty-bound to keep an eye on the development of an industry, it does not necessarily have to specially protect a certain company. Instead, it should actively encourage the setting up of locally based new operators. The recent comments of government officials on the opening up of aviation rights seem to deviate from Hong Kong's principle of encouraging competition.

With regard to the issue of the opening up of the "fifth freedom" rights, since aviation rights involve the question of sovereignty, the governments of various countries will protect their own airlines, especially since the airlines of many countries are state enterprises. However, Hong Kong does not have a publicly owned airline to protect. The main task it has to do is to ensure that agreements signed with other countries are reciprocal so that local operators will have equal opportunities. It does not have to open up everything to extremely protectionist rival countries. There is also no need to open up areas hastily which will only benefit the other party but will bring no advantage to Hong Kong.

Our focus should be on: allowing more flights into Hong Kong in order to lower transport costs; enhancing the overall competitiveness of Hong Kong; providing better alternatives to users; getting new airlines to make commitments which are in Hong Kong's interest while opening up the market and so on.

Mr Deputy, as the chances of China joining the World Trade Organization (WTO) increase, we have a greater need to make strategic planning. Once China becomes a member of WTO, the Mainland will have direct trade with the United States and the European Union. If we do not change the existing conservative aviation policy, it will be difficult for Hong Kong to compete with the Mainland and other cities in the region. As a result, Hong Kong's sea, land and air transport industry might decline rapidly.

The concept of international logistics centre has taken root in many places. Their local economy has benefited from their role as logistics centres. Bearing in mind that Hong Kong is developing hi-tech and high value-added industries,

looks set to build the Cyberport and develop a Chinese medicine centre, so in order to implement these plans, we need hardware in the form of transport apart from good software support.

In recent years, other countries in Asia have begun to separate cargo transport from passenger transport in bilateral air services agreements. Many multinational freight forwarding enterprises have chosen to establish logistics centres or express centres in these regions. For example, Federal Express has established a cargo handling hub at Subic Bay, Philippines. DHL has established an express air delivery centre in Singapore and UPS has set up its Asian express centre in Taipei.

In 1997, Singapore signed an agreement with the United States for the full liberalization of the aviation industry, allowing the different airlines to compete freely in the market. Together with its ability to provide more efficient customs clearance and transport connections for express delivery companies, this has made Singapore a new hub of express delivery in the Asia-Pacific Region. This has induced multinational companies such as Hewlett-Packard, 3M and DuPont to establish their Asia-Pacific headquarters and logistics centres in Singapore. From this, it is clear that the development of a logistics centre will not only stimulate the growth of the transport industry, but also promote the development of hi-technoy and high value-added service industries. Mr Deputy, while we have the optimal geographical situation and excellent airport facilities, our competitors in the region still have an edge over us.

The use of the Internet is expanding at an astonishing rate and electronic trade is also developing rapidly throughout the world. The location of retail shops or even that of the headquarters and shops of the sales network of enterprises is becoming less and less important, while a transport and express delivery chain that can operate 24 hours and deliver documents, contracts and cargo to all parts of the world is now of paramount importance. Whether Hong Kong can occupy an important place in electronic trade depends very much on the transport network.

If the Government of the Special Administrative Region (SAR) wants to make strategic planning for transshipment services, it must abolish the "one route, one airline" principle and the restrictions of the "fifth freedom" rights, and even consider changing its guidelines based on the principle of "main commercial base". Otherwise, multinational air cargo enterprises, especially

express air delivery companies, will not consider establishing their Asia-Pacific headquarters and logistics centres in Hong Kong.

With regard to the financial arrangements for the new airport, the relevant financial arrangements were agreements between the Chinese and British Governments. After the reunification, these agreements have no real significance any more. All financial arrangements for the new airport are now handled and controlled by the SAR Government. It all depends on how the SAR Government sees the relevant issues. The Government's attitude will to a large extent determine how the new airport charges will be adjusted. I hope that the Government will take the difficulties of the industries into serious consideration and lay emphasis on maintaining the competitiveness of the airport. Actually, another effective strategy to lower charges is to open up the market and increase the number of flights using the new airport. This will bring a number of advantages and ensure that Hong Kong remains an aviation centre.

Mr Deputy, enhancing Hong Kong's status as an aviation centre is not only in the interest of the few main airlines in Hong Kong, but is also in Hong Kong's overall interest. Therefore, I hope that the SAR Government will not just focus on the interest or needs of individual privately owned airlines. Rather, it should analyse and study the question of how Hong Kong can compete and keep up with the global development and formulate in time a set of suitable and strategic policies and economic development, in order to enhance the competitiveness of Hong Kong in the long term.

Lastly, I wish to say that I wholly support the spirit of Mr Fred LI's amendment and Mr FUNG Chi-kin's motion. I am merely adding a few points to them.

I so submit. Thank you, Mr Deputy.

**Mr MA Fung-kwok moved the following amendment to Mr Fred LI's amendment:**

"To add ", in an open manner, encourage more Hong Kong-based operators to actively open new routes, fully utilize the new airport," after "the Government should"; to insert "suitably" before "open up the "fifth

freedom" rights"; to delete "more and" after "provide consumers with"; to add "and promote Hong Kong as the hub of international commodity exchange and secure Hong Kong's status as the Asia-Pacific air freight forwarding centre, so as to support the policy of developing high-technology and high value-added industries in Hong Kong;" after "the tourism and freight forwarding industries;"; and to delete "the financial arrangements for the new airport and" after "review".

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr MA Fung-kwok to Mr Fred LI's amendment, be passed.

**MRS SELINA CHOW** (in Cantonese): Mr Deputy, the discussion about "opening up the skies" can be divided into two parts. First, a country may start more international flights to expand its market through conclusion of air services agreements with foreign countries. Second, it may allow more operators to participate by opening up the local aviation market.

The Liberal Party fully supports the Government's continuous exploration of new international routes, in particular, those flying directly to India and Milan, Italy, which are in great demand. But I must remind Members that aviation rights are an asset. A Government which owns and controls such rights must ensure its exchange can bring viable returns. "Opening up the skies" must be done on the basis of equity, mutual benefit and reciprocity. We must not open up our skies to a country without gaining entry to the skies of that country.

The United States is a leader in advocating the "opening up of skies". Apparently, opening up is in line with the American spirit of freedom and equality, but in the United States "opening up the skies" means the opening up of the skies of other countries so that United States airlines can enter these countries or stop-over there. The domestic market in the United States remains closed. Flights from other countries once landed are not allowed to go further to other major United States cities. It even prohibits foreign ownership of

United States airlines and requires United States officials to fly on United States planes if they go abroad. Though a forerunner for the "opening up of skies", the United States does not practise what it preaches, determined to protect its own aviation rights. The Liberal Party does not see any reason to open up to other countries our "fifth freedom" rights for nothing without obtaining a commensurate right to stop over. The Honourable Fred LI's amendment worries us very much.

About opening up the local aviation market, the Liberal Party thinks that the aviation industry has a great impact on the economy as a whole. Aviation policies must make promoting the status of Hong Kong as an aviation centre and bringing the greatest economic benefit for Hong Kong as the primary objective. The amendments by Mr Fred LI and Mr MA Fung-kwok urge the Government to abolish the "one route, one airline" policy. The Liberal Party considers that this may be counter-productive and detrimental to the development of the local aviation industry.

First, the "one route, one airline" policy should not be viewed as a policy that gives undue preference to individual airlines. It can indeed serve to protect second or third liners from being devoured by bigger airlines. Some years ago, the British Caledonia Airways competed with the British Airways for international flights but it was purchased by British Airways in the end. This was an example of the downside of the matter. Increased competition will not necessarily bring about real competition. We must face the reality. We must consider the scale of the market and its other realities. In the United States, where there is the biggest aviation market, in fact has only one local airline at each city plying international flights, despite the absence of an "one route, one airline" policy. For example, in Atlanta, international flights are operated by Delta Air Lines alone; in Los Angeles and San Francisco, United Airlines. So, even a big aviation centre as the United States cannot afford two local competitors for overlapping flights, should Hong Kong hastily and recklessly discard a long-standing successful policy without regard for the possible consequences?

Second, inappropriate competition by two local airlines will only lead to a lose-lose situation. In 1992, the Australian Government approved Ansett Australia, which up to then operated domestic flights only, to operate

international flights. Ansett Australia and the original operator — Qantas Airways — both had problems in their business. As a result, Qantas had to sell a quarter of its shareholdings to British Airways. Ansett has been trying to find a buyer, too.

Third, any country will work towards assisting a local airline, which may act as a symbol for that country. Only a local airline will locate its headquarters locally, providing a huge amount of job opportunities and tax revenue. As an aviation hub in Asia, Hong Kong should develop at least one local airline with a competitive edge in the international market. But to date, Hong Kong has yet to have an airline which is comparable in size to other international airlines with governmental back-up. A full opening of the market internally will only thin the resources and profits, which is not beneficial to nurturing a local airline with competitive edge internationally.

Fourth, the local air services market is not monopolized. At present, there are 64 airlines operating 120 direct flights. Cathay Pacific has a 32% market share only, a proportion much lower than that of other airlines in their respective countries in Europe, the United States or Asia. For example, United Airlines has a market share of 58.8% at the San Francisco airport, Thai Airways, 45.1% at the Bangkok airport, Singapore Airlines, 52% at the Changyi airport, and Northwest Airlines, 80% at Minneapolis.

The Liberal Party would support exercising some flexibility in dealing with operation applications for each route, under the premise that the Government should protect the development of aviation in Hong Kong. We believe the market will find the right balance.

Mr Deputy, I intended to talk about the Airport Authority (AA). However, an Honourable colleague reminded me that I am a Board member of the AA and hence a conflict of interest may arise. I can tell Members that I have no direct interest whatsoever with any items we discuss today, be it the original motion or either of the amendments. I lend full support to Mr FUNG Chi-kin's point that the present financial situation of the AA is not going to enable it to help other trades to enhance their competitive edge. So, we hope to be able to see some improvement.

With these remarks, I support the original motion but oppose the two amendments.

**MR NG LEUNG-SING** (in Cantonese): Mr Deputy, from the perspective of the long-term development of the aviation industry, the opening up of aviation rights to facilitate market entry of prospective operators to set up their business in the industry and to engage in competition under minimal restriction is undoubtedly a desirable approach to enhance the scale, effectiveness and service quality of the industry. It will serve to enable consumers to gain the greatest benefits. We are endowed with the geographical advantage to make us become the centre of international aviation. Our economy will derive benefits from progress made in the international aviation market. Such benefits include income from the use of our airport facilities and associated industries like transportation, service industries and the tourist industry. Government policies should gear in this direction so that gains will be derived. We can also make use of the global liberalization trend in the aviation industry to negotiate with other countries on the arrangements in air routes and freedom rights. Our economic achievements are a result of the long-standing free market economy which we practise and the free competition. Most of our industries are not protected by any specific government policy. And the aviation industry is no exception. We need to consider carefully how the aviation market is to be liberalized. The authorities should put in their best efforts when engaging in the related talks so that our current conditions and facilities can be best utilized.

The aviation market is moving in the direction of full liberalization. An important step in the process is undoubtedly the opening up of fifth freedom rights. But it is not a simple step to make. Its complexity lies in the fact that the opening up of fifth freedom rights does not imply a complete liberalization of the market. Take the United States as an example. Though being a fervent advocator of fifth freedom rights, its domestic market is not open to foreign competitors. American airlines will reap the greatest advantages since they are well-positioned in the market. But our airlines will be left at a disadvantageous position, at least for the time being. From this we can see that the Hong Kong economy may not profit from this opening up of the market. On the other hand, the opening up of fifth freedom rights will enable airlines to lower their operation costs through their combinations of air routes. Costs for air passenger and air cargo services will be reduced. More travellers can come to Hong Kong. Our import, export and re-export trades will benefit. Those trades linked with the air cargo industry will also benefit. There will be an improvement in the returns of the investments made on the new airport. At the

end of the day, our position as an international centre of aviation will be further enhanced.

Owing to our unique and excellent geographical position, the fifth freedom rights are a valuable asset to us. We need to know how to use them, and to use them well enough to reap the greatest benefits, such being, for example, greater liberalization of international and even domestic markets of our bargaining partners. The economic benefits of our community as a whole would of course include those of the local airlines. Therefore, we must take into account the effects of the liberalization measures on these companies, such as the preparations they have to make for market liberalization and foreign competition, and various management improvement measures. Of those which have aroused the greatest concern are whether locally registered airlines have sufficient long-term training and deployment programmes for local pilots and whether there is a reasonable number of local employees in the cabin service. What the Government should do is to make some quantified scientific assessment to work out some plans to open up air routes and freedom rights in a proper and step-by-step manner. Consideration should be made on the impact of these measures on the international aviation sector, the local airlines, the related trades and their employees as well as the consumers. Then the Government should do the best it can to reap greatest benefits for our aviation industry. Of course, the policies so formulated must comply with the relevant requirements as set out in the Basic Law on the civilian aviation industry of the SAR in order that the long-term interests of the consumers as well as those of our economy can be protected.

Thank you, Madam President. I so submit.

**MR HUI CHEUNG-CHING** (in Cantonese): Mr Deputy, a Rolls Royce is so expansive because it is rare, unique, and everybody just wants to have one. Our new airport, though claimed to be the Rolls Royce of airports, is nevertheless of higher economic efficiency in name than in reality. One major reason is that its unique strengths have not been brought into full play to attract users. In this connection, some airlines do want to use the new airport but have not been able to do so, while others have simply given up using our new airport; besides, there are also some airlines which would rather use airports elsewhere.

Let me use the volume of air freight throughput as an example.

According to government statistics, despite the fact that the new airport air freight services standstill last year has passed into history, and that the air cargo handling capacity of the new airport is double that of the Kai Tak Airport, the volume of air cargo handled by the new airport in the first quarter of the year has recorded a minimal 0.25% increase, compared to that of Kai Tak during the same period last year. Certainly, we should not expect the new airport to handle 100% more air cargoes than Kai Tak once it has commenced operation. But the virtually nil increase in the volume of air cargo handled by the new airport does, to a certain extent, serve to reflect the fact that the excellent air freight facilities at the new airport have been laid to waste.

Mr Deputy, although there have been air cargoes coming in and going out, the air cargo handling capacity of the new airport so far has yet to be utilized to the full. The fact that Asian countries are caught in deep recession is certainly one very important reason, for they are the major markets of our freight forwarding industry. However, while we are all in the face of an economic slump, our major competitors, including Singapore, the Philippines, South Korea and Taiwan, have adopted a more liberal and proactive air freight policy than that of ours. So, we could see that the virtually nil increase in the volume of air cargo handled by the new airport is related to not only the economic downturn throughout Asia, but also to the question of whether the Government is open-minded enough in formulating its aviation policy.

The policies on air freight and passenger service adopted by the Government all along are both similar and mutually supplementary to each other. In this connection, apart from implementing in deed, though not in name, the "one route, one airline" policy, the Government has also imposed limitations on the "fifth freedom" and "seventh freedom" rights. Besides, the Government has also separated the air transport right from that of land transport, as well as restricted air freight forwarding companies from obtaining the ground handling rights of the landed air cargoes. All these are obstacles hindering the opening up of the freight forwarding market, and our major competitors are now gradually abandoning them. In addition to allowing air freight forwarding companies to handle all air cargoes, our competitors have also started to withdraw their cargo freight industries from the passenger service bilateral agreements. With these liberal gestures, our competitors have succeeded in enhancing operational cost-effectiveness on the one hand, and attracted many multi-national express forwarding companies to set up regional headquarters there on the other. Let me cite the Philippines as an example. Though not as well-located as Hong Kong, the Philippines has surpassed Hong Kong in terms

of the rate of growth of the country's cargo freight industry. According to some relevant studies, the Government of the Philippines has been developing Subic Bay as a free port since the United States Navy has withdrawn from there. Besides, the country's control over its domestic and international flight routes have also been relaxed gradually since 1995. As a result, express forwarding companies like Federal Express, DHL, TNT, UPS and so on, have set up operation points there one after another. What is more, many electronics and semi-conductor firms have also set up their global logistics management centres there. From this example we could see how effectively timely, liberal and proactive aviation policies of the government could contribute to the development of the import and export sector (including the high value-added industries and hi-tech industries).

Mr Deputy, as mentioned by Mr FUNG Chi-kin, the abolition of the "one route, one airline" policy air passenger service as well as the opening up of the "fifth freedom" rights should not be implemented as a sweeping measure. Instead, we should consider each and every flight route (or the individual market concerned) in the light of its special operation requirements and competition situation. Apart from that, the number of passengers as well as the passenger needs should also be taken into account. For these reasons, we must exercise utmost prudence in deliberating the issue of opening up the passenger service market. Unlike passenger service, freight service basically does not involve any question of personal safety, so its operating cost is comparatively lower and its most important consideration is speed and convenience. As such, opening up the freight market should normally be more effective in enhancing benign competition than opening up the passenger service market. Hence, the Government should put great effort into facilitating the opening up of the cargo freight market.

In fact, given the continuous development of the mainland economy, the direct contact between the Mainland and the outside world will certainly be more and more frequent. If the Hong Kong Government should keep its air freight policy unchanged, the major cities in the Mainland will most probably take the place of Hong Kong as an entrepot. If the air freight policy of the Government could not be brought into full play to exploit the special edge of Hong Kong as mainland China's window, how is Hong Kong going to rise to the formidable challenges from both the Mainland and the overseas cities?

Mr Deputy, it is high time to open up the air freight market, to actively consider abolishing the "one route, one airline" cargo freight policy and the restrictions on the "fifth freedom" and even the "seventh freedom" rights, as well as to give full play to the new airport's close proximity to the harbour as a rare edge in developing air and sea freight transshipment services.

With these remarks, Mr Deputy, I support the original motion.

**MR CHEUNG MAN-KWONG** (in Cantonese): Mr Deputy, there has been a view that if Hong Kong should unilaterally open up the "fifth freedom" rights, we would only be opening a door of convenience to foreign airlines, in particular, the invasion of airlines from the United States and the Mainland will suffocate our local aviation industry, thereby affecting the interests of the people of Hong Kong. The Democratic Party considers this view short-sighted and protectionist, seeking to safeguard not the interests of the people of Hong Kong, but that of Cathay Pacific alone.

Mr Deputy, we should have a clear idea of what the interests of the people of Hong Kong are. With respect to the economy of Hong Kong, the tourism industry and the freight forwarding industry are two of the major pillars supporting our economy with their substantial returns. As pointed out by many scholars, if Hong Kong should open up the air rights, the tourism industry would be the first one to be benefited. Since the Honourable Howard YOUNG from the Liberal Party represents the tourism industry, I should like to know what he thinks about this view. In this connection, should like to know whether the industry (not just Cathay Pacific) shares the same stance with the Liberal Party in this respect; whether Hong Kong's tourism industry would be benefited from the free competition between airlines; and whether lowering the aviation charges could help to enhance the appeal of our tourism and freight forwarding industries?

To the freight forwarding industry, Mr Deputy, opening up the rights would help to enhance Hong Kong's status as a regional hub of air transport. As to the import and export trades, since there are more airlines for choice, they should be able to cut back on transportation costs. Hence, not only the

business environment in Hong Kong as a whole could be improved, other industries in the service sector would also be given a boost. What is more, the public at large could also benefit directly from the reduction in air ticket prices. Mr Deputy, I just could not see any reason why opening up the skies to enhance competition should be regarded as not in the interests of the people of Hong Kong.

As regards the question of whether opening up the air rights would suffocate the local aviation industry, the Democratic Party believes that if the Government is to enable the industry to develop and prosper, what it could and should do is to provide sufficient infrastructure, to maintain a fair and open business environment, and to enhance the competitiveness of the local aviation industry in the international market. To protect the interests of Hong Kong's only airline — Cathay Pacific — for fear of competition is but a pessimistic and short-sighted measure. As we have all witnessed, despite being sheltered by the Government's protectionist policy all along, the competitiveness of Cathay Pacific has been on the decline. While the airline's Category A pilots lead their counterparts worldwide in salary rates, the airline's tickets to Europe and the United States are also comparatively more expensive. Indeed, Cathay Pacific is now paying a heavy price for what it has enjoyed in the past under the protectionist policy.

With regard to the proposal to abolish the "one route, one airline" policy, Cathay Pacific holds that since the aviation industry is a capital-intensive trade, airlines could not achieve cost-effectiveness until after they have expanded to a certain scale; hence opening up the flight routes would only give rise to unhealthy competition. However, the Democratic Party believes that it should be up to the market participants to determine whether or not the market has the potential to accommodate more airlines; as regards the role of the Government, it should strive to maintain an open market and a free sky in a fair manner.

Mr Deputy, when we say we should support the long-term development of the local aviation industry, we need to figure out whether Cathay Pacific would remain as the only representative of our local aviation industry, and whether its status will remain unchanged for yet another 50 years. Although Cathay Pacific used to be a member of the traditional British holding, the '90s has seen it being turned into an arena for the British and Chinese investors to struggle over economic interests. Today, 45% of Cathay Pacific's shares are in the hands of the Swire Group, while China International Trust and Investment

Corporation and Civil Aviation Administration of China have a joint holding of 27%; as for the remaining 28%, they are scattered among general shareholders. So, strictly speaking, Cathay Pacific could hardly be considered a local airline. On the other hand, although Cathay Pacific has a staff of some 14 000 people, only one third of them are recruited locally. In this connection, while only about 80 of the airline's 1 500 highest-pay flight captains are Hong Kong residents, the number of Hong Kong people in its roughly 5 500-strong air crew team has amounted to 1 500 only. As a matter of fact, judging from the recent industrial action staged by Cathay Pacific employees, neither the labour side nor the management side has put the interests of Hong Kong as a whole in the first place. In the end, the so-called proposition to safeguard the interests of the local aviation industry will only be used as a high-sounding excuse for continued market monopolization by Cathay Pacific.

Lastly, regarding the allegation that opening up the rights will contribute to the invasion by Chinese investors, the Democratic Party could not agree less with such kind of "pan-political" argument. In the past, it was exactly out of the intention to prevent mainland capital from entering Hong Kong's aviation market that the British Hong Kong Government tried every means to impose all sorts of market restrictions. As a result, a number of new airlines were denied access to Hong Kong skies, thus enabling Cathay Pacific to continuously monopolize the market, and the airline's monopoly covers not only the sky but also the ground support services. From the Super Terminal One fiasco which took place right after the new airport opening and paralyzed the entire freight forwarding industry of Hong Kong, to the recent industrial action staged by Cathay Pacific employees, not only the economic interests of Hong Kong have suffered heavy losses, the reputation of Hong Kong in the international community has also been damaged. The Government should really draw lessons from these experiences and avoid making the same mistakes again.

With these remarks, Mr Deputy, I support the amendment proposed by Mr Fred LI.

**MRS MIRIAM LAU** (in Cantonese): Mr Deputy, last year, when I proposed the motion on "Restoring confidence in Hong Kong's air cargo service", I pointed out that even if the two air cargo terminals resumed their normal operation — which they have now done, it did not mean that the crisis was over. The incident of the air cargo terminals had shown us that the advantages enjoyed

by Hong Kong's air cargo service should not be taken for granted and that Hong Kong must be prepared for crises. Today, the motion proposed by Mr FUNG reminds us that we must remain vigilant.

In recent years, market liberalization has become the vogue. While no one would object to the principle of enhancing competition, should we unconditionally or under the principle of reciprocity open up the market to other regions or countries? Should we introduce unlimited competition or introduce it step by step? What would be to our best interest and how could we avoid being taken advantage of? I am sure that any region or country will make careful calculation before making a decision. The air cargo industry will certainly welcome an expanded choice of flights. However, the industry probably also understands that the unconditional and unlimited liberalization of the market might not be in Hong Kong's best interest. Therefore, it supports the gradual and controlled opening of the skies. In this respect, I believe that I should know more about the cargo industry than Mr CHEUNG Man-kwong, since it is part of my constituency. Actually, whether the skies are opened or not, the most important thing I think is whether we have plenty of cargo passing through Hong Kong. If there is not so much cargo, the planes will not choose to fly to Hong Kong.

The recent development of Hong Kong's overall cargo industry of late indeed is worrying. In 1998, the ports of Hong Kong handled 14 580 000 standard containers, only 1.4% up from the year before last. Discounting the river trade, there was in fact negative growth. The annual two-digit growth in cargo volume several years ago is nowhere to be seen. In 1998, Singapore replaced Hong Kong as the world's largest container port. Although air cargo business performs somewhat better than sea transportation, it is still a long way from the forecast. The most urgent task now is to enhance the competitiveness of the Hong Kong port/airport as well as the freight forwarding industry so that more cargo will pass through Hong Kong.

One solution is to develop Hong Kong into a logistics management centre. When I proposed my motion last year, I suggested that the Government should encourage the freight forwarding industry to develop a logistics management centre to promote the growth of freight transport. To the Government, logistics management might be a new concept. At that time, it did not respond actively to it. Recently, the Hong Kong Government has finally realized the

importance of the logistics management centre. As far as I know, the AA and the industrial estates have actively studied the feasibility of establishing a logistics management centre separately. The Port and Maritime Board is also considering conducting more in-depth studies in this area. This is encouraging.

The so-called logistics management is in fact combining the traditional transport business with information technology. It collects raw materials or semiprocessed products for manufacturers, exporters and wholesalers from all parts of the world, provides value-added services such as packaging, quality control and maintenance and repair, and finally transports the goods to markets throughout the world in the cheapest and most cost-effective way.

Years ago, Taiwan and Singapore already started to develop logistics management. The Singapore Government actively promotes the logistics management industry by providing favourable terms in terms of land supply and rent, since logistics management companies require enormous space for value-added activities such as warehouse storage and the distribution of goods. As far as I know, the logistics management facilities provided by Singapore have already induced several multinational companies to set up offices there.

In Hong Kong, land costs and rent are high. However, in order to develop information technology, the Government offers inexpensive rent in the Cyberport to motivate multinational companies to set up their offices. Therefore, the Government can also consider supplying land to logistics management companies on a cost-recovery basis to support the development of logistics management. However, we must identify which kind of logistics management services is most suitable for Hong Kong. As far as I know, the Mainland (for example, Shenzhen) has started to develop logistics management. If Hong Kong merely lowers land prices to compete with the Mainland, it might not be able to gain an edge over it. Therefore, we should study whether to develop higher-tech or lower-tech logistics management services, in order to highlight the uniqueness of the logistics management services provided by Hong Kong.

Apart from land, personnel training, the development of information technology in logistics management and the combination of air, sea, land

transport are also extremely important. I understand that the Department of Business Administration of the Hong Kong Institute of Vocational Education (Tsing Yi) under the Vocational Training Council (VTC) is recently actively planning to establish a transport and logistics resource centre. This should be highly encouraged. However, I wonder why it is being done by a department of an institute under the VTC. If the Government attaches importance to the development of logistics management, it must put in more resources and provide this industry with concrete supporting services and auxiliary facilities.

In order to promote the development of logistics management and enhance the competitiveness of the freight forwarding industry, the Government should consider how to lower the operating costs of the container terminals and the air cargo terminals, so as to reduce the handling fees for cargo. With regard to air cargo movement, the AA is bound by the financial arrangements made with the Government. Therefore, in order to lower the charges of the air cargo terminals, the AA must first review the financial arrangements and then discuss with the air cargo terminals to ensure that after their operating costs are reduced, they will also lower the charges paid by the industry.

The Government has specially set up the Port and Maritime Board to enhance the competitiveness of our ports. Its members include representatives from the industry and government officials, in order to pool different ideas. The development of Hong Kong's aviation industry is also very important to our economic development. However, there is no organization or mechanism dedicated to enhancing the competitiveness of the aviation industry. Therefore, I suggest that the Government or the AA should consider setting up a relevant mechanism. Such a mechanism can also work with the Port and Maritime Board to study how to develop sea-air transport services, taking advantage of the seas and skies of Hong Kong.

Other regions are already several steps ahead in terms of their development in logistics management. If the Government does not take decisive action, Hong Kong will not be able to keep up with the world's development and it might even forfeit its status as an aviation centre.

Mr Deputy, I so submit.

**MISS CHOY SO-YUK** (in Cantonese): Mr Deputy, why has there been

considerable controversy over the motion on "opening up the skies" in our community? I think the most important reason is that nobody would consider Cathay Pacific to be a company with any commitment to the interests of Hong Kong. If Cathay Pacific has demonstrated any real concern for or commitment to the interests of Hong Kong over the past 50 years, the debate on this motion today would not have been so heated, nor would there be any controversy.

Cathay Pacific has lobbied me to support its view on the motion today. According to Cathay Pacific, this is not the right time to open up the skies as Hong Kong is in the midst of an economic downturn. In reply, I asked the airline this rhetorical question: Certainly Hong Kong is in the midst of an economic downturn, but has Cathay Pacific made any effort to contribute to the economic revival of Hong Kong; how many more local residents has Cathay Pacific employed and trained up over the past two years?

Mr Deputy, although Cathay Pacific has made Hong Kong its operating home base, it is doubtful that the airline has any commitment to the interests of Hong Kong. I understand that these figures have already been quoted by Honourable colleague just now, but still I would like to repeat them here. According to certain data, of the close to 1 500 captains working for Cathay Pacific, only 80 are Hong Kong residents; under such circumstances, when could any Hong Kong people become commanders of the airline's 747 aircraft? Moreover, only about one third of the airline's roughly 5 500-strong air crew team is recruited in Hong Kong. Could a largely British consortium really represent the interests of Hong Kong? I think this question warrants concern by the Government.

With regard to the "fifth freedom" rights, some have opposed the opening up of the rights on the ground that a great many other countries have not done so either. The question I should like to raise is: How many of the countries that have no publicly operated airlines have not opened up their "fifth freedom" rights? Similarly, regarding the policy of "one route, one airline", how many of the countries that have no publicly operated airlines are still implementing the "one route, one airline" policy? For some countries like Japan, because of their genuinely local or publicly operated airlines, measures have been taken to safeguard the rights or flight routes of those airlines. However, judging from its major shareholders, its management, and even from the number of local Hong Kong residents under its employ, Cathay Pacific could hardly be regarded as a genuinely local airline nor an airline representing Hong Kong.

Mr Deputy, while I certainly agree that Hong Kong needs to maintain a level playing field, I am all the more in support of safeguarding the long-term interests to which Hong Kong is entitled. If Cathay Pacific is to genuinely cater to the interests of Hong Kong, it should support our request for opening up the skies.

Mr Deputy, the recent debates about this issue have focused mainly on passenger service, I should like to present my views on the other important aspect of the air transport industry, which is the air freight forwarding rights. In particular, I will speak on the development of the international express air delivery market. It is my most sincere hope that the SAR Government could take the lead in opening up the freight transport "fifth freedom" rights, as well as abolish the "one route, one airline" policy.

There is indeed a need for Hong Kong to strive to become an international centre for express air delivery, so as to enable enterprises to set up headquarters and production departments outside the commercial areas to cut back on costs on the one hand, and to foster a close link with clients and suppliers on the other. In fact, these are the essential conditions fundamental to the effective development of Hong Kong's hi-tech and high value-added industries. Actually, Hong Kong is located along the three-hour flight radius extending from the centre of Asia, which means that half of the world's population are within five hours' flight from Hong Kong. As such, Hong Kong should have an edge in developing into an international centre for express air delivery. Yet regrettably, the Government has failed to make the most of the edge we have. In this connection, I just do not understand why the Government still has to impose so many restrictions on the freight transport "fifth freedom" rights even though they are far less complicated than the passenger service "fifth freedom" rights.

On the contrary, though not as well-located as Hong Kong, many Southeast Asian countries have adopted air freight policies that are more open, and thereby succeeded in gaining a considerable share of the express delivery market one after another. In regard to Singapore, our major competitor, although the country's Gross National Product amounts to only half of our Gross Domestic Product, its volume of air traffic is catching up with that of Hong Kong while its express air delivery sector has even outgrown ours. In terms of value, Hong Kong has contributed 4% to Asia's total exports, 10% to the air

exports market, as well as 12% to the express air delivery market; as regards Singapore, the corresponding figures are a lot greater and stand at 8%, 13% and 15% respectively. One very important reason why Singapore has gained a larger share of the express delivery market than Hong Kong is that the country has adopted an aviation policy which is both liberal and proactive. In addition to signing bilateral air services agreements with 90 countries, Singapore has opened the air freight "seventh freedom" rights to the United States in as early as 1997. From this we can see that Singapore is indeed far more open than Hong Kong.

Mr Deputy, if Hong Kong should develop into an international hub for express air delivery, not only our hi-tech and high value-added industries would receive a boost, other sectors would also be benefited substantially. According to some research findings, if Hong Kong would follow the example of Singapore to open up the air express delivery market, we could expect to see increases in various types of business transactions by 2003, including an additional 860 000 tonnes of air cargo, an additional 250 000 tonnes of express air delivery goods, as well as an increase of \$137 billion in total air exports and so on. What is more, such increases in business transactions would in turn give rise to 600 000 additional job opportunities and an additional \$38 billion worth of foreign investment.

With these remarks, Mr Deputy, I support the original motion as well as the two amendments.

**DR RAYMOND HO** (in Cantonese): Mr Deputy, according to the New Airport Master Plan, the new airport is projected to be able to handle 8 700 passengers and 9 million tonnes of air cargo a year upon completion of all development works. Given that our new airport is capable of catering to the passenger service and freight forwarding service needs in the next century, and that Hong Kong is both an important threshold of mainland China and a regional transportation hub, there is indeed a need for us to make our best effort to develop Hong Kong into an aviation centre to give a further boost to the future development of the Hong Kong economy. Since we have the favourable objective conditions, the geographical advantages, as well as the intention to develop in this direction, all we need now is the resolve and the motivation to attain our goal. Actually, Article 128 of the Basic Law has also set out that "the Government of the Hong Kong Special Administrative Region shall provide conditions and take measures for the maintenance of the status of Hong Kong as a centre of international and regional aviation".

Hong Kong's aviation services have all along been restricted by the handling capacity of the Kai Tak Airport over the past years. As the capacity of the Airport had already been saturated, naturally the development of new aviation services and flight routes were met with considerable limitations. However, with the new airport entering into operation last year, our passenger and cargo handling capacities have since been improved substantially. In this connection, the maximum flight handling capacity of the new airport has been estimated at 1 600 flights per day. Nevertheless, to date, only 450 flights on average have been arriving and departing from the Chap Lap Kok Airport daily, a level which is far below the full capacity of the airport. For this reason, the Government should play a leading role and adopt a more open-minded attitude in promoting the development of Hong Kong's aviation services.

It is worth noting that Hong Kong has been adhering to the "one route, one airline" policy all along. Yet in the recent discussions about "opening up the skies", the Government has stressed time and again that it did consider the development of Hong Kong's aviation industry in an open-minded manner, and that its major point of concern was the needs of the market. As also referred to by the Government, if any airline should wish to operate a certain route, it would be welcomed to submit an application to the Government for consideration. However, with Cathay Pacific still enjoying an advantageous position under the existing arrangements, not many companies will be interested in operating aviation services.

If the Government is to alter this situation, the first and foremost step it should take is to abolish the "one route, one airline" policy to introduce competition. In particular, special care must be taken to encourage more Hong Kong-based operators to join in the competition; otherwise, it would not be possible for Hong Kong to optimize the opportunity if certain popular flight routes should fall into the hands of other overseas airlines after the air rights have been opened up. Where appropriate, the Government should also prudently consider opening up the "fifth freedom" rights to enable more passengers passing by Hong Kong to enjoy a short stay here, and thereby contribute to the development of the tourism industry. For those flights picking up passengers at our airport, the tickets should be offered at more competitive rates to serve as a concession to passengers on the one hand, and to enable passengers to have an expanded choice of airlines or flight routes on the other.

In discussing the issue of "opening up the skies", some have queried whether the local population is large enough to support the competition between airlines. I think people with this concern have apparently overlooked an important factor, which is the growing need of our compatriots in the Mainland for aviation services. Moreover, since Hong Kong is China's major gateway to the world, we can also play the role as China's hub of air transport. As such, Hong Kong should be able to support the healthy competition between airlines.

Apart from passenger service, we should also draw on Hong Kong's existing strengths to give impetus to our air freight forwarding industry. Actually, I have also referred to this point in speaking on the motion on "Reviving confidence in Hong Kong's air freight forwarding services" in this Chamber last year. Since air services have been expected to develop rapidly in the future, and especially so for express delivery services, the Government must review its air freight forwarding policy to enable our air freight forwarding industry to develop in a healthy and steady manner. On the other hand, as one of the world's busiest container ports, Hong Kong, equipped with excellent air transport services, should have great potentials for developing its air and sea freight transshipment services. Hence, the Government could also consider promoting the development in this respect to enable Hong Kong to become an important freight forwarding centre of the world.

If the Government should give a boost to the in-bound air transport sector in a practical manner and succeed in increasing the number of in-bound flights, not only the airport but also the passenger and freight forwarding services of Hong Kong would be benefited. At the same time, we should also strive to ensure that our airport will provide world-class quality passenger and freight forwarding services on the one hand, and maintain the competitiveness of the various airport charges on the other. That way, we should be able to establish the status of Hong Kong as an aviation centre.

Mr Deputy, I so submit.

THE PRESIDENT resumed the Chair.

**MR AMBROSE CHEUNG** (in Cantonese): Madam President, our aviation policy has an explicit objective of making Hong Kong a hub of international and regional aviation. I believe the reason is very simple. We hope that after Hong Kong has become a hub of aviation, it will benefit our economy and the public, and provide more choices for the tourism industry and air tickets at more favourable rates. We can adopt some strategies to achieve this objective: first, introduce competition; second, abolish the "one route, one airline" policy, third, open up the skies; and fourth, suitably adjust airport charges.

I would like to discuss the most suitable strategy among these. First, competition. Nowadays, there are 67 airlines operating in Hong Kong, with 150 000 flights flying through Hong Kong annually, carrying with them a total of 28 million passengers and 33 000 employees, bringing to Hong Kong \$21.6 billion income and a freight throughput of 1.8 million tonnes. Looking back at a decade ago, there were only 37 airlines, 60 000 flights, 600 000 tonnes of freight and 15 000 employees, with an income of only \$6 billion and passenger throughput of 1.2 million.

The market has actually developed rapidly, but we must consider whether monopoly exists in talking about market development. According to the available figures, among the passengers at the Hong Kong International Airport, 32% passengers take the Cathay Pacific Airways. In Kuala Lumpur in Asia, 7% passengers take Malaysian Airlines; in Bangkok, 4% passengers take Thai Airways; in Changyi Airport in Singapore, 52% passengers take Singapore Airlines. Then let us consider the situation in other countries. In the Heathrow Airport, London, 38% passengers take British Airways; the situation is more serious in United States, in Chicago, 76% passengers take United Airlines and American Airlines; in Dallas, 46% passengers take American Airlines; in San Francisco, 52% passengers take United Airlines; in Detroit, 61% passengers take Northwest Airlines while 63% take Delta Airlines in Atlanta. Obviously, monopolization is a feature of the industry. Although an airline in Hong Kong takes up a 32% share of the market, our market is actually fairly open compared to other countries.

In determining if we have sufficient competitiveness, we can look at our cost-effectiveness. The cost-effectiveness of Singapore Airlines and Korean Air is lower than that of all airlines operating in the United States. With the exception of Continental and Northwest Airlines, the cost-effectiveness of Thai

Airways and the Cathay Pacific Airways is lower than that of all airlines operating in the United States. In other words, the cost effectiveness of the major airlines operating in Asia is fairly high, and this has a direct relationship with air fares in the future.

Concerning opening up the skies, the United States started opening up the aviation market 20 years ago. At that time, there was keen competition and the situation was worsening. However, have the air fares decreased? Even though group tickets were cheaper, business class tickets have been on the rise. When many airlines come to a point where continued operation is impossible, they will be closed down or merged. However, what should we do if we want to expand the market further? The only way out is an expansion into the international market. Therefore, there is a tendency in the United States to expand from the saturated domestic market to the external market. If Hong Kong should really open up the "fifth freedom" rights gradually, the Government can consider this in strict prudence but it must be made on a reciprocal basis, that is, opening up the rights both in Hong Kong and the United States. I believe that the scale of all airlines in the United States are larger than those of the airlines in Hong Kong, even larger than that of a merged airline between Hong Kong and the Mainland. If a United States airline assumes a leading position in the Hong Kong market, we will ask if it will establish its headquarters in Hong Kong and employ local employees or will it only establish a ticketing or promotion office here? Evidently, the "fifth freedom" rights are the assets of Hong Kong people, and the rights can only be opened up on a reciprocal basis.

Lastly, if we really want to implement our aviation policy step by step, we should consider two points; first, reducing airport charges to reduce the costs of airlines and thus enhance their competitiveness; and second, to make our airport become an aviation hub for major cities in China. This way, we can suitably relax the "one route, one airline" policy and allow airlines to operate in mainland China and Hong Kong at the same time.

**MR HOWARD YOUNG** (in Cantonese): Madam President, I have to declare an interest first. I am an employee of a local airline. Therefore, my speech will focus on the consensus of all airlines, domestic and overseas alike.

Concerning the two amendments to today's motion, that is, the so-called "one route, one airline" policy and the "fifth freedom" rights, I do not intend to state the position of certain airlines in Hong Kong. But I would simply state two universal facts from a macroscopic angle. First, the governments of all countries including the most open Western countries will naturally defend their domestic airlines as opposed to foreign governments and airlines. The reason is very simple. Only a domestic airline will promote its country to foreign countries, set up its headquarters locally and employ local staff for those well-paid jobs. Besides, all aviation centres in the world need the strong support of domestic airlines. Second, as aviation right is the public assets of a country, should it be liberalized for foreign countries on principles of reciprocity and mutual benefit?

In fact, local and foreign airlines have not reached a consensus concerning the "one route, one airline" policy and the "fifth freedom" rights, and there are controversies. I will not go into the details but I do want to discuss the airport charges on which a consensus has been reached in the trade.

Firstly, concerning the various charges of the Airport Authority (AA), the Hong Kong International Airport is one of the airports in the world charging the highest charges. A Boeing 747-400 that arrives in Hong Kong is charged \$44,168 for landing, parking, terminal service and so on, far more than that charged in our neighbours such as Singapore, Bangkok, Seoul and Kuala Lumpur. This has greatly undermined our competitiveness. The Government is partly responsible for the excessive charges of the airport. According to the Financial Support Agreement executed between the Government and the AA in December 1995, the AA is bound in respect of investment returns, dividends payment and rate of return. For example, the Agreement specifies that the total debts incurred by the AA for the first phase project of the airport shall not exceed \$11.6 billion upon the opening of the new airport and the provision of commercial services. The AA must make the first loan repayment by December 2001 and dividends payment to the Government by September 2001. Therefore, the AA has to increase income and charge users of the airport more in order to repay its debts to the Government. Will the Government consider extending the repayment term from 10 years to 20 years so that the AA will not need to eagerly "raise funds" to service the debts with the Government?

Secondly, the depreciation rate of the airport will be zero 50 years later and this depreciation rate will increase its burden. It is far too conservative to estimate that the depreciation rate of the airport, elected as the 10 top buildings of the century will be zero 50 years from now. Will the Government consider re-evaluating the depreciation rate on the basis of the actual situation? The new airport may still worth a lot 50 years from now. For example, although the site of the old airport at Kai Tak has been used for decades, can we say that its market value is zero? I believe the new airport will definitely not be worthless after half a century.

Thirdly, the fees charged by the Government for various services provided to the AA have also increased the AA's expenditure. These services including air traffic control, meteorological information, flight rescue and fire fighting services account for 30% of the AA's expenditure. Even though the AA manages to reduce expenditure by reducing the number of staff and their pay, it will still fail to offset the fees paid to the Government. Therefore, if the Government will consider reducing these service fees, it can actually relieve the financial burden of the AA.

To sum up, all local and foreign airlines and the tourism sector have reached a consensus on this issue of airport charges. No doubt, the Hong Kong International Airport is an international aviation architecture with first-rate design and facilities, but the fact that its charges are far higher than those in our neighbouring regions has greatly reduced the attractiveness and competitiveness of Hong Kong. Given that the operational costs of our competitors have been greatly reduced, to maintain Hong Kong as an international aviation centre and a tourist centre in Asia, the Government must take suitable measures as soon as possible. For example, it should review the financial agreement for the new airport and reduce airport charges, otherwise, it can hardly maintain Hong Kong as an international and regional aviation centre.

I so submit.

**MR SIN CHUNG-KAI** (in Cantonese): Madam President, about this motion debate there is a press report that the Democratic Party has betrayed the interests of Hong Kong. This is a very strange criticism, I must say, because in the

same report, it is also asked why the amendment of the Democratic Party stands on the Chinese side, yet, it is later stated that the amendment will only benefit the United States. This is really strange. After our heated debate, how can we say that the Democratic Party is pro-American and pro-Chinese at the same time?

In fact, the Democratic Party has proposed this amendment, out of the principal consideration that this is an issue about not only the interest of airlines, but also about the interest of Hong Kong as a whole, including that of consumers.

Our position on the issue is very clear and two Honourable colleagues have already expressed our views. But we should consider the issue of government fees charged on the AA now that the Secretary for Economic Services is here. I will focus my discussion on the charges of the new airport. Since the opening of the new airport, airlines have been complaining that the charges for the new airport are excessively high. Mr Howard YOUNG has just expressed his views clearly.

We have to consider that the construction costs of the first phase of the new airport are almost \$50 billion and the Government has injected not less than \$36.6 billion into the AA. The Government has made the new airport a world-class airport and made huge investments. At this stage, how much more should the Government bear? The Democratic Party does not oppose the notion that the AA should operate the new airport according to prudent commercial principles and for reasonable returns, but this does not mean that we must require the AA to make profits every year. Unfortunately, the opening of the new airport was met with the Asian financial crisis and there were indications of declining passenger transport in the world and the Asia-Pacific Region. The entire Asian region was caught in an economic downturn and the tourism and aviation industries had dwindled. Under these adverse economic circumstances, the income of the AA had inevitably decreased.

As the new airport is a long-term investment, the Government and the AA do not need to eagerly achieve the aim of balancing income and expenditure, and even reaping profits at the initial period of the operation of the new airport. As an important infrastructure of Hong Kong, the new airport supports the development of the tourism, aviation and freight forwarding industries and consolidates Hong Kong as the major aviation centre in the Asia-Pacific Region.

However, the existing level of airport charges is determined on the basis of the transport needs and income forecast made in September 1997 with the objective of generating a 5% real return on average for the capital of the AA within 50 years, repaying the debts for the Phase I A project by 2001 and distributing \$1.7 billion dividends to the Government by September 2001 according to the Financial Support Arrangement executed in 1995. However, members of the AA have disclosed earlier on that the deficit of the new airport will reach \$390 million inclusive of the depreciation rate in the first year. We have conducted a survey but we do not know its latest financial situation as its annual report has not yet been published. Under the present economic circumstances, it is highly difficult for the AA to achieve the desired financial objectives.

The Democratic Party opposes that taxpayers should subsidize the AA or airlines. The adverse economic circumstances have led to a serious deviation from the initial forecast of transport needs and income, thus rendering the financial objectives made on basis of these data impractical. A practical approach is for the Government and the AA to examine if the financial arrangements for the new airport are still viable against the latest economic data and then review the charges. Therefore, I really do not understand why Mr MA Fung-kwok's amendment has deleted "the financial arrangements for the new airport" because it is untenable to insist on reducing charges without changing or discussing the financial arrangements for the new airport. According to the arrangements, the AA has to pay \$1.7 billion in dividends in 2001, the first year, as Mr Howard YOUNG has said, so the only way out is to charge more. Therefore, we really need to consider the actual situation.

Maintaining the competitiveness of the Hong Kong International Airport is more important than concentrating on short-term economic benefits. To consolidate Hong Kong's position as an international aviation hub, competitive airport charges are also an important factor in addition to an excellent airport and suitable aviation policies. I hope that the Government will make reference to the remarks made by Honourable colleagues today and review the financial arrangements.

Last but not least, I would like to make one more point. Today, some representatives of the aviation industry told me that the recent incident in which

Cathay Pacific Airways pilots went on strike and took sick leave has give rise to an important problem. Why are pilots not trained locally? In the past, the Government used to let airlines train pilots on their own. According to industry participants, now that Hong Kong is able to nurture outstanding performing arts talent, and establish more new faculties, for example, a "logistic centre" as suggested by Mrs Miriam LAU, should the Government not consider training aviation talents?

Finally, in the nine years from 1991 till now, staff of Cathay Pacific Airways have gone on strike for many times. As Hong Kong is the major aviation centre for Cathay Pacific Airways, now that strikes have frequently been held, will it be equally beneficial to consumers to open up our skies to more airlines of the United States and China?

**DR TANG SIU-TONG** (in Cantonese): Madam President, the motion moved by Mr FUNG Chi-kin today urges the Government to comprehensively review the existing civil aviation policy and the development strategies for related services, including "opening up the skies", exploring new routes, promoting the tourism and freight forwarding industries, formulating new long-term financial arrangements for the new airport, reducing its various operating costs and charges as soon as possible, and ensuring high quality services and competitiveness. I agree to his views.

The amendment extends a "comprehensive review" to abolishing the "one route, one airline" policy and opening up the "fifth freedom" rights, so as to solve the problems of the tourism and freight forwarding industries. This I consider somewhat arbitrary for we need to consider and explore many problems other than these, such as reciprocity, mutual benefits and other aviation rights. The Government should conduct a comprehensive review and look for a good solution.

The "one route, one airline" policy has certainly long been criticized by Hong Kong people. It is a problem left over from the colonial era and it is time it be reviewed and revised. The Government should consider this problem in detail on the basis of the interest of the great majority of Hong Kong people.

As Cathay Pacific Airways has been enjoying a dominant position in this respect, the Government should make a comprehensive review at once and consider whether Cathay Pacific Airways is worth Hong Kong people's support, if it intends to make Hong Kong its domicile and if it will benefit our labour, economic and commercial development.

"Opening up the skies" involves more than the "fifth freedom" rights; it also has to achieve mutual benefits on an equity basis. It is not only about freedom and liberalization, but also the commercial, political and strategic interests between regions that are interlocked, specific and significant. We should not ponder over only the ideas of "opening up" or otherwise, nor should we adopt a broad-brush approach without due regard to the propriety of liberalization.

Madam President, we have an airport with first-rate design, scale and management services. But why has it yet to achieve first-rate economic results one year into its operation? Airlines complained that the new airport charges are some 60% more than the Kai Tak Airport, and their operating costs have increased while marginal profits decreased. Hard pressed by the economic downturn in Asia and keen competition in the international aviation market, they are fortunate if the passenger volume remains the same, not to mention attracting more passengers. The AA refuted that airport charges account for only 4.3% of the operating costs of airlines and they will not reduce their competitiveness. The supply of airport services has exceeded demand not only because of airport charges, but also the fact that the aviation policy of the Government is insufficiently liberal to stimulate demands. In particular, the Government refuses to give up the "one route, one airline" policy and is too conservative in dealing with the "fifth freedom" rights. The Government says in defence that the rights have been opened up long ago, only that the number of flights allotted under the "fifth freedom" rights to partner countries has not been fully utilized. Airlines, the AA and the Government are shirking the responsibilities for the operational problems of the new airport among themselves and they have indeed let Hong Kong people down.

Madam President, no matter who are right or wrong, it is not time for buck-passing. We hope that airlines, the AA and the Government will conduct negotiations, draw on collective wisdom and try their best to enhance the competitiveness of the new airport in the international arena.

With these remarks, Madam President, I support the original motion.

**DR LUI MING-WAH** (in Cantonese): Madam President, the labour dispute in Cathay Pacific which lasted two weeks was caused by some 700 senior pilots who felt their interests were being threatened. The dispute has laid bare two problems. Firstly, it is related to the local aviation industry. At the time of the labour dispute, tens of Cathay Pacific flights were cancelled every day. The results were very widely felt. Fortunately, it was not a peak season for travellers and so a potentially great damage to the tourist industry was averted. These events have made it evident that the air services here cannot depend on one single airline. The Government must make a review of its aviation policy in order that in future a strike by the staff of an airline will not affect the tourism and aviation and air freight forwarding industries.

Secondly, the labour dispute has also exposed the problems existing among Cathay Pacific pilots. It is reported that there are altogether 1 500 pilots in Cathay Pacific. Among them, there are about 700 senior pilots. Pilots of Chinese ethnic origin only account for about 100-odd people. Before the reunification, no one would question this state of affairs in a British-owned company. But after the reunification, we cannot afford to ignore this monopolization by expatriate pilots. This is important for what are at stake in a labour dispute are not only the interests of the pilots, but also those of the community as a whole. It was reported that the salary of the 700-odd pilots were already among the highest in the world, but still they put on a wildcat strike for their own interest, causing very negative impact on the tourist and air cargo industries and on the image of the air services industry of Hong Kong.

I do not see any justification for the pilots to stage a slowdown, nor can I see in these pilots any sense of belonging to Hong Kong. Therefore, in a question raised by me today, I have demanded that crucial trades like this should have a certain proportion of local employees. It is of course true that we do not have an air force in Hong Kong to train our own pilots, and if we set off to do so, it will also take a long time to achieve this. However, the Government must take proactive steps in this direction for the long-term interest of Hong Kong. Besides, airlines can in fact recruit pilots from the Mainland. Those in the Chinese air force may well need some time to accustom themselves to civilian flying or the language used here, but the time they take will be shorter.

If Hong Kong is to develop into a centre of aviation, then it must have its own pilot assessment and licensing system. It will of course take some time for us to build up such a system, but the Government should give serious thoughts to that for the benefit of the long-term interest of Hong Kong.

Madam President, I am no expert on aviation, but when I see the impact of the Cathay Pacific labour dispute, I cannot help but offer my advice from the consumer's angle and in the hope of providing some suggestions to solve the problem. I hope that both the Government and the airline concerned will take this into consideration. I so submit to support the original motion. Thank you.

**MR CHAN KAM-LAM** (in Cantonese): Madam President, along with the rapid development of the aviation and freight forwarding industries, the distance between countries has been greatly shortened. Aviation rights are the rights and assets of a country with the greatest economic value and they are often politically significant. The development of the aviation industry of Hong Kong is certainly closely related to the development of our economy.

Madam President, whenever we talk about a free market economy, people often emphasize opening up the market and introducing competition. But simply opening up the market and introducing competition may not be able to solve the problem of the aviation industry.

Bearing in mind that civil aviation policy of Hong Kong has been implemented for more than half a century, the Democratic Alliance for the Betterment of Hong Kong (DAB) thinks that it is time for a review to determine if the policy is out-dated and what effects it will have in future. Let us take an overview of all places in the world especially places with small domestic aviation markets. They will try their best to assist in the development of the domestic aviation industry to enable it to compete in the international aviation market that emphasizes fleet scale and coverage. Even if there are two airlines in one single place, intense internal competition will be avoided by allowing them to operate separate routes to compete with foreign airlines while pursuing development. To a very large extent, Hong Kong is carrying out such a divided development, for instance, while Cathay Pacific Airways operates routes to foreign countries, Dragonair operates short routes to China. This is natural market distribution.

The idea of abolishing the "one route, one airline" policy and introducing "one route, many airlines" will grant aviation rights to all airlines that are eligible to apply for operating these routes. However, it is open to discussion if this new policy can meet Hong Kong's needs fully. The SAR Government has given a very clear message that it will accept and consider applications by local airlines to operate routes which are currently operated by other local airlines. However, the Government should explain further to the public how other investors can apply for operating more flights on the existing routes and participating in the freight forwarding business.

Next, I would like to discuss opening up the "fifth freedom" rights. The DAB has reservations about the remark that a full liberalization of the "fifth freedom" rights will draw enormous benefits to Hong Kong.

In fact, Hong Kong has already liberalized the "fifth freedom" rights. Almost 60% of the countries that have executed air services agreements with Hong Kong enjoy the "fifth freedom" rights to Hong Kong. The number of flights is determined on the basis of the needs of both parties, and the same applies to the air services agreement between Hong Kong and the United States. The relevant airlines are given sufficient rights to exercise the "fifth freedom" rights to Hong Kong under the agreements.

Will a voluntary liberalization of the "fifth freedom" rights benefit Hong Kong more in the long run? Not necessarily. Foreign airlines are commercial organizations and they want our "fifth freedom" rights for their own economic benefits, not those of Hong Kong. Let us consider the routes on which 80% of our "fifth freedom" rights are used. According to a survey conducted by the DAB, they are used in six busiest routes. They use the "fifth freedom" rights to join routes that already have large passenger and freight forwarding volume to reap huge profits in the market. To a certain extent, these business can actually be directly done by airlines in Hong Kong.

We should make good use of the valuable "fifth freedom" rights to gain more mutual benefits under international air services agreements. If Hong Kong unilaterally liberalize the "fifth freedom" rights, it will lose the bargaining power it had in future negotiations with other countries over similar agreements.

We know that the United States has been actively promoting the

liberalization of the "fifth freedom" rights for a long time. It is a highly beneficial policy for them to fight for more room for developing its aviation industry in an orchestrated manner. Unfortunately, the United States is not willing to open up its aviation rights for competition by other international airlines. On the contrary, it is asking other countries to open up their aviation rights. The DAB has come to the view that aviation rights must be liberalized on a reciprocal basis, and a unilateral liberalization by Hong Kong is utterly unacceptable.

Madam President, lastly, I would like to discuss the further localization of airlines based in Hong Kong. In view of capital, composition of the management and proportion of local staff, is Cathay Pacific Airways which is representing Hong Kong like a foreign airline? I believe Members will agree that Cathay Pacific Airways is more like a foreign airline. Companies based in Hong Kong must contribute more to Hong Kong, such as training Hong Kong pilots and recruiting more local staff. At present, Hong Kong people account for only about one third of the staff of Cathay Pacific Airways and there is an even smaller proportion of Hong Kong pilots. Therefore, if Cathay Pacific Airways can train local pilots and staff in a planned manner, we will more readily welcome its continued development in Hong Kong.

I so submit.

**MR JAMES TIEN** (in Cantonese): Madam President, throughout the economic development of Hong Kong over all these years, our most valuable assets have been manpower and the geographical vantage position at the heart of Asia. In the past, we used to talk about the significance of sea transport, about our deep harbour and our container terminals. But nowadays, aviation has also become very important to us. So, I am sure that everyone in Hong Kong will support the idea of enhancing Hong Kong's status a centre of aviation, making use of the new airport.

Concerning the original motion and the two amendments to it today, the Liberal Party will support the former but oppose the latter. Mrs Selina CHOW has already spoken on our position, still I wish to say a few words more.

Mr FUNG Chi-kin's motion urges the Government to carry out a comprehensive review on its aviation policy and actively consider the idea of

opening up the aviation market and explore new routes. This is the first important point. The second important point is that the motion also urges the Government to hold discussions with the Airport Authority (AA) on the long-term financial arrangements for the new airport and the possibility of lowering the various charges levied by it. The Liberal Party supports all these requests. The motion, if amended by Mr Fred LI, says right at the beginning that "the Government should abolish the 'one route, one airline' policy, (and) open up the fifth freedom rights." Had the Democratic Party moved an amendment which reads: "That this Council urges the Government to negotiate with foreign governments on the mutual abolition of the 'one route, one airline' policy and the mutual opening up of the fifth freedom rights", the Liberal Party would certainly have rendered its total support.

The Democratic Party may have overlooked one point. Their amendment, as it is worded, shows that it is probably afraid of being criticized for protecting the airlines of the United States; this is indeed a political consideration. The policy of "one route, one airline" and the opening up of the "fifth freedom" rights as practised in the United States are different from what people here have in mind in two major ways. First, if we look at the biggest four or five airlines of the United States, we will see that any one of them alone is already far bigger than the two airlines of Hong Kong, the airlines of China and even the airlines of Taiwan added together. Such mammoth airlines of the United States will naturally ask for liberalization in all parts of the world, because following liberalization, they can always eat up our market share while we are never able to do so. Is this fair?

The Democratic Party always tends to oversimplify economic matters. It often speaks as if liberalization will always do good to the public. They should really look at the case of the oil companies. There are as many as six oil companies in Hong Kong, but oil prices are by no means low. Should we really set up six airlines, just because one single existing airline has run into problems? Will air fares really drop after the establishment of six airlines? I am sure that airlines can always keep prices not so economical if they so desire.

Let us look at the policy of "one route, one airline" adopted in the United States again. At present, there are 14 direct routes from Hong Kong to the United States. Why are all direct flights from Hong Kong to San Francisco monopolized by United Airlines? Why is it impossible to allow Northwest Orient Airlines or other airlines to also operate such flights? So, it can be seen

that the United States itself is adopting the "one route, one airline" policy.

Then the "fifth freedom" rights. As interpreted by the United States, such rights should only be applicable to flights from one country to another. Following this line of reasoning, since the United States is a country itself, such rights should not be applied to their domestic flights. The United States is situated between the Pacific Ocean and the Atlantic Ocean, and its respective flight distances to Europe and Asia are roughly the same. After their arrival at San Francisco in the west coast of the United States, will the flights from Hong Kong or other Southeast Asian airlines fly onward to Mexico or Canada by exercising the "fifth freedom" rights? No, because it will be better for them to fly straight to Canada. Why bother to exercise the "fifth freedom" rights? In contrast, after their arrival at Hong Kong, the flights of United States airlines will often fly onward to Singapore, Kuala Lumpur or Malaysia. The reason is that the flight from the United States to Hong Kong has already enabled them to recover their costs fully, and what they earn from the journey from Hong Kong to Singapore or Kuala Lumpur will thus be pure profits. That is why passengers need only to pay some \$1,000. Naturally, from the perspective of Hong Kong consumers, this is indeed something very good, because air fares are cheap. But will this make life difficult for the airline of Hong Kong, that is, Cathay Pacific, or the Singapore Airlines? Is there impropriety in this?

Concerning the financial arrangements, Mr SIN Chung-kai and Mr Howard YOUNG share similar views, and for this reason, we will render our support. If the Government is to make airlines think that the existing charges are reasonable, the matter must be examined from three perspectives: those of the Government, the AA and the public. The Democratic Party argued that taxpayers' money should not be used, but I must say that the airport in fact belongs to taxpayers. I would not think that the airport belongs to the AA, or the Government. Whether it is money of taxpayers, the AA or the Government, the fact remains that the airport belongs to the people of Hong Kong. Some people have argued that the Government should recover its costs (not of course its capital investment, but the loans it extended). In response, I would say that 50 years later (bearing in mind that Kai Tak was used for several decades too), when the site of the airport is sold, we can probably recoup billions of dollars. The Chek Lap Kok International Airport, constructed at a cost of billions, will certainly not become entirely worthless as a result of depreciation. I hope that the Government can consider this view further and extend the costs recovery period, or even give up the idea of recovering the costs. I am sure that 50 years

later, the airport will certainly not become entirely worthless; it will still worth enormous sums of money. From this perspective, we can say that the Government will be able to recover a great of its costs.

Madam President, from Mr MA Fung-kwok's amendment, I reckon that he has a better understanding of the "fifth freedom" rights than the Democratic Party, which is why he has inserted the word "suitably". To suitably open up the "fifth freedom" rights has always been the policy of the Government, and there is no reason for any objection. But then, without any obvious reasons, in the latter half of his amendment, he deletes the point on long-term financial arrangements for the new airport; instead he only asks for a review of the various charges. This is indeed hard to understand. It simply will not work, if the Government and the AA only review the charges without at the same time reviewing the entire agreement on financial arrangements.

Madam President, I so submit.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr FUNG Chi-kin, you may now speak on the two amendments. You have up to five minutes to do so.

**MR FUNG CHI-KIN** (in Cantonese): Madam President, my motion is about enhancing Hong Kong's status as an aviation centre and I have made my points clearly in my opening speech. The airport at Chek Lap Kok has all the necessary facilities and been praised worldwide. Although there was chaos at the early stage of its opening, it has now got onto the right track and it is an opportune moment for us to consider how we can quickly enhance Hong Kong's status as an international and regional aviation centre in accordance with Article 128 of the Basic Law. Hong Kong should take measures and work out strategies for this. But after I have heard the remarks of the two Members who have moved amendments to my motion and those of other Members, I find that they are more or less pinpointing at the business practice of a major local airline.

Some remarks also involve political arguments. Many people have come to my assistance by sewing up a limb here or there after it has been reported in the press that I am not very close to the thinking of the Central Authorities.

I have moved this motion because I hope that the Government can conduct a comprehensive review. However, it seems that we have made two decisions for the Government before it conducts a comprehensive review or make an account to us. At this stage, we do not need to make decisions for the Government in such a hurry and it would be more appropriate for us to wait until the completion of the review for the Government to give an account and brief the public on the policies that should be maintained or changed. We should not waste our airport and our investment of more than \$100 billion including our investment in the Tsing Ma Bridge and the Airport Express.

I can go to Cathay Pacific Airways and ask the question myself if indeed it is necessary. But it says that its market share is only a little over 30% and the market share of Cathay Pacific together with Dragonair is slightly more than 40%. If the exchange of aviation rights is reciprocal, why is the ratio not 5 to 5? Why can we not achieve a ratio of 6 to 4? This certainly involves problems in respect of business strategies or cost control. We can certainly discuss how we can ask a company to perform better in order to provide consumers with better services.

I also attach importance to the issue of a freight forwarding hub. As Hong Kong has excellent geographical conditions, a fine harbour, and transportation systems such as roads and railways, we can take advantage of the excellent conditions of Hong Kong and try our best to ship exports from southern China to all corners of the world. We can also consider how we can import goods from these places and make good use of the relationship between these two hubs to give play to our advantages. The Government and airlines can actually make efforts in this regard. It is absurd and incredible for a freight airline to take up slightly more than two percentage points of the market share. We should look for ways to strengthen the freight forwarding industry, especially at this time when China will soon accede to the World Trade Organization. After China's foreign trade volume has been enhanced, Hong Kong must do business with China before others, otherwise, we will lag farther behind. Then this will be most worrying indeed.

We cannot presumptuously decide whether Hong Kong should allow a third or fourth airline to participate. We should wait until the Government has discussed and studied the issue before giving us an answer. However, I ask for a report by an independent third party which is not oriented towards Cathay Pacific, for only by so doing can we identify the problems that warrant attention.

My motion has covered the key points discussed by Members today. I do not think we should draw a conclusion before asking the Government to conduct a review. Thank you, Madam President.

**SECRETARY FOR ECONOMIC SERVICES** (in Cantonese): Madam President, just now I have heard many Honourable Members speak on the topic and I am fully aware of their concern and expectations for Hong Kong as a centre of aviation. I am very grateful to them for the valuable opinions they have expressed and I am also very impressed by the profound knowledge they have shown on the subject, especially given such a short span of time allowed.

I would like to make use of the debate today to discuss with Members the subject of our aviation policy.

I will first talk about how the Hong Kong Government strives to develop the hardware and software in air services so as to maintain the status of Hong Kong as a centre of international and regional aviation in accordance with the provisions of Article 128 of the Basic Law.

Article 128 of the Basic Law provides that the Government of the Hong Kong Special Administrative Region (SAR) shall provide the conditions and take measures for the maintenance of the status of Hong Kong as a centre of international and regional aviation. The efforts made by the Government are mainly on ensuring that the territory shall possess excellent hardware and software in aviation services.

In terms of hardware, our new airport is regarded as one of the best airports in the world as a result of the efforts made by the AA and its various operation partners. Currently, the Hong Kong International Airport handles a daily average of 450 flights, 90 000 travellers and more than 4 500 tonnes of cargo. I think Members are very much aware of the merits of the airport and I

do not wish to repeat them here.

The second runway was commissioned in May this year. It is used during the peak hours. It is expected that when the second runway comes into full operation this August, the operational flexibility of the airport will be greatly enhanced.

In the longer term, the Government will continue to ensure that there will be sufficient infrastructure in air transport to meet the needs. We shall invest more than \$1 billion in the future to upgrade our satellite communications, navigation and air traffic control systems, thereby enhancing the efficiency and safety in aviation.

To maintain our status as an aviation centre in the 21st century, the Hong Kong International Airport will continue to expand to reach an annual handling capacity of 87 million passengers and 9 million tonnes of cargo respectively.

In terms of the software, the main thrust of the Government's efforts is to negotiate and conclude more air service agreements with our partners in aviation. According to Article 133 of the Basic Law, the SAR Government can act under specific authorizations from the Central People's Government to negotiate and conclude new air service agreements. Since the reunification to date, we have concluded 15 new air service agreements to make a total of such agreements at 36. Drafts of air service agreements signed total at 11. We will, of course, continue with our efforts in negotiating new agreements.

Moreover, we often make reviews of the existing arrangements with our partners in civil aviation with a view to expanding the air services so that we can have a broad and convenient aviation network. At present, we have 60 international airlines providing more than 3 000 flights weekly to 120 destinations around the world. In fact, this number is about as many as that of Singapore which was mentioned by many Honourable Members earlier. I do not see why we should feel any inferior in this, though it is a good thing to be humble.

Second, I wish to talk about how the Government will open up the aviation market and the policies to go with it.

Since the ratification of the International Civil Aviation Convention in

1944, for about half a century, international scheduled air services have been regulated by bilateral air services agreements. These bilateral agreements authorize the airlines of both parties to the agreement certain rights to operate scheduled flights. When both parties act in exchange of these rights, a basic principle governs that such an exchange must be done on a fair and equitable basis.

There are usually five kinds of these rights, known as freedom rights. Although Honourable Members are experts on this, please bear with me for a brief explanation on all of these definitions.

- First freedom rights, being the rights of an aircraft of a party to fly over the airspace of another without landing;
- Second freedom rights, being the rights of an aircraft of one party to land for maintenance or refuelling on the territory of the other party while *en route* to a third country, but no loading and unloading of cargo or embarking or disembarking of passengers are allowed;
- Third freedom rights, being the rights of an aircraft of one party to carry passengers and cargo from its country to the other party;
- Fourth freedom rights, being the rights of an aircraft of one party to carry passengers and cargo from the other party to its own country;
- Fifth freedom rights, being the rights of an aircraft of one party to carry passengers and cargo from the other party or those of a third country while *en route* to that other party or a third country, or when that aircraft has landed on the territory of the other party.

There are of course, sixth, seventh and eighth freedom rights, but I would prefer not to talk about them as they will only make Members feel more confused. So I think I would rather not talk about them.

Generally speaking, a bilateral air services agreement would allow the airlines of both parties to enjoy first and second freedom rights. As for the third and fourth freedom rights, these agreements would usually make arrangements to stipulate the routes and carrying capacity, such as the number of flights and so on. For the fifth freedom rights, as they are not the main aims

of bilateral air services agreements, they would be exchanged according to the needs of both parties.

Agreements in air services concluded by the Hong Kong Government are modelled on international practice. When it comes to third and fourth freedom rights, the established practice is to ensure that the air services in question will meet the needs of the passengers and freight transport.

A few years before the new airport was opened, though the Kai Tak Airport had reached its full handling capacity, we still received many requests for additional flights from our air services partners. Our practice at that time was to accede to these requests only if market demand warranted them. Our aim was to allow flights with greater traffic volume to use the Kai Tak Airport, as this would optimize the utilization of the limited capacity then available.

After the commissioning of the new airport, the handling capacity is greatly increased. We have therefore adopted a more liberal approach in opening up the market and expanding our network of air services.

As for third and fourth freedom rights, our existing practice is to provide the necessary capacity so that airlines which are planning to operate new routes or expand existing services can take their plans forward. Even if only the airlines of the other party have plans to expand while the local airlines are not interested in similar plans, we would also be glad to increase the third and fourth freedom rights as much as possible so that the other airlines can enhance their services. Our greatest concern is not to protect the interest of local airlines but the overall economic interest of Hong Kong.

With this policy, we have established or expanded third and fourth freedom rights arrangements with 18 civil aviation partners over the past couple of years or so.

With regard to fifth freedom rights, as they involve third party countries, the issue is hence more complicated than third and fourth freedom rights. Our view is that those airlines which exercise "fifth freedom" rights will usually create competition against airlines with third and fourth freedom rights, and they can help the airlines of both parties to expand their service network. Therefore, among the air services agreements which we have concluded with our partners,

more than 60% are on the exchange of "fifth freedom" rights. In many of our major air routes, it is not uncommon to see five, six or even more airlines from all over the world operating direct flight services. As competition are so keen, passengers will have a lot of choices.

After the commissioning of the new airport, as the capacity is greatly increased, we are gradually opening up the "fifth freedom" rights to facilitate competition. For air routes without direct flight services, we have adopted a very flexible approach in the granting of "fifth freedom" rights in order to further expand our links with the rest of the world.

However, we do not intend to open up our "fifth freedom" rights unilaterally and on a full scale the time being, because this is not conducive to the best interest of Hong Kong. Many Honourable Members have pointed out in the debate that "fifth freedom" rights are vital assets of a place and they should not be surrendered unconditionally. Instead, they should be exchanged with our partners on a fair and equitable basis, in the best interest of the place concerned.

Moreover, many airlines are only thinking of using "fifth freedom" rights because of their wish to further their own commercial interests by providing air services in routes with a great traffic volume. These routes are usually characterized by rather ample service from airlines granted third, fourth and "fifth freedom" rights. For example, in 1998, more than 88% of the "fifth freedom" rights services are concentrated in six cities with the greatest passenger flows with Hong Kong, that is, Taipei, Bangkok, Singapore, Tokyo, Manila and Seoul. For routes with a lower traffic volume, there are lots of "fifth freedom" rights which are not used by any airlines. Therefore, a full opening up of the "fifth freedom" rights may not help very much in increasing the air services in these air routes. On the contrary, it will only serve to help major airlines to snatch the market share of some smaller operators and so competition is reduced. There will not be more passengers as people may expect.

One of the aims of exchanging "fifth freedom" rights between partners is to help local airlines expand their service network. As the actual exercise of "fifth freedom" rights need to be approved by a third party country, our bargaining power is not so great *vis-a-vis* partners with much greater economic or political strengths, and so we may not be able to obtain approval from a third

party country. In addition, as certain partners in civil aviation are situated in geographically remote locations, the "fifth freedom" rights which we may secure may not be of much commercial value to us. Hence a full opening up of "fifth freedom" rights would certainly help our partners in civil aviation expand their business, but it may not be of much help to expanding our air services network or facilitating our competition in the international market. It may even create a negative impact.

Our excellent geographical location is a powerful chip in our bargains with our partners over fifth freedom rights. If we are to open up fifth freedom rights fully now, we will have no chips at the bargaining table that we may use in our future talks with our partners as our aviation industry grows. I think Members will all understand that this will affect the development of our aviation industry.

I would also like to make use of this opportunity to talk about our views on the "Open Skies Agreement". Now the United States has concluded some of these Open Skies Agreements with some of its partners in aviation. Such bilateral agreements include major terms on the opening up of third, fourth and fifth freedom rights to airlines of both parties to the agreements.

Air services agreements executed between Hong Kong and the United States have already allowed an unrestricted operation of air services between Hong Kong and major cities of the United States. Therefore, if both parties are to start negotiating for "open skies", it would mostly be concerned about the conversion of the current fifth freedom rights arrangements into those without any restrictions whatsoever.

We hold basically an open and prudent approach to "Open Skies Agreements". Should the United States or any of our partners make specific proposals in respect of such bilateral agreements to us, we will carefully consider the pros and cons of these proposals on our position in competition, and their effects on passenger and air cargo services, the tourist industry and the aviation industry, and our status as an international and regional centre of aviation. A very important principle to which we adhere is that such "Open Skies Agreements" must be founded on a basis of mutual benefits, fairness and equality of opportunities. Therefore, our consideration will certainly be on the question of whether such an agreement will contribute to the best interest of Hong Kong as I have just explained.

According to the "Open Skies Agreement", the domestic aviation market of the United States, despite its substantial share in the aviation market of the world, is still not open to foreign airlines. Only airlines of the United States are allowed to operate there. If we are to conclude an "Open Skies Agreement" with the United States, the American airlines will be able to operate their business through Hong Kong without any restraint, but we will not be able to operate in this huge domestic market in the United States. Would Members call that fair competition? And is this really "open skies"? I think Members will no doubt have an answer in mind.

To sum up, we shall continue to open up our fifth freedom rights, facilitate competition and assist in market development, while adhering to the principles of mutual benefits, fairness and equality of opportunities.

I would like to make use of this opportunity to clarify a number of points which were quite special when the issue of opening up freedom rights was discussed in the media recently.

First, even if there are more freedom rights, it does not follow that there will be more air services or that the number of visitors will increase instantly. In fact, of the 40-plus bilateral air services agreements we have now, there are about 90% of the arrangements where our airlines or those of our partners have not exhausted the third and fourth freedom rights. Among the 30 partners or so we have on "fifth freedom" rights, there are also more than 90% whose freedom rights are not exhausted. So it is a matter of market demands and their own commercial considerations that airlines will decide whether or not to make full use of the "freedom rights" they have obtained under air services agreements to provide air services. As Members are probably aware, in our existing major routes, the average passenger carrying rate is only a little over 60% of the full capacity. Therefore, the opening up of freedom rights does not necessarily mean more travellers for the airport. In fact, we have no restrictions on the number of flights with regard to third and fourth freedom rights with the United States. In other words, American airlines can add as many as 100 additional incoming flights to Hong Kong tomorrow, but they will not do so. I think we all know it is not a matter of freedom rights, it is simply because there is no demand for it.

Second, Cathay Pacific now takes up about 35% of the air passenger

throughput. This market share is a natural phenomenon in the market because local airlines make Hong Kong their headquarters, and that is where they base their investments and services. As a matter of fact, this percentage is lower than the market share of other local airlines in other major airports. Mr Ambrose CHEUNG and Mr James TIEN have given a lot of information on that point earlier and I do not wish to repeat it. However, I would like to point out that the market share of United Airlines in Chicago is 45%, that of the Korean Air in Seoul is 48%, Thai Airways International in Bangkok and Singapore Airlines in Singapore are both 52%, Lufthansa in Frankfurt is 60%, and Malaysian Airline System in Kuala Lumpur is 70%.

Third, I would like to talk about the policy of "one route, one airline".

The air services agreements of Hong Kong are modelled on other international bilateral agreements in civil aviation where the government of each party to an agreement may specify certain airlines of its own to use its third, fourth and fifth freedom rights. Airlines must meet the criteria specified by their government. The criteria employed by Hong Kong are in compliance with the provisions of the Basic Law, that is, only airlines incorporated in the SAR and having their principal place of business in Hong Kong shall obtain freedom rights under bilateral agreements in air services concluded by the territory. This is in fact a very loose criterion and I do not see why Mr MA Fung-kuok still demanded just now that it should be relaxed.

In 1985, the Government announced that under normal circumstances, it would only specify that only one airline be allowed to exercise the freedom rights enjoyed by the territory under bilateral agreements in air services and to provide air services for one route. In general, the first airline which has obtained a licence from the Air Transport Licensing Authority will be nominated.

As Hong Kong is a city, there is no domestic market to support the local airlines. In all of the air routes, our airlines have to engage in fierce competition with the airlines of our partners of bilateral air services agreements or those of the third party countries. If the local airlines can be allowed to exercise the freedom rights in each air route to provide more air services, it will make our aviation industry more competitive.

Besides, this policy will help provide stable conditions for investment, thus enabling local airlines to invest and develop the air routes. The policy will also encourage local airlines to develop new destinations, including those which

are not very profitable. In so doing we will have a broader network of air services. Honourable Members should not forget that local airlines have provided ample employment opportunities for the local population. We certainly hope that our airlines can employ more local people. Our airlines have invested more than \$8 billion in the services and facilities in the airport. Their contribution to the economy is substantial.

Some Members suggested just now that we should explain under what circumstances will more than one airline be allowed to operate one route. I would like to point out that our "one route, one airline" policy is flexible enough to allow more than one local airline to operate one route under the following circumstances:

- if the Government thinks that there should be more competition for the benefit of public interest and that the throughput of that particular route is large enough to support the operation of more than one local airline in addition to all the airlines of foreign countries operating in that particular route; or
- if the local airline previously nominated has not operated or ceased to operate on that route, or if its services are not satisfactory; or
- if the services to be provided by the applicant are different from the previously nominated airline.

We shall be pleased to consider permitting more than one locally licensed airline to provide services on the same route.

Therefore, our existing policy will not reduce competition in the aviation market in any way. Local airlines are only some of the numerous service providers in the market. In many of the air routes, especially the major ones, the airlines of our partners and those of the third party countries are able to provide effective competition and a wide range of choices to consumers.

As to the question of whether local airlines are interested in applying to operate in routes presently operated by other local airlines, it will have to depend on market demands and the resource utilization of these companies. If

applications are received, we shall certainly consider them carefully.

Before a local airline makes an application, it will need to apply an air transport licence from the Air Transport Licensing Authority for the air route in question. The Authority is an independent statutory body. On receipt of an application, it will solicit public opinion on the application according to the Air Transport (Licensing of Air Services) Regulations. A hearing may be held as well. The Regulations also prescribe that in making a decision on the application, the Authority should consider the overall co-ordination and development of air services. The objective is to provide the most effective services and to avoid an uneconomical overlapping of services. The Authority will also consider the overall interests of the public, including the interest of people who need or most probably need air transport facilities, as well as that of those who provide the facilities. The licensing system is hence open and highly transparent.

All in all, our existing policies have incorporated a highly transparent mechanism and considerable flexibility so that the Government may specify more than one licensed local airline to provide services in the same air route. I trust that this has met the requirement of Honourable Members. On the other hand, if this policy is abolished, how will the Government be able to nominate more than one local airline to operate in an air route? It will only serve to create confusion. Will all applications be automatically approved? Will there be more than one airline operating in each air route? Will services to air passengers suffer? Will resources be thinned and efficiency reduced? Will freedom rights be reduced since they are shared among so many airlines? For example, if freedom rights stipulate that there should be six flights weekly, but if we are to allocate the rights to two airlines, then each airline can only stipulate three flights weekly. Would passengers think it will be more convenient? Previously, someone who has bought a ticket may use it in the afternoon if the flight in the morning is cancelled. But now he cannot do that because there are less flights. Such confusions may happen and these are not desirable.

Fourth, I wish to talk about air cargo services in Hong Kong.

Just now many Honourable Members have talked about sea and air cargo transshipment services and logistics management centres. The Government supports these proposals and it is in fact working hard on them.

To enhance the synergy between our new airport and our harbour, and to give full play to our edges in these two areas, the Government and the AA is examining the possibility of building a cargo handling area in the new airport to facilitate the shipment of air cargo by sea between the new airport and places in the Pearl River Delta. The Government is also encouraging the new airport and the Tuen Mun river trade terminal to use the Pearl River waterways to pool and distribute cargo. This can enable nearby cities on the Mainland to have fast and inexpensive means to make use of the new airport to import and export goods. I believe the above measures can make use of our advantageous location and our edges in sea and air transport infrastructure, thus consolidating our position as the shipment centre of the Pearl River Delta.

In addition, the AA is also working to develop a logistics distribution management centre on the airport island. This is done in the hope of helping our transshipment industry. The authorities are inviting interested investors to invest in such facilities in the airport. Apart from land in the airport, the Hong Kong Industrial Estates Corporation has also relaxed its selection criteria to enable qualified service providers including those who are interested in logistics management to move into the industrial estates. Besides, the Government is undertaking a consultancy study on the setting up of a Business Park. The study will look into the existing land and infrastructure to see if they meet the needs of the local manufacturing and service industries and whether there is a need to set up a Business Park in Hong Kong. The needs of the logistics management industry will also be considered.

On the question of airport charges, I must say that I am not involved in determining these charges. I am grateful to Mr SIN Chung-kai for thinking so highly of me. Honourable Members may be aware that the AA and representatives from the airlines presented their views to the Panel on Economic Services of the Legislative Council on 24 May. I agree that airport charges should be reasonable so that our airport can stay competitive. At the same time, however, we should understand that the AA, in reviewing charges, will have to consider other relevant factors. Apart from maintaining the competitiveness of our airport, the AA has to take into account its financial situation and the requirements in the Airport Authority Ordinance on the use of prudent commercial principles to manage its business and to keep a balance between

income and expenditure.

In order to keep the airport charges at a reasonable level, the AA has been adopting economizing measures to further improve its cost-effectiveness. For example, it has commissioned a consultancy to review its management framework. Through the adoption of measures to reduce expenses, it is expected that 10% to 12% of the operation expenses can be reduced for the year 1999-2000. The Authority is also expediting the exploration of new sources of income such as leasing land which has not been earmarked for development.

As regards the financial arrangements, the AA is a statutory body operating according to prudent commercial principles, so it must manage its finance prudently. Our position is to remain open to any suggestions which may help raise our competitiveness. On this issue of airport charges, the authorities will undertake a review of the matter in about a couple of months' time. We plan to exchange views with the airlines by then. Please therefore be patient and wait for the results of the review.

A few Honourable Members have mentioned the issue of localization of pilots earlier. The public will welcome the training of more local pilots. That is for sure, but I believe it is imperative that pilots, be they locals or expatriates, must meet international standards and safety in flying is the most important consideration. I am glad to see an advertisement put up by Cathay Pacific today to recruit pilots. I hope they are not putting up a show but are really making a step forward in the right direction. Apart from putting up advertisements, I hope that the company can also adopt other measures to make the localization of pilots a reality.

Madam President, in brief, the Government is convinced that air services should be opened up as much as possible so that there will be more competition. Therefore, since the opening of the new airport, we have been making use of the increased capacity to open up the aviation market gradually in line with the interests of Hong Kong.

We are also actively looking for new air routes. We will continue with our efforts to negotiate and conclude more air services agreements and make contacts with our new partners in civil aviation, in order that our air services

network can be further expanded.

On the question of increasing third and fourth freedom rights, we have already adopted a very liberal approach and actively seeking a review of the present traffic arrangements with our partners. This will hopefully meet market demands and allow airlines to have sufficient flexibility to increase their services in accordance with their business plans.

We will continue to open up the fifth freedom rights to bring in more competition into different air routes. However, we do not think it is an appropriate time to open up fifth freedom rights completely in an across-the-board or unilateral manner at the present stage. But we will take into account the economic situation and the global development in the aviation industry to speed up the opening to meet the practical needs, while upholding the principle that the move must be able to serve our economic interest.

On the "one route, one airline" policy, we are convinced that our aviation policy is sufficiently flexible and that a highly transparent mechanism also exists. We can therefore appoint more than one local airline to operate the same route taking account of their application and the market situation. The approach of the Government in this matter is clear enough and should the policy be abandoned at this stage, it would only create more confusion. The Government will certainly continue to monitor changes in the market closely and review of the policy from time to time.

Due to the explanations I have just given, the Government cannot give its support to the amendments moved by Mr Fred LI and Mr MA Fung-kwok. As for the original motion, just as I have said before, we are presently doing what we feel should be done even if this motion had not been moved.

On the issue of freight transport, we will work closely with the AA to consolidate the infrastructure in aviation and in other related fields. We will strive to make the best use of our edges in sea and air transportation to ensure that the territory will remain a centre of international and regional aviation.

Lastly, may I thank Honourable Members again for their valuable advice. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr MA Fung-kwok to Mr Fred LI's amendment, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr MA Fung-kwok rose to claim a division.

**PRESIDENT** (in Cantonese): Mr MA Fung-kwok has claimed a division. The division bell will ring for three minutes.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): I wish to remind Members that the vote now put is on the amendment moved by Mr MA Fung-kwok to Mr Fred LI's amendment. Before I declare that voting shall stop, will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Raymond HO voted for the amendment.

Mr Kenneth TING, Mr James TIEN, Mr LEE Kai-ming, Mrs Selina CHOW, Mr Ronald ARCULLI, Mr Ambrose CHEUNG, Mr CHAN Kowk-keung, Mr Bernard CHAN, Mr CHAN Wing-chan, Mrs Sophie LEUNG, Mr Howard

YOUNG and Mrs Miriam LAU voted against the amendment.

Mr Michael HO, Dr LUI Ming-wah, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Mr LAW Chi-kwong, Mr FUNG Chi-kin and Dr TANG Siu-tong abstained.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr LEE Cheuk-yan, Miss Emily LAU, Mr NG Leung-sing, Mr MA Fung-kwok and Miss CHOY So-yuk voted for the amendment.

Miss Christine LOH, Mr Gary CHENG, Mr Jasper TSANG, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr HO Sai-chu, Mr CHAN Kam-lam and Mr YEUNG Yiu-chung voted against the amendment.

Mr Albert HO, Mr LEE Wing-tat, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr Andrew CHENG, Mr SZETO Wah, Mr David CHU and Mr Ambrose LAU abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 20 were present, one was in favour of the amendment, 12 against it and seven abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 25 were present, six were in favour of the amendment, eight against it and 10 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negated.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr Fred LI to Mr FUNG Chi-kin's motion be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Fred LI rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Fred LI has claimed a division. The division bell will ring for three minutes.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): If there are no queries, I declare that voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Michael HO, Dr Raymond HO, Mr CHEUNG Man-kwong, Mr SIN Chung-kai and Mr LAW Chi-kwong voted for the amendment.

Mr Kenneth TING, Mr James TIEN, Mr LEE Kai-ming, Mrs Selina CHOW, Mr Ronald ARCULLI, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mr CHAN Wing-chan, Mrs Sophie LEUNG, Mr Howard YOUNG, Mrs Miriam LAU, Mr FUNG Chi-kin and Dr TANG Siu-tong voted against the amendment.

Dr LUI Ming-wah and Mr Ambrose CHEUNG abstained.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr Albert HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss Christine LOH, Dr YEUNG Sum, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr NG Leung-sing, Mr MA Fung-kwok and Miss CHOY So-yuk voted for the amendment.

Mr Gary CHENG, Mr Jasper TSANG, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr David CHU, Mr HO Sai-chu, Mr CHAN Kam-lam, Mr YEUNG Yiu-chung and Mr Ambrose LAU voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 21 were present, five were in favour of the amendment, 14 against it and two abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 25 were present, 15 were in favour of the amendment and nine against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

**PRESIDENT** (in Cantonese): Mr FUNG Chi-kin, you may now reply. You have one minute left.

**MR FUNG CHI-KIN** (in Cantonese): Madam President, one minute is enough. According to the Secretary, he is already doing the things we want him to do. He is indeed very quick in his response. But I hope that he will not stop at this. Instead, I hope that after listening to this debate, he will do even more and consider various ways of expanding the business of the new airport. I hope that Members can support my original motion, which urges the Government to carry out a comprehensive review on our aviation policy, in particular the various airport charges. I also hope that he will give us an answer as quickly as possible. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr FUNG Chi-kin, as set out on the Agenda, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

### **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 30 June 1999.

*Adjourned accordingly at twenty-four minutes past Ten o'clock.*

**WRITTEN ANSWER****Written answer by the Secretary for Information Technology and Broadcasting to Miss Cyd HO's supplementary question to Question 1**

We have consulted the Urban Services Department (USD) and the Radio Television Hong Kong (RTHK) on your questions. The USD explained that the "City Forum" programme is staged in the Victoria Park by RTHK. According to the conditions of hire, the organized is responsible for maintaining order of the venue hired. The staff of USD will also conduct random inspections of the venue to see if the relevant legislation and the conditions of hire are complied with. Regarding the "City Forum" programme on 23 May 1999, the staff of USD on duty did not witness any offence under the Public Health and Municipal Services Ordinance nor did they receive any complaint. USD had therefore not instituted any prosecutions.

**Annex II****WRITTEN ANSWER****Written answer by the Secretary for Information Technology and Broadcasting to Dr YEUNG Sum's supplementary question to Question 1**

According to the record of the Radio Television Hong Kong (RTHK), there has only been one case of complaint about the order in the venue of the "City Forum" programme which was lodged in 1998, alleging that the on-lookers were pushing against each other during the programme on 11 October 1998. Regarding the three incidents in which the guest speakers of the programme were treated impolitely, the details have been set out in the main reply to the above question.

## COMPANIES (AMENDMENT) BILL 1999

**COMMITTEE STAGE**Amendments to be moved by the Secretary for Financial ServicesClauseAmendment Proposed

5 By deleting the proposed section 48F(3) and substituting -

"(3) No regulations shall be made under this section unless a draft of them has been laid before and approved by resolution of the Legislative Council and section 34 of the Interpretation and General Clauses Ordinance (Cap. 1) shall not apply to such regulations."

25 In the proposed section 303B -

(a) in subsection (1), by deleting "neither the Government nor a relevant person shall be" and substituting "a relevant person shall not be personally";

(b) by adding -

"(1A) The protection conferred on a relevant person by subsection (1) in respect of an error or omission shall not in any way affect any liability of the Government in tort for the error or omission."

ClauseAmendment Proposed

26 By deleting the clause and substituting -

**"26. Effect of registration under Ordinance**

Section 322(3)(g) is amended by repealing everything after "insolvency, of any contributory," and substituting "the provisions of this Ordinance with respect to the personal representatives and to the trustees of bankrupt or insolvent contributories shall apply."."

27 By deleting the clause and substituting -

**"27. Contributories in winding up of unregistered company**

Section 328(2) is amended by repealing everything after "insolvency, of any contributory," and substituting "the provisions of this Ordinance with respect to the personal representatives of deceased contributories and to the trustees of bankrupt or insolvent contributories shall apply."."

Schedule (a) By adding before "**Companies (Winding-up) Rules**" -

**"Companies (Fees and Percentages) Order**

**1A. Schedule 1 amended**

Item 2 of Schedule 1 to the Companies (Fees and Percentages) Order (Cap. 32 sub. leg.) is amended by adding -

ClauseAmendment Proposed

"(ca) under section 291AB to reinstate the registration of a company deregistered under section 291AA;".

(b) By adding -

**"Inland Revenue Ordinance**

**4. Section added**

The Inland Revenue Ordinance (Cap. 112) is amended by adding -

**"88B. Notice of no objection in respect of an application to deregister a private company under section 291AA of Companies Ordinance**

(1) On a request made by a person who is entitled to apply for the deregistration of a private company under section 291AA of the Companies Ordinance (Cap. 32), the Commissioner may issue a written notice stating that he has no objection to the company being deregistered.

(2) The fee specified in Schedule 11 shall be payable in respect of a request under subsection (1).

(3) The Secretary for the Treasury may by order amend Schedule 11."

ClauseAmendment Proposed5. **Schedule added**

The following is added -

"SCHEDULE 11 [s. 88B]

FEE PAYABLE ON REQUEST FOR  
NOTICE UNDER SECTION 88B

The fee payable in respect of a request  
under section 88B is \$350."."

**Annex IV**

## ADAPTATION OF LAWS (NO. 7) BILL 1999

**COMMITTEE STAGE**Amendments to be moved by the Secretary for Financial Services

<u>Clause</u>	<u>Amendment Proposed</u>
Schedule 6, section 1	By deleting everything after "repealing" and substituting "'or territory" wherever it appears and substituting ", territory or place". "
Schedule 6, section 2	By deleting everything after "repealing" and substituting "'or territory" and substituting ", territory or place". "
Schedule 6, section 3	By deleting everything after "repealing" and substituting "'or territory" where it twice appears and substituting ", territory or place". "
Schedule 6, section 9(b)	By deleting everything after "repealing" and substituting "'or territory" wherever it appears and substituting ", territory or place". "
Schedule 6, section 10	By deleting everything after "repealing" and substituting "'or territory" and substituting ", territory or place". "

**Annex V**

## ADAPTATION OF LAWS (NO. 14) BILL 1998

**COMMITTEE STAGE**Amendments to be moved by the Secretary for Home Affairs

<u>Clause</u>	<u>Amendment Proposed</u>
Schedule 1, section 3	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 2, section 1	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 3, section 3	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 4, section 3	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 5, section 6	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 6, section 3	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".

<u>Clause</u>	<u>Amendment Proposed</u>
Schedule 7, section 3	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 8, section 3	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 9, section 3	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 10, section 3	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 11, section 2	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 12, section 3	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 13, section 3	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".

<u>Clause</u>	<u>Amendment Proposed</u>
Schedule 14, section 4	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 15, section 5	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 16, section 9	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 17, section 5	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 18, section 6	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 19, section 3	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 20, section 5	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".

ClauseAmendment Proposed

Schedule 21, By deleting everything after "Central" and substituting  
section 3 "Authorities or the Government of the Hong Kong Special  
Administrative Region under the Basic Law and other laws".

Schedule 22, By deleting everything after "Central" and substituting  
section 3 "Authorities or the Government of the Hong Kong Special  
Administrative Region under the Basic Law and other laws".

Schedule 23, By deleting everything after "Central" and substituting  
section 3 "Authorities or the Government of the Hong Kong Special  
Administrative Region under the Basic Law and other laws".

Schedule 24, By deleting everything after "Central" and substituting  
section 3 "Authorities or the Government of the Hong Kong Special  
Administrative Region under the Basic Law and other laws".

**Annex VI**

## ADAPTATION OF LAWS (NO. 18) BILL 1998

**COMMITTEE STAGE**Amendments to be moved by the Secretary for Home Affairs

<u>Clause</u>	<u>Amendment Proposed</u>
Schedule 2, section 2	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 3, section 3	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 4, section 3	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 5, section 5	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 6, section 3	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 7, section 3	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".

<u>Clause</u>	<u>Amendment Proposed</u>
Schedule 8, section 3	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 9, section 6	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 10, section 6	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 11, section 3	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 12, section 3	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".
Schedule 13, section 5	By deleting everything after "Central" and substituting "Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws".