

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 3 May 2000

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, S.B.S., J.P.

THE HONOURABLE CYD HO SAU-LAN

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

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE MICHAEL HO MUN-KA

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

THE HONOURABLE LEE WING-TAT

THE HONOURABLE LEE CHEUK-YAN

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

THE HONOURABLE LEE KAI-MING, S.B.S., J.P.

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

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

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

THE HONOURABLE NG LEUNG-SING

PROF THE HONOURABLE NG CHING-FAI

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 HUI CHEUNG-CHING

THE HONOURABLE CHRISTINE LOH

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, J.P.

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

DR THE HONOURABLE PHILIP WONG YU-HONG

THE HONOURABLE WONG YUNG-KAN

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

THE HONOURABLE HOWARD YOUNG, J.P.

DR THE HONOURABLE YEUNG SUM

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, S.B.S., J.P.

THE HONOURABLE LAW CHI-KWONG, J.P.

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

THE HONOURABLE FUNG CHI-KIN

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

MEMBERS ABSENT:

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

THE HONOURABLE CHAN KWOK-KEUNG

THE HONOURABLE SIN CHUNG-KAI

THE HONOURABLE YEUNG YIU-CHUNG

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE MRS ANSON CHAN, G.B.M., 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 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 DAVID LAN HONG-TSUNG, J.P.
SECRETARY FOR HOME AFFAIRS

MRS LILY YAM KWAN PUI-YING, J.P.
SECRETARY FOR THE ENVIRONMENT AND FOOD

DR YEOH ENG-KIONG, J.P.
SECRETARY FOR HEALTH AND WELFARE

MR LEE SHING-SEE, J.P.
SECRETARY FOR WORKS

MR CLEMENT MAK CHING-HUNG, J.P.
SECRETARY FOR CONSTITUTIONAL AFFAIRS

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

MS EVA CHENG, J.P.
SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING

CLERKS IN ATTENDANCE:

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

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

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Securities and Futures Commission (Fees) (Amendment) Rules 2000	87/2000
Securities (Miscellaneous) (Amendment) Rules 2000	88/2000
Securities (Dealers, Investment Advisers, Partnerships and Representatives) (Amendment) Rules 2000	89/2000
Securities (Accounts and Audit) (Amendment) Rules 2000	90/2000
Securities (Securities Margin Financiers and Representatives) Rules	91/2000
Securities and Futures Commission (Annual Returns) (Amendment) Rules 2000	92/2000
Probate and Administration Ordinance (Amendment of Schedule 2) Order 2000	98/2000
Securities and Futures Commission (Levy) (Securities) (Amendment) Order 2000	99/2000
Waste Disposal Ordinance (Amendment of First and Third Schedules) Notice 2000	100/2000
Places for Autopsies (Amendment) Order 2000	101/2000
Commodities Trading (Accounts and Audit) (Amendment) Rules 2000	102/2000
Financial Resources Rules	103/2000

Securities (Margin Financing) (Amendment) Ordinance 2000 (20 of 2000) (Commencement) Notice 2000	104/2000
Dumping at Sea (Amendment) Ordinance 2000 (18 of 2000) (Commencement) Notice 2000	105/2000
Dumping at Sea (Exemption) Order (L.N. 64 of 2000) (Commencement) Notice 2000	106/2000
Shipping and Port Control (Amendment) Regulation 2000	107/2000
Shipping and Port Control (Typhoon Shelters) (Amendment) Regulation 2000	108/2000
Shipping and Port Control Regulations (Speed Restricted Zones for Pleasure Vessels) (Repeal) Notice 2000	109/2000
Government Flying Service (General) (Amendment) Regulation 2000	110/2000
Pay Classification (Auxiliary Section of Government Flying Service) Assignment (Amendment) Notice 2000	111/2000
Hong Kong Airport (Control of Obstructions) (Exemption) Order	112/2000
Accountant's Report (Amendment) Rules 2000	113/2000
Admission and Registration (Amendment) Rules 2000	114/2000
Practising Certificate (Solicitors) (Amendment) Rules 2000	115/2000
Solicitors Disciplinary Tribunal Proceedings (Amendment) Rules 2000	116/2000

Solicitors' Practice (Amendment) Rules 2000	117/2000
Tax Reserve Certificates (Rate of Interest) (No. 4) Notice 2000	118/2000
Mandatory Provident Fund Schemes Ordinance (80 of 1995) (Commencement) Notice 2000	119/2000
Provident Fund Schemes Legislation (Amendment) Ordinance 1998 (4 of 1998) (Commencement) Notice 2000	120/2000
Mandatory Provident Fund Schemes (General) Regulation (Cap. 485 Sub. Leg.) (Commencement) Notice 2000	121/2000
Merchant Shipping (Safety) (Cargo Ship Construction and Survey) (Ships Built Before 1 September 1984) (Amendment) Regulation 2000 (L.N. 32 of 2000) (Commencement) Notice 2000	122/2000
Merchant Shipping (Safety) (Cargo Ship Construction and Survey) (Ships Built on or After 1 September 1984) (Amendment) Regulation 2000 (L.N. 33 of 2000) (Commencement) Notice 2000	123/2000
Merchant Shipping (Safety) (Cargo Ship Safety Equipment Survey) (Amendment) Regulation 2000 (L.N. 34 of 2000) (Commencement) Notice 2000	124/2000
Merchant Shipping (Safety) (Load Line) (Amendment) Regulation 2000 (L.N. 35 of 2000) (Commencement) Notice 2000	125/2000
Merchant Shipping (Safety) (Load Lines) (Length of Ship) (Amendment) Regulation 2000 (L.N. 36 of 2000) (Commencement) Notice 2000	126/2000

Merchant Shipping (Safety) (Passenger Ship Construction and Survey) (Ships Built on or After 1 September 1984) (Amendment) Regulation 2000 (L.N. 37 of 2000) (Commencement) Notice 2000	127/2000
Merchant Shipping (Safety) (Radio Installations Survey) (Amendment) Regulation 2000 (L.N. 38 of 2000) (Commencement) Notice 2000	128/2000

Other Papers

- No. 94 — Vocational Training Council
Annual Report 1998/1999
- No. 95 — Audited Statement of Accounts together with the Director of Audit's Report of the Hong Kong Rotary Club Students' Loan Fund for the year ended 31 August 1999
- No. 96 — Audited Statement of Accounts together with the Director of Audit's Report of the Sing Tao Foundation Students' Load Fund for the year ended 31 August 1999

Report of the Bills Committee on Legal Aid (Amendment) Bill 1999

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Relationship between Executive Authorities and Legislature

1. **MR JAMES TO** (in Cantonese): *Madam President, regarding the checks and balances and distribution of powers between the executive authorities and the legislature, will the Government inform this Council:*

- (a) *whether, in order to further implement the stipulation in Article 64 of the Basic Law that the Government must be accountable to the Legislative Council, the Chief Executive will consider attending more frequently meetings of the Legislative Council to account for the work of the Government to Legislative Council Members;*
- (b) *whether it will review and re-interpret Article 74 of the Basic Law to allow more room for Members of this Council to introduce bills on matters concerning public interests; and*
- (c) *of the measures it has for improving the checks and balances and distribution of powers between the executive authorities and the legislature?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, the Basic Law is the constitutional document of the Government of the Hong Kong Special Administrative Region (SAR) and provides us with a new constitutional framework. It will not be difficult for us to find that the structure is a very well-knit one, if we are to study the provisions regarding the relationship between the executive authorities and the legislature very carefully. Article 62 of the Basic Law empowers the executive authorities to formulate and implement policies; draw up and introduce budgets and final accounts; draft and introduce bills and motions and so on. Article 73 empowers the legislature to examine and approve budgets introduced by the Government; approve taxation and public expenditure; enact, amend or repeal laws and so on. Article 64 of the Basic Law provides that the SAR Government must abide by the law and be accountable to the Legislative Council of the Region: it shall implement laws passed by the Council and already in force; it shall present regular policy addresses to the Council; it shall answer questions raised by Members of the Council; and it shall obtain approval from the Council for taxation and public expenditure. The relevant provisions of the Basic Law provide for a clear division of powers and functions as well as checks and balances between the executive authorities and the legislature. Under this new constitutional framework, the SAR Government has all along endeavoured to seek further co-operation with the Legislative Council within the framework of the Basic Law.

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

- (a) The first part of the question concerns Article 64 of the Basic Law. In accordance with Article 64 of the Basic Law, the SAR Government must be accountable to the Legislative Council, and the SAR Government is accountable to the Legislative Council in many ways: in respect of implementation of laws, the SAR Government fully implements laws passed by the Council and already in force; in respect of policy addresses, the Chief Executive personally delivers his policy address in the Legislative Council each year; in respect of taxation and public expenditure, the Financial Secretary presents an annual budget to seek the Legislative Council's approval; in respect of answering questions raised by Members of the Council, the Chief Secretary for Administration and Policy Secretaries frequently attend Legislative Council meetings and from time to time answer questions raised by Members of the Council.

At present, the Chief Executive attends three Legislative Council meetings in each Legislative Session to answer questions raised by Members of the Council on the work of the Government, apart from delivering his annual policy address. The Chief Executive has no intention to alter the arrangement at this stage.

- (b) The second part of the question concerns Article 74 of the Basic Law. As mentioned above, Article 62 of the Basic Law vests the executive authorities with executive powers to formulate government policies and introduce bills for implementing the Government's policies, whereas Article 73 of the Basic Law provides that the Legislative Council enjoys the legislative power to examine and pass bills introduced by the Government. The division of functions between the executive authorities and the legislature in this aspect is very clear and distinct. While Article 74 of the Basic Law allows Legislative Council Members to introduce their own Members' bills, it has specified important provisions on the power of the legislature to introduce bills. Bills which do not relate to public expenditure or political structure or the operation of the Government may be introduced individually or jointly by Members of the Council. The written consent of the Chief Executive shall be required before bills relating to government

policies are introduced. Under the constitutional framework of the Basic Law regarding the division of functions between the executive authorities and the legislature, Article 74 of the Basic Law imposes very clear and important requirements on this aspect. Should Legislative Council Members enjoy the powers to introduce bills relating to areas mentioned above, and also the power to examine and pass them, it would be inconsistent with the division of powers and functions as well as co-ordination and checks and balances between the executive authorities and the legislature as provided under the Basic Law.

- (c) The third part of the question concerns the checks and balances and distribution of powers between the executive authorities and the legislature. In the first paragraph of my reply, I have already expounded on the Basic Law provisions regarding the division of functions between the executive authorities and the legislature. I wish to point out that under the constitutional framework of the Basic Law, the executive authorities and the legislature play different roles and maintain effective co-operation in many ways. For example, we have submitted 169 bills and 550 pieces of subsidiary legislation to the Legislative Council for scrutiny up to the end of April this year. With the support of Members, 113 bills and 537 pieces of subsidiary legislation have been enacted.

Given their different constitutional roles, it is only natural that the executive authorities and the legislature may hold different views on certain issues. We all along attach great importance to Members' views. To ensure that Members' views can be incorporated at an early stage, and to enable Members to participate in the process of policy formulation, we have made every possible effort to consult the relevant Legislative Council panels before we formally present our policy and legislative proposals to the Council. Since the commencement of the current term of the Legislative Council, government officials have attended 400-odd panel meetings to brief Members on the Government's policies and position on various matters and to listen to Members' views.

There are many channels through which the executive authorities and the legislature could enhance their communication. Up to now, government officials have answered over 3 000 oral, supplementary and written questions raised by Members. In addition to the Chief Executive attending special meetings of the Legislative Council to answer Members' questions, the Chief Secretary for Administration also meets frequently with the Chairman and Vice-chairman of the House Committee to discuss matters which are of concern to Members. Policy Secretaries also take the initiative to maintain contacts with Members through various formal and informal channels, and exchange their views with Members.

We are keenly aware of the importance of developing an effective working relationship between the executive authorities and the legislature. It is not only a matter for which we share our mutual constitutional obligations, but it is also a matter on which the SAR's overall interest is based. We will continue with our efforts to maintain our communication with the Legislative Council, with a view to further cementing a close, constructive and effective working relationship between the executive authorities and the legislature.

MR JAMES TO (in Cantonese): *Madam President, Article 64 of the Basic Law provides that the SAR Government must be accountable to the Legislative Council. Article 60 states that the head of the SAR Government shall be the Chief Executive of the Region; of course, the Chief Secretary for Administration is unlike the Chief Executive, for she is only a civil servant. Since the post of Chief Executive is filled by political appointment following election, should he then answer more questions from the Legislative Council on major policies and political issues? Has the Chief Executive ever indicated that he does not like to attend Legislative Council meetings? And, is it true that he is reluctant to attend Legislative Council meetings more often because he thinks that it takes just too much time for preparation?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, as a matter of fact, the Chief Executive does attach very great importance to the Legislative Council and the need for the executive authorities

to be accountable to the legislature. In my main reply, I have clearly explained that the SAR Government is accountable to the legislature through various channels. Apart from coming to the Legislative Council to deliver his policy address, the Chief Executive also attends other Legislative Council meetings. The Chief Executive has indicated that for the time being, he will attend three Legislative Council meetings in each Legislative Session.

MR JAMES TO (in Cantonese): *Madam President, the second part of my supplementary question is: Is the Chief Executive unwilling to attend Legislative Council meetings because too much time has to be spent on preparation? And, is that why he has decided to attend only three Legislative Council meetings in each legislative session? Is there any correlation between this and the number of meetings which the Chief Executive is prepared to attend? The Administration can say that the two issues are not related.*

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

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, just as the Honourable Member has pointed out, the Chief Executive is the head of the SAR Government, and I have clearly stated in my main reply that the Chief Executive can be accountable to the Legislative Council through other channels. The Chief Executive has also clearly indicated that he is prepared to attend Legislative Council meetings, but for the time being, he will attend only three meetings in each Legislative Session.

MR LEE WING-TAT (in Cantonese): *Madam President, Article 64 of the Basic Law stipulates that the executive authorities must be accountable to the legislature. That being the case, why is it that while the Chief Executive can have time for ceremonies, ribbon-cutting, painting exhibitions and other exhibitions, he has found it so difficult to spare just two hours monthly for a Legislative Council meeting? The Legislative Council is by far the most representative institution in Hong Kong. Will the Secretary inform us why the Chief Executive finds it so difficult to spare two hours for the Legislative Council?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, I appreciate that the Honourable Member's question is meant to express the hope that the Chief Executive can attend more Legislative Council meetings in the future. I am very happy to relay this to the Chief Executive.

MISS EMILY LAU (in Cantonese): *Madam President, it is pointed out in the main reply of the Secretary that under the new constitutional framework, there is a close relationship between the executive authorities and the legislature. I would like to ask the Secretary to take a look at the government framework, the relationship between the executive authorities and the legislature, and the powers of the legislature in the colonial era before the reunification of Hong Kong. Then, if we compare the situation of Hong Kong in the colonial era with that of the present objectively, and if we also take a look at the restrictions imposed by the Basic Law on the powers of the legislature and the Chief Executive's frequency of attending Legislative Council meetings and that of the former Governor Christopher PATTEN, can we say that the whole political system of Hong Kong is retrogressing, and the powers of the legislature are being seriously restricted?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, as I have said in my main reply, the Basic Law has established a political system for the SAR. Under this political system, the Basic Law provides for a clear and distinct division of powers and functions between the executive authorities and the legislature. Apart from providing for the relationship between the executive authorities and the legislature, and specifying their powers and functions, the Basic Law also establishes a relationship of co-operation as well as checks and balances between the executive authorities and the legislature. In addition to looking at the provisions on checks and balances between the executive and the legislature, we should also realize that co-operation and a close partnership are also required. Let us look at some examples. Though the executive authorities are responsible for drafting and introducing bills, these bills can become effective only after they are passed by the legislature, endorsed by the Chief Executive and promulgated. While Budgets are drawn up and introduced by the executive authorities every year, they must be submitted to the Legislative Council for scrutiny and passage. Therefore, while the executive authorities are empowered to formulate and implement policies, the Legislative Council is empowered to question the work

of the Government. We should look at this positively as a healthy interactive working relationship. Though the executive authorities and the legislature may have different viewpoints on how things should be handled, and they may not always see eye to eye with each other, I believe that Members will agree that the common goal of both the executive authorities and the legislature is to build up a positive working relationship, upon which the interests of the whole SAR Government hinge.

PRESIDENT (in Cantonese): Miss Emily LAU, which part of your supplementary question has not been answered?

MISS EMILY LAU (in Cantonese): *Madam President, the Secretary has not answered my supplementary question. My question is very simple, and that is, when compared with the legislature of the colonial era, is the Legislative Council now enjoying less power, and has our whole political system retrogressed? This actually involves something very objective.*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, my reply was focused on the constitutional framework provided under the Basic Law; as regards how it compares with that of the colonial era, I do not intend to make such a comparison here.

MR CHEUNG MAN-KWONG (in Cantonese): *Madam President, I would like to follow up the Honourable Miss Emily LAU's supplementary question. Before the reunification, the former Governor of Hong Kong, Mr Christopher PATTEN, attended Legislative Council sittings every two months to take questions from Members; but after the reunification, the Chief Executive, Mr TUNG Chee-hwa, only attends three Legislative Council meetings in each Legislative Session to answer Members' questions. That means he only attends Legislative Council meetings once every four months on average. This is already one kind of comparison. The SAR Government always stresses that it attaches great importance to the views of Legislative Council Members and it will be accountable to the legislature, but why has Mr TUNG Chee-hwa attended fewer meetings, compared to the former colonial Governor Christopher PATTEN? Given this, if the SAR Government still says that it attaches great importance to*

the Legislative Council, can we say that it is contradicting itself? The Secretary just said that the Chief Executive will be accountable to the Legislative Council through other channels. May I know what these channels are?

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, I said earlier that the Chief Executive has decided to attend three Legislative Council meetings in each Legislative Session for the time being. However, we do not rule out the possibility that this arrangement may be changed in accordance with any needs in the future. As regards communication between the Chief Executive and the Legislative Council, or how the Chief Executive can remain accountable to the legislature through the SAR Government, I believe that apart from attending Legislative Council meetings, there are other ways and channels through which the Chief Executive can exchange views, both formally and informally, with Members.

PRESIDENT (in Cantonese): We have spent more than 17 minutes on this question, and have now only got time for one last supplementary question.

MR ANDREW CHENG (in Cantonese): *Madam President, my question has to do with part (b) of the main reply. Article 74 of the Basic Law stipulates that the written consent of the Chief Executive shall be required before Members of the Legislative Council can introduce bills relating to government policies. I think this provision has deprived Legislative Council Members of their right to introduce bills, for there were occasions where the concept of "does not intend to legislate" was regarded as part of government policies. It means that if the Government has no intention to introduce certain bills but Members wish to do so, then the Government can deter Members from introducing such bills by saying that they are related to government policies. Will the Government consider amending the provisions of the Basic Law, or consider re-interpreting the provisions on government policies in Article 74 of the Basic Law, so that Members of the Legislative Council will really have the power to introduce bills?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, the Government has a very clear position on the interpretation of Article 74 of the Basic Law, and we have clearly explained it to Members through the Administration Wing in a submission to the Committee on Rules of Procedure. Madam President, I would like to add that we are also of the opinion that Article 74 of the Basic Law is a very important provision. It is about the division of powers and functions between the executive authorities and the legislature under the constitutional framework mapped out by the Basic Law. We understand that Members have different views on this subject and we are now carefully looking at the related issues. We hope that we can hold a discussion with Members as soon as possible on how to deal with this issue.

Temporary Measures to Tackle Air Pollution Problem

2. **MR LAW CHI-KWONG** (in Cantonese): *Madam President, regarding the temporary abatement measures to be taken during periods when the air is extremely polluted, will the Government inform this Council:*

- (a) *of the temporary measures that are being considered by the relevant authorities, and the timetable for implementing them;*
- (b) *whether it will consider prohibiting all vehicles, other than emergency and public transport vehicles, from passing through those districts where the air pollution index (API) is high and pedestrian traffic is heavy; and*
- (c) *whether it will consider spraying water on the roads where the API is high and pedestrian traffic is heavy?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese):
Madam President,

- (a) In respect of part (a) of the question, we are actively examining all practicable and effective measures for improving air quality. We announced in last year's policy address a comprehensive improvement programme. We are committed to early implementation of this programme.

In the meantime, we are examining a number of temporary abatement measures which have been put forward to be taken when the API is very high. These include banning certain categories of vehicles from passing through areas where the API is very high and restricting loading and unloading activities of goods vehicles in such areas. We have to assess their environmental benefits, feasibility and impact on the public and specific sectors. Following this, we will consult the community. The implementation timetable would depend on the outcome of the public consultation. We understand that in some cities such temporary abatement measures would be implemented only when their API reaches 200 or above. We need to consider the trigger point for these measures. We must also consider whether we can give sufficient notice so that the public, the transport sector and the businesses that would be affected can make appropriate arrangements in response to the temporary restrictions.

It should be noted that such measures would only provide temporary relief. To solve the air pollution problem, we must implement our comprehensive improvement programme.

- (b) On part (b) of the question, we will have to consider the possible impact of such a measure on the public and whether the diversion of traffic would lead to congestion and a deterioration in the air quality of other districts. Furthermore, we also need to examine whether other vehicles, for example, those supplying fresh food to supermarkets, wet markets and restaurants, should also be exempted.
- (c) With regard to part (c), spraying water will help reduce dust particles blown up by traffic. We will consider increasing the frequency of street washing in the more polluted areas.

MR LAW CHI-KWONG (in Cantonese): *Madam President, part (a) of my question is on the temporary measures being considered by the Government, but the Secretary's reply is mostly on part (b) of my question, that is, on prohibiting vehicles from passing through certain districts. May I ask the Secretary, apart from the measures given in reply to parts (b) and (c) of my question, whether there are other temporary measures being considered by the Government?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): As vehicles, especially those diesel-powered ones, are the main cause of air pollution, so the temporary abatement measures we will take on the days when the air is extremely polluted will mostly be targeted at these vehicles. The temporary abatement measures which I have mentioned earlier basically fall into two categories. One is to prohibit certain kinds of vehicles from passing through certain districts where the API is high. Another is to restrict loading and unloading activities of goods vehicles in such areas. However, the details and implementation of these measures are subject to a certain degree of variation, such as when the measures should be implemented, the types of vehicles to be prohibited and the delineation of these designated areas and so on. So, though there are basically two categories of measures as mentioned above, there could be a lot of variations when they are implemented.

MISS CHRISTINE LOH: *Madam President, in fact, one of the ways that the Government uses is when the API is very high, the Government will advise citizens to stay at home, and will advise schools to limit, for example, their sports activities and so on. The question I want to ask the Secretary is, if the Government has already decided that on certain days there should be as little outdoor activities as possible, would the Government consider, for example, to devise a system (like the typhoon signals), that perhaps people should stay off work altogether?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, I have just said that when we ban certain types of vehicles from entering certain areas where the API is very high, we will consider which types of vehicles should be banned. For example, if we wish to ban private cars during the peak hours such as when people go to school or work, then we will have to examine whether the public transport presently available will be able to meet the needs of those who would otherwise use private cars. If children need to go to school during the time when these prohibitions are implemented, then we will need to examine whether these measures will lead to traffic confusion. As regards the views put forward by the Honourable Miss Christine LOH, we will first need to consider whether the children will need to go to school, then we will consider whether the adults need to go to work. All these are things we will look into.

Having said that, I wish to add that we will look into the practice in other places. Take the state of California in the United States as an example, during the days when the API there is extremely high, they will implement these abatement measures by stages. According to the information on hand, in California when the API is equivalent to 200 in our API, all outdoor burning on activities will be banned and the operation hours of the incinerators will be restricted. All the medical institutions, schools and related trades will be informed and they will be asked to take preventive measures as appropriate. When the API is about 300 of ours, the operation hours and service hours of all government and commercial organizations will be limited. When their API reaches 400 of ours, all the non-emergency business services will be suspended. Of course, I do not want to see our API reach 400. I would like to stress that Miss LOH's suggestion will be considered.

MR EDWARD HO (in Cantonese): *Madam President, I think the Secretary is aware that we have a cross-party coalition, the All-Party Clean Air Alliance. I hope that when proposals are made to the authorities, some concrete measures can be taken in future. I think the Secretary has given us just now a very ambiguous answer, especially about the timeframe. For example, the second paragraph of part (a) of the main reply states that the "implementation timetable would depend on the outcome of the public consultation" on the banning of certain categories of vehicles from passing through areas where the traffic is busy. Is the consultation in progress at present, when will the consultation exercise complete and when will the results of the consultation be available? Besides, part (b) of the main reply also states that the impact on the public will have to be assessed. Is the Government making such an assessment now and when will results be available?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, first of all, I welcome the formation of the cross-party coalition and I have learned from the papers the preliminary proposals made by the coalition. I hope the coalition will present their proposals to solve the air pollution problem to us soon. As to what kind of temporary abatement measures should be taken when the air is extremely polluted, we are presently studying into this issue and we hope to submit our preliminary proposals to the relevant panel of the Legislative Council within this Legislative Session, that is, by the end of June this year. We will start the public consultation exercise after we have heard the views of Honourable Members.

MR LAU KONG-WAH (in Cantonese): *Madam President, when the Secretary was in the Independent Commission Against Corruption, she once made a remark and that had since been widely quoted, and that is, stiff actions will be taken to fight corruption. With regard to fighting air pollution, will stiff actions be taken as well?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, due to the recent deterioration of air pollution, a consensus has been reached among Members of the Council, the public and the Government that we must take decisive and comprehensive measures to improve the situation. Though the problem confronting us is a grave one, I feel that it is a very good chance for us to consolidate our strength and work hand in hand with the Council to improve our air quality. In this regard, both the Administration and I are determined to tackle the problem. I can assure the Honourable Member that we are fully committed to improving our air quality.

MRS MIRIAM LAU (in Cantonese): *Madam President, the Secretary has said earlier that diesel-powered vehicles are making a great impact on air pollution, however, the use of diesel fuel is inevitable in many modes of public transport. In such circumstances, will the Government consider on those days when the air pollution is very serious also prohibiting public transport vehicles from passing through districts where the API is very high and the pedestrian traffic is heavy, and to change the places where these vehicles can unload passengers in the peripheral areas so as to encourage the public to walk into these districts? Would the Government agree that this will minimize pollution in these districts?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, the Honourable Mrs Miriam LAU has indeed given a very sound piece of advice. In this proposal to adopt some temporary abatement measures, we are faced with a dilemma, that is, although we may ban private cars from using certain roads and encourage the public to use public modes of transport, the liquefied petroleum gas conversion programme has not been fully implemented and public transport vehicles are still using diesel. The proposal raised by Mrs LAU, that is, to ban public transport vehicles from passing through those districts where the API is high and pedestrian traffic heavy, is also a practicable option. As I have said, there should be a full-scale public

consultation. When we decide to adopt certain measures, we shall weigh their benefits to the environment against the inconvenience which they may cause to the public. I think that is something we all understand. What Mrs LAU has proposed is practicable and it will certainly be a success if it has the support of the public and the transport sector.

MR FRED LI (in Cantonese): *Madam President, in order that the Secretary can show her determination, I will direct this question to the Secretary. As a matter of fact, the Government has a large fleet of diesel-powered vehicles and the Food and Environmental Hygiene Department (FEHD) under the Secretary is the department with the largest fleet of diesel vehicles and these vehicles emit a lot of particulates on the roads every day. If the Government is to show its determination, why does it not install catalytic converters on these diesel vehicles, reduce the number of these vehicles or even turn them into electric vehicles?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, the Honourable Fred LI is right in that. Just now when I was replying to a question asked by the Honourable LAW Chi-kwong on washing the streets, I said that I was aware of the fact that the FEHD had a total of 66 vehicles for street-cleaning and all of them run on diesel. I believe Honourable Members know that all government vehicles will take the lead to use ultra-low sulphur diesel as a means to alleviate the problem of pollution. We will carry out the above programme in two phases and those vehicles of the FEHD will certainly be the first ones to join the programme. We will also consider using alternative fuel for these heavy vehicles. However, according to the information available, there is no effective solution yet. So we will promote the use of catalytic converters and ultra-low sulphur diesel. We also believe that government vehicles, especially those belonging to the Environment and Food Bureau, will be set an example.

MR JAMES TIEN (in Cantonese): *Madam President, in the second paragraph of part (a) of her main reply, the Secretary states that in some overseas cities, the temporary abatement measures would be implemented only when their API reaches 200 or above. And in her answer to a supplementary question, she adds that different measures are adopted in California when their API reaches 300 or 400. Can the Secretary confirm if the point I am going to make is*

correct? In overseas cities such as Los Angeles, when the API reaches 200 or 300, members of the public will still be in their cars and the impact on them is not that pronounced, but when it comes to Causeway Bay or Mong Kok with a density close to 100 000 people per sq mile, the situation cannot be compared to API 200 in an overseas country. May I ask the Secretary, while temporary abatement measures will be adopted in overseas countries when their API reaches 200, at what API level we will adopt such temporary measures? I do not think that the public will be happy to see that actions will be taken by the Government only when the API reaches 200.

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, when I was quoting the information from the state of California, I did not mean that we should model on foreign countries. Our situation is most unique. As the Honourable James TIEN has said, most people in California go about on cars and the use of private cars is very much different from that in Hong Kong. Of all the trips made in Hong Kong by vehicles which carry passengers, only 12% are made by private cars. We will include our own assessment on the issue when we put forward our initial proposals to Honourable Members. Before we decide on the time to implement these measures, we need to take into account their environmental benefits and whether they can be accepted by the public and the transport sector. Besides, I cannot rule out the possibility of adopting measures which correspond to different APIs. In this regard, I shall be glad to hear the views of Honourable Members as well as the public.

PRESIDENT (in Cantonese): Last supplementary question.

MR JAMES TIEN (in Cantonese): *Sorry, the Secretary has not answered my supplementary question.*

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

MR JAMES TIEN (in Cantonese): *If foreign countries use 200 in the API as an indicator for implementing the relevant measures, then in the case of Hong Kong, would the Government inform us what is the indicator for Hong Kong? Is it 120, 140 or 200 in the API?*

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

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): We are thinking about this. When we put forward our initial proposals, we will include proposals in this respect.

MISS CYD HO (in Cantonese): *Madam President, the Secretary mentioned that in the United States, when the API reaches 200, some temporary abatement measures will be taken, such as restricting the operation of incinerators to certain times of the day and banning all outdoor burning activities. On the other hand, the Government has been advocating for the building of an incinerator on Tsing Yi recently. Has the Government ever assessed the impact of this kind of incinerator on air quality upon its commissioning?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Cantonese): Madam President, when we considered building an incinerating facility on Tsing Yi for the treatment of medical waste, we did conduct a detailed Environmental Impact Assessment. I can provide the Honourable Cyd HO with the figures in writing for her reference. (Annex)

Medical Services Provided by Private Medical Groups

3. **MR MICHAEL HO** (in Cantonese): *Madam President, regarding the increasing establishment of medical service centres in Hong Kong which operate as a conglomerate and provide medical and health care services to the employees of industrial and commercial organizations by hiring medical practitioners directly or by sharing profits with private medical practitioners, will the Government inform this Council:*

- (a) *of the legislation or mechanism in place for regulating the quality of such medical services;*
- (b) *whether it has plans to regulate the mode of operation of such centres; and*
- (c) *of its policy regarding such medical services?*

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

- (a) The professional practice and conduct of doctors is governed by, among others, the Professional Code and Conduct promulgated by the Medical Council of Hong Kong. Regardless of whether a medical service centre is owned by medical practitioners or by non-medical personnel, the attending medical practitioner is professionally responsible for the service he provides to the patient. In view of developments in recent years, the Council intends to include in the Professional Code and Conduct relevant guidelines on the relationship between doctors and organizations providing contract medicine and managed care. These draft guidelines specify that doctors should not enter into those commercial pre-paid capitation schemes that are incompatible with a high standard of medical practice. Such arrangements are no excuse for substandard service. The draft guidelines are being circulated to concerned parties for consideration.
- (b) and (c)

I shall address part (b) and part (c) of the question together.

All medical practitioners are free to offer medical services and health maintenance programmes through individual practice or other service models so long as they follow the Professional Code and Conduct in their provision of service. In case of dispute, those concerning financial matters may be resolved by legal action

whereas those concerning professional conduct are regulated by the Medical Council. Patients may lodge complaints to the Medical Council where alleged professional misconduct of the medical practitioner is involved.

We believe that protecting the patients' health and rights should be the primary objective of any form of regulation of medical practice. We have already in place a registration and discipline system to regulate the professional conduct of doctors. We have also in place a regulatory system for health care services providers such as private hospitals, nursing homes and maternity homes. Our priority is to ensure that there are good treatment procedures and standards at the point of service delivery to ensure patient safety. Any policy development in this respect will be directed towards this goal. We have initiated a review of the licensing requirements of private hospitals and the need to regulate other facilities and centres providing health care services. Wherever necessary, we will consider appropriate legislative changes to strengthen the regulatory framework. Our aim is to ensure that patients will receive quality service in all circumstances, irrespective of whether the medical practice is owned by a physician or a commercial organization.

MR MICHAEL HO (in Cantonese): *Madam President, part (a) of my main question is about the legislation or mechanism in place to regulate the service quality of these centres. The Secretary has told us in his main reply that the Government mainly depends on the Medical Council for regulation of the relevant professionals. He has also told us that any future policy development will be directed towards patient safety. Yet, can the Government inform this Council of the stage of development of the policy and whether it has considered that the Department of Health should set service standards for compliance by health care services providers run by commercial bodies and doctors?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, I have actually mentioned the existing regulatory mechanism. Firstly, we rely on professional conduct; secondly, there are some ordinances regulating the provision of medical services by hospitals and clinics. We are now making a review to see whether the scope and power of the regulation under the existing

ordinances can adequately deal with the provision of medical services or managed care by individuals or organizations. We have just embarked on such a study.

PROF NG CHING-FAI (in Cantonese): *Madam President, will the Government consider setting a ceiling for the rate of profit sharing between service centres and medical practitioners? If so, a large part of the medical fees paid by people will not be used to meet administrative charges or as the profits of service centres with a smaller part being used on the expenses on consultation and medicine which are actual expenses on medical and health maintenance services.*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): *Madam President, our major policy objective is to ensure that the public will enjoy high quality medical services, and that they will get adequate information before joining private medical schemes so that they will be clear about the services they will get after joining a certain scheme. I believe fees and charges have to be determined by the public and the market.*

DR LEONG CHE-HUNG: *Madam President, in the Secretary's main reply, he said that, "Patients may lodge complaints to the Medical Council where alleged professional misconduct of the medical practitioner is involved". In this answer, it is, therefore, obvious that there are rules to regulate and control doctors in private hospitals, nursing homes, maternity homes, and so on, but there are still no regulations to control medical service centres which operate as conglomerates. Will the Government consider enacting laws and regulations to control these conglomerates, be they run by physicians or commercial organizations, in the interests of the public in order to prohibit these bodies from interfering with the autonomy of the health care profession in the exercise of professional duties, as well as to make transparent the percentage of money contributed by the patients that is actually used on medical care?*

SECRETARY FOR HEALTH AND WELFARE: Madam President, there are currently four ordinances which regulate businesses pertaining to medical practice in Hong Kong. We have obviously the Medical Registration Ordinance which governs the professional conduct of doctors. We also have the Medical Clinics Ordinance which regulates clinics or other facilities providing health care services. There are, also, an ordinance concerning how medical business can be conducted in the territory and an ordinance in relation to insurance plans. We will certainly review all these ordinances to see whether they can adequately cover and protect the interests of consumers and patients when they take part in some of these medical plans. The objective is to make sure that when individuals or patients purchase any health plans, they are clear about what would be provided and that their interests would be adequately protected. In regard to whether the providers are corporations, individuals, doctors or business corporations, I think that this is not relevant to our ordinances, but we will make sure that the patients are adequately protected. As regards the disclosure of information, I think that we will certainly look into what will be required to make sure that consumers' interests are adequately protected.

MR LEE WING-TAT (in Cantonese): *Madam President, the Secretary said in part (c) of his main reply that "protecting the patients' health and rights should be the primary objective of any form of regulation of medical practice". I agree to this but, in the past few weeks, the media has widely reported that the services provided by these medical service providers are mainly targeted at employees of companies and the quality of services are very poor. For instance, the consultation hours are very short and doctors only examine patients briefly and then ask them to collect relatively cheap medicines. From this angle, can the Secretary tell the Council how regulation should be effected to suitably protect employees who purchase medical schemes through their companies?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, as regards the quality of services provided by such companies or organizations, the Government has not received any relevant complaints. Despite the extensive reports by the media, we have not received any complaints from the public. Certainly, we will discuss the matter and I have just explained that we are making a review of the relevant ordinances to see whether the regulation of services provided to the public can adequately protect public health and rights.

MR FRED LI (in Cantonese): *Madam President, the Secretary has said in part (c) of his main reply that "We have initiated a review of the licensing requirements of private hospitals and the need to regulate other facilities and centers providing health care services. Wherever necessary, we will consider appropriate legislative changes to strengthen the regulatory framework". My supplementary question is: What is meant by "necessary" and how does the Government define this? As this question involves legislative amendments, I really hope that the Secretary can answer this supplementary question.*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, when we conduct the review, we will consider whether the existing ordinances can adequately ensure that the services provided can protect the rights and health of patients. When necessary, we will submit legislative proposals to the Legislative Council and Members can then discuss whether it is necessary to make amendments to the law.

MR LAW CHI-KWONG (in Cantonese): *Madam President, some medical conglomerates in the market operate pre-paid schemes and it is reported that some conglomerates are even default in paying doctors. Will the Government consider establishing some regulatory mechanisms so that people will not suffer losses from pre-payments once these conglomerates close down?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, we will also consider this in our review.

DR LEONG CHE-HUNG (in Cantonese): *Madam President, in answering questions, the Secretary has kept emphasizing that there are adequate ordinances regulating the professionals concerned but medical service centres that operate as a conglomerate are very often controlling these professionals. Besides, these centres are not regulated under any legislation. Does it mean that the Government would rather regulate "chickens" but not the "hawks"?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, the Government will definitely not do that. As far as regulation is concerned, we try our best to ensure the protection of people's health and rights. If it is necessary to regulate any conglomerate, we will do so.

MR MICHAEL HO (in Cantonese): *Madam President, I would like to follow up the issue of regulating "chickens" or "hawks". We can certainly enact a new law to regulate these medical conglomerates, but if the service providers under these medical conglomerates, be they doctors, nurses or physiotherapists, exploit patients, how will the Government regulate them?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): *Madam President, in that case, they have to be regulated by their respective professional codes. The Medical Council of Hong Kong is reviewing whether there are suitable and adequate professional codes to prevent the malpractice of providing substandard medical services.*

Funding Policy for RTHK

4. **MISS CYD HO** (in Cantonese): *Madam President, will the Government inform this Council whether:*

- (a) *it has assessed if there is a need to revise the funding policy for Radio Television Hong Kong (RTHK) in order to tally with its future business development; if the assessment result is in the negative, of the rationale for that;*
- (b) *it plans to allocate more funds to RTHK for enriching the contents of its Internet website; if so, of the relevant details; if not, the reasons for that; and*
- (c) *it will consider allowing RTHK to accept commercial advertisements or sponsorships with a view to generating more revenue; if so, whether it will regulate the contents of such advertisements or the mode of sponsorship; if it will not consider it, the reasons for that?*

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

- (a) *The Government has a long-standing and well-established funding policy to ensure that government resources available for allocation*

are used cost-effectively in providing public services that best meet the needs of the community.

In the resource allocation process, all government departments including RTHK will, in the light of their future business development or operation plans, assess the resources required and submit applications for funding accordingly. Having carefully considered the competing demands for resources and their respective priorities, the Administration will prepare the draft Estimates and submit them for approval by the Legislative Council.

Under the existing policy, the Administration may, under delegated authority; redeploy allocated resources not exceeding \$10 million to meet the needs of individual departments. This arrangement allows departments more flexibility in the deployment of resources.

The existing funding policy has been implemented effectively for many years and it has a well-proven track record of meeting the funding needs of individual departments. As a government department, RTHK is allocated the necessary resources through this mechanism to fund its services. According to various radio and television rating surveys, members of the public are, in general, satisfied with RTHK's services. We, therefore, do not have any intention to change the existing resource allocation policy.

- (b) In recent years, RTHK has continued to expand its services on the Internet through redeployment of internal resources. For example, since 18 April 2000, RTHK has enriched its website content by, among others:
 - (i) providing 24-hour live webcasting of the programmes of its six radio channels;
 - (ii) providing live webcasting of all its prime-time television programmes which are broadcast on TVB and ATV; and
 - (iii) establishing comprehensive archives of RTHK's radio and television programmes on its website.

In 1999, the Government decided that there would be no regular resource allocation exercise for recurrent expenditure in the financial year 2000-01. All government departments would therefore have to redeploy existing resources or re-prioritize the usage of current resources should they wish to provide new services or improve current services.

Following this policy, RTHK has planned to redeploy \$3 million in the financial year 2000-01 for the continuous expansion of its services on the Internet. Meanwhile, an internal study has been initiated to explore the strategy for further expansion of RTHK's services on the Internet under the current government policy and procedures and assess the resources so required. The study is expected to be completed within this year.

- (c) As a public broadcaster, RTHK's primary objective is to provide fair, balanced and objective television and radio programmes that will inform, educate and entertain the public. To ensure that RTHK's editorial independence will not be affected by any commercial elements, RTHK is not allowed under the current policy to accept commercial advertisements or commercial sponsorships.

Subject to the above policy, RTHK may accept sponsorships from non-profit-making organizations provided that the following criteria, among others, are complied with:

- (i) editorial control as well as the scheduling of sponsored programmes must remain with RTHK;
- (ii) sponsorship should not promote commercial products or services;
- (iii) all sponsorships must be declared at the beginning and/or ending of programmes so that listeners and viewers know who is paying/contributing; and

- (iv) news bulletins and current affairs programmes cannot be sponsored.

MISS CYD HO (in Cantonese): *Madam President, I have some figures of the allocation of resources at hand concerning the Information Services Department (ISD) and RTHK. For the year 1998-99, \$313 million were allocated to the ISD, the provision was subsequently increased to \$373 million for the year 2000-01, with a real increase of \$60 million. In contrast, the allocation to RTHK was only slightly increased from \$517 million in 1998-99 to the current \$527 million, with a real increase of less than \$10 million. May I ask whether it is the practice of the Administration to allocate an additional \$60 million to a government department which is willing to propagate for the Administration in a positive way, to disseminate information and act as the mouthpiece of the Administration; while a smaller increase will be made to RTHK, because it provides a channel for the public to express their views or even criticize the Administration?*

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): *Madam President, we consider it inappropriate to compare the expenditures of the two departments concerned in such away. In fact, RTHK may submit its funding application according to its resources utilization and respective priorities, because the existing structure and procedures allow it to obtain the necessary resources. Concerning the revised Estimates, the total annual expenditure of RTHK for the year 1999-2000 was \$538 million, with a growth rate of 4%; while the overall annual growth rate of the Government was -1.3%. Therefore, under such circumstances, the growth rate of RTHK was more than desirable. Certainly, RTHK may continue to apply for funding in the future based on its operation and development.*

MR BERNARD CHAN (in Cantonese): *Madam President, the Secretary mentioned in part (c) of the main reply the current policy on sponsorship. May I ask whether the Internet website of RTHK is allowed to accept commercial advertisements or commercial sponsorships?*

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): Madam President, similar to RTHK's radio and television programmes, the Internet website of RTHK is not allowed under the existing policy to accept commercial sponsorships, in order that the editorial independence of RTHK will not be affected by any commercial elements. However, in the strategic study mentioned by me earlier, we will look into the possibility of introducing new resources under the existing policy and procedures, so as to facilitate RTHK's development on the Internet.

MISS EMILY LAU (in Cantonese): *Madam President, I would also like to ask a question concerning Internet services of RTHK. The Secretary mentioned in his main reply that \$3 million would be redeployed in the financial year 2000-01 for the continuous expansion of RTHK's services on the Internet. May I ask the Secretary what the \$3 million is supposed to achieve? As the Secretary sees it, how will the Internet services of RTHK be compared with that of its electronic counterparts?*

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): Madam President, the \$3 million is supposed to enable RTHK to provide 24-hour live webcasting of the programmes of its six radio channels, instead of the existing four channels; and to provide live webcasting of RTHK's television programmes in addition to live radio webcasting. The redeployment will also make it possible for RTHK to establish comprehensive archives of its radio and television programmes on the website. Hence the redeployment of the \$3 million is helpful to RTHK in these aspects.

As regards comparing RTHK's Internet services with that of the other electronic media, I do not have any comprehensive information in this regard. Nevertheless, as some 900 000 people browse RTHK's website, the figure should be a good indicator. Nevertheless, we feel that the contents of RTHK's website are good enough to attract web surfers.

MR LAU KONG-WAH (in Cantonese): *Madam President, I would like to follow up the issue of increasing income. Although RTHK may accept sponsorships from non-profit-making organizations under the existing policy, it is virtually difficult to seek sponsorship from them as their names would suggest, they are not making profit, which means that they should not have much resources for sponsorship at all. Just now the Secretary said that the Administration was studying the issue, may I ask the Secretary if there are ways to make external resources available to RTHK ?*

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): Madam President, one of the ways we are going to study is the public auction approach, which is already in place. The Survey and Mapping Office (SMO) of the Lands Department also adopts the same approach in land survey projects. The SMO is developing its own website in collaboration with private Internet portals via public auction. I am not saying that we will certainly adopt this approach, but it provides ready reference.

Concerning the increase of income, the sponsorship from non-profit-making organizations was actually not trivial at all. For example, the sponsorship in 1999-2000 was something around \$25 million.

MR HO SAI-CHU (in Cantonese): *Madam President, I would like to ask a question about charges. Programmes of RTHK, especially television programmes, aired on many time slots serve as government publicity or non-profit-making advertisements, such as advertisements on AIDS or others. May I ask whether the production costs of such programmes are paid by relevant government departments for production by RTHK? In other words, RTHK is paid for those productions, am I correct?*

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): Madam President, if those programmes have no sponsorships, then the production costs will be met by RTHK. Currently, under the terms of the licence, the two television stations are required to provide staggered airtime for programmes of RTHK during weekdays and weekends.

MR HO SAI-CHU (in Cantonese): *Madam President, perhaps I did not make my question clear enough. May I ask whether the production costs for such television Announcement of Public Interests (API) of the Government are funded by a certain government department, and not by the RTHK? And the actual expenditure of RTHK is therefore more than that amount, because some of the production costs are funded by other government departments?*

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): Madam President, this is true. Some of the funds are allocated by the ISD, as RTHK is responsible for the production work only.

MISS CYD HO (in Cantonese): *Madam President, the Information Co-ordinator for the Chief Executive's Office is a D8 officer, with an annual remuneration of over \$2.2 million excluding fringe benefits. According to the Secretary's main reply in part (b), RTHK is going to get only about \$3 million in the financial year 2000-01 for the expansion of its services on the Internet. In comparison with the income of the Information Co-ordinator, RTHK as a multi-functional department which provides balanced and high quality programmes to inform, educate and entertain the public and specific audiences only gets a provision of \$3 million to expand its services on the Internet. May I ask the Administration whether or not this type of resources allocation is considered appropriate?*

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): Madam President, first of all, I would consider the comparison is just as inappropriate as the other analogy made by Miss HO earlier. Secondly, the \$3 million allocation is used to meet the expenditure for the introduction of Internet interface. Certainly, the contents can only be incorporated in the website after relevant radio or TV programmes are produced, so as to allow more people to enjoy them. As a result, we think the resources allocated do not necessary limited to this \$3 million, because they should include various production costs. Concerning the contents, as I have just mentioned, as RTHK has produced numerous TV and radio productions, it would benefit the public more if we can put them on the Internet.

MR NG LEUNG-SING (in Cantonese): *Madam President, the Secretary mentioned in part (c)(i) of her main reply that "editorial control as well as the scheduling of sponsored programmes must remain with RTHK". On the other hand, the Secretary also mentioned in part (c) (iii) that "all sponsorships must be declared at the beginning and/or ending of programmes so that listeners and viewers know who is paying/contributing". May I ask why RTHK is allowed to exercise editorial control of its programmes, but is not allowed the liberty to decide whether or not to declare the identity of the sponsor?*

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): *Madam President, we consider that editorial independence should not be affected by the sponsorship, that is, the content of the programme should be decided by RTHK alone. However, in order to allow viewers and listeners to obtain comprehensive information and to know who is paying/contributing, we consider that it is helpful to declare the sponsorship at the beginning and/or ending of programmes so that viewers and listeners can have a more comprehensive knowledge of the sponsor, content and background of the programme.*

MISS EMILY LAU (in Cantonese): *Madam President, the Secretary mentioned in her main reply that "RTHK is not allowed under the current policy to accept commercial advertisements or commercial sponsorships", because they consider commercial sponsorship will affect RTHK's editorial independence. Am I right to take the Secretary to mean that other commercial electronic media do not have any editorial control at all because they are operating under a commercial environment and at the same time receiving commercial sponsorship as well as commercial advertisement for their programmes? Additionally, some people are against the idea of allowing RTHK to accept commercial sponsorship, as they think that RTHK will then compete with other radio and television stations. They also think that it will put RTHK in a conflict of roles because it is funded by taxpayers of Hong Kong on the one hand, and competes with other radio and television stations on the other. May I ask if that is one of the reasons why RTHK is not allowed under the current policy to accept commercial advertisements or commercial sponsorships?*

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): Madam President, this is not our principal consideration. We feel that, being a public sector broadcasting organization, its credibility is very important. After weighing the pros and cons, we decided that the credibility of RTHK could only be strengthened and maintained when it is not allowed to accept commercial sponsorships. As for commercial organizations, they have to rely on commercial sponsorships, because they will not be commercial organizations if they do not accept commercial sponsorships. As a result, we consider the comparison inappropriate.

MISS CYD HO (in Cantonese): *Madam President, since the introduction of the Enhanced Productivity Programme two years ago, the Putonghua Channel of RTHK has already been set up and the plan for the expansion of the Internet website service is now in place. Frankly speaking, it seems that no more fats can be trimmed. In the Administration's main reply, it only mentioned that a study had been initiated, but it did not say that provision to RTHK would certainly be increased. Some Members also mentioned earlier that it was not easy to find sponsorship from non-profit-making organizations. Therefore, RTHK may possibly end up having its present scale of operation remain unchanged, denied any room of growth. May I ask whether it is the situation the Administration intends to see, and leave it as it is? Is it the intention of the Administration to leave all services and communication with the public as they are without any increase in resource allocation?*

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): Madam President, every department will redeploy its resources and apply for resources if necessary after accessing public demand for its services. It is still too early to say whether or not resources will be allocated next year, because the timetable for resource allocation has not been set out yet. It is exactly the brief of our study to look into how RTHK should redeploy its resources internally and to obtain more external resources.

Information Boards Erected on Roadside Slopes

5. **MR JAMES TIEN:** *Madam President, I notice that quite a large number of green-coloured information boards displaying the registration number of the relevant slope, the maintenance department and the Highways Department reference number have been erected on the slopes on both sides of roads. In this connection, will the Government inform this Council:*

- (a) of the respective numbers of the above information boards that have been and will be erected, and the number of slopes involved;*
- (b) whether it has assessed the visual and environmental impacts of these information boards and if they will distract drivers; if it has, of the details; and*
- (c) whether it knows if it is a common practice in overseas countries to erect a large number of information boards on roadside slopes?*

SECRETARY FOR WORKS (in Cantonese): Madam President, before I answer the questions raised by Mr James TIEN, may I explain the purpose of the slope registration plates. The installation of the slope registration plates is part of the Government's continuous efforts to improve slope safety in Hong Kong. In the past, when reports on landslides or inquiries about slope stability were made by the public, difficulties and confusion had been experienced in locating the concerned slopes and referring the case to the appropriate maintenance department for prompt follow-up action. Such problems had resulted in some emergency action to tackle landslide hazards being delayed.

Slope registration plates have therefore been erected by slope maintenance departments including the Highways Department (HD), progressively since 1998, to overcome these problems. Each sign displays a slope registration number which is the identity of that particular man-made slope. Different slope registration plates have different slope numbers that represent different man-made slopes, although the maintenance department displayed may be the same along a road. Some very long slopes may have more than one registration plate. It is the slope registration number which is important in locating the slope in question and in retrieving useful information regarding that slope. In March 1999, we set up a comprehensive computerized slope information system, which

is accessible via the Hong Kong Slope Safety Website. The slope number is the key information both on site and on the computer which enables anyone on the spot to communicate with the staff at the office on exactly which slope they are talking about.

Since the end of last year, we have been aware of the concerns of the public on the visual impact of these slope registration plates. We have taken a proactive response to the concerns of the public. The Works Bureau and the slope maintenance departments have held a number of meetings to discuss the issue and work out improvement measures. Also, we issued a new technical circular on 8 April 2000 actively implementing the following measures.

Firstly, the size of slope registration plates will be significantly reduced and will be erected on the uphill slope surfaces directly rather than on a post. For those downhill slopes along roadways, the slope registration plates will be erected on parapets or fences directly and not put on posts, which protrude up from the crests and become conspicuous. The effect on motorists will also be reduced by installing the slope registration plates on the slope surfaces below eye-level. Only one plate is to be installed on each slope. Also, we will strive to reduce the number of slope registration plates to the minimum by means of grouping the registration numbers of closely-adjoining slopes into one sign plate. In some scenic areas such as popular trails or parks, the number of slope registration plates can be further reduced by skipping the slope registration plates for some slopes. I believe upon implementation of the above measures, there would be significant improvements to visual and environmental aspects and the distraction to drivers.

My replies to the points raised in Mr James TIEN's questions are as follows:

- (a) Up till 14 April 2000, the HD has erected about 4 300 green-coloured slope registration plates covering some 3 100 man-made slopes over the territory. The total number of man-made slopes needing slope registration plates is 9 350. There are about 6 250 slopes where signs have not been erected.

The HD has commenced improvement measures in accordance with the new technical circular issued by the Works Bureau on 8 April 2000. The number of green-coloured slope registration plates to be installed is anticipated to be less than 6 250. The installed slope

registration plates will be reviewed in accordance with the new technical circular with a view to further reducing the number of slope registration plates.

- (b) When designing and installing slope registration plates, we have considered and struck a balance between a number of factors. Placing slope registration plates at conspicuous locations in the vicinity of the slopes are objectively necessary. This enables citizens to conveniently retrieve concerned information, facilitates their communication with slope maintenance departments, and thus achieves the aim of improving slope safety and taking prompt action in case of emergencies. On the other hand, when installing the slope registration plates, the HD has balanced the above considerations against other factors such as visual and environmental aspects, the distraction to drivers and so on. As regards environmental impact assessment, no such assessment has been considered necessary as the slope registration plates do not apparently pollute the air, generate noise, or affect the ecology of the surroundings. In response to the recent concerns of the public, the above issues have been considered in depth in working out the improvement measures and the new technical circular. Details of our considerations have already been given in the foregoing and will not be repeated here.
- (c) We are not aware of similar slope registration plates erected in overseas countries. The situation in Hong Kong is unique for we have high seasonal rainfall, great concentration of development on hillsides and a very large number of slopes. Many busy roads have been built on steep and hilly terrain. The challenges that we are facing with regard to slope safety are unique in the world. Hong Kong is in fact leading the world in terms of management of slope safety. Of course, we will make continuous improvements in response to the feedback of members of the community.

The aim of installing the slope registration plates is to facilitate the concerned maintenance departments and the departments responsible for follow-up actions to retrieve the relevant information and locate the slope promptly. The necessary emergency action can then be taken without delay.

MR JAMES TIEN (in Cantonese): *Madam President, I very much welcome the Government's implementation of the new measures that started in April in striving to reduce the number and size of the slope registration plates. The Secretary mentioned in his main reply that the most important purpose of erecting these slope registration plates is to enable the public to identify the slope registration numbers so that they can inform the Government to carry out prompt repairs to the slopes concerned. I wish to have more information in this respect. For example, from 1998 till now, the Government has erected more than 6 000 slope registration plates. During this period, how many reports have been made by the public? Furthermore, how many cases have caused the Government to carry out repair works in the light of these reports to mitigate the hazards?*

SECRETARY FOR WORKS (in Cantonese): *Madam President, in fact, these slope registration plates were erected only since 1998. For the time being, we do not have information on the number of citizens who notified government departments of these slope registration plates for the purpose of carrying out repairs. However, as Mr TIEN said, these slope registration plates can enable us to locate the slopes concerned through the computer immediately. As we all know, there are many slopes in Hong Kong, we can find a number of slopes even along a road. It will be very difficult for us to locate the exact position of a slope which has developed problems if we are only notified of its approximate location by telephone. Hence, the installation of slope registration plates can enable us to identify the exact position of a slope immediately based on the information acquired. I think this is very important.*

MRS SELINA CHOW (in Cantonese): *Madam President, the Secretary mentioned in his main reply that it was necessary to erect 9 350 such slope registration plates. Will the Government inform this Council of the factors, such as the design and size of the slope registration plates, it has actually taken into account in its initial consideration of providing the public with such information, and why it only realized that many people consider the registration plates appalling eyesores after they had been erected? This is particularly so for tourists who spot these slope registration plates on the Peak for they have no idea of the message conveyed either. Why has the Government failed to give thorough consideration beforehand? I believe it will cost a lot of money for rectifications to be made slowly after the problems have arisen. Has the*

Government followed the procedure of giving careful consideration to the design of the slope registration plates in accordance with the principle of not creating eyesores or adversely affecting visual impacts as far as possible? Will the Government take this as a lesson so that it will make more effort as far as possible in future?

SECRETARY FOR WORKS (in Cantonese): Madam President, to start with, I wish to clarify that we prepare to install a total of 9 350 slope registration plates by the roadside. However, up till 14 April, we have only erected 4 000 plus slope registration plates on 3 100 man-made slopes. From this figure, we can see that we have the practice of erecting more than one slope registration plates on a slope. After deliberation, we consider it necessary to review this practice. Hence, according to the new guidelines, not every slope has one or more than one slope registration plates. Instead, we may find only one slope registration plate on two or more than two slopes.

As for the size of the slope registration plates, I have just explained in my main reply that we did consider the visual impact and other impacts on drivers. However, we also need to consider whether the registration plates are conspicuous and easily identifiable. After the erection of these slope registration plates, we find that many people hold different views. We have therefore held discussions promptly in response to these views and agreed that the size of the plates be reduced. In addition, we will use different installation methods in future. In other words, we will erect the plates on a slope rather than on a post.

MRS SELINA CHOW (in Cantonese): *The Secretary has not answered my question. My question is: If there is a need to install such a large number of signboards to provide such information in future, will the Government make procedural improvements after learning from this lesson?*

SECRETARY FOR WORKS (in Cantonese): Madam President, I believe that in order to do better, these all merit consideration. On this matter, we have actually held departmental consultations. I hope we can do better in consulting the public in future.

DR RAYMOND HO (in Cantonese): *Madam President, the Secretary said that the slope registration plates will be erected on the uphill slope surfaces and, for downhill slopes, will be erected on parapets or fences. However, in case of slope movement or damage, these plates might disappear. In this connection, has the Government considered placing signboards of various designs such as metal signboards or signboards in different colours on the kerb alongside the foot of a slope so that pedestrians can notice them immediately or even placing the signboards on the kerb facing the slope to provide pedestrians with information on the slope?*

SECRETARY FOR WORKS (in Cantonese): *Madam President, this is a good suggestion. However, as there are a large number of slopes in Hong Kong, we have actually installed many slope registration plates. What we have to consider now are: First, how the number of slope registration plates can be reduced; second, how we can locate a slope promptly should any event occur. With so many slopes in Hong Kong, I believe in the event that even one of them collapses, we should be able to locate it promptly according to the slope registration plate on the nearby slope.*

MR HO SAI-CHU (in Cantonese): *Madam President, rectifying mistakes promptly is always better than "not admitting any mistakes". I would like to commend the officers of the Works Bureau for this.*

Now that more than 4 000 slopes have been dealt with by the old method, when will the Government adopt a new approach in dealing with these slopes on which slope registration plates have been installed? Does the Government actually have any plans to do so?

SECRETARY FOR WORKS (in Cantonese): *Madam President, in fact, I have mentioned in my main reply that we will review the installed slope registration plates in accordance with the new technical circular with a view to further reducing the number of slope registration plates. Work in this area is now in progress. However, in order to reduce the use of resources, we will not adopt a new approach in dealing with the slopes on which registration plates have already been installed.*

PRESIDENT (in Cantonese): Last supplementary question.

MR JAMES TIEN (in Cantonese): *Madam President, the Secretary said earlier that after the erection of the slope registration plates, no statistical work had been carried out so far. I suspect not a single report has been received so far. This is because I do not think motorists will pay any attention to these slope registration plates at all while driving. The installation will actually waste a lot of resources. I wish my suspicion is wrong. May I ask the Secretary when he is prepared to collect such data? If the result shows that there are really very few reports of these cases, will the Government consider removing all these slope registration plates?*

SECRETARY FOR WORKS (in Cantonese): Madam President, in fact, I have asked my colleagues to collect the relevant data for such information is crucial to the purposes of slope registration plates. However, we have not received the relevant information so far.

MR JAMES TIEN (in Cantonese): *Madam President, if the number of reported cases is really very small, will the Government consider removing all these 6 000 plus slope registration plates?*

SECRETARY FOR WORKS (in Cantonese): Madam President, as I said earlier, these slope registration plates serve various purposes. I find it hard to say that they are completely useless. I think these slope registration plates have fulfilled their function to a certain extent if they enable us to carry out maintenance or repair to a dangerous slope in time.

Switching off Mobile Phones and Pagers in Public Entertainment Venues

6. **MR BERNARD CHAN** (in Cantonese): *Madam President, in spite of audio and visual reminders for the audience to switch off their mobile phones and pagers before the commencement of films and performances, there are still people ignoring such reminders. In this connection, will the Government inform this Council:*

- (a) *of the other measures it has taken to ensure that the audience switch off their mobile phones and pagers before they are admitted to the public entertainment venues managed by the government authority, the type of personnel tasked to enforce these measures and the effectiveness of such measures; and*
- (b) *whether it will consider enacting legislation to enforce such measures; if not, of the reasons for that?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, my replies to the Honourable Bernard CHAN's questions are:

- (a) Before replying to Mr Bernard CHAN's question, I would like to point out that disturbance caused by the use of mobile phones and pagers during performances is not particularly serious at the performance venues managed by the Leisure and Cultural Services Department, that is, the vast majority of venues managed by the public sector. For some major venues such as the Hong Kong Cultural Centre, the Hong Kong Coliseum and the Queen Elizabeth Stadium, the level of reception inside the auditorium or arena is low and calls cannot be connected at certain locations. However, to minimize distraction to audience and performers, apart from audio and visual reminders requesting audience to switch off the sound-emitting devices of their mobile phones and pagers before commencement of performances, the following measures are also taken:
 - (i) printing of the house rule on switching off of mobile phones and pagers on the front page of the house programme of performances;
 - (ii) putting up clear notices of such house rule at the admission points of the venue;
 - (iii) in some venues where the use of mobile phones and pagers poses a problem, the house rule wording has been further enhanced with the inclusion of a warning message to alert audience that they may be requested to leave the venue in case of non-compliance with the rule; and

- (iv) the playing of the house rule announcement tape to remind the audience during the intermission whenever necessary.

To reinforce these preventive measures, front-of-house staff such as ticket checkers and ushers are deployed to monitor the audience during admission, intermission and throughout the performance so as to give advice and take appropriate action in case the patrons violate the house rule. During admission, audience who are seen to be carrying portable phones or pagers will be asked to switch off the beeping devices before entering the venue. During the intermission when audience are found using the portable phones or pagers inside the venue, staff will approach and advise them to use such devices outside the venue and to switch them off once re-entering the venue. So far, these arrangements are found to be effective.

- (b) We do not see any need to enact legislation to prohibit the use of mobile phones and pagers inside the auditorium of a performance venue because the Civic Centres Regulation made under the Public Health and Municipal Services Ordinance (Cap. 132) has already conferred the manager of a civic centre or any authorized staff the power to direct persons to leave the venue for disobeying any reasonable order given by the manager in furtherance of the proper management of a civic centre.

MR BERNARD CHAN (in Cantonese): *Madam President, in the part (a) of the main reply, the Secretary mentioned that the level of reception in most venues is poor and calls cannot even be connected. May I ask the Secretary whether this is attributed to the facilities inside the venues or artificial interference? As far as I understand it, the use of mobile telephones is prohibited inside the Jockey Club. Is it caused by artificial interference or equipment installed inside the Jockey Club?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): *Madam President, I was referring to mobile phones and pagers when I mentioned the poor level of reception. However, I must make it clear that audience attending concerts in the City Hall or cultural centres will find the level of reception to live music*

extremely well. I believe the venues have not made any special arrangements in terms of design. However, the fact that the venues are surrounded by concrete walls has made reception of signals extremely difficult. In order to raise the level of reception of mobile phones and pagers, special equipment must be installed. For instance, special arrangements have been made by the Mass Transit Railway, cross-harbour tunnels and certain places before relevant signals can be received. We simply do not need to install special facilities to lower the level of reception of mobile phones. Basically, we do not encourage audience to make telephone calls inside the venues. I must explain the situation clearly.

MISS EMILY LAU (in Cantonese): *Madam President, I would like to follow up the supplementary question raised by Mr Bernard CHAN for the Secretary has not answer it. Is it feasible policy-wise for us to ask cultural entertainment venues to make certain arrangements to interfere with reception of telephone calls? I made a visit to a prison recently and found that it was impossible to use mobile phones inside the prison. Perhaps telephone signals were blocked by concrete walls, as what the Secretary said. Audience will actually find it quite disgusting on hearing constant beeping sounds made by mobile phones during performances. In the supplementary question, Mr Bernard CHAN actually asked: Have additional facilities been installed in the two venues for the purpose of interfering with telephone signals to make it impossible for mobile phones to receive telephone signals? If so, I think this is a pretty good idea. Therefore, the supplementary question I would like to add is: Will the Secretary support urging those organizations to do so in terms of policy?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, I have pointed out right at the beginning of the main reply that disturbance caused by the use of mobile phones and pagers during performances is not particularly serious at the performance venues managed by the Leisure and Cultural Services Department, that is, the vast majority of venues managed by the public sector. I would also like to add that, according to the data collected by such performance venues as the Hong Kong Cultural Centre and the City Hall, there is a low level of disturbance. We will only find zero to one such incident in every performance on average. Therefore, there is basically no need for us to install any facilities for the purpose of interfering with mobile phones.

MR BERNARD CHAN (in Cantonese): *Madam President, I will not follow up the supplementary question I raised earlier because performers will be greatly affected even if they have been disturbed once. In paragraph (iii) of part (a) of the main reply, the Secretary pointed out that audience would be alerted by a warning message or requested to leave the venue. Has the Secretary considered, apart from doing so, enhancing such awareness in terms of civic education in schools or reminding the public as to how to respect performers and the interests of other audience?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, front-of-house staff will advise people carrying mobile phones and pagers to switch off their phones and pagers before entering the venues. Actually, audience have always behaved in a co-operative manner. It is only because our staff sometimes fail to spot the carriers on audiences violating the rules unknowingly. This is actually part of civic education. Insofar as the promotion of civic education in schools is concerned, I agree young students must be aware that they should respect performers and the right of other audience when watching public performances and movies. Therefore, I fully concur with Mr CHAN's view.

PROF NG CHING-FAI (in Cantonese): *Madam President, the Secretary pointed out in paragraph (iii) of part (a) of the main reply that the house rule of the venues includes a warning message. Will the Secretary consider replacing the warning message with such wordings as "showing disrespect to performers is an uncivilized act"? I believe this is going to be more effective than a warning.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, we may consider the proposal made by Prof the Honourable NG Ching-fai. I wish to clarify that audience must comply with the so-called warning message when managers or authorized staff give reasonable orders in discharging their duties under existing legislation. Otherwise, management staff are empowered to ask the relevant audience to leave the venue and discontinue from watching the performance. This is the warning I referred to. It is in no way intimidating.

PRESIDENT (in Cantonese): Question time shall end here.

WRITTEN ANSWERS TO QUESTIONS**Hong Kong Identity Cards Issued to Imported Workers**

7. **MR GARY CHENG** (in Chinese): *Madam President, it has been reported that the Immigration Department does not take back the Hong Kong identity cards issued to imported workers when they leave Hong Kong upon the expiry of their employment contracts. In this connection, will the Government inform this Council:*

- (a) *of the reasons for not taking back such identity cards; and*
- (b) *whether there have been cases in which persons were found to have gained employment in Hong Kong by illegally using such identity cards; if so, of the number of such cases over the past year and the measures in place to curb these cases?*

SECRETARY FOR SECURITY (in Chinese): Madam President,

- (a) Under the existing legislation relating to identity cards, there is no provision to require imported workers to surrender their Hong Kong identity cards when their employment contracts expire. However, effective measures are in place to prevent the illegal use of such identity cards.

An identity card issued to an imported worker bears a W-prefix which signifies his immigration status, that is, his permission to stay is dependent on his possession of a valid employment visa. His employment visa will remain valid only for so long as he is in lawful employment. A W-prefix identity card serves as a proof of identity of an imported worker, but it alone does not grant him permission to stay or to take up employment in Hong Kong.

When the employment contract of an imported worker expires, his employment visa will terminate, and the Immigration Department will update his computer records accordingly. As and when our

law enforcement officers come across a person holding a W-prefix identity card, for example, during a routine identity card inspection, they will verify the status of that person against the relevant computer records. Holders of W-prefix identity cards whose employment contracts have already expired will be detected immediately.

- (b) The Immigration Department arrested 4 314 illegal workers in 1999. Separate statistics on those arrested who had obtained employment through illegal use of W-prefix cards are not available, but anti-illegal workers operations by the Immigration Department have revealed that such cases are rare. A sampling check on 50 out of the abovementioned 4 314 cases shows that none of them are involved in the unauthorized use of a W-prefix identity card.

The strengthening of the Immigration Ordinance (Cap. 115) in October 1996 to require employers to check travel documents has helped to curb misuse of W-prefix identity cards. Section 17J of the Immigration Ordinance now requires employers to inspect the travel documents of non-permanent Hong Kong residents before offering them employment. Employers are allowed to recruit only those persons whose conditions of stay permit employment in Hong Kong. In other words, a non-permanent Hong Kong resident cannot lawfully obtain employment in Hong Kong by merely producing a W-prefix identity card. He is required to produce his travel document based on which his prospective employer will be able to verify whether he is lawfully employable.

In-patient Rehabilitation Services in Public Hospitals

8. **MR ALBERT HO** (in Chinese): *Madam President, in connection with the in-patient rehabilitation services in public hospitals, will the Government inform this Council of:*

- (a) *the number of rehabilitation beds in each public hospital and, in respect of each hospital cluster, the ratio of such beds to the population served as at the end of last year;*

- (b) *the latest timetable for the extension project of Pok Oi Hospital (POH) and the movement in the number of rehabilitation beds in each year during the project;*
- (c) *the commencement date for the construction of the rehabilitation hospital in Tuen Mun; and*
- (d) *the measures in place to ensure that the rehabilitation beds in Yuen Long and Tuen Mun are sufficient?*

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

- (a) The latest statistics on the number of rehabilitation beds in each public hospital, and the number of such beds per 1 000 effective population in each hospital cluster as at 31 March 2000 are provided at Annex.
- (b) We shall seek the approval of the Finance Committee of the Legislative Council in June 2000 to embark on the preparatory works of the POH redevelopment and expansion project in the latter half of 2000. We aim to complete the project by end 2006.

The POH aims to continue to operate all its 120 rehabilitation beds during the redevelopment period. The 80 rehabilitation beds currently accommodated at the South Wing of the POH will be decanted to the POH's Tin Ka Ping Centre to allow the redevelopment to proceed. To facilitate the decantation, 80 infirmary beds at the Tin Ka Ping Centre will be reprovisioned at the Tai Po Hospital.

- (c) and (d)

At present, the New Territories North hospital cluster, which serves the Tuen Mun, Yuen Long and North Districts, is provided with 275 rehabilitation beds. The cluster is also supported by rehabilitation hospitals in other clusters, such as the Tai Po Hospital. The international trend has been to focus on the development of the more

cost-effective ambulatory and community care programmes, instead of in-patient services. The Hospital Authority is reviewing the rehabilitation facilities needed in the light of these changes. We will continue to closely monitor the population growth and the evolving medical needs of the catchment population of the New Territories North cluster.

Annex

The breakdown of the number of rehabilitation beds
by hospital as at 31 March 2000

<i>Hospital</i>	<i>Number of rehabilitation beds</i>
<i>Hong Kong East Cluster</i>	
Cheshire Home (Chung Hom Kok)	0
Pamela Youde Nethersole Eastern Hospital	0
Ruttonjee and Tang Shiu Kin Hospital	128
St John Hospital	0
Tung Wah Eastern Hospital	195
Wong Chuk Hang Hospital	0
<i>Hong Kong West Cluster</i>	
Duchess of Kent Children's Hospital	0
Tung Wah Group of Hospitals Fung Yiu King Hospital	216
Grantham Hospital	40
Maclehose Medical Rehabilitation Centre	130
Nam Long Hospital	112
Queen Mary Hospital	0
Tsan Yuk Hospital	0
Tung Wah Hospital	215
<i>Kowloon Central Cluster</i>	
Hong Kong buddhist Hospital	190
Kowloon Hospital	627
Queen Elizabeth Hospital	80

<i>Hospital</i>	<i>Number of rehabilitation beds</i>
<i>Kowloon East Cluster</i>	
Haven of Hope Hospital	278
Hong Kong Eye Hospital	0
Tseung Kwan O Hospital	0
United Christian Hospital	34
<i>Kowloon West Cluster</i>	
Kwong Wah Hospital	0
Our Lady of Maryknoll Hospital	0
Tung Wah Group of Hospitals Wong Tai Sing Hospital	488
<i>New Territories East Cluster</i>	
Alice Ho Miu Ling Nethersole Hospital	0
Bradbury Hospice	0
Cheshire Home (Shatin)	150
Prince of Wales Hospital	0
Shatin Hospital	156
Tai Po Hospital	272
<i>New Territories North Cluster</i>	
Castle Peak Hospital	0
Fanling Hospital	117
North District Hospital	0
Pok Oi Hospital	120
Siu Lam Hospital	0
Tuen Mun Hospital	38
<i>New Territories South Cluster</i>	
Caritas Medical Centre	220
Kwai Chung Hospital	0
Lai Chi Kok Hospital	12
Princess Margaret Hospital	20
Yan Chai Hospital	166
Total	4 004

The number of rehabilitation beds per 1 000 effective population in each hospital cluster as at 31 March 2000

<i>Hospital cluster</i>	<i>Rehabilitation beds per 1 000 effective population*</i>
Hong Kong East	0.4
Hong Kong West	0.9
Kowloon Central	1.0
Kowloon East	0.6
Kowloon West	0.7
New Territories East	0.6
New Territories North	0.3
New Territories South	0.3
Overall	0.6

* The effective population has taken into account the inter-cluster flow of patients due to work-related population movement, location of specialized or tertiary services, and preference of patients.

MPF Industry Schemes for Catering and Construction Industries

9. **MR ANDREW CHENG** (in Chinese): *Madam President, employees in the catering and construction industries may join the Mandatory Provident Fund Industry Schemes set up for them to reduce the costs arising from the transfer of their accrued benefits when they change jobs. In this connection, will the Government inform this Council:*

- (a) *in view of the high labour mobility in these industries and the fact that many employees are paid daily in cash, whether the Mandatory Provident Fund Schemes Authority (MPFA) has any mechanism in place to ensure that both employers and employees in these industries make their contributions as required; and*
- (b) *whether the MPFA has assessed if it is possible that the management costs exceed the contributions from the industry schemes when the*

employees of these industries are unemployed or underemployed, thus causing a gradual decrease in the accrued benefits to these employees?

SECRETARY FOR FINANCIAL SERVICES (in Chinese): Madam President,

- (a) By virtue of the provisions in the Mandatory Provident Fund Schemes Ordinance (MPFSO), employers are obliged to make contributions to registered Mandatory Provident Fund (MPF) schemes for their relevant employees. It is a criminal offence if employers fail to pay contributions or enrol their employees in MPF schemes. Default contributions are subject to financial penalties. In respect of the catering and construction industries whose workforce has a relatively higher intra-industry mobility, the Mandatory Provident Fund Schemes Authority (MPFA) approved two trustees to operate industry schemes to enable the relevant employers and employees to participate. The MPFA has also put in place the following measures designed to facilitate employers and employees to make the relevant payments in accordance with the statutory requirements.
- (i) By virtue of the MPFSO, employers who pay their casual employees on a daily basis are required to pay their contributions according to a simplified scale so that they need not calculate the amount of contributions required.
 - (ii) The MPF Schemes (General) Regulation provides an option for employers to pay contributions on the day of payment of relevant income to casual employees, hence substantially reducing their efforts in administration and record keeping in respect of daily paid casual employees.
 - (iii) The trustees of industry schemes will provide various avenues and services to facilitate the payment and collection of cash contributions on a daily basis. These include accepting deposits of contributions via bank branches and Automatic Teller Machines (ATMs) and fund transfers via phonebanking.

The trustees would also operate hotline services to provide assistance to employers in respect of the calculation of contribution amounts.

- (iv) The trustees of the industry schemes will provide monthly contribution statements to casual employees for their verification. Casual employees can also verify the payment of contributions at bank branches, ATMs or by calling the relevant hotlines.
 - (v) Trustees of industry schemes will actively encourage casual employees to enrol in industry schemes even before taking up employment. Such casual employees would then be given an account with the trustees and would be provided with a membership card containing their account details. This will facilitate their employers to make the relevant contributions.
 - (vi) The MPFA has launched an extensive education and publicity campaign to enhance employees' awareness of their rights under the MPF System and the benefits of getting matching contributions from employers, and to encourage them to save for their retirement. Employees will be encouraged to report to the MPF any non-payment of MPF contributions by the employers.
 - (vii) The MPFA will work with the labour unions and trade associations in the two industries to actively promote the industry schemes.
 - (viii) The MPFA will issue participation certificate to employers who have subscribed to MPF schemes. An enforcement team will carry out on-site inspections on the employers' premises to ensure that they have enrolled their employees in MPF schemes.
- (b) The MPFA has approved two industry schemes through a keenly contested tendering process. As a result, the scheme administration fees for the two industry schemes are extremely competitive. The administration fees charged by the two industry

schemes do not have a fixed sum component. They are expressed as a percentage of the net assets value. For casual employees who are under-employed or occasionally unemployed, their contribution balance may not be as high as those with steady income, but the lower balance will only be subject to proportionately lower administration charges.

A casual employee who prefers to opt for a more conservative investment strategy can elect the capital preservation fund (CP Fund) as an investment choice. A CP Fund invests in short-term bank deposits or highly secured debt investments and the trustee is not allowed to charge fees if the investment return is below bank's saving deposit rate. Therefore, it is unlikely for scheme administration fees to erode the accrued balance of a scheme member opting for CP Fund, although the long-term investment return from a CP Fund may be lower than that of other investment funds.

Eco-labels of Products on Sale

10. **DR LEONG CHE-HUNG:** *Madam President, the Consumer Council has found that many products on sale in Hong Kong carry vague or misleading eco-labels. In this connection, will the Government inform this Council of the measures it will take:*

(a) to protect the consumers from being misled by such labels; and

(b) to deter such business practices?

SECRETARY FOR THE ENVIRONMENT AND FOOD: Madam President, a survey carried out by Consumers International showed that the same problem was found in all the countries covered by the survey. In the case of Hong Kong, environmental claims made were mainly found on household products such as aerosols, cleaners and batteries.

The Trade Descriptions Ordinance (Cap. 362) contains provisions relating to false trade descriptions or representations relating to goods. Some

misleading green claims could fall within the definitions of the Ordinance. The maximum penalty for such offences is a fine of \$500,000 and imprisonment for five years. We understand that the Consumer Council is considering the wider problem of misleading claims and advertising and we look forward to seeing the Council's conclusions and recommendations.

In the meantime, we are working with the Consumer Council, the Environmental Campaign Committee and green groups to enhance consumers' awareness and understanding of environmental issues so that they would not be misled by false claims.

Improper Operation of Temporary Traffic Signs

11. **MRS MIRIAM LAU** (in Chinese): *Madam President, at present, where one-lane two-way traffic arrangement is necessitated by excavation works being carried out at a road section, the person in charge of the road works may arrange for temporary traffic signs to be operated by workers for directing traffic. In this connection, will the Government inform this Council of:*

- (a) *the number of traffic accidents which occurred at the road sections concerned and the resultant casualties in each of the past three years;*
- (b) *the number of complaints received by the authorities concerned about the improper operation of such traffic signs, and the respective numbers of warnings given to and prosecutions instituted against the persons in charge of the road works in each of the past three years;*
- (c) *the measures in place to ensure that the workers operating these temporary traffic signs have adequate knowledge and experience in directing traffic; and*
- (d) *the liability that should be borne by the persons in charge of the road works for traffic accidents caused by the improper operation of traffic signs?*

SECRETARY FOR TRANSPORT (in Chinese): Madam President,

- (a) We do not have records of the number of traffic accidents occurring on road sections controlled by manually operated traffic signs.
- (b) In the past three years from 1997 to 1999, we did not receive any complaints on improper operation of manually operated traffic signs. No warnings were issued and no prosecutions were taken against any improper operation of the temporary traffic signs.
- (c) The persons in charge of the road works have to ensure that workers operating the temporary traffic signs possess the necessary knowledge and experience for such operations. For public works contracts, standard clauses are stipulated to require the contractor to provide and employ skilled labour for the proper and timely execution of the site works. It also requires the contractor to take full responsibility for the safety of all persons on site.
- (d) The persons responsible for the road works have a duty to ensure proper and safe operation of the temporary traffic control measures. They will be held liable to claims for injury or damage to any person or property in case of accident due to improper operation of the temporary traffic signs.

Broadcasting Quality in Listening Tests of Public Examinations

12. **MR DAVID CHU** (in Chinese): *Madam President, at present, candidates sitting the listening tests in Use of English of the Hong Kong Advanced Level (HKAL) Examination and English Language of the Hong Kong Certificate of Education Examination (HKCEE) are required to bring their own radios for listening to the test materials broadcast by Radio Television Hong Kong, while in the past the test materials were broadcast through the public announcement (PA) facilities at the examination venues. It is learnt that the broadcast of the listening test held on 3 April was interfered with and the performance of many candidates was affected. In this connection, will the Government inform this Council:*

- (a) *of the criteria it will use to adjust the results of the candidates affected in this incident; whether it will inform these candidates of the adjustment made in the marks of this test when it announces the results;*
- (b) *whether it will consider making arrangements for the affected candidates to take the listening test again; if not, of the reasons for that;*
- (c) *of the respective numbers of complaints received each year by the Hong Kong Examinations Authority (HKEA) concerning the broadcasting quality in listening tests since the implementation of the practice to broadcast the listening test materials on the radio and in each of the three years prior to the implementation of the practice;*
- (d) *of the measures to prevent the radio broadcast from being interfered with again in future; and*
- (e) *whether it will consider resuming the past practice of broadcasting the test materials through the PA facilities at the examination venues, or by other means; if not, of the reasons for that?*

SECRETARY FOR EDUCATION AND MANPOWER (in Chinese): Madam President, according to the investigations by the HKEA, the complaints about the HKAL Use of English examination that took place on 3 April 2000 are centred around two issues. The first is that a power failure occurred in Tuen Mun and Yuen Long during the listening test, interrupting the radio broadcast of the test material for about two seconds. The other area of complaint is that a section of the test material had a hissing background noise which lasted about three minutes. This section is an extract of a live radio programme and was included to add a degree of authenticity to the test material.

My reply to the specific points raised in the question is as follows:

- (a) The papers of the HKAL Use of English examination in question are being marked. As soon as marking is completed, the HKEA will conduct various analyses to ascertain how marks should be adjusted,

taking into account the interruption of the radio broadcast. As regards the question of the background noise, the HKEA has written to all HKAL Use of English candidates to explain that the marks of the part affected by the background noise would be adjusted by making reference to the candidates' performance in the other parts of the paper, and the proposed adjustment method. When the marking of papers and various analyses are completed, the HKEA will decide how the marks should be adjusted and whether individual candidates should be informed of any adjustments made. In addition, the HKEA will brief the media on this subject when the HKAL results are released in early July.

- (b) The HKEA has considered but does not favour the option of re-examination. A compulsory re-examination will bring undue psychological pressure to all the candidates and could be viewed as unfair to those candidates who are content with the quality of radio reception. An optional re-examination would on the other hand result in two groups of candidates having taken two different papers, which will lead to problems in equating the standards of the two papers. On balance, the HKEA takes the view that it would be more appropriate to deal with the complaints by mark adjustments than by re-examination.
- (c) The number of complaint cases concerning the reception of listening test materials for the HKCEE English Language (Syllabus A), HKCEE English Language (Syllabus B), and HKAL Use of English subjects, as from three years before radio broadcasting of the test materials commenced, are as follows:

HKCEE English Language (Syllabus A)

- radio broadcast of listening test materials commenced in 1998
- total number of candidates each year: around 14 000

<i>Year</i>	<i>1995</i>	<i>1996</i>	<i>1997</i>	<i>1998</i>	<i>1999</i>
No. of complaints	1	5	1	1	9

HKCEE English Language (Syllabus B)

- radio broadcast of listening test materials commenced in 1995
- total number of candidates each year: around 110 000

<i>Year</i>	<i>1992</i>	<i>1993</i>	<i>1994</i>	<i>1995</i>	<i>1996</i>	<i>1997</i>	<i>1998</i>	<i>1999</i>
No. of complaints	72	59	80	28	16	8	5	23

HKAL Use of English

- radio broadcast of listening test materials commenced in 1997
- total number of candidates each year: around 32 000

<i>Year</i>	<i>1994</i>	<i>1995</i>	<i>1996</i>	<i>1997</i>	<i>1998</i>	<i>1999</i>
No. of complaints	17	27	54	6	9	57

(d) and (e)

Prior to the use of radio broadcast, the HKEA provided headphones to candidates, and candidates would listen to a cassette tape broadcast in each examination centre through a loop system. This method entailed considerable costs in the storage, maintenance and delivery of equipment and other logistical problems. This method was also not totally free of reception problems and depending on the circumstances of individual complaints, the HKEA had to consider whether adjustment of marks was necessary.

In fact, the testing materials in question had been checked before the examination and the background noise was considered to be acceptable. Nonetheless, the HKEA will draw experience from the 3 April incident to prevent interruptions in radio transmissions and to ensure the quality of listening test materials in the future. The HKEA will also explore better methods to deliver listening test

materials but, because of the drawbacks explained above, the HKEA has no intention of reverting to broadcasting cassette tapes through a loop system at examination centres.

New Secondary School Places Allocation Scheme

13. **MR AMBROSE LAU** (in Chinese): *Madam President, it has been reported that the Education Commission (EC) is considering the implementation of a new Secondary School Places Allocation Scheme under which primary students need not take the Academic Aptitude Test and will be promoted directly to secondary schools linked with their primary schools. In this connection, will the Government inform this Council:*

- (a) *whether it has estimated the present numbers of secondary and primary schools intending to join the Scheme;*
- (b) *whether it has assessed how, upon the implementation of the Scheme, the differences in learning ability and aptitude among students of the same school will compare to those under the current system; and*
- (c) *of the measures in place to ensure that the effectiveness of teaching and learning in schools will not be lowered by the implementation of the Scheme, and that schools will have sufficient resources to cater for the needs of students with different aptitudes?*

SECRETARY FOR EDUCATION AND MANPOWER (in Chinese): Madam President, one of the options being considered by the EC in its review of the Secondary School Places Allocation is the "Through Train" model which allows students of primary schools to promote directly to the associated secondary schools without the need to go through a centralized allocation system. The concept is designed not only to solve the problem of school places allocation, but also, among other things, to strengthen the linkage between primary and secondary education and to enable students to have a better development physically and psychologically in a familiar environment. The EC will soon begin the third stage of public consultation. A decision has yet to be made on whether to implement the "Through Train" model and if so, how. My reply to questions (a) to (c) are as follows:

- (a) Schools will need more time to consider whether and how to implement the "Through Train" model having regard to such factors as teaching concept, admission policy and school administration. At this early stage we do not have an estimate of the number of participating schools if the proposal is accepted by the Government.
- (b) The Education Department conducted a series of simulations to assess how, upon the implementation of the "Through Train" proposal, how the differences in learning ability among students of the same school would compare to those under the current system. It was found that the differences in learning ability among students would slightly increase under the proposal.
- (c) An effective implementation of the "Through Train" model would require schools, teachers and students to adapt and learn over a period of time. The EC proposes to strengthen the support for schools to adapt to mixed ability teaching and to monitor the effectiveness of the support measures. We hope that the education sector and the community will give their views on various proposals during the public consultation, in particular on the principle and the implementation of the "Through Train" model.

Criteria for Selecting Contractor for Penny's Bay Reclamation Project

14. **MR LEE WING-TAT** (in Chinese): *Madam President, two Home Ownership Scheme blocks built by an approved contractor of the Hong Kong Housing Authority (HA) have to be demolished as the foundation piles have not been set at the required depths, and the contractor was consequently suspended by the HA from bidding for its contracts. It has been reported that the contractor concerned has recently submitted a bid for the Penny's Bay Reclamation (Phase I) contract. In this connection, will the Government inform this Council:*

- (a) *of the types of works involved in the reclamation project;*
- (b) *of the tender invitation date and the costs of the project;*

- (c) *of the criteria to be used for selecting the contractor for the project, and whether the selection will take into account the contractors' past performance and whether or not they are on the HA's list of approved contractors; if it will not, of the reasons for that; and*
- (d) *whether contractors whose names have been removed from the HA's list of approved contractors or who have been suspended from bidding by the HA are allowed to submit tenders for other government projects; if so, of the reasons for that?*

SECRETARY FOR WORKS (in Chinese): Madam President,

- (a) The scope of the works covered by the Penny's Bay Reclamation (Stage I) contract encompasses mainly the reclamation to form approximately 200 hectares of land, construction of the associated sea walls and a temporary access road.
- (b) Tenders were invited on 29 January 2000. Seven prequalified tenderers have submitted tenders and their average tender price is \$4.1 billion.
- (c) Firstly, the prequalified tenderers must be confirmed Group C contractors in both categories of "Port Works" and "Site Formation" on Works Bureau's List of Approved Contractors for Public Works. In recommending a tender for acceptance, apart from the tender prices, the technical and financial capability of the tenderers, their past performance records, conviction records for employing illegal immigrants, conviction records for site safety related offences, conviction records under the Employment Ordinance, environmental performance records and past history of claims are factors to be considered. Similar to other public works contracts, there is no requirement for the tenderers to be approved contractors on the HA's List.
- (d) As soon as a contractor who has been removed from the HA's list is found in the Works Bureau's list of approved contractors, the Works

Bureau will investigate into the circumstances leading to the removal action and determine whether regulating action should be taken against this concerned contractor in accordance with the Works Bureau's laid down rules and procedures set out in the Works Bureau's technical circulars. Regulating action will be taken to remove the concerned contractor from all categories in the Works Bureau's list if the circumstances are proved to be misconduct such as proven involvement in corruption. If the circumstances are found to be related to suspected misconduct, regulating action will be taken to suspend the contractor from further tendering in all categories in the Works Bureau's list until such time as he is cleared of such suspicion.

Before imposing any of the abovementioned regulating actions against a contractor, the Works Bureau has to ensure that all steps taken are fair, transparent and in accordance with the laid down rules and procedures. Not until the concerned contractor is suspended or removed from the Works Bureau's list, he is still eligible to submit tenders for public works contracts though he may have already been removed from the HA's list of approved contractors. Nevertheless, as per the above answer to part (c) of the question, in recommending the successful tenderer, we would consider the tender prices and the past performance of the contractor, and so on.

Sharp Rise in Rubella Cases

15. **DR TANG SIU-TONG** (in Chinese): *Madam President, it is learnt that the number of reported rubella cases in February this year increased substantially as compared to the preceding months. In this connection, will the Government inform this Council:*

- (a) *of the peak season cycle for rubella in Hong Kong; and*
- (b) *whether it has plans to give rubella vaccinations to immune-compromised persons; if it has, of the details; if not, the reasons for that?*

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

- (a) Past experience indicates that rubella is more prevalent from March to July each year.
- (b) Rubella is generally a mild disease. The only serious complication is the development of Congenital Rubella Syndrome in fetus when a pregnant woman contracts rubella.

Rubella immunization was first introduced in Hong Kong in 1978, providing vaccination for girls aged 11 to 14 and women of child-bearing age. While the Department of Health at present continues to offer such vaccinations to women of child-bearing age, it has, in addition to this service, offered since 1990 injection of a combined Measles/Mumps/Rubella (MMR) vaccine to all male and female children at the age of one. This vaccination arrangement helps interrupt the circulation of the virus in the population and build up herd immunity, thus protecting susceptible adult women. Starting from 1996, to further enhance immunity within the community, a two-dose regime has been adopted. The second dose of the MMR vaccine is offered to all children at Primary One. All these vaccinations are provided free of charge.

Since the rubella vaccine contains live attenuated viruses, it is generally not given to persons with immunodeficiency or immunosuppression except when the decision is made by the person's attending doctor after careful assessment of the potential risks and benefits.

Implementation of MPF Schemes

16. **MR YEUNG YIU-CHUNG** (in Chinese): *Madam President, will the Government inform this Council whether it knows:*

- (a) *the total number of enquiries received so far by the Mandatory Provident Fund Schemes Authority (MPFA) about matters concerning the Mandatory Provident Fund Schemes (MPFS), together with a breakdown of the enquirers by occupational groups;*

- (b) *the respective total numbers of complaints received by the Labour Department and the MPFA since March last year about employers cutting their rates of contribution to the occupational retirement schemes on the pretext of the introduction of the MPFS; and*
- (c) *the actions taken by the Labour Department and the MPFA respectively on these complaints?*

SECRETARY FOR FINANCIAL SERVICES (in Chinese): Madam President,

- (a) The MPFA has started collecting statistics on enquiries since December 1999. Up to the end of April 2000, a total of 26 922 enquiries have been received, of which 617 were made in writing. However, the MPFA does not maintain any information on the occupational background of the enquirers.

(b) and (c)

The MPFA has received one complaint in respect of an employer cutting rates of contribution to its occupational retirement scheme. The complaint had been referred to the Labour Department for follow-up as it involved an employer altering employees' benefits unilaterally without seeking their consent. The Labour Department has received two complaints so far in this regard, including the case referred by the MPFA. With the co-ordination of the relevant parties, both cases have been satisfactorily resolved.

Stepping up Prosecution against CSSA Abuses

17. **DR DAVID LI:** *Madam President, it was reported that the number of cases abusing the Comprehensive Social Security Assistance (CSSA) system rose from 88 in 1998-99 to 200 in the first nine months of 1999-2000. In this connection, will the Government inform this Council whether it will consider stepping up prosecution against CSSA abuses?*

SECRETARY FOR HEALTH AND WELFARE: Madam President, prevention of fraud has always been one of the primary considerations when CSSA applications are considered and investigated by the Social Welfare Department (SWD). In the past two years, the SWD implemented various measures to strengthen the prevention and investigation of social security fraud, namely:

- (a) in addition to reinstating the Special Investigation Team in 1996, another team was set up in 1999 increasing the total number of investigating officers from 14 to 28. This has enabled the Special Investigation Teams to make more random checks on existing social security cases and carry out more in-depth investigations on suspected fraud cases;
- (b) setting up a Report Abuse Hotline for the public to report suspected fraud cases; and
- (c) stepping up publicity against social security fraud.

With strengthened prevention efforts, the number of social security fraud cases detected in 1999-2000 increased from 88 in 1998-99 to 201 in 1999-2000. The number of cases referred to the police for investigation and consideration of prosecution increased from 43 to 106 during the same period.

The SWD has set up an Internal Committee on Fraud Cases to decide whether a social security fraud case detected should be referred to the police. Each case will be considered on its individual circumstances, including the recipient's intention to cheat, amount of overpayment involved and presence of mitigation factors, for example, the age and health conditions of the recipient, his attitude and willingness to repay and so on. Among the 106 CSSA fraud cases referred to the police in 1999-2000, the police have so far prosecuted 20 cases and they are all convicted. Three cases have been dropped due to inadequate evidence and the remaining cases are still under investigation.

Payment of Lease Modification Premium for Sites Identified for Redevelopment

18. **MISS CHRISTINE LOH:** *Madam President, will the Administration inform this Council of the percentage of the site areas involving lease terms not requiring the payment of lease modification premium if redeveloped to a more valuable use, among the sites already earmarked for redevelopment by the soon-to-be established Urban Renewal Authority?*

SECRETARY FOR PLANNING AND LANDS: Madam President, in September 1999, the Planning Department completed a comprehensive planning study on urban renewal. This Urban Renewal Strategy Study has identified 200 urban renewal projects for priority redevelopment by the Urban Renewal Authority. The 200 projects covered a total area of about 55 hectares. According to the findings of the Study, about 62% of the land is currently held under "unrestricted leases" for private residential use or commercial/residential use. Redevelopment of these sites up to the maximum development potential permitted under the Buildings Ordinance (Cap. 123) and the Town Planning Ordinance (Cap. 131) would not attract lease modification premium under normal circumstances. The remaining 38% of the land is mainly government land, roads and private industrial land. The incorporation of these sites into urban renewal project areas would require lease modifications and would likely attract premium payments.

Monitoring the Work of Police Force

19. **MISS EMILY LAU:** *Madam President, in view of rising public expectations of accountability and transparency of the work of the police, will the executive authorities inform this Council whether they will consider setting up independent monitoring bodies, similar in nature and composition to the advisory committees of the Independent Commission Against Corruption (ICAC), to oversee the work of the police; if not, of the rationale for that?*

SECRETARY FOR SECURITY: Madam President, at present, investigations conducted by the ICAC are monitored by an advisory committee, namely the Operations Review Committee (ORC), comprising members appointed by the

Chief Executive. The ORC meets every six weeks to consider reports on cases under investigation by the ICAC. However, unlike the ICAC which handles corruption-related cases, the police are responsible for the prevention and detection of a wide variety of crimes, protecting life and property, maintenance of public order and other law enforcement duties. In 1999, the ICAC received a total of 3 561 corruption reports while the police received over 76 770 reports on crimes and over 36 000 reports on miscellaneous offences. Given the complexity and wide variety of police work, it would be impracticable to establish a committee, like the ORC of the ICAC, to monitor and review the operations and investigations conducted by the police.

Furthermore, there are established channels to monitor the work of the police. The Police Procedure Manual and the Police General Orders govern the operations of the police, and ensure that they are in accordance with the law. Any person who is aggrieved by the conduct of a police officer in the execution of his duties can make a complaint to the Complaints Against Police Office, the investigation of which will be monitored and reviewed by the Independent Police Complaints Council comprising non-official members appointed by the Chief Executive, including Legislative Council Members. In addition, the Commissioner of Police makes an annual report on the crime situation of Hong Kong to the Legislative Council Panel on Security. Police representatives attend Panel meetings to explain the operations of the police and discuss crime-related issues from time to time. The Commissioner of Police also reports on the law and order situation and discusses strategies/plans on crime prevention and detection at each Fight Crime Committee meeting. At the district level, District Commander of the Police attends meetings of the respective District Fight Crime Committee, which keeps the law enforcement situation in the district under review, and receives suggestions from the Committee on crime-related issues.

Noise Nuisance Caused by Road Traffic

20. **MR LAU KONG-WAH** (in Chinese): *Madam President, recently, I have received numerous complaints from residents about their being constantly subject to noise nuisances caused by road traffic. In this connection, will the Government inform this Council:*

- (a) *whether it has statistics on the number of households living in the vicinity of roads with a noise level of 70 decibels or above;*
- (b) *of the measures to implement the proposals of the feasibility study of retrofitting noise mitigation measures on existing roads and flyovers;*
- (c) *of the criteria it has adopted for determining which roads should be retrofitted with noise mitigation measures;*
- (d) *of the details of the works for retrofitting noise reduction barriers and for surfacing roads with noise-reducing materials; and*
- (e) *whether it will consider tightening the statutory permissible noise levels of vehicles and restricting large vehicles passing through residential areas; if not, of the reasons for that?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Chinese):
Madam President,

- (a) We do not have any readily available data on the number of households living in the vicinity of roads with a noise level of 70 decibels or above.

(b) and (c)

The territory-wide study commissioned by the Environmental Protection Department on the technical feasibility of retrofitting noise barriers and enclosures on existing at-grade roads and flyovers has been completed. Based on the findings of the study, the Administration is formulating the criteria for and details of an implementation programme.

- (d) We completed the programme for resurfacing all suitable sections of existing highways with low noise material in 1999. In addition, low noise material is applied to all new high-speed roads as a standard practice. We will continue to adopt the best available material for application on road surface to reduce traffic noise.

- (e) Regulations are already in place to require vehicles to comply with stringent European and Japanese noise emission standards on first registration in Hong Kong. We will continue to monitor international development and ensure that our standards are in line with the most stringent standards in other developed countries. In parallel, we will examine proposals to restrict large vehicles passing through residential areas on a case by case basis if such a need arises, taking into account public views and the availability of alternative access for such vehicles.

BILL

Second Reading of Bill

Resumption of Second Reading Debate on Bill

PRESIDENT (in Cantonese): We will resume the Second Reading debate on the Legal Aid (Amendment) Bill 1999.

LEGAL AID (AMENDMENT) BILL 1999

Resumption of debate on Second Reading which was moved on 13 October 1999

PRESIDENT (in Cantonese): I have permitted Mr Ambrose LAU, Chairman of the Bills Committee on Legal Aid (Amendment) Bill 1999, to address the Council on the Committee's Report.

MR AMBROSE LAU (in Cantonese): Madam President, as Chairman of the Bills Committee on Legal Aid (Amendment) Bill 1999, I wish to report on the main deliberations of the Bills Committee.

The Bill seeks to implement three of the final recommendations in the consultation paper entitled "Legal Aid Policy Review 1997". These are:

- (a) to give the Director of Legal Aid the discretion to reduce, or not to seek, interest on the Director's charges on preserved/recovered property;
- (b) to require legally aided persons under the Supplementary Legal Aid Scheme to pay interim contributions regardless of the outcome of the case; and
- (c) to extend legal assistance to the next of kin of the deceased in Coroner's inquests involving cases of great public concern.

A further four of the final recommendations in the consultation paper will be implemented through the Legal Aid (Amendment) Regulation 2000 and the Legal Aid (Assessment of Resources and Contributions) (Amendment) Regulation 2000. The four recommendations include:

- (a) prescribing the manner and the circumstances in which contributions and allowable deductions are to be calculated or made for the purposes of grants of legal aid;
- (b) adjusting the scale of contributions payable by persons granted legal aid and to provide for a variation of the resources limits for meritorious Bill of Rights cases;
- (c) enabling the Director of Legal Aid to provide for exceptions in the determination of the financial resources of persons receiving assistance under the Comprehensive Social Security Assistance (CSSA) Scheme; and
- (d) making it clear that the Director of Legal Aid need not discharge the legal aid certificate under Regulation 8 if he is satisfied that it is appropriate not to do so.

As the two Amendment Regulations will be introduced into the Legislative Council after the Bill is passed, and as it is the Administration's intention to bring the Bill and the Amendment Regulations into effect on the same day, the Bills Committee has studied both the Bill and the Amendment Regulations in tandem.

I will now highlight the main deliberations of the Bills Committee.

The Bills Committee welcomes the proposed increase in the personal allowance figures so as to allow more households to become financially eligible for legal aid. Some Members are of the view that the median monthly household expenditure figure, instead of the average monthly expenditure of the lowest 35% households as revealed in the Household Expenditure Survey, should be used in determining the disposable income of legal aid applicants. This is because the median monthly household expenditure figure reflects more realistically the expenditure pattern of the lower-middle class which is the target group of legal aid services.

The Administration has explained that it would be more appropriate to adopt the expenditure patterns of households in the 35-percentile as the benchmark, for the reason that this index will on average allow 58% of the total number of households in Hong Kong to become financially eligible for legal aid, up from 48% under the existing arrangement where the CSSA rates are used as the personal allowances deductible from the gross income of legal aid applicants in assessing their financial capacity.

Several members have suggested that the Administration should, in its next review of the financial eligibility limit for the standard legal aid scheme, consider using the median monthly household expenditure figure in calculating the disposable income of legal aid applicants. The Administration has agreed to follow up the suggestion.

Some Members consider that the upper financial eligibility limit of the Supplementary Legal Aid Scheme should also be increased so as to enable more people in the "sandwich class" to gain access to legal aid.

The Administration has advised that the Supplementary Legal Aid Scheme is a self-financing scheme to help the sandwich class whose resources are in excess of the limit for the standard legal aid scheme but may not be sufficient to meet the costs of conducting litigation on a private basis. The Administration has pointed out that although the average costs for traffic running down and miscellaneous personal injury cases during the period April to July 1997 were higher than the upper limit for the standard scheme, they were below or only slightly higher than the upper limit of \$471,000 for the Supplementary Legal Aid Scheme. The Administration has further advised that following the enactment

of the Bill, amendment would be made to the Legal Aid (Assessment of Resources and Contributions) Regulations to reduce the rate of contribution from the existing 15% to 12% in view of the relatively healthy condition of the Supplementary Legal Aid Scheme Fund.

Some Members have pointed out that the damages received in a miscellaneous personal injury case could be of quite a substantial amount. They are of the view that the Administration should consider requiring successful aided persons under the Supplementary Legal Aid Scheme to contribute according to a sliding scale, instead of the proposed contribution rate of 12% across the board. The Administration has undertaken to give due consideration to this proposal when the contribution rate under the Supplementary Legal Aid Scheme is next reviewed.

Some Members consider that legally aided persons involved in Bill of Rights cases should be exempted from making contributions, since most if not all of the Bill of Rights cases involve important points of law affecting human rights of the community. In the Administration's view, it would not be a proper use of public money if relatively well-off persons are allowed to enjoy government-subsidized legal aid at no cost simply because of the nature of the cases in question.

Members inquire whether the Director of Legal Aid could waive the first charge on a recovered/preserved property in cases where the aided persons are in a difficult financial situation and have no other financial resources apart from the property recovered.

The Administration has explained that introducing alternative arrangements for such persons would not be fair to those aided persons who are able to pay up because the damages recovered are in cash. The Administration has pointed out that under section 19B(1) of the Legal Aid Ordinance, the Director of Legal Aid is empowered to reduce the first charge on a recovered or preserved property if he is satisfied that the enforcement of the first charge would cause serious hardship to the aided person. Furthermore, under clause 5 of the Bill, the Director of Legal Aid will be given the discretion to waive or reduce any interest payable arising from deferring enforcement of the first charge on a recovered/preserved property.

In response to Members' request, the Administration has revised the proposed new Rule 15B in the draft Legal Aid (Amendment) Regulation 2000 to empower the Director of Legal Aid to have the discretion to grant legal aid involving cases of public interest at Coroners' inquests to persons who, in his opinion, may reasonably be regarded as a surviving close relative of the deceased. This will ensure that the Director of Legal Aid could exercise his discretion without hindrance.

The Bills Committee is generally of the view that the proposals in the Bill are acceptable. The Bills Committee considers that there is a need for the method of computing disposable income for the standard legal aid scheme, as well as the contribution rate under the Supplementary Legal Aid Scheme, to be further reviewed after the enactment of the Bill. The Bills Committee has agreed that the Panel on Administration of Justice and Legal Services be requested to follow up these two issues.

Madam President, the Bills Committee supports the proposals in the Bill.

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

MISS MARGARET NG: Madam President, before I begin, I would like to declare interest as counsel on the Legal Aid Panel and I am also instructed in a number of cases including personal injuries actions and right of abode judicial reviews.

Having said that, I welcome the Legal Aid (Amendment) Bill 1999 which seeks to implement certain improvements to the provision of legal aid following a review and consultation in December 1997. Legal aid is necessary if access to justice is to be a reality, and is therefore fundamental to the rule of law.

I welcome the decision that two long-standing policies are preserved.

First, that residency status or years of residence in Hong Kong is irrelevant to the eligibility for legal aid. Provided that a person passes the means and merits tests, he is entitled to legal aid. Some people have questioned that taxpayers' money should be spent on funding the litigation of non-residents. But this view cannot be supported. Legal aid is not simply welfare for the

needy. It is there primarily to uphold our system of administration of justice, to ensure that a person is not denied justice merely because he has no financial means. Let me give some examples. If a mainland visitor is knocked down by a bus in Hong Kong, should he be prevented from suing the bus company for damages in our courts, just because he has no money to bring proceedings? If a tourist is arrested and charged with criminal offence, is it right to deprive him of legal representatives to defend him, simply because he is not a Hong Kong resident?

When we come to cases like the right of abode of mainland children of Hong Kong residents, this becomes even more evident. It is not just a question of the right of the mainland children under our Basic Law, or the right of his Hong Kong resident parent to family reunion, there is a broader question: Can an official's alleged unlawful conduct be above challenge, merely because the person challenging it is a non-resident? Worse, if a non-resident who is rich enough can challenge him, how can it be right that another non-resident is prevented from doing so because he is poor?

It is justice, Madam President, which requires that we do not make residency a condition of legal aid.

I welcome also the decision of maintaining the policy of no ceiling being put on legal costs for the aided person. This is an important but practical matter, for a rigid attitude would mean that a case deserving to win may lose because of an artificial restriction of funds. Under the present legal aid rules, the Director of Legal Aid actually maintains a very close control of expenditure through monitoring. Every large or unusual expenditure has to have express approval beforehand. There is no sign anywhere of wastage of legal aid funds.

It is suggested that Hong Kong should consider capping costs, because the United Kingdom is going in that direction. However, on the information supplied by the Administration, the per capita per annum legal aid expenditure in the United Kingdom is \$466, while for Hong Kong, it is \$84. We are very far from the situation the United Kingdom has to face. There is no sign that we are getting anywhere near it.

Madam President, I welcome the improvements that this Bill will bring to the provision of legal aid. In particular, they are:

- a more reasonable assessment of the disposable income of an applicant, with the result that more people will come within the means requirement;
- an adjustment in the scale of contribution that an applicant has to make; and
- making legal aid available to the family of the deceased in a Coroner's inquest.

I particularly want to emphasize the third point. Members have worked very hard to persuade the Administration to extend legal aid to the Coroner's Court during the scrutiny of the Coroners Bill in 1996. The proceedings there can be bewildering to a family already in great distress and suffering from a deep sense of grievance. At the same time, without the legal knowledge to assist the family members, their interest in a future claim could be compromised. With legal aid to attend the whole inquest and to cross-examine witnesses, injustice will be minimized.

Although I welcome the Bill wholeheartedly, Madam President, I also must say that the improvements it brings do not go far enough. The most serious inadequacy is that the means tests are still set at very low levels, namely, \$169,700 for the standard legal aid, and \$471,000 for supplemental legal aid. Given the way financial resources are assessed, it means that every family with savings above these levels would fail the means test.

Even by the Administration's calculation, the average litigation costs would exceed these levels. In other words, people who have means above these levels on average cannot afford to sue or to defend their rights. To put it differently, the "sandwich class" who cannot afford legal fees are still kept out of legal aid. This is a dissatisfactory state of affairs, and I urge the Administration to raise the limits to more generous levels as soon as possible.

Another place where greater generosity should be considered is the scale of contribution demanded of legally aided persons, and that is on a supplemental scheme. Apart from a contribution to legal costs according to a scale set out in the regulations, a person who has been awarded damages or has a property

awarded to him or preserved for him has, in addition, to make a further contribution equal to 12% of the award. For example, a worker who has been injured in an industrial accident and is awarded, say, \$1 million has to pay a contribution of \$120,000, in addition to any legal costs he incurred which is not paid by the other party. In one example worked out by the Administration, the payment out of the person's own pocket can be as high as over \$200,000 for a net gain of just about \$850,000. For someone who is actually depending on the award to compensate his loss, this seems very harsh indeed.

In the Bills Committee, other problems have been discussed, for example, justification for extending legal aid to employees who won in the Labour Tribunal but are appealed against on a point of law, even where the employees in question exceed the means level. Another example is the high contribution that a person in a Bill of Rights litigation may have to pay. Although the means requirement is waived, he can be made to pay as much as \$600,000 where his resources amount to only \$1 million, even though the action that he brings has a large public interest implication.

These are points that I urge the Administration to look further at the next earliest opportunity.

Finally, Madam President, I want to touch on the implication of legal aid being provided through a government department and not by an independent legal aid authority. The greatest threat to justice is not just reluctance to sue a government body. It may well be timidity to fund unpopular causes such as the right of abode challenges, or a greater concern to keep expenses down than to ensure that meritorious causes are funded in a year where the government policy is to save money. The unreasonable refusal or late approval of legal aid will be monitored by the legal profession with great vigilance.

With these remarks, Madam President, I support the Second Reading of the Bill.

PRESIDENT (in Cantonese): Does any other Member wish to speak? If not, I will call upon the Chief Secretary for Administration to reply. This debate will come to a close after the Chief Secretary for Administration has replied.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, the Legal Aid (Amendment) Bill 1999 seeks to implement the improvement measures proposed after the completion of the Legal Aid Policy Review 1997. The Bill proposes mainly three amendments to the Legal Aid Ordinance. Under clause 5 of the Bill which amends section 18A of the Ordinance, if the Director of Legal Aid is satisfied that it is fair and equitable to reduce or not to seek interest on the charge against preserved or recovered property, or that the payment of interest will cause serious financial hardship to the aided person, he may exercise discretion to waive, either in whole or in part, the payment payable by the aided person. Clause 9 of the Bill provides that an aided person under the Supplementary Legal Aid Scheme is required to pay an interim contribution irrespective of the outcome of the litigation; the contribution amount is set at the maximum amount payable under the standard legal aid scheme. This is to make the arrangements under the Supplementary Legal Aid Scheme consistent with those under the standard scheme. Clause 10 provides that the Director of Legal Aid may grant legal aid to the next of kin of the deceased in Coroner's inquests if he is of the opinion that the interests of public justice so require. The House Committee of the Legislative Council has completed the scrutiny of this Bill and supports the resumption of Second Reading debate on the Bill. The Chairman of the Bills Committee, Mr Ambrose LAU, and members of the Bills Committee have provided valuable opinions on ways to further improve the legal aid schemes and system. Moreover, members also put forward proposals to improve the draft of the Legal Aid (Amendment) Regulations. I will not repeat the details here as Mr LAU already explained them just now.

We have fully taken these proposals into consideration in drawing up the Amendment Regulations. I wish to thank Mr LAU and other members of the Bills Committee for their input. After the Bill is passed into law, we will table amendments to the Legal Aid Regulations and the Legal Aid (Assessment of Resources and Contribution) Regulations for negative vetting by the Legislative Council. We hope that the Bill and the two Amendment Regulations can come into operation at the same time.

Madam President, I beg to move.

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

Council went into Committee.

Committee Stage

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

LEGAL AID (AMENDMENT) BILL 1999

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

CLERK (in Cantonese): Clauses 1 to 10.

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 now resumes.

Council then resumed.

Third Reading of Bill

PRESIDENT (in Cantonese): Bill: Third Reading.

LEGAL AID (AMENDMENT) BILL 1999

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, the

Legal Aid (Amendment) 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 Legal Aid (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): Legal Aid (Amendment) Bill 1999.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Proposed resolution under the Interpretation and General Clauses Ordinance.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

PROF NG CHING-FAI (in Cantonese): Madam President, I move that the resolution to repeal the Chinese Medicine (Fees) Regulation, as set out under my name on the Agenda, be approved.

At its meeting on 31 March 2000, the House Committee agreed that a Subcommittee be formed to examine the Regulation. The Subcommittee held its first meeting on 12 April, at which I was elected Chairman.

The Subcommittee has held two meetings with the Administration. It met representatives from three associations of Chinese medicine practitioners at the first meeting and also considered the views presented in seven written submissions.

A great majority of associations of Chinese medicine practitioners considered that the proposed registration fees for Chinese medicine practitioners are on the high side compared to similar fees payable by medical practitioners. The Administration explained that the main difference is that the registration fees for Chinese medicine practitioners are based on the costs in 1999, whereas those for medical practitioners are based on the costs in 1994-95. The fees for medical practitioners should normally have been adjusted upwards but no adjustment has been made given the freeze on fees and charges in the past few years. As a result, the current fees only cover 50% to 70% of the costs.

Members of the Subcommittee pointed out that while the training of medical practitioners has all along been heavily subsidized, the Government has neglected the development of the Chinese medicine practice only until recently. Since the Government has just introduced statutory control over Chinese medicine, Members considered that the Government should show more support for the profession by providing subsidies to facilitate its development instead of proposing full cost recovery right from the start.

Members also pointed to the fact that the various fees for registration of medical practitioners are subsidized by the Government at present. While a review of the fees is underway, it is unlikely that they could be raised to the full cost recovery level. Therefore, members considered that the registration fees for Chinese medicine practitioners should not be higher than those for medical practitioners and the percentages of subsidized costs should at least be similar.

Members also shared the view that since the present registration fees for Chinese medicine practitioners are calculated on an estimated number of cases only, the fees should be reviewed in three years' time before full recovery of costs is proposed.

After taking members' views into consideration, the Administration agreed to review the registration fees proposed in the Regulation. As it requires consultation with the Chinese Medicine Council of Hong Kong and the Executive Council's approval to revise the fees, and given that the Administration will not be able to submit the revised fees before the deadline for amendments, the Administration will submit the revised fees for Members' consideration as soon as possible within the current Session.

In view of this, the Subcommittee agreed that a motion be moved by me in this meeting to repeal the Regulation.

I urge Members to support my resolution.

Prof NG Ching-fai moved the following motion:

"That the Chinese Medicine (Fees) Regulation, published as Legal Notice No. 69 of 2000 and laid on the table of the Legislative Council on 29 March 2000, be repealed."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Prof NG Ching-fai, as set out on the Agenda, be passed. Does any Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Prof NG Ching-fai, 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 functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

PRESIDENT (in Cantonese): 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. I believe that Members know the time limits well, so I will not repeat the recommendations here.

First motion: Improving the teaching environment in schools.

IMPROVING THE TEACHING ENVIRONMENT IN SCHOOLS

MR CHEUNG MAN-KWONG (in Cantonese): Madam President, most of the public, subsidized and aided schools in Hong Kong were built in late 1950s, right after the Second World War when resources were lacking. There was no long-term commitment on education from the colonial administration and emphasis was placed only on education of the elites. The common people, especially the children from the poor families, were simply neglected. At that time, the problem to be tackled was the number of school places. School facilities and quality of education were issues too luxurious to receive any consideration. So up to the present, our primary and secondary schools still have 30 to 40 pupils in a class, and there are still bisessional primary schools and for the secondary schools, floating classes are still the order of the day.

Our schools are miserably small. Even the latest standard in 2000 is only one fifth of the size of schools in Japan, and one half of schools in China. The number of classrooms is inadequate, schools have to operate in two sessions, classrooms have to be used by more than one class and there are no spare rooms for library, computer room, language room, and so on. School halls which are essential for assemblies are not standard for every school. When pupils rally for their assemblies, they are packed in a tiny and stuffy school hall with poor ventilation. No wonder many pupils collapse in the assemblies. During recess time, as many as 1 000 pupils pack the playground and the school has to forbid kids from running about, playing hide and seek and even skipping rubber band ropes. That is an abnormal thing unique to Hong Kong. But nobody makes any complaint about it because it is so common here. One can only blame the previous government which did not care about education and so the schools have to bear so much hardship for so long.

After the reunification, the Chief Executive has repeatedly emphasized the importance of education. But the schools remain as rundown and crammed as ever, and there can be no way to start with quality education. Some of the conditions of the schools in Hong Kong are simply deplorable. There are schools which cannot conduct any information technology classes because of an insufficient supply of electricity. Some schools have to build illegal structures on the rooftop as make-shift rooms for remedial classes. Some have to use containers to store their P.E. equipment in order to spare the P.E. room for use as a library. Some schools do not have enough toilets and pupils have to line up to go to the toilets during recess time. And so they do not have any time for eating. Some schools do not have a room for the parents and so they have to hold their meetings in the restaurants. Some schools do not have an interview room and when parents are asked to come to the school, they will have to meet the teachers in the corridor. All these schools were leftovers from the 1950s, but their facilities have never changed, though the rest of the world has since then advanced into the new millennium. It is 50 years from the 1950s, Hong Kong has left poverty for affluence and become a world-class city. But our schools still remain as they were 50 years ago, relics of the past. One can only mourn for education in Hong Kong since it is in such a state of disgrace.

Back in the colonial ear, the then Government accepted the recommendation of the Report No. 5 of the Education Commission to undertake an eight-phase School Improvement Programme (SIP) which is to be completed by 2004. Now that three phases of the Programme have been completed and 380 schools have benefited from the Programme. There used to be 156 schools which will take part in phase 4 of the Programme. These schools are supposed to have their school buildings improved according to the new standard design for schools. The new standard design is by no means luxurious at all. It only includes such facilities for schools which are essential in a modern society, like computer rooms, libraries, language rooms, interview rooms for receiving parents and students, staff common rooms and remedial teaching rooms, and so on. Those schools which were selected for phase 4 of the Programme were very happy about it. All the teachers, students, and parents were filled with joy, because they thought there would be new facilities and school buildings. The consultant firms also started to come to the schools to make geotechnical surveys and draw up plans. A headmaster of a school once told me that his mouth just watered when he looked at the plan for the improvement works. From this we can see that schools do attach great hopes to the improvement programme.

Like all fairy tales, the greater the hope one has for something, the greater the disappointment will be. Last October, the Education Department faxed a short and cold note to 109 of the schools of phase 4 of the SIP, saying that their improvement works were to be suspended due to cost-effectiveness reasons, pending the findings of a consultancy review. When these 109 schools received this same fax, they were like being poured with cold water. They went to the Education Department (ED) in rage, doubts and discontent and demanded to know the reasons behind it, but officials from the Department refused to make any reply. It was only after the Honourable SZETO Wah and I inquired into the reasons in this Council that we were told that the improvement works would be terminated should the costs exceed the prescribed ceiling, that is, \$36 million for secondary schools and \$32 million for primary schools. Many schools have their improvement works terminated when the costs exceeded only about \$1 million and there is one school which has only exceeded \$200,000. The sum of \$200,000 is insignificant against a project which costs \$30 million or \$40 million. Why should the ED decide to terminate all the improvement works of a school when the costs only exceed \$200,000? Is this reasonable? Is this fossilized? How can a bureaucratic structure like this ever expect to drive any reforms in education?

The schools were really furious when they knew the truth of the matter. In less than a few weeks we collected close to 100 000 signatures from parents and teachers. We placed a statement in the newspapers and protested against the bureaucratic culture of the ED. I visited eight of those schools which had their improvement works terminated. It was only until then that I became so aware of the bureaucratic and fossilized way of doing things in the Government.

There is a primary school in Sham Shui Po with a small and rundown school building. A computer room and a library can be built in that school. But the ED said that as provided in the laws, the school had to build a lift and a lobby, and so the immense costs involved forced the works to come to an abrupt end. For a primary school in Fairview Park, the consultants said that the new wing would cost more than \$60 million and since this would exceed the ceiling of \$32 million, that plan was also terminated. However, many professional architects who live in Fairview Park and are parents of the students of that school

think that the works would only need \$20 million, but the works were terminated because of an over-estimation of the costs by the consultants. A primary school in Lok Fu lost the chance to improve its facilities because the Mass Transit Railway (MTR) runs through the underground of the school and the ED thinks that it would be too costly to undertake any construction works above the MTR. The school will then have to bear with the hardship of overcrowdedness. There is yet another primary school in Ho Man Tin which has a piece of land for student activities. Now the Government is forcing the school to surrender half of this piece of land as public passageway before it concedes to building a new wing for the school.

A secondary school in Sheung Shui has the space to convert a classroom into a computer room, but the ED does not approve of it. And so the teachers have to bring a computer to the classroom and the students have to learn computers from the blackboard. There is a secondary school in Kwai Chung which has been given the computers but there is not enough power supply. So computer classes have to be conducted with the air-conditioners turned off. And there is a special school in Kowloon Tong which has already got a transformer room, but the consultants want to add another one when reconstruction works are to take place. So the costs increase greatly and the plan is forced to be cancelled. There is also a special school in Shek Kip Mei which has a very crowded school building. There is a piece of land adjacent to the school which belongs to the Department of Health and has not been used for more than 30 years. But the Department is not willing to let the school build a new wing on it. So the school is left helpless.

It was after my visit to these eight schools had been widely covered by the media that the ED sent some officials to inspect these schools. The situation of the schools was indeed so bad that the ED decided to undertake some minor improvement works for these schools immediately. But these eight schools are not all the schools that badly need improvement, for there are still 101 schools in phase 4 whose fate is left undecided. If we add in those schools in phases 5 to 8, the total number will be close to 500. And the possibility of their having improvement works carried out would be even more dismal.

Madam President, some of these schools belonging to phases 5 to 8 are in conditions even worse than those in phase 4. Recently, I paid a visit to a school that belongs to phase 5 in Tze Wan Shan. All the ceilings in the toilets are peeled off, water leaks on the floor, steel bars are exposed and walls have to be supported by piles. When the pupils go to toilet, they are all very scared, fearing that spalling concrete will fall onto their heads. This school is described by the primary one pupils there as a haunted house. That is because the kindergarten which they have attended is far better than the primary school they are now in. The conditions of this primary school are so dreadful. Even as the safety of the pupils is threatened, the ED and the four related government departments are simply shirking responsibilities between themselves. Such a bureaucratic structure is sacrificing the interest of the pupils and putting their safety at risk. Madam President, I do not know what grounds the Government has to divide the SIP into eight phases. Each and every one of the schools has their own individual needs which are unique and these should be attended to without further delay. Therefore, I think the improvement works for phases 5 to 8 should be carried out at the same time without any setting of priorities. This will serve the interests of the pupils. If not, these pupils will still be in lack of these essential educational facilities like computer rooms, libraries, and so on by the time they graduate. This will inflict a great loss and do a grave disservice to the schools concerned and education in the territory.

This Council can no longer sit back with folded arms in view of this fossilization of the ED and remain silent about the deplorable conditions of our schools. If this is so, then we are making the greatest dereliction of our duties and we are the most incompetent representative assembly of all. The Education and Manpower Bureau and the ED have said that they have never put an end to the School Improvement Programme, and they are only waiting for the report of the review made in April. It is surprising to note that in the current financial budget, there used to be no provisions for the improvement works in these 109 schools. It was not until Mr SZETO Wah and I made open criticisms against this that Mr Joseph WONG undertook to apply for funding as soon as the report is published. How much funding are we going to get and is it enough for improvement works to be carried out in these 109 schools? For those rundown schools, shall we consider rebuilding them on the same site or relocate them to other places? What are the costs involved in school improvement, rebuilding and relocation? Can we manage to complete the improvement works for the remaining 500 schools by 2004? All these are important questions which will affect half a million pupils and cannot be dismissed so lightly. Nor can we

afford to let the government departments remain so fossilized. Otherwise, I will certainly organize the teachers and parents of all those affected schools, including the 100 000 parents who have signed up, to continue fighting for our cause and we will never give up before our goal is reached.

I urge all the parties and all non-affiliated Members of this Council to support my motion in order that the school children can benefit and learn in a modern education environment, and that the bureaucrats in the Education and Manpower Bureau and in the ED can give up their fossilized thinking and really do something for the benefit of all school children in Hong Kong.

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

Mr CHEUNG Man-kwong moved the following motion: (Translation)

"That this Council urges the Government to immediately allocate funding to honour its undertaking to complete the School Improvement Programme for all schools by 2004, so as to ensure that all schools are equipped with adequate basic teaching facilities, including computer rooms, libraries, language rooms, interview rooms for receiving parents, student activity centres, staff common rooms and remedial teaching rooms; the Government should make immediate arrangements for redeveloping or relocating those school premises which are dilapidated, jeopardize the safety of students or suffer from an acute shortage of space, so as to improve the teaching environment and safeguard the interests of students."

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 CHEUNG Man-kwong, as set out on the agenda, be passed.

We shall proceed with the debate on the motion. Does any Member wish to speak?

MR TIMOTHY FOK: Mr Deputy, we approve the Budget every year, but I am not sure whether the money is well spent. The Government at the moment spends about \$51 billion a year on education, \$31 billion for health and \$30 billion for public service, including welfare. Together, the three items account for about 42% of government expenditure.

I do not know whether we are getting value for money. I got some clues over the weekend when I visited the Wong Tai Sin Junior School on its annual sports day. I noticed that the young people were keen about their sports programmes. The makeshift basketball court was on a hard cement platform. Within half an hour, they were soaked with sweat, but they did not even have a proper changing room. They still have a long summer ahead. The young people are not daunted. They love their sports, which they take only once a week, and their art, which they also take only once a week. I wonder how much better they could have been if they had the facilities and the encouragement from society.

At the school, the headmaster and the trustees were very committed. They showed me a rundown hall. The acoustics were not very good. The public address system has to be adjusted to get the right tone. The hall also has no stage for plays, which the students also love. The school has to accept the hall as it was because it was part of the Government's standard plan. Quite often, the issue is not about money but about the sensitivity to design.

But I also know that it is one of the finer local schools in the district and it can make do with what it has. Hong Kong has devised a very elite education system. There are a few very sought-after local private schools and public schools which have proper facilities. There are also the international schools to which most parents cannot afford to send their children. I visited the Canadian International School this morning, and I really marvelled at the facilities.

International academies won most of the sporting competitions, which in turn inspire pride in and identity with the schools. Most of the 500 other middle schools do not have the facilities. They neglect the athletic, artistic and cultural development of the students as much by necessity as by design. We cannot afford to waste the human potentials and talents any more. We have to elevate the standards of all the schools to give all the children a chance. This, for me, is the basis of true equality, the equality of opportunity from day one for each and every child.

In years gone by, educationalists in Hong Kong looked down on underdeveloped art, sports and culture because society thought that those endeavours were frivolous. The people of Hong Kong trained in this system were not supposed to be leaders and thinkers, because all they could aspire to be were followers and holders of jobs. I have the lurking suspicion that perhaps this was done not by accident but by design. Could it be that some do not want our young people to grow up strong, confident and proud?

A recent survey shows that half of our children do not even do any exercise. Many of them are weak and obese. Their sedentary life is the root cause of the health care crisis. This is also the cause of our inability to compete in the science and humanities. Sports build both body and character. We have to start letting our youth be bright, dynamic and purposeful, and we have to begin the process at a tender age.

The Department of Health has recently allocated about \$6 million to the Hospital Authority for sports programmes. They see the money as an investment in disease prevention. The Education Department is now pledging more resources for art, sports and culture. They understand that the leaders of tomorrow are trained in the classroom, the gyms, the tracks and the libraries of today.

I am grateful for the largesse and I would like to see the money well spent. We have committed billions upon billions to the infrastructure of the city, and it is high time that we commit the same to the infrastructure of the body and the mind. To excel against the best from other places, our children must be complete human beings, athletic, artistic, academic, adaptable, imaginative, diligent, proud and purposeful.

Back in October, the Chief Executive delivered a policy address in which he asked Hong Kong to emulate New York and London. We seconded this call by voting for the address. We have to take the next step to enable Hong Kong to become the New York and London of Asia.

What makes New York and London great is that they are cities of manifold glories. They have the artistic, literary, social, cultural and sporting scenes to complement their financial clout. They have some of the finest schools from the elementary level to the universities. We do not. We have been too practical and rigid. We put our young people through the treadmill of rote education, for which we spend a lot of money without enough thought for the value.

Nothing else we do is as wrong as driving the creativity and curiosity out of the youth, who are naturally endowed with those attributes. I say that we invest the money in a more rounded education in which art, sports and culture matter, in which students' sensitivities are cultivated, not crushed. We have to start when the children just enter school. We must be persistent. We have to be adventurous.

Nature does not make our children any less vibrant than those from other societies. Our inherited system is at fault and we can and must fix it. We have to do it without hesitation if we love our community and our children. We must imbue them with the knowledge and we must provide guidance and discipline, but we must not stifle. I am sure that we can arrive at a balance.

Hence, Mr Deputy, I urge the Government along with my colleagues to create a stimulating learning environment in which our children can tap their abilities in whatever forms those may take. If we do that, we can secure our own future in which our leaders will be confident, bright and innovative. Thank you.

MR JASPER TSANG (in Cantonese): Mr Deputy, I recently visited some primary and secondary schools in Sham Shui Po, all on the list of the 109 schools under the SIP which has been suspended by the Government owing to the cost-effectiveness problem. The suspicion that I had with me so far was once again confirmed when I entered the schools. I suspected many primary and secondary schools in Hong Kong had seen no improvement at all in terms of learning environment over the past three decades.

Let us look at one of the primary schools I have visited. Occupying four storeys, the primary school has its school premises built in the '60s. As I have worked in schools, I know that the school premises are not bad by standards of the '60s. However, with the lapse of 30-odd years, the school can be said to have seen no improvement at all, apart from the fact that a computer room has been added. Actually, it is not at all accurate for me to say that because the computer room, added for the purpose of promoting information technology (IT) education, has replaced an art and craft room. However, this does not simply mean that the art and craft room no longer exists. Previously, there were many wooden tables in the art and craft room, which served as a valuable common room for lower primary pupils. As there was no playground in the school, pupils were allowed to take a rest outside their classrooms to prevent them from sticking to their own seats in their classrooms during recess. But where could

they go then? Upper primary pupils could go to the hall on the sixth floor, while lower primary pupils to the art and craft room on the fifth floor. However, the art and craft room has now turned into a computer room. Needless to say, pupils will not be allowed to enter the computer room by the school authority without the supervision of teachers. Even if the students were allowed to do so, there is no more room for activity in the computer room. The wooden tables formerly placed in the art and craft room are now replaced by rows of computers. How can the students find room for activity? As a result, lower primary pupils have been forced to stay in their own seats during recess since the construction of the computer room.

In promoting education reforms, the Education Commission (EC) put forward the notion of whole-man development by giving equal emphasis to personal, social, intellectual, physical and aesthetic developments. Of course, the promotion of IT education is included. However, what we can see at the moment is that the school has to abolish the art and craft room, where students can take a rest, for the purpose of promoting IT education. Is it not a great satire of the so-called balanced education?

It is also ironical that schools are required by the ED to provide lockers for students out of the concern that their schoolbags are too heavy. However, where should the lockers be located as the school premises occupy four storeys only? As a result, the school authority can only choose to have the lockers installed in the classrooms. However, with an area of less than 500 sq ft, the classrooms in the school are all substandard. As the school is a very popular primary school, there are more than 40 students in each class and many classes are packed with chairs and desks. As a major improvement in educational television has been made by the ED earlier, each classroom is now installed with an additional large TV cabinet, which takes up a large space in the front of the classroom. Now there is even less space between each row of students as a result of the improvement works of installing an additional row of lockers. Apart from these, there are virtually no other facilities and not every floor has a toilet.

The teachers are no better off. With less than 500 sq ft in area, the staff common room has the same size of a classroom. If the 30-odd teachers, from both the morning and afternoon sessions, come back to the staff common room, they can only sit back to back and there will be no more passage left. As for the holding of assemblies, the morning session of the school, comprising 400-odd people, can do so in the hall. However, it will not be possible for the afternoon

session of the school, comprising 400-odd people, to do likewise. Why? This is because, as the temperature rises in the afternoon, someone will surely faint if nearly 500 people, comprising 400-odd pupils as well as teachers, are packed into a less than 1 000-sq ft hall with no air-conditioning. Therefore, for the sake of protecting the health of pupils, the afternoon assembly has to be held in two sessions.

In spite of the fact that the school is very popular, it has only 12 classrooms, with each session having 400-odd pupils. As far as I know, a pupil studying in that school is actually a resident of Shenzhen, who needs to cross the boundary from Shenzhen to Sham Shui Po to attend classes. This proves that pupils studying in this school like the school. Moreover, the school must be well-managed and the principals and teachers must be enthusiastic in teaching. Principals, teachers, pupils and parents were all excited on learning the news that the school had finally been included in phase 4 of the SIP. It is a pity that their joy was short-lived for they were later told by the ED that the SIP had to be suspended owing to cost-effectiveness consideration. The principals of the school have given me a pile of documents to read. The documents have contained their dream, the plan for design of improvement works and the fax, described by the Honourable CHEUNG Man-kwong earlier as "a bucket of cold water", informing the school of the suspension of the SIP owing to cost-effectiveness consideration. Moreover, there was a letter issued by the ED to the school on 7 March this year.

I did go through the letter and it read: "we visited your school in January in connection with the captioned issue. Attached please find short-term improvement options and our proposed long-term arrangements discussed by both parties". With respect to these short-term improvement options and long-term arrangement, I was having high hope when I went through Annex I for it was mentioned in the letter that the proposals were set out there. However, I could only find six lines of words in Annex I. What are the short-term improvement works? There are two items: First, to convert one of the storage rooms into an interview room; second, to convert the art and design storage room into a remedial teaching room. There is also a remark: "subject to technical feasibility and costs incurred by the construction works". This is supposed to be the short-term improvement works provided by the ED for the school. Annex I also set out a long-term arrangement: "feasible option proposed by the school or the ED".

I would like to recommend the so-called "three wagons" referred to by the EC and the Secretary for Education and Manpower to attend a half-day lesson in this school in the next few weeks when the temperature rises to approximately 30 degrees. Thank you, Mr Deputy.

MR SZETO WAH (in Cantonese): Mr Deputy, insofar as the SIP is concerned, I would like to use four epithets to describe the Administration: "faithless, inhumane, unrighteous and unjust".

First, "faithless". Having adopted the recommendation of the Education Commission Report No. 5, the Government had decided to complete the SIP for all government and aided schools in eight phases between 1994 and 2004 to meet the new standards. Later, the Chief Executive, Mr TUNG Chee-hwa, had made the same undertaking in his policy address. In October last year, however, the ED sent a letter to schools, notifying them of the termination of the programme for the 109 schools in phase 4, while the improvement programme for the 390 schools in phases 5 to 8 is indefinitely postponed. Many teachers, parents and pupils were greatly disappointed and even outraged by this. By going back on its word, the Government has committed a faithless act.

Second, "inhumane". "Humane" means treating others with humanity and benevolence. The Administration should take good care of our next generation and a vast number of primary and secondary school students with humanity and kindheartedness. They have already attended classes and spent their childhood and adolescence in schools that are far below standard for a long time. The Government is "inhumane" if it remains indifferent and does nothing to improve this situation.

Third, "unrighteous". "To be righteous, one must do" what he should do. The EC had made recommendations and the Government had taken them on board and drawn up the timetable and plan for implementation. This shows that the Administration also thinks that the SIP is something that should be done. Now that this task which should be carried out has been shelved, postponed and might even peter out. This is "unrighteous".

Last, "unjust". The majority of the improvement works of the 380 schools in phases 1 to 3 have been completed. However, as the ED has changed its plan, the implementation and completion of the improvement programme for the 109 schools in phase 4 and the 390 schools in the subsequent phases have now become a pipe dream. This is extremely "unjust" to the respective 109 and 390 schools involved. Is it that only those who come first will be served? They are all our children. Why should they be treated so unequally?

"To enable students to enjoy learning, to enhance students' effectiveness in communication, to develop students' sense of commitment and their creativity" are the education reform targets advocated by the Administration. Let us look at the way the education authorities has handled the SIP with reference to these four targets.

First, "to enable students to enjoy learning". If we fail to even provide students with up-to-standard school premises, how can they enjoy learning in such a deplorable environment? Are we expecting every student to be like sage YAN Hui, who "wavers not despite living in a mean alley"?

Second, "to enhance students' effectiveness in communication". The ED should learn this in the first place. There was no discussion and consultation at all before giving an official notice to 109 schools in October last year notifying them of the termination of the improvement programme for the programme was not considered cost-effective. Is this "communication"? How can it be "effective communication" by any standard? It is just an instance of bureaucracy.

Third, "to develop students' sense of commitment". The Administration has undertaken to carry out the improvement programme. Now that it has failed to honour its undertaking. This is a contradiction of "developing a sense of commitment with a negative impact on students". How can we teach our children to "develop a sense of commitment" if we fail to "resolutely keep our promises" ourselves?

Last, "to develop students' creativity". "Creativity" must aim at producing positive results. We should not create something new only because it is new. If what is created is abandoned halfway, then it is not creativity, but a laughing stock. When it comes to the education reform target of "developing students' creativity", I hope the Administration will not teach our children to be "creative" in its way as such.

With these remarks, Mr Deputy, I support the motion.

MR CHAN WING-CHAN (in Cantonese): Mr Deputy, when we read the newspaper, we occasionally come across reports about a diversity of problems involving our children and youngsters in Hong Kong. We cannot help but be saddened by these negative reports. What can we possibly do to enable our next generation to grow up happily?

To ensure that our children are blessed, some say that the first step is to provide them with good and quality education. I am sure Members will share this view. In this connection, Members will certainly support the recommendation of the Education Commission Report No. 5 to implement the SIP for all schools by 2004 to provide students with beautiful school premises that meet the present-day requirements of teaching. However, just as teachers, students and parents were waiting for their dream to come true, the ED threw cold water on them, saying that some of the works had exceeded the budget and that there were problems according to the "consultants". With just a facsimile, it completely dashed the hopes of the 109 schools in phase 4 of the programme and destroyed the mutual trust between schools and the ED.

Many of those schools where improvement works are badly needed have been dedicated to education for some 10 to 20 years. They have acquitted themselves well despite the lack of resources and space. We have been stressing the need for the application of information technology in teaching, a balanced development of students and adequate space for them to participate in extracurricular activities. But when the old primary and secondary schools were built, no one could imagine today's ever-changing teaching needs. Thus, the environment and facilities of these schools cannot keep up with the needs of teaching. However, the Government has ignored their needs, on the pretext that the cost will exceed one third of the construction cost of a new school, that the average cost calculated on the basis of the gross floor area is too high, that

there are problems with the land right, and so on. Even though the Government is well aware that the schools are in need of improvement, it refused to provide assistance for them. This at the same time shows that the Government does not respect the Education Commission's recommendations.

In all fairness, it is understandable that the Government has to think twice due to the high cost involved. But the question is that the consultants commissioned by the Government did not disclose the details of the cost of the programme and its assessment methodology. The consultants rashly rejected the programme by revealing only the total cost. This is hardly convincing. Moreover, the improvement measures proposed by the Government are often more complicated and time-consuming than the proposals of the consultants engaged by the schools. In other words, there is obviously inadequate communication between the Government and the schools.

In fact, the schools are not asking for "Rolls Royce" facilities. Nor do they expect the Government to build new school premises for them in the short term. They just wish to slightly improve the existing resources and premises. Given the shortage of resources, this is by and large an expedient measure. Furthermore, it is the basic responsibility of the Government and the community to provide a good learning environment and this responsibility cannot be shirked; just as we cannot allow our children to be malnourished because rice is expensive.

I remember the time when I went to school in the Mainland. While the school facilities there were not as good as those of schools in Hong Kong nowadays, there was at least enough space for us to move around. However, students in Hong Kong are so unfortunate that they do not even have the space to stretch their legs. This is utterly unacceptable. Just now, the Honourable Jasper TSANG mentioned the crowded and appalling environment of schools. This indeed gives the Secretary for Education and Manpower and government officials food for thought.

Today, as I set off for the Legislative Council, I saw my cute little grandchild and could not help thinking about whether he will be able to study in a pleasant environment when he goes to school. Will he be able to receive quality education and develop his potentials in a spacious environment, so that he can contribute to society in future in return for the cultivation provided for him by society? I believe that it is the wish of all parents that the Government will

invest more in education. Therefore, I urge the relevant government departments, and in particular the Secretary for Education and Manpower, to discuss with the relevant schools as soon as possible in order to improve the school environment. Any further delay will only jeopardize the well-being of our next generation.

With these remarks, Mr Deputy, I support the motion. Thank you.

DR YEUNG SUM (in Cantonese): Mr Deputy, a report of the Education Commission (EC) back in 1993 listed the physical development of students as one of the major goals of education. Therefore, it is a minimal requirement for us to provide ample space for students to do physical exercises. Seven years have passed and we find that many students today still spend their school life in adverse circumstances, and some schools even do not have open exercise space. However, officials of the ED do not seek improvements and they intentionally juggle with figures to gloss over the miserable situation of schools. Do they feel embarrassed for education in Hong Kong?

Let me discuss open play areas. A decade ago, every student had only 1.13 sq m on average, yet, the open exercise space for a student has only increased to 2 sq m in the 21st century. Calculating on the basis of a standard 420 sq m basketball court, every student can only occupy 0.5% of a basketball court and a student may reach the edge at a jump. How can students engage in outdoor physical activities in such crammed schools? How long do students have to wait before the goal of the EC can be achieved?

The exercise space of Hong Kong students is pitifully small and some schools even do not have a ball court or playground. The survey conducted by the ED last year reveals that 72 schools in Hong Kong do not have a basketball court, 100 do not have a covered playground and 22 do not have either of the said facilities. Without these facilities, 92 schools have to change the contents of the physical education subject. How? Most probably, they have to design a physical education programme that does not need to use a court, or they will be forced to cancel physical education lessons and let students stay in classrooms for self-study when it rains.

Mr Deputy, as a Legislative Council Member on Hong Kong Island, I know that there are many international schools and students of these schools enjoy better facilities while 22 primary schools and eight secondary schools do not even have such basic facilities as a covered playground or basketball court. This is a sharp contrast and obvious man-made disparity between the rich and the poor. I emphasize that I am not speaking against adequate exercise space or better school facilities in international schools because we support that students should enjoy quality education. Why are most secondary and primary school students in Hong Kong subject to long-standing discrimination under the existing policies? This is the crux of the problem.

Mr Deputy, to cover up the miserable situation of schools, the document recently submitted by the ED to this Council compares the new standard of schools to be adopted in 2000-01 with the old standard of international schools, therefore, the conclusion drawn is that the average area of a classroom in local schools is bigger than that in international schools, and even bigger than that in Japan and China. I would like to ask the officials of the ED: Who can this high-sounding conclusion deceive? What is more ridiculous and misleading than comparing the standards of different time periods? In making this comparison, the ED has neglected the fact that the average area of a classroom in more than 1 000 local schools is still far smaller than that in international schools, and many local schools do not even have a library or a computer room. Why does the Government not compare the average area of a classroom in existing secondary and primary schools with that of international schools? It really makes people question the Government's sincerity in addressing squarely the problems of most schools and improving the teaching environment of schools.

While the ED proposes the standard design for new school premises to be completed from 2000 onwards, it has not made plans to improve around 1 000 cramped and outdated school premises. Out of allegation that school improvement works are not cost-effective, the authority has now ordered that the projects be shelved across the board. I am really sorry about this. When we see students still relying on blackboards when they have computer lessons and attending schools in which reinforcing bars are exposed, we will naturally understand why so many principals, teachers and parents have staged the strongest protest to the ED. We should be concerned about their indignation and we can no longer put up with the continued exploitation of the basic rights of thousands of students to fair education.

Mr Deputy, while students have inadequate exercise space, how can we have the wild wish of hosting the Asian Games? While students do not even have basic school facilities, how can we talk about quality education? The ED officials should refrain from juggling with figures and deceiving themselves as well as others. Instead, they should look seriously at the problem and improve the teaching environment of schools, otherwise, the Democratic Party and the education sector will definitely not give up in the interest of the next generation.

With these remarks, Mr Deputy, I support Mr CHEUNG Man-kwong's motion.

DR RAYMOND HO (in Cantonese): Mr Deputy, for Hong Kong to develop into a knowledge-based city, it is fairly important to nurture the next generation, and we must give our children a good learning environment for them to become outstanding talents. With the changes in the times, schools are more than a building of classrooms where students attend classes. In fact, schools are places in which students learn and exercise, and where they spend most of their time. Thus, school facilities directly affect their growth. For years, I have been a member of the management committee of a school and I am now Chairman of the committee. I would like to express my views here.

Many schools in Hong Kong were built long time ago. As these schools are fairly old, their old designs may not meet the needs of modern times and their premises really need improvements. With an increase in students, some schools have also become crammed. Earlier on, many schools got government grants for additional computer equipment to increase students' knowledge of information technology. While this is a most gratifying development, it has also given schools a lot of trouble because they do not have adequate space to accommodate the equipment. This incident more or less reflects that the Government knows only piecemeal solutions. On the one hand, it wants to increase computer equipment to improve information technology teaching, on the other hand, it overlooks whether schools have adequate space. In order to nurture outstanding talents, apart from the installation of more computer equipment, schools should also be well-equipped on the whole. Some basic facilities such as libraries, language rooms and student activity centres are equally important to nurturing students. Good school facilities also help boost teachers' morale and improve teaching quality.

Actually, the Government accepted the proposals of the Education Commission Report No. 5 back in 1993 on improvements to be made to established schools. It was projected that the school premises improvement programme would be completed in eight phases before year 2004. Now that phases 1 to 3 of the programme have almost been completed, the Government finds it necessary to re-evaluate the cost-effectiveness of the programme and engages consultants to make the evaluation. Thus, improvements will not be made to 109 schools already included in phase 4 and schools not yet included in the project list within the foreseeable future. Undeniably, to ensure the proper use of public money, the cost-effectiveness of the relevant works is an important factor for consideration, but I urge the Administration to make evaluations of schools that need improvement works and carry out the relevant works as soon as possible so that more students will enjoy a better learning environment. For schools with excessively rundown premises and inadequate space, the Government should arrange for their reconstruction or relocation to new premises as soon as possible. Mr Deputy, nurturing the next generation is a prime social investment and we can definitely not slow down the pace of improving the education environment on the pretext that fiscal expenditures must be reduced.

With these remarks, I support the motion.

MRS SELINA CHOW (in Cantonese): Mr Deputy, the Liberal Party holds the view that the advancement of society bears a close relationship with good education. Therefore, we attach great importance to the quality and development of education. In order to develop quality education, apart from upgrading qualifications of teachers and improving teaching methods, the learning environment for students is also an important consideration. Therefore, the Liberal Party greatly supports the recommendations of the Education Commission Report No. 5 so that all government and subvented schools should be built according to improved standards and the premises of substandard schools should be improved.

According to the Government's plan, the School Improvement Programme (SIP), commenced in 1994, is to be implemented in eight phases and scheduled for completion by 2004. So far, of the 900 schools where improvement works are needed, 300 have completed the relevant works and 80 are ongoing. However, improvement works have yet to start in 400-odd schools.

Although the SIP has entered phase 4, the Government has, in view of the exceedingly high costs and cost-effectiveness consideration, decided to temporarily suspend the programme for schools of which the estimated improvement costs exceed one third of the cost for constructing a new school. A decision will be made upon the completion of the mid-term review.

The Liberal Party is of the view that there are still a number of schools which are not only in extremely poor conditions, but also having the problem of insufficient classrooms. As a result, students can only attend lessons in small classrooms. Furthermore, a lot of schools are not yet equipped with computer teaching rooms, libraries, remedial teaching rooms, and so on. This makes it impossible for the schools to provide a good learning environment for all students and, at the same time, gives rise to unfairness insofar as learning is concerned. Under the central allocation mechanism, the Government must, based on the principle of fairness, provide each student with identical education quality and facilities. Therefore, the school improvement works should brook no delay.

In our opinion, the Government must relinquish its bureaucratic culture and carry out improvement works on the environment of schools expeditiously and more flexibly. In the past, the Architectural Services Department was responsible for commissioning consultants to assess all improvement works for schools. As a result of the exceedingly high valuation, the costs were unduly high too. The Government should indeed adopt a flexible approach and carry out improvement works in the light of the situation of individual schools. For instance, it will definitely cost an enormous amount of money and take a long period of time for a poorly equipped and dilapidated school to carry out large scale construction of additional classrooms and activities rooms. Such being the case, why does the Government not choose to achieve its goal by directly resorting to a simpler and faster method?

For instance, the Government can temporarily assign unused community facilities or spaces near the schools for teaching purposes. A lot of schools in Hong Kong are actually located in housing estates managed by the Housing Department (HD). Moreover, there are quite a lot of vacant units in arcades managed by the HD. The ED can actually work with the HD in providing the schools with these vacant units which can then be converted into computer rooms,

activity rooms or even libraries. This solution is not unique to Hong Kong. A lot of schools in Singapore have already extended their school facilities to nearby communities.

As regards some schools which are unable to make use of community support, the Government can also consider other options like converting containers into teaching rooms, which provides a fast and relatively inexpensive solution. At present, it costs approximately \$3 million to \$4 million and takes about two to three months for a container to be converted. The Government can, in the light of the situation in different schools, list out those schools which can make use of conversion for a joint tender. Many schools will then be able to have their own computer rooms, activity rooms, remedial teaching rooms, libraries, and so on within just a few months, instead of having to wait for large scale works to be carried out before they can have the space available for the construction of classrooms.

Actually, we do agree that the SIP might not be cost-effective for those schools which are dilapidated and whose facilities and specifications are far below the current standards. Redevelopment works should indeed be carried out for schools which are in extremely poor conditions. This is more practical and radical than asking the Government to spend a lot of money on carrying out improvement works. The Liberal Party therefore recommends that schools requiring redevelopment, that is, schools which are in extremely poor conditions and in need of redevelopment, should be identified to enable the Government to deal with them expeditiously alongside construction projects of new schools in order that the actual situation can be improved.

Mr Deputy, while students should be encouraged to give play to their originality and think in a flexible manner, the Government should give full scope to its potential by improving the environment of schools by a more direct and simpler means as well as relinquishing its bureaucratic culture. At the same time, the Government should take the views and aspirations of the schools seriously and try to accommodate the schools as far as possible to enable all improvement works to be completed at an early date and improvement works to school environment carried out expeditiously.

Mr Deputy, the Liberal Party supports Mr CHEUNG Man-kwong's motion.

MR LEUNG YIU-CHUNG (in Cantonese): Mr Deputy, we have recently been concerned about the education reform and we have discovered many problems. On the whole, the education reform seems to have focussed more on the software rather than the hardware. However, regardless of whether the reform is focussed on the software or hardware, I think we have a very good topic for debate today and we have aroused the community's concern about the education reform. They will know that the education reform is not one-way and we have to make overall considerations, in particular, we have to show concern for the learning environment.

Mr Jasper TSANG has given a very good example which lets us become aware of and understand the problems encountered by primary schools, such as cramped and dilapidated premises and inadequate classrooms. Yet, I am very worried about what this example proves. Why did I say so? Mr Jasper TSANG kept emphasizing that it is a very popular school and many students take pains to travel from afar to attend this school. I am afraid the Secretary will say that as the school is still very popular in spite of the adverse circumstances, it is not necessary to make improvements to the school. Certainly, I definitely do not want the Secretary to respond that way. But if the Secretary really does so, it will only show that the Secretary is extremely short-sighted and a long-term policy on education is lacking.

Why did I say that this is a short-sighted approach? If a school under such adverse circumstances is still welcomed by students, it is most probably because the school has a group of very good teachers who work hard and make nothing of hardship despite the adverse circumstances to instill knowledge and education into students, thus the school is warmly welcomed by students. However, I do think not that all teachers can do so or do the same for a long time because the sincerity and active moves of teachers actually have to be matched, supported and encouraged. Even if a teacher working in an adverse environment for a long time can persist for one year, he may not be able to persist for two years, and even if he can persist for two years, he may not be able to persist for three years. If the Secretary really says that it is only necessary to keep everything unchanged, he is obviously short-sighted.

Why did I say that a long-term policy on education is lacking? As we all know, with a lack of facilities, even though students like the school very much and teachers spare no efforts in teaching the students, the school cannot intensify and broaden the acquisition of knowledge by students. In particular, in the

good example cited by Mr Jasper TSANG earlier, after the school has turned an art and craft room into a computer room, it actually lacks an art and craft room.

As we all know, it is often advocated that the development of education includes moral, intellectual, physical, social and aesthetic development. Is it meaningful for us to develop less in other respects in order to develop more in a certain respect? Conversely, we cannot be biased towards education in a certain direction for we have to conduct whole-man education. In fact, the Secretary also approves of the direction of whole-man education. It is very difficult to conduct whole-man education in a crude learning environment. If the Secretary agrees that the example given by Mr Jasper TSANG does not need changes, I think we do not have long-term goals of education. I do not want the Secretary to think that the 100-odd schools cited as examples of schools having adverse circumstances do not need changes.

In fact, I always fail to understand why the Government suddenly "braked" on the school improvement works? Why does it have to appoint engineering consultants to make studies? I really do not understand why the "brake" was applied on projects in progress suddenly. The only reason may be the projects are not cost-effective enough, so, their implementation has to be suspended. Why have the projects been implemented in some schools? Why improvements to some schools were permitted in the past but not permitted to be continued now? Is it true that, as many colleagues have said, projects carried out earlier were more advantageous while those carried out later are "less advantageous"? Is that true? Actually, if the Government intends to make improvements, I urge it to implement such projects thoroughly. Although the Government has said that we should not continue to implement projects already determined might go wrong, and even if there are no mistakes, we should keep making reviews and amendments. Even though reviews and amendments are needed, we are not asking the Government not to make improvements. I am very worried because the Government has appointed consultants to make a study. If the report of the study finally determines that the Government should not continue to make improvements, problems will arise. What if the Government does not continue to make improvements? The Government keeps telling us that even if it is willing to build new schools, there is now a serious shortage of land for schools, and it is very difficult to look for land for building schools. Well, even if we are willing to tolerate during the transition period, the Government has not proposed a long-term policy or told us how the problems will be solved. After the Government has put forward the cost-effectiveness

issue out of a sudden, the improvement projects have to be suspended but it has not made other better replacement proposals. Moreover, the Government has also failed to give long-term policy guidelines, thus we do not see how the Government is going to handle its blueprint. What should we do? I am speaking today in the hope that the Government will explain the purpose of the study in detail.

Mr Deputy, I have recently observed a phenomenon. The Government keeps emphasizing the advantages of the environment and facilities of new school premises and that our schools are not worse than those in other countries. As some colleagues have just criticized, the facts given by the Government actually create false impressions because these new facilities exclude many things. For example, the number of students is not counted. Even though schools have larger areas, if we do not count the number of students, there will not be real changes. Even if the circumstances have changed, the Government cannot act like an ostrich. In other words, the Government should not be indifferent to the existing problems and conversely claim how good the new facilities will be. If it only focuses on the new things but makes no mention of the old, it is shirking responsibilities. I urge the Government not to act like an ostrich any more. Instead, it should be more realistic and lift its head and consider how it should deal with the adverse circumstances and facilities in many schools. The Government can no longer handle these matters by conducting studies or keep conducting studies. What is the use of the outcomes of the studies? I hope that the Government will be more practical and expeditiously handle manageable matters to make real improvements to the school environment and facilities. The Government should not make teachers disappointed and feel discouraged again or allow students to continue learning in adverse circumstances because they will not duly absorb knowledge that way.

I hope that the Secretary will show more concern about this problem. Thank you, Mr Deputy.

DR TANG SIU-TONG (in Cantonese): Mr Deputy, since its establishment, the Government of the Special Administrative Region (SAR) has always attached great importance to its education policy. Of the three policy addresses delivered by the Chief Executive, two put their focus on education as a key aspect of administration. In fact, over the past three years, the SAR Government has introduced various education reforms, including the setting up

of a Quality Education Fund, the implementation of mother-tongue teaching, the promotion of information technology education, and a review of the whole education system. Ironically, in seeking to improve continuously the quality of education, the Government has neglected the most basic and fundamental question, which is the improvement of the teaching environment of schools.

Although a number of primary and secondary schools have better teaching facilities and more space for teaching at present, many primary and secondary schools have extremely crowded classrooms, with no space at all for basic activities. While computer rooms, language rooms, student activity centres, social worker rooms and conference rooms are certainly a luxury, such basic facilities as playgrounds, assembly halls, changing rooms and libraries are also lacking. What is more, in some old school premises, the ceilings are falling off, the reinforcement bars are exposed and the buildings may have to be supported by steel frames. Teachers and students having lessons in these classrooms every day have to worry about the danger of the ceiling concrete falling down any time.

Mr Deputy, in 1993, the Government adopted the recommendations made in the Education Commission Report No. 5 and undertook to complete the School Improvement Programme (SIP) for already built schools in eight phases before 2004, with a view to ensuring that all schools are equipped with adequate basic teaching facilities and renovating all dilapidated school premises. However, while these schools in need were waiting eagerly for the Government to expeditiously carry out the improvement works for them, the Government sent a letter to 109 of them last October, informing these schools which were included in the improvement programme that they would be excluded, with the dubious excuse of "cost-effectiveness". Thus, the improvement works for the premises of these 109 schools and the 390 schools which are not yet included in the list of the SIP have been indefinitely postponed. This is a great disappointment to the principals, teachers and students of these schools, as well as the parents concerned.

Officials of the ED have repeatedly said that the SIP has not been shelved and that the target of completing the improvement works of all schools by 2004 would remain unchanged. But the question remains why it was not until nearly two thirds of the SIP had been carried out that the Government suddenly realized there was a problem of cost-effectiveness and thus suspended the Programme. Had the Government not taken the relevant issue fully into account before

implementing the Programme? Equally questionable is the fact that the Government has only perfunctorily informed the schools of the suspension by way of a standard fax message without giving the relevant reasons. What is more questionable is that while the Government says the target will remain unchanged, it also says it will follow the findings of the consultancy review. What would the Government do if the findings of the consultancy review should be in conflict with the SIP target it has been upholding? Unfortunately, so far the Government has not provided any definite answer.

Mr Deputy, in my view, the most basic part of education is to provide students with a good and safe learning environment. The curriculum and the implementation of education come next. As the saying goes, "effective tools are necessary in order to do good work". If the students do not even have a learning environment with the basic facilities, how can we give them good education? Even if the Government puts more resources into quality education, information technology education and education reforms, the efforts would be in vain in the absence of a good learning environment. Therefore, I hope that the Government will come up with a feasible solution soon after the completion of the consultancy report and honour its undertaking to complete the SIP for all schools.

There are many extremely poor villages in the Mainland. Even if the children there can go to school, the schools are set up in crude and dilapidated old ancestral halls. They may have to use stones as desks and broken boards as chairs. They are exposed to the sun and the rain. Their situation is really saddening. When charitable people donate money to set up schools in the Mainland, the first thing is usually to build good school premises, while teachers, teaching materials and the curricula come next. Since the SAR Government has made education a key area of administration, it should understand this and give priority to improving the learning environment in schools.

With these remarks, Mr Deputy, I support the motion.

MR LEE WING-TAT (in Cantonese): Mr Deputy, it has been eight years since the SIP was formulated on the recommendation of the Education Commission Report No. 5 released in 1992. According to the original plan, all school premises will have been improved according to the revised standard in four years. Unfortunately, a few months ago, the Government shelved the improvement

works of 109 school premises in phase 4 of the SIP on the mere account of cost-effectiveness and a review to be conducted by consultants. Together with the 390 school premises in phases 5 to 8, a total of 500 primary and secondary school premises have their improvement works indefinitely postponed. The students concerned will continue to attend classes in a substandard, or even extremely substandard environment with substandard facilities.

There are only about 900 primary and secondary school premises in Hong Kong, yet more than half of them have not had any improvement works done. What is the result? The result is that the children going to these schools may not enjoy such facilities as libraries, computer rooms, language rooms, student activity centres, multi-purpose teaching rooms and special rooms throughout their primary and secondary school years.

Mr Deputy, at present, students in most primary and secondary schools have little space. It is now a luxury to talk about adequate space for students to develop their potential. Leaving aside school premises built in the '80s or earlier, let us consider the school design in the '90s. A classroom in a primary or secondary school only occupies an area of 56 sq m. In a primary school with 35 pupils in one class, each pupil has only 1.6 sq m. In a secondary school with 40 people in one class, each student has only 1.4 sq m. This is indeed too small an area; but mind you, the space reserved for lockers in a classroom has yet to be deducted.

On Children's Day not long ago, I saw a full-page advertisement in the newspaper placed by many schools together, which carries the comments of the schools. One school says, "Our school premises are less than one fourth of the standard size. We are unhappy." Another says, "Our students are being taught in a backward school building. It is torture instead of quality education." Yet another says, "A police station costs \$3.2 billion, while the improvement of the school premises is not in sight. Students suffer and teachers are frustrated."

Mr Deputy, if schools are not angry to the extreme, they would not have used their own money to place an advertisement in the name of the schools, alumni associations, parent-teacher associations or the school management committees. Recently, I read a special publication published by five educational institutions to fight for the improvement of school premises. One of the examples given was about a school that had to fight alone with the consultancy firm in relation to the use of government land, since the ED would

not intervene with other departments on its behalf. Thus, the school was left alone to fight for its cause. The school is to be pitied, while the ED should be ashamed.

Mr Deputy, over the past few months, I have visited some dilapidated and crowded primary and secondary school premises in Kwai Chung and Tsuen Wan. When I say dilapidated, I mean they are really dilapidated, because many of them were built in the '60s and '70s. In some match-box like primary school premises in public housing estates, the ceiling plaster had come off, the drains leaked, while the teachers work back-to-back in crowded staff rooms. Some schools have converted toilets for other purposes due to the lack of space. During recess time, I saw several hundred students crowded in a small covered playground. They could only stand and talk but not move about. If they did, they would bump into each other and fall. In these dilapidated primary schools, pupils have so little space to exercise, even less than the space where prisoners take exercise in prisons. Can we say that we attach great importance to education? Is this the investment we put into the future masters of society?

Mr Deputy, many improvement works have been postponed due to the bureaucratic practices of the ED and the Education and Manpower Bureau. Some works which are part of phase 4 have been stopped just because they have exceeded the budget by several hundred thousand or a million dollars. The works were stopped without any explanation upon receipt of one document. This is nothing but black box operation. Imagine how these schools which had waited for 30 years and the parents and students concerned would react after receiving this document. What could they say except express once again their disappointment and disillusionment?

Mr Deputy, when the Financial Secretary announces "as usual" that the Budget has a \$9.9 billion surplus after all instead of a deficit, I hope the Education and Manpower Bureau and the ED would relinquish their bureaucratic culture and complete the improvement works necessary to these schools in the students' interests.

Thank you, Mr Deputy.

PROF NG CHING-FAI (in Cantonese): Mr Deputy, based on a recommendation contained in the Education Commission Report No. 5, the SIP seeks to provide students of government and subvented schools in Hong Kong with a good school learning environment for the purpose of implementing quality education in a more comprehensive manner. In my opinion, the proposal and implementation of the SIP precisely demonstrate the Government's commitment to education.

Improving the school environment can help students to learn, particularly when primary and secondary education has to move forward with the time. For instance, adequate computer equipment has to be provided for promoting information technology education and libraries are needed for encouraging students to read more. It is precisely for these reasons that the failure of improvement works to be completed smoothly according to schedule has led to disappointment as well as doubts: Will the Government "go back on its promises"? Will the remaining works be suspended? Will the SIP be put off to an indefinite date? The Government is indeed obliged to give the public an explanation with respect to all these questions.

According to the Project Feasibility Study reports, 109 schools of SIP phase IV will have the SIP suspended. Of these schools, more than 20 are considered to be infeasible project-wise while the remaining are considered not suitable for carrying out improvement works because it is not cost-effective to do so. I would like to ask: Were the schools allowed to take part in the whole decision process with respect to studying, discussing as well as determining whether improvement works should be carried out for the schools? In spite of the fact the ED has set a benchmark for assessing cost-effectiveness at one third of the cost for constructing a brand new school, it has failed to fully elaborate the reasonableness and necessity with respect to the setting of the benchmark. It is therefore not surprising that people are not convinced.

Mr Deputy, we do approve of the SIP. We also agree that the environment of schools should be improved and believe that the Government has been carrying out improvement works out of such goodwill. Our objectives are clear and identical in the sense that we must try our best to resolve any difficulties arising in the course of works. I agree that, in relation to the financial commitment of the SIP, we should set a point of equilibrium in terms of

cost-effectiveness. Works for a number of schools have to be suspended because the total estimated costs just exceed one third of the cost for constructing a new school. Actually, have the schools be given the opportunity to discuss with the ED to see whether the costs can be reduced through redeployment of resources or by carrying out certain parts of improvement works first? Furthermore, can a certain degree of flexibility be given to this magical figure, one third, just as I mentioned earlier? Just now, a few Members cited some cases to illustrate the lack of discussion and the extreme bureaucratic behaviour of certain government officials, who showed a complete lack of sympathy and consideration with respect to the aspirations of the schools when breaking the news that improvement works would not be carried out. The resentment thus caused is indeed understandable. I hope certain government officials of the ED can conduct a review seriously on their discharge of duties in future.

According to the ED, short-term improvement measures will be taken for the 109 schools if this is confirmed to be necessary. In the long run, the possibilities of reprovisioning or redevelopment might be considered. Mr Deputy, while the amount of money needed for carrying out construction works forms an integral part of the cost, consideration involved in reprovisioning or redevelopment will even be greater. As the saying goes, "A slight move in one part may affect the situation as a whole". The data supporting the construction of a new school might not be able to reflect the whole picture. I hope the Government can consider this in detail and listen to views expressed by school authorities, parents, teachers and students.

Insofar as quality education is concerned, apart from the provision of hardware, the quality and quantity of software actually play a more important role: good teachers are the soul of quality basic education. As the recommendations for education reform will be published shortly, further discussion on education will be conducted in the days to come. As far as I understand it, consultants have been commissioned by the Government to conduct a review of the SIP. I hope that the Government can, upon the completion of the consultancy work, publish the findings of the review expeditiously and conduct proper consultation to determine ways to deal with the 109 schools and remaining works of phase 4.

With these remarks, I support the original motion.

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

(No Member responded)

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): First of all, Mr Deputy, let me express my gratitude to Honourable Members for their concern over the teaching environment of schools and the invaluable suggestions they have made.

Over the past five years, I have been constantly paying visits to school premises, including those completed in the '60s and the '70s; as such, I can fully understand the ardent expectations held by schools, their students and the parents of their students for the School Improvement Programme (SIP).

Let me stress, the Government attaches great importance to the teaching environment of schools and has been continuously making an effort to update the design of school premises to cater for the various teaching needs, with a view to enabling the students to have healthy development in all aspects. Certainly, compared to school premises completed in accordance with the latest standards, those school premises completed at earlier stages are lagging behind in their facilities. For this reason, we have made it our objective to commence in 1994 a 10-year SIP in eight phases. The SIP is aimed at progressively upgrading the teaching and learning environment of existing schools by providing additional space and facilities for teaching, out-of-class activities and support services for teachers and students.

Over the past five years, a total of \$4.4 billion has been spent to carry out the SIP works. So far improvement works in close to 300 school premises under phases 1 to 3 of the SIP have been completed, while improvement works in another 80 school premises are still in progress. As for phase 4, feasibility studies for 114 school premises have been completed. There is also a phase 2A which comprises 42 school premises which originally belonged to phases 1 and 2 but had been found to have limited scope for improvement. Detailed feasibility studies for these premises have also been completed.

Since the commencement of the SIP, we have noticed a trend of rising costs of improvement works. In this connection, while the average cost per school premises in phase 1 was \$11 million, the same has increased to \$18

million and \$28 million in phases 2 and 3 respectively. As for phase 4, the average cost per school premises is estimated to be \$36 million. Part of the reason for the increases over the years is that we have expanded the scope of works to provide more improvement items. For example, starting from phase 2, access for disabled persons like lifts would be provided wherever feasible. Although the provision of lifts in school premises that are comparatively smaller in size would mean less space for teaching purposes, thereby giving rise to doubts about the cost effectiveness of the SIP, in order to comply with the provisions of the Disability Discrimination Ordinance, improvements works of such kind must be carried out. Further still, starting from phase 4, the scope of works has been further expanded so that the standards of existing schools can be upgraded to fall in line as far as possible with the latest schedule of accommodation for new schools to be completed from 2000 onwards. However, we cannot rule out the possibility that some of the increases are related to other factors. Moreover, given that this is a 10-year programme, it should be a responsible measure to conduct an interim review of the cost-effectiveness of the SIP to ensure that public money is properly spent. For this reason, we commissioned at the beginning of the year consultants to review the present steps and procedures of implementing SIP to ascertain whether further improvement could be made.

Here I should like to clarify that we have not suspended the SIP. As a matter of fact, improvement works which had already commenced under phases 1 to 3 remained unaffected during the time when the said review was in progress. As regards the 156 school premises in phases 2A and 4, results of the feasibility studies completed indicate that the costs for the improvement works in many of these schools are too high. According to our rough estimation, there are only 24 school premises the improvement works of which cost less than 30% of the construction cost of a new school. In addition, while the cost of improvement works in 46 school premises would amount to 30% to 40% of the construction cost of a new school, that of another 37 would amount to between 40% and 50%, and that of a further 21 school premises would amount to over 50%. What is more, 28 school premises have been found technically not suitable for the SIP. In our opinion, before the completion of the consultancy review, a more prudent approach should be to complete the SIP for those school premises under phases 2A and 4 the costs of which are comparatively lower. Our basic benchmark is that the estimated cost for the improvement works should not exceed one third of the construction cost of a new school. In some school premises, however, even though the cost for their improvement works exceed the cost threshold, the

improvement works concerned are needed quickly to implement such education initiatives as curriculum reform, abolition of floating classes, and so on. Basing on these criteria, we will seek funding support from the Finance Committee shortly to proceed with improvement works for 47 school premises. I hope that Honourable Members will lend us their support then.

At the same time, we have also commissioned consultants to assess in particular the estimated cost of carrying out the improvement works in those remaining 81 school premises under phases 2A and 4 which are suitable for the SIP. In addition, the consultants will also assess in detail the construction cost of a new school as well as the average cost required to provide an additional square metre of floor area in school premises, with a view to laying down a cost-effective price ceiling for SIP works. In the event that the cost required exceeds that price ceiling, some adjustments have to be made to the scope of works concerned.

The consultancy review has just been completed and the consultancy report, which is now at its finalization stage, will be submitted shortly. Since the consultants have provided us with a verbal summary of the report, I should like to take this opportunity to give Members a brief account of the content contained therein.

With regard to the first three phases of the SIP, the consultants consider there is still room for further improvements in such areas as cost control, arrangement for improvement works to be carried out in school premises, and data management methods. Specific improvement measures have been put forward by the consultants. Besides, the consultants have also noted the plan of the Government to introduce with effect from phase 4 a number of improvement measures to the entire implementation and progress monitoring process of the improvement works, including compiling project handbooks, providing project managers with clearer guidelines, and setting up a project management database. Providing that the improvement measures concerned are in line with the recommendations proposed by the consultants, the number of problems that might arise during the implementation of the remaining phases of the SIP could be minimized.

Furthermore, the consultants have also assessed in detail the estimated cost for the improvement works in each of the school premises under phases 2A and 4. The consultants agree that for the purpose of effective cost control, a mechanism should be established to cap the cost of the improvement works to be carried out in a school. In this connection, the consultants have suggested the Government adopting two benchmarks to help determine the scope of the improvement works concerned.

The first benchmark is the construction cost of a new school, and the cost of the improvement works concerned should be calculated as a percentage of it. According to the consultants, if the cost for the improvement works concerned is not more than about 40% of the construction cost of a new school, it should be considered as reasonable from the point of view of cost-effectiveness. On the basis of this benchmark, the improvement works should cost not more than about \$35 million for a primary school with 30 rooms and about \$41 million for a secondary school with 30 rooms.

The second benchmark is the average cost for each additional square metre of floor area available in the school premises concerned upon completion of the SIP. As at present, the average cost for every additional 1 000 sq m floor area produced is \$42,000 per sq m.

According to the consultants' recommendation, in the event that the cost for the improvement works of any school premises exceeds either of the benchmarks, the Government should discuss with the schools concerned some adjustments to the scope of works, with a view to reducing the cost, thereby ensuring that public money is properly spent.

Our initial estimation is that if the cost ceiling should be set at around 40% of the construction cost of a new school, about 41 (which amount to more than 50%) of those 81 school premises could proceed with 100% of their improvement works. There are another 24 school premises the scopes of work of which have been adjusted. These school premises could still enjoy on average an additional usable floor area of 1 000 sq m, which is about 80% the size of that available before adjustments. The additional facilities provided include computer rooms, language rooms, classrooms, staff rooms, and in the case of primary schools, libraries. As regards the remaining 16 school premises, the problem remains that either the cost for each additional square metre of usable floor area or the cost for the improvement works as a whole is

too high. As such, we would discuss with the schools concerned to further reduce the scope of works to include only pressing core improvement items like computer rooms and language rooms. We will also consider reprovisioning or redeveloping those school premises in the future.

As for the other 28 school premises which are either too old or too small in size for the SIP to be carried out technically, we will discuss with the schools concerned other improvement options, including in-situ redevelopment, redevelopment or the very constructive proposals put forward by Mrs Selina CHOW earlier on. Certainly, we would also need to take into consideration other factors like the need or otherwise for students to go to schools in other districts, land supply and so on.

The consultancy will formally submit its report within this month. Upon receipt of the report, we will immediately follow up the various proposals put forward to enhance the cost-effectiveness of the improvement works concerned. We will also seek funding support from the Public Works Subcommittee and the Finance Committee shortly to enable the early commencement of improvement works that are cost-effective. The cost for the improvement works of the aforementioned 81 school premises is estimated at around \$2.8 billion.

With regard to certain school premises where the implementation of the SIP is either too costly or technically not feasible, we will continue to discuss with the individual schools concerned the feasibility of in-situ redevelopment or reprovisioning. As regards the request for certain pressing and small scale improvement items made by individual schools, we will try our best to redeploy the existing resources to make arrangements for the schools concerned starting from this summer.

All school premises will be inspected and maintained by either the Architectural Services Department or the Housing Department on a regular basis, so as to ensure that the structures of all school premises are in compliance with the relevant safety standards. If any school should have needs for urgent repair works, funds would be granted promptly to enable the immediate commencement of the works concerned. There is no need for the relevant schools to wait for their turns under the SIP.

The Education and Manpower Bureau, the ED and I will actively follow up all matters in relation to the SIP. In addition to co-operating fully with the schools concerned, we are also very happy to take into consideration the comments made by Members. Thank you, Mr Deputy.

THE PRESIDENT resumed the chair.

PRESIDENT (in Cantonese): Mr CHEUNG Man-kwong, you may now reply and you have up to one minute 55 seconds to speak.

MR CHEUNG MAN-KWONG (in Cantonese): Madam President, I am grateful to Honourable Members for their support. This motion finally achieves some progress today.

If I did not hear it wrong just now, the Government would be providing for the 109 schools referred to in this motion an additional grant of \$2.8 billion, thereby benefiting 81 of those 109 schools. I welcome this additional provision because it is what the schools have been longing for. More importantly, however, the Government should learn a lesson from this suspension of the SIP and avoid doing things in a bureaucratic and fossilized manner. I very much hope that government officials would regard the students studying in the various schools in Hong Kong as their children. Then, when they think of their children studying in schools of appalling conditions, they will know how to tackle the problems concerned.

Government officials are often nicely referred to as "parent-like officials" in the Chinese culture, which means that they are doing things with the caring heart of a parent. However, if our government officials discharge their responsibilities in a way similar to that of the ED earlier on, they are by no means "parent-like officials" but "Big Brothers" watching us in a condescending manner. With their bureaucratic and fossilized way of doing things, they will eventually ruin the SIP as a whole.

On the other hand, I must point out that there are still 28 schools not being taken care of and may need to be reprovisioned or redeveloped in-situ. We will certainly keep a careful eye on the reprovisioning and in-situ redevelopment of

these schools to ensure that the interests of the students concerned are safeguarded. Nevertheless, I need to particularly remind Honourable Members that apart from these 28 schools, close to 400 school premises scheduled for phases 5 to 8 of the SIP are still in appalling conditions. All these school premises must be taken care of and improved through SIP. I just hope the Government would not overlook their needs.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr CHEUNG Man-kwong, 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 functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

PRESIDENT (in Cantonese): Second motion: Risk management of information technology-related stocks.

RISK MANAGEMENT OF INFORMATION TECHNOLOGY-RELATED STOCKS

MR ERIC LI (in Cantonese): Madam President, I move the motion as printed on the Agenda.

As early as a year ago, my colleagues in the accountancy sector and I already started to work on this visionary motion. At that time, following the announcement by the Pacific Century Group on acquiring the Hongkong Telecom, local investors started to cherish very high hopes about the potentials of the emerging market. So, even though the Growth Enterprise Market (GEM) had only just been inaugurated, the 10-odd IT-related stocks listed on it still became the buying targets of many people. At the same time, the Nasdaq market in the United States had also remained overbought for a very long period. It was therefore obvious that IT-related stocks were about to experience price adjustments.

We now know in retrospect that while this motion was still waiting for its turn to be debated in this Council, the United States stock market plunged and triggered off a wave of drastic price adjustments in stock markets all over the world. Some Honourable colleagues have thus asked me somewhat jokingly whether there is still any point to move this motion, now that the bubble has already burst. Madam President, although it now seems that my motion can no longer serve the purpose of giving small investors a "timely warning", I am still convinced that we should draw lessons from the price adjustments and take stock of our experience; for this reason, and especially because the GEM has operated for several months, I would think that the appropriateness of the motion has not in fact been overtaken by events, and thus it should still merit our discussions.

Following the global adjustments of IT-related stock prices, stock investors, analysts and regulatory bodies should now be able to detect the inadequacies of the existing system much more easily and clearly than ever before. In the United States and the United Kingdom, in particular, reviews are in full swing, and people are now holding heated discussions on the relevance of traditional market wisdom to IT-related stocks in respect of valuation monitoring and accounting standards. In some cases, such discussions have even ended up in collective lawsuits.

The GEM and IT-related stocks in Hong Kong are still at their inception stage, and they all have very rich development potentials. Besides, recent events have also proved that their operation is basically sound. If we can draw lessons from these events quickly and positively and make a better start, we will be able to avoid many unnecessary lawsuits and disputes and prevent the market from making the same mistakes as other markets. This will in turn reduce the risks borne by all market participants.

As we can all see, the Hong Kong financial market is noted for its abundance of capital and experience in managing and packaging financing activities. On the other hand, however, it is not yet so mature in terms of substantive technological development and market application. This has led to the emergence of some IT-related stocks which are well-packaged but not yet backed up by any concrete business operation. And, since these stocks can resort to mergers and give investors immediate returns in the short run, they are quite attractive to investors looking for short-term profits. But the investment risks in our market will thus become much greater than those in other mature markets.

All this has enabled the GEM to show a huge financing ability even at its inception stage, especially when the small number of available stocks has led to a state of excessive demand. As a result, many listed companies on the Main Board have tried actively to split their businesses and apply for listing on the GEM, where the craze of IT-related stocks among investors can enable them to benefit more from fund raising and realization than on the Main Board.

In addition, since many small and medium companies do not want to wait for listing in the GEM (for they may have to wait a very long time), and since they also do not want to be bound by the relatively stringent requirements on information disclosure, they are very much unwilling to get listed in this financing market especially set up for them. Instead, many of them have simply resorted to "shell reactivation", a process whereby they can achieve the purpose of getting listed on the Main Board by acquiring of inactive listed companies. Gradually, this has resulted in an intricate relationship between companies of the Main Board and those of the GEM. And, over time, this will blur the distinction between these two types of companies.

The GEM was originally meant for professional investors. These professional investors are financially strong. They are well-versed in the techniques of investment diversification, and they are experts in evaluating the chances of success or failure of individual companies. That is why apart from aiming to protect the interests of small investors, the GEM as it is designed also puts heavier emphasis on market promotion and development.

As it has turned out, however, the GEM is now sought after by long queues of IT companies instead. This can indeed promote the market, for these companies practically swarm to the GEM — I know that there are now some 100

companies on the queue. However, professional investors have kept to their very cautious line, and the market has instead attracted large numbers of small investors and non-professional investors. Do these investors have the ability to bear the risks involved, as originally expected by the designers of the GEM? I think that all this is indeed very doubtful, and a review is certainly required.

Now that the GEM has been operating for quite some time, I think that we should now take stock of the situation by considering several questions. First, we should watch closely the inter-relationship and co-ordination between the Main Board and the GEM, so as to find out whether there is any unhealthy competition between them. When the same corporate management makes simultaneous listing arrangements in these two markets, will there be any conflicts of interests in terms of business management? Or, will this lead to too many linked risks, with the result that investors may fail to realize the risks involved and grasp the information required, especially when they are faced with businesses split up for listing? Or, will there be any possibility for IT companies without any track records of business to sneak into the Main Board through the "back door", such as by "shell reactivation"? I think all these questions should be covered by the review.

Let me now discuss how "corporate governance" can serve as a solution to this problem. I suppose many colleagues in this Council are not so familiar with the concept of "corporate governance". So, I think I must offer a brief explanation here. Put simply, this concept covers the inter-relationship among all the people involved in one way or another in the affairs of a company, including insiders like its management, board of directors and shareholders and outsiders such as creditors, employees, the regulatory authorities, auditors and even stockbrokers.

Ideally, all people involved, be they insiders or outsiders, should play their own roles well, and their rewards or returns should be commensurate with the responsibilities and risks they have to bear. In other words, greater responsibilities and risks should mean greater reward, and vice versa. Only this can be called fair.

In practice, however, the concept of corporate governance often focuses on how best to ensure fair returns for outsiders and on ways to minimize the conflicts of interests between insiders and outsiders.

Regarding this issue, I have actually expressed my views in the press a number of times. However, owing to the time constraint, I am not going to repeat all these views in detail here; in brief, I basically wish to point out that we should put in place some monitoring mechanism to ensure the loyalty of corporate management to the company. In particular, corporate management must be honest in what it says and keep people informed of the actual implementation of any specific plans it has announced.

When it comes to the many risk factors we have to consider, we must require companies with no track records of actual business for two years to issue regular reports, so as to give investors timely reminders and make them beware.

An excellent culture of corporate governance is not a requirement unique to IT-related stocks; all listed companies should be subject to the same requirement. The Hong Kong Society of Accountants (HKSA) has made a number of recommendations on this matter, and some of them have actually been accepted by the Government. These recommendations include the appointment of at least two independent non-executive directors to each listed company and the establishment of an audit committee composed mainly of independent directors. What is more, in the GEM, the proposal of appointing a professional accountant as finance director has also been accepted. All this has made the disclosure of information in the GEM more comprehensive than that in the Main Board. We naturally welcome all these measures.

The HKSA has actually made many other good recommendations, but due to the time constraint, I am not going to go over them one by one here. I will focus on two or three recommendations only. I think that it is high time that we considered the implementation of these recommendations for, especially, the GEM, because of the higher risks there. One example of these recommendations, a practice which is now being widely adopted in other countries, is that whenever there is a large number of directors, the fees committee should be led by an independent person. Furthermore, the disclosure of details concerning independent directors' fees should also be enhanced. This is already widely adopted in foreign countries. Actually, for the IT-related stocks we are discussing, in most cases, options instead of cash are used for paying such fees, which is why we should improve the disclosure of information. Even the Chairman of the Securities and Futures Commission (SFC) recently admitted this point on many public occasions. So, it can be seen that we share the same view on this.

I should perhaps also say a few words, very quickly, on the point that the concept of corporate governance should not be limited to requiring management to act more responsibly, because, very often, investors will also create troubles. In the mature markets of some countries, institutional investors are required to disclose their voting strategies or investment policies. This is nothing new, because these institutional investors, especially those which have huge financial strengths, may control very many shares of a company. If they act quickly, buying and selling their stocks within a short time, the stock price of the company may experience drastic fluctuations. Many large scale funds also disclose such policies, because they are answerable to their own shareholders and clients. But in Hong Kong, the need for this is not yet recognized. I am sure that the disclosure in this respect will enable corporate management to enjoy adequate stability. This is especially true in the case of some institutional investors which focus on short-term speculation; their strategies may not be consistent with the objectives and long-term commitment of corporate management.

Let me also discuss the issue of intermediaries. As I said just now, as far as corporate governance is concerned, a right balance should be struck among "returns, risks and responsibilities". However, as we can see from the recent trend, "those who are in control of a company will always wish to get the greatest returns while bearing the least risk and responsibilities". The regulatory bodies are also influenced by this trend. The accountancy sector and other professional intermediaries have recently started to worry that their increasing responsibilities may make them easy targets of the media, corporate management and regulatory bodies once any problem occurs. They are worried that they may have to face not only media criticisms, but also civil lawsuits which may make them liable for astronomical sums of compensation. Worse still, some criminal law provisions may also be introduced, and they may thus be thrown into prison as a result.

I am not at all over-worried. I believe that what I said are the real sentiments and worries of many professional intermediaries. So, I hope that the Government can look squarely at this problem. As reported in the media, since 1994, there have only been nine cases in which the Government actually invoked the laws relating to the SFC to investigate the malpractices of corporate management. But to professional intermediaries, the frequency of such investigation is already very high, and some have even remarked to me that all these investigation cases have come like torrents. From the perspective of

fairness, we see that professional intermediaries are only given very meagre payments, but they have to bear more and more risks. We therefore think that the situation must be reviewed, to see if they are being treated fairly.

I am saying that the professionals should not bear any responsibility. In the recent issues of our monthly newsletter, the Chairman of the HKSA has explained many of our proposed measures and positive recommendations to raise the standards of the accounting profession, and I suppose government officials should have read all these recommendations. I am not going to go over all these recommendations here. However, we still hope that throughout the whole process, in particular, throughout the process of reviewing the Securities and Futures Commission Ordinance, the Government can allow more participation from the accounting profession if it is really contemplating increasing the responsibility to be borne by the profession. I also asked at some meetings of the Legislative Council whether we should follow the example of the United Kingdom and allow a professional intermediary to join the SFC as a member, so that he can at least have a chance to voice his opinions when the SFC formulates its policies. And, naturally, the intermediary concerned should be a representative formally elected from among the professions. I also hope that during the whole review of corporate governance and system, the Financial Secretary can also consider the responsibility, risk and return for all professionals instead of just focusing on accountants. We have to see a proper balance which can do fairness to all.

My motion can by means be exhaustive, because the scope is indeed very wide. However, I hope that I can have a chance to offer some responses later on. What I hope most to see is that through this motion debate, we can help set up a system which can command the confidence of all of us. That way, all investors will have confidence in our long-term technological development, and they will thus invest in our IT-related stocks.

Madam President, I hope that Members can support this motion.

Mr Eric LI moved the following motion: (Translation)

"That this Council urges that the Government should, having regard to the characteristics of the Hong Kong financial market, expeditiously review the risk management of information technology-related stocks and adopt effective measures as soon as possible to develop an excellent culture of

corporate governance, so as to enhance the vitality of the Hong Kong investment market, protect the legitimate rights and interests of investors and provide a level playing field for professional intermediaries in the market."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Eric LI, as set out on the Agenda, be passed. We shall now proceed to the debate.

MR JASPER TSANG (in Cantonese): Madam President, I wonder if it is because of a psychological factor that the times really seem to have changed since the advent of the new century. All of a sudden, the long talked about knowledge-based economy and information age seem to have arrived. In the era of new economy, there are new modes of market operation such as concept and innovation that we frequently talk about and new investment methods. Companies also have different requirements for the knowledge of employees and we begin to place emphasis on investment in research and development. These changes in the new age affect our view of the market and the established investment concepts, and even change the present accounting principles and the requirements for staff quality. For instance, the cost of research and development and staff training under the new economy would only count as items of expenditure under the current accounting principles. However, can we reflect in the accounts the significance of these investments to the productivity of enterprises?

With the new modes of operation gradually becoming the rule of the market, the regulatory authorities must adapt. Otherwise, they would easily be led by the nose by market developments and become very passive. More seriously, the regulatory regime would fall behind the times and slow down considerably the pace of market development.

The rapid development of technology is reflected in the changes in the financial market. As we can see, electronic, globalized and 24-hour trading have rapidly become the trend. Many new enterprises based on technological concepts have emerged. As the demand for capital has increased considerably, the traditional investment method based on the calculation of the price-earnings ratio is no longer valid. Faced with the new financial environment, the regulators' ability to regulate will have to meet challenges.

We wish to see a more deregulated environment to give more scope to development to new investment vehicles or products and to contribute to a more active market. However, if the emerging enterprises or leveraged investment organizations do not have adequate internal supervision and the regulatory regime is flawed, they will cause great repercussions to the market if anything goes wrong. For instance, the recent slight plunge of technology-related stocks in the global financial market shows that there is a need for the ".com" mania and the speculative fever to cool down. The share prices of many technology-based companies which have built up their investment value merely with financial skills have collapsed and been called into question. Thanks to the improved global risk management and regulation of activities such as margin financing and lending after the financial turmoil, the adjustment of the prices of technology-related stocks did not have a major impact on the structure and stability of the financial market. However, the regulators should be alerted by this warning. The rise and fall of prices of technology-related stocks cannot be predicted with "traditional wisdom" and their great fluctuation can cause a panic in the market.

Madam President, the globalization of the world economy provides the new economy stocks with a good opportunity of growth. We believe that the internationalization of technology-related stocks is inevitable and new enterprises must transcend geographical boundaries. Due to the global expansion strategies of technology-related stocks, the multilateral listing of companies for capital financing, the ongoing research on new technology products, the numerous acquisitions and mergers and the mutual exchange of shares, it has become more difficult for the regulatory bodies of the financial markets of various countries to regulate. If we rely on the traditional modes of regulation alone, we might not be able to keep up with the needs of the development of the technology-related stock market.

The regulatory bodies' responsibility is to keep the financial market stable and protect investor interests. The regulators must be able to grasp the trend of development of the market and ensure a suitable degree of supervision while giving the market scope for development, in order to minimize the risk of investors. In view of the new order in the financial market created by technology-related stocks, we cannot expect that the regulators could fully grasp and predict the regulatory needs of the financial market. I am afraid that no one fully understands yet what technology-related stocks are. Under the new economy, we need financial market regulators that can learn and adapt. They should learn how to regulate from the operations of the market, instead of

adopting a conservative and arrogant attitude and a paternalistic mode of management, wilfully issuing orders and disregarding the wisdom of the market.

Madam President, I have taken the opportunity of today's debate to express the view of the Democratic Alliance for the Betterment of Hong Kong (DAB) on the regulation of the market. My colleague, Mr CHAN Kam-lam, will state the DAB's view on other issues later on.

MR CHAN WING-CHAN (in Cantonese): Madam President, in the middle of last month, the Hang Seng Index in Hong Kong dropped 1 380 points. Many technology-related stocks plunged sharply following the plunge of the stock market in the United States. One example is tom.com which had created a subscription mania earlier. Its share prices dropped 14% while the share prices of Softbank Investment International and Hikari Tsushin International Limited on the GEM also fell sharply by 35%. The technology bubble already shows signs of premature bursting.

The Internet is certainly full of business opportunities. However, not all companies can become listed companies of strength. Earlier, some academics in the United States estimated that more than half of the over 500 technology companies would close down. In April this year, the securities analyst MEEKER published a 15-page report, pointing out that the share prices of more than half of the Internet companies would not be able to recover after the recent crash of the Nasdaq Index. In other words, the first round of knock-out tournament in the technology mania has already begun. Many companies were annihilated in the fluctuation of the United States stock market last month.

The situation in Hong Kong is quite similar. So far, no one knows clearly about the Internet companies. Even so, the Government has a responsibility to take preventive measures to strengthen the risk management of information technology-related stocks. Otherwise, if the technology stock bubble bursts again with serious consequences, there is nothing we can do. There would be "numerous casualties" as in the 1997 financial turmoil and the economy would suffer a great blow. Both the Hong Kong Monetary Authority (HKMA) and the HKEx have the responsibility to closely monitor the procedures and conditions of offer of shares of Internet companies.

Economists in Hong Kong have pointed out that the technology stock bubble already exists since individual technology companies have yet to prove their strength, while the ability of all these companies to make profits and remain in business have still not been proved. What is more, the business of individual companies has not yet been developed. What shareholders see is just a "concept". Once there are any fluctuations in the market, investor confidence will be shaken. In the process of elimination, many companies which have inherent risks as a result of too rapid development and expansion may close down in a trice when there is fluctuation in the market. Many shareholders will then suffer huge losses.

Therefore, we must expeditiously undertake a risk assessment of technology-based companies and formulate some policies and measures, advising or obliging industry compliance in order to develop an excellent culture of corporate governance and prevent companies from developing in an unhealthy direction. Since technology-related stocks are a new business, the situation is a bit like the "gold rush" years gone by. While everyone knows it is a profitable business, no one knows who will emerge the winners.

Since we know that technology-based companies develop in different ways, the HKMA and the HKEx must maintain strict supervision over each company when it goes public and should not relax the rules too much. For instance, individual technology-based companies on the GEM were earlier exempted from submitting their three-year performance records. Although this was a decision of the stock exchange, such discretion should indeed be reviewed. Such powers are open to question, especially when Internet stocks are concerned.

In 1997, the financial turmoil exposed many loopholes in the supervision of the stock market. In the case of C.A. Pacific, there were many instances of inadequate supervision. The Government is duty-bound to perfect the relevant supervision and regulation, investor interest should be protected in particular. We have to plug any loopholes in the law to prevent investors from falling into traps set by some unscrupulous companies.

Lastly, Madam President, I urge the Government to expeditiously set up a group to study this question. The development of Internet stocks is so fast that the former mode of operation of the financial market may not be able to cope.

We must take preemptive action and establish a monitoring system to reduce the hazard of the stock market bomb, so that people will not get into real trouble or be blown to pieces.

Thank you, Madam President.

MR NG LEUNG-SING (in Cantonese): Madam President, the Hong Kong financial market is characterized mainly by a high degree of openness and freedom, with relatively little government intervention. For this reason, capital can move into and out of our market very easily, and we have thus developed very close connections and a relationship of interdependency with overseas markets; the trends and events in overseas markets and other external factors are always reflected fully in the performance of the Hong Kong financial market. From this perspective, we can say that while the Hong Kong financial market is full of vitality and investment opportunities, it is also marked by substantial risks.

The new economic forces generated by IT and Internet development are now exerting far-reaching impacts on many different economies in the world. Their effects are not only felt in the areas of productivity enhancement and changes in operation, consumption and lifestyle, but are also seen in the changing ways of financing in the capital market. The main considerations in traditional financing are invariably the track records, financial position and working capitals of businesses. However, under the new economy, companies and enterprises may have to rely more heavily on business development concepts, plans and prospects as a means of securing financing. Such a trend has also been reflected in the Hong Kong financial market. It follows that while investors are offered more investment opportunities, they also have to face more uncertainties and risks.

It should be noted in particular that in the United States, the powerhouse of the new economy, owing to its longer history of IT and Internet development, a large number of high-tech companies with solid technical strength have emerged. After years of development, these companies have built up their track records of successful product application and operation in the market, with proven financial records. It is true that at one time, the Nasdaq also shot up due to a similar departure from the traditional pricing model and even professional investors did

not know how to react as a result. However, the market there was still backed up by a substantial number of high-tech companies with proven track records of business operation. The Hong Kong stock market is markedly different. From the assessment of IT-related stocks applying for listing, we can see that the technical foundation of the companies concerned is still relatively weak, largely due to the short history of high-tech businesses in Hong Kong. Most of these businesses are in fact trying to raise capitals on the basis of some concepts yet to be put into practice, and for their financial conditions, it is even more difficult to find any track records. Basically, these stocks should be more suitable for professional risk fund investors, but they are now sought after by large numbers of small investors in the GEM. That being the case, and for the sound development of the market in the long run, the work of enhancing risk management has become all the more important.

To enhance risk management in a free and open financial market like Hong Kong, the principal means available to the regulatory authorities lie in enhancing the exhaustiveness and accuracy of information disclosure and drawing up stringent rules. Under the current craze for IT-related stocks, the market is encountering difficulties in assessing the values of these stocks, and owing to a lack of understanding about high-tech development, there is also a need to increase the transparency of corporate governance and business conditions. Some time ago, I asked a question on the compilation of an IT-related stocks index. I am very pleased to see that the authorities concerned have recently introduced such an index in the market. I am sure that this can provide a much better indicator for investors. Besides, we can ask these companies to disclose their business performance in greater detail and at more frequent intervals, and we can also require them to disclose more information to investors in their websites. I am sure that all these are possible measures which the regulatory authorities can consider. The enhancement of information disclosure will, to a certain extent, increase the expenditure of listed companies. However, it should be realized that this is in fact part of the costs of financing, and enterprises must strike a proper balance between costs and risk management in the course of raising capital in the market.

Moreover, if we are to enhance risk management, we must take account of the latest developments in the new economy and adjust the rules relating to corporate governance accordingly. Of all these rules, those governing the operation of listed companies are particularly important. These rules must be able to make boards of directors and corporate management behave responsibly

towards investors, and they must also be able to promote a culture of best corporate governance, under which no speculative tricks and deception can ever be possible. In this connection, I am of the view that if we are to perfect all these rules for the maximum protection of investor interest, we should define very clearly the respective legal responsibilities of corporate management and professional intermediaries. We should not draw an equal sign between the professional conduct and responsibilities of professional intermediaries and the basic legal responsibilities shouldered by corporate management in respect of corporate assets and investors. If professional intermediaries are simply regarded as part of corporate management, the focus of statutory regulation and supervision will be blurred. This is not conducive to the formation of a culture of best corporate governance. Therefore, we must define responsibilities clearly and impose appropriate control; only by doing so can we assist the long-term development of IT-related stocks.

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

MR CHAN KAM-LAM (in Cantonese): Madam President, "technology-related stocks" is a term associated with the emerging new economy in recent years. With the development of technology and their increasing dominance in the market, companies engaging in high technologies have become the much-sought-after targets of both sellers and buyers in the stock market.

The craze for IT-related stocks earlier on has brought about a completely new face to stock markets all over the world. In the United States, the Dow Jones Index has come to be regarded as the indicator of the "old economy", and the Nasdaq, comprising IT-related stocks, is now generally looked upon as the indicator of the "new economy", as it has given rise to a totally different investment environment where the trends of the US Dollar, US stocks and US bonds no longer count anymore. Some have thus come to the view that the main factors that are going to affect the global stock market will be business prospects and product creativity or originality.

However, the risk of technology-related stocks lies in the difficulty in assessing their value, and investors may thus find it hard to assess the risks of investment involved. Besides, many technology-based companies have simply tried to count on their concepts and raise capital in the market even before they have any records of profits. This has led to a total collapse of the existing

pricing mechanism. And, as we look at market risk again, we will notice that technology is actually marked by constant changes and developments. That is why it is often difficult to say with any certainty what the prospects of a technology-based company will be. Hence, people in the market, credit rating bodies and even investors are often at a loss as to how they should assess the prospects of losses and profits of such companies.

Technology develops by leaps and bounds, and its product application is extremely extensive both in room and scope. The extensive application of any particular software may always replace the human input in the area concerned, increasing efficiency or reducing production and operating costs. This is precisely the potential value of high technology and innovation. The new economy will bring forth endless opportunities. There will of course be lots of uncertainties before us, and we may still be unable to see how mankind as a whole is going to be affected by the development of technology, but we need not thus worry too much that the listing of technology-based enterprises as a means of raising capital will necessarily involve investors in huge risk.

The DAB is of the view that it is certainly feasible to improve the situation by enhancing the disclosure of information and risk, the quality and sense of responsibility of corporate management, and even the general risk management standards of the market. However, when it comes to what is meant precisely by a new system of risk management and a new culture of corporate governance, the DAB maintains that there is still a need to conduct more in-depth studies. Besides, we also need to enhance our investor education. Following the financial turmoil, international investors have become more wary of the investment risk in emerging markets. However, in recent months, Hong Kong investors have still flocked to buy IT-related stocks, totally fearless, or unaware, of the risks involved. I am really worried that they may end up having their fingers burnt. We hope that Hong Kong investors can learn how to assess the values of technology-based companies, and we also hope that they can ask more questions like "Where will the profits come from?", "What is the company's mode of operation?", and so on. That way, it is hoped that the earlier craze of buying IT-related stocks regardless of their real worth will never occur again.

Madam President, we need to look into the recent craze for IT-related stocks in Hong Kong. And, while doing so, we will see that with the emergence of these stocks, a new chapter for the local financial market has begun. I am sure that just a few months ago, no one could have foreseen that the listing

of several companies engaging mainly in Internet businesses could arouse such great interest among the stock investors of Hong Kong. I think this is in part due to the fact that the listing of IT-related stocks is quite a novelty in Hong Kong, and people have thus overestimated their appreciation potentials. Another reason is probably people's inadequate knowledge about IT-related stocks, which leads them to join the buying craze blindly. Naturally, the actions of some people in the market to fan the flame, to paint a rosy picture of unlimited profits, are also one of the reasons for the craze.

Actually, we can see that regulatory bodies all over the world are now all trying hard to map out a way forward to deal with the risk of IT-related stocks markets. The International Organization of Securities Commissions, which comprises representatives of major securities regulatory bodies all over the world, has agreed that there should be prompt exchange of views among its members on reaching agreements pertaining to the handling of market risks. We hope that the SFC of Hong Kong can step up its communication with other regulatory bodies in the world, so as to share their regulatory experience.

Madam President, the debate today can no doubt serve a positive purpose, for it is always correct to find out more about risk management, enhance the vitality of the market and safeguard the legitimate rights and interests of investors. That is why the DAB will support the motion. However, I still wish to add one more point. We hope that the motion will not impart any negative message to the sensitive market, leading people to think that there are problems with the GEM and technology-based companies, and a review must therefore be promptly conducted. We must bear in mind that any negative message may deal a blow to investor confidence in the GEM and IT-related stocks of Hong Kong.

With these remarks, I support the motion.

MR RONALD ARCULLI: Madam President, I actually did not intend to speak at today's debate, but listening to some of my colleagues, I felt that I had better give some of my observations on a subject that is very dear to my heart.

The motion essentially deals with four distinct areas and matters, and it is not always easy to see how they are inter-related with each other. The first deals with the review of risk management of information technology-related

stocks, and the Honourable Eric LI asked the Government to adopt effective measures as soon as possible. I confess that I found it a little difficult to follow Mr Eric LI's train of thought on this particular aspect. To begin with, I believe that it is not really part of the Government's job or task to interfere in the market or to interfere in business management. What the Government can do, may be through regulators like the Securities and Futures Commission (SFC) and the new exchange company, is to actually involve itself actively in investor education. It is only through investor education that investors can learn and can appreciate the difference between investing, trading and speculating. Without these three elements, we would not have stock markets, capital markets or financial markets. It is important that not only institutions, but individuals and, soon to be, our Mandatory Provident Fund managers, should also be quite competent and capable of assessing the risk.

Some markets, like the United States, take a very broad and open attitude. They take an attitude like "investors beware", but there are safety nets. There are rules and regulations, corporate governance and so on and so forth. For instance, a man having a criminal conviction can become a director of a listed company in some markets. But I think that in Hong Kong, he would find it difficult in doing so. Thus, such is the diversity of financial markets throughout the world. What is important is that we need to have full and adequate disclosure of information so that investors, professional and non-professionals alike can have a proper basis to judge for themselves, or if they rely on advisors who are professionals within the field, for their advisors to assess the desirability or otherwise of a particular investment.

The second point deals with "to develop an excellent culture of corporate governance". I think that the issue is well understood in Hong Kong, and indeed, some of us criticize the regulators for over-regulating, for perhaps putting unfair and undue burden on officers of a company. From no requirement, we now require listed companies to have independent non-executive directors. They are required to have audit committees which work hand-in-hand with the auditors, both internal and external auditors, of the listed companies. Thus, I think that corporate governance in Hong Kong has really come a long way.

What, of course, is not always obvious is that, because of the diversity of companies that are listed on our stock exchange, corporate governance may not be as well practised or understood, depending on individual companies. But

Madam President, as they say, it happens in the best of families. You always have a minority of companies or individuals that feel that they either understand or do not fully understand the rules. And I cannot believe that the stock exchange and the SFC are not vigilant in so far as this is concerned.

As far as the letter of corporate governance is concerned, my understanding is that it is certainly in line with the best international practice. Thus from that point of view, the Hong Kong market is actually quite comparable and ahead of some of our Asian neighbours. But of course, the fact that other people fall by the wayside does not mean that we should not in fact be, as it were, a leader in Southeast Asia.

The third point is about the protection of the rights of investors. I always say that, in terms of Hong Kong investors, a lot of us are risk-takers but we do not, as it were, "bet the farm". We might make small but risky investments, perhaps in stocks, in shares, in currencies or in futures. But I think the remedies are available. If they are misled or if there is in fact incorrect information, there are legal remedies available. I for one would like to advocate that it is not for the Government or any regulators to actually enforce private rights or remedies. Indeed, some of the measures that we see now in the composite bill are, and one hears this from the market, going perhaps too far in terms of investor protection.

As regards the last item, I really would not like to comment on it because it falls fairly within the province of my Honourable colleague, Mr Eric LI. But in so far as he refers to non-accountants, I think that there is a tendency for legislation in the last few years to progressively pass the responsibility not just to lawyers, accountants, bankers, directors and so on, but also, of course, to stock market intermediaries. This may or may not be a healthy development. But of course, being in the field, one necessarily has to understand the Government's position, although I believe that this is too harsh.

But with all said and done, Madam President, much as we would like to support Mr Eric LI, unfortunately, I do not think that I can, and so I shall abstain from voting.

MR ALBERT HO (in Cantonese): Madam President, Hong Kong has experienced a number of economic and financial crises since the reunification in 1997. I originally thought that the people of Hong Kong, who used to concentrate on making fast bucks, would become more down-to-earth after learning this lesson the hard way. Quite the contrary, however, the people of Hong Kong can scarcely wait to dive into the battlefield of IT-related stocks right after the economy has shown signs of turning the corner. Actually, history will just keep on repeating itself. I believe that in the run-up to the meeting today since Mr Eric LI was allocated this time slot for his motion, many people have once again become victims of speculative ventures. These people are now having a hard time as their assets have all disappeared in the blink of an eye.

As a matter of fact, the motion today reflects only part of the existing problem. In my opinion, the present so-called craze for IT stocks has served to reflect only the mentality of some people in Hong Kong who, in the hope that they can reap where they have not sown, count on luck to make a fast buck through speculation. While in the past many people loved to speculate in property stocks, banking stocks and red chips, they are now following the general trend to speculate in technology stocks and Internet-related stocks. In the future, there may even be satellite stocks and space technology stocks as well! So, certain investment vehicles or stocks and shares that could be considered as an investment have been turned into vehicles and media for speculation. I hold that the people of Hong Kong should really have a good review of their mentality in this respect. As regards the crux of the motion debate today, it lies in the question of whether or not the Government has the ability to play a more active role in stepping up risk management.

We hold that there are two types of technology stocks. The first type is the shares of enterprises which have practical achievements and businesses, and are genuinely engaged in high technology-related industries like production of computer software and hardware, semiconductor, biotechnology, and so on. Given their practical business achievements, the vetting and listing procedures of these enterprises do not differ very much from that of the traditional enterprises. As regards the second type, they are concept stocks the share prices of which depend solely on prospects and future research achievements. Since the shares of these enterprises are offered for subscription at comparatively lower prices, many people are very interested in investing in concept stocks in the hope of reaping a large amount of profits within a short period of time. For this reason, some bubble elements have been created. People who wish to make a profit

from investing in stocks and shares should take note of these bubble elements with great care to avoid losses.

With regard to risk management, I think the Government can deal with it from four aspects.

Firstly, the Government should step up the disclosure requirements for the listed companies concerned. These companies should be required to disclose the relevant information more frequently and comprehensively in a more open and accurate manner. While information has been disclosed in written form in the past, we certainly hope that as much information as possible can be made readily available on the Internet for investors' reference. Looking back on the past, we consider that because of the loopholes in the laws on disclosure of information, some people could very easily make use of certain evaluation methods and inaccurate information to stir up some speculative sentiment and give investors some false hope. We very much hope that the Securities and Futures Legislation (Provision of False Information) Bill 2000 could be enacted as soon as possible to prevent enterprises from disclosing inaccurate information. With regard to the regulatory structure of the market, we hope to expeditiously scrutinize and present for passage a piece of comprehensive legislation which can cater better to the needs of the time. Upon passage, the law concerned may become a very important piece of legislation. Regrettably, since the scrutiny of the legislation concerned cannot be completed within the current Legislative Session, it cannot be presented to this Council for passage.

Secondly, the culture of corporate governance is also an important issue. After listing, it is a usual practice of the management of many companies to expeditiously cash on the shares they hold to maximize profits. These senior level staff members simply have no commitment for the companies concerned. On the other hand, the existing legislation on corporate governance is lagging behind the time. I believe the Government would also agree that the Companies Ordinance should be revised. Actually, we have been looking forward to reforms in this connection for quite a long time, but nothing has been done by the Government so far. We hold that the Government must shoulder its responsibility and complete a review in this respect as soon as possible, with a view to enhancing the accountability of both the directors and the management sector of the enterprises concerned.

Thirdly, with regard to the responsibility of professional intermediaries, are the professional conduct requirements imposed on them sufficient? Besides, are the legal responsibilities they are required to shoulder in relation to their clients and other investors sufficient enough? We believe these are issues that need to be reviewed. Even though the comprehensive legislation will in future cover such issues, the role played by intermediaries as a whole is indeed very important.

Finally, we agree that the crux of the matter lies in investor education. If investors should indiscriminately seek to reap profits within a short period of time without actually understanding the investment risks involved, the culture of risk management could hardly be developed.

With these remarks, I support the motion today. Thank you.

PRESIDENT (in Cantonese): Mr Albert HO, your time is up, please resume your seat.

MR FUNG CHI-KIN (in Cantonese): Madam President, since the introduction of the Growth Enterprise Market (GEM) by the Stock Exchange of Hong Kong (SEHK), stocks investors in Hong Kong have been calling stocks trading on the GEM IT-related stocks, supposedly in line with what the general public says. This explains why IT-related stocks are used as the theme of the motion moved by the Honourable Eric LI today. There are also some people who follow the United States in calling these stocks new economy stocks. Like a fracture, "technology" has apparently become a watershed dividing the new and old economies. Actually, technology is in constant advancement. Many of the so-called old economy companies do make use of high technology. However, they have apparently become part of the old economy. Therefore, a conceptual confusion actually lies here.

Nowadays, it has become fashionable for the market to talk about ".com". The addition of ".com" after the name of a company or an article seems to suggest that there is technology content or concept. This has also led to confusion in the market. Putting it in Putonghua, shareholders who win by investing in ".com" stocks become a "daheng" (a mogul) while those who lose

will "duokeng" (fall into a ditch), be it joking or serious. We can then say "winner .com and loser .com".

Actually, to traditional and old-fashioned operators like us, intermediaries have always believed that a company is only worth investing if it can ultimately make profits and provide its shareholders with good returns regardless of the concept it holds and its technology content. However, according to the contemporary concept, it does not matter whether a company is making profits or losing money. As far as the company is concerned, the more it loses, the better its investment opportunities will be. This is because the fact that the company is suffering from more and more losses simply proves that more and more people or members will browse its website and its outlook for making profits will be bright. As the situation has turned into something like this, we have no idea as to how we should promote these so-called ".com" stocks to investors. Could it be said that it is more viable to invest in companies with more losses?

Earlier on, a number of Members mentioned the enhancement of a company's transparency in information disclosure. Frankly speaking, how can a company disclose such a large volume of information every day? For instance, they may tell us today that they will have good prospects and the next day that their prospects will worsen. Therefore, if I put it in a not so pleasant manner, Hong Kong is like a satellite city to Nasdaq in the United States with respect to IT-related stocks. We just go up and down in following in the footsteps of others. Recently, shareholders even found themselves at a complete loss as to what to do every day. Very often, the problem is purely related to market speculation, other speculative activities or "one-day stocks", with nothing whatsoever to do with technology or venture any longer.

Another point I would also like to raise is that subsequent to the financial turmoil, many Hong Kong companies have been subject to severe attack. Actually, insofar as the Main Board is concerned, many companies are faced with the problem of re-establishing their business. Not only GEM companies need to set up new business, many Main Board companies need to re-establish their business too.

The GEM provides opportunities for companies with technology content to go listing. However, as Mr Eric LI has suggested, many companies just bought into Main Board companies in order to go listing. This is why I find it really strange for the regulator to ask only GEM investors to sign risk-bearing

undertakings while Main Board companies investors, similarly subject to great fluctuations, are not required to do so. I once raised this question: Have the tens of thousands of shareholders signed such undertakings before applying for GEM stocks? Did they really understand what they have bought? There is a vague concept in terms of supervision with respect to the GEM and Main Board. It seems that protection for investor is divided into two separate areas. I think there is a need to review this issue immediately.

I fully agree to a point made by a few Members who spoke earlier, and that is, all listed companies, no matter they are on the technological board, GEM or Main Board, should be required to disclose their information and give investors a better understanding of their companies as far as possible. Insofar as the speculative preferences of investors are concerned, we should in no way be their babysitters. Nor is it possible for us to guarantee that they will definitely win. There is nothing we can do if they still insist on engaging in speculative activities after explaining the situation clearly to them. However, even I, as a member in the market, have to admit that the GEM has provided a mechanism whereby investors are absolutely not required to make any scientific assessment for they can engage in speculative activities by pure guesswork. The risks thus involved are even greater than the risks involved in trading in the Main Board. In this respect, I greatly appreciate that the Government and the Securities and Futures Commission (SFC) have adopted a high profile recently in enhancing education for shareholders and reminded investors to be careful. It is smart of them if they can make an accurate assessment of the market trend; otherwise, they will have to resign themselves to destiny.

Actually, the original intention of the market was to lure these investors. However, those who have been lured are now being ignored by the market. Therefore, Members raised the question that this has turned into an embarrassing situation and that the original meaning is lost. The original intention of the people in the market in proposing the establishment of the GEM was to enable companies to go listing under less stringent requirements. However, the requirements have now become increasingly stringent. Apart from the slightly lower requirement related to listing, the SFC has insisted that the GEM be subject to strict surveillance and that GEM companies have to disclose more information.

GEM companies are frequently asked by the SEHK or the SFC not to make any noise when there is no rise or fall in respect of share prices. However,

once share prices start to rise or fall, these companies will be immediately asked to make a statement to explain why there are fluctuations in their share prices. As a result, listed companies are always at a loss as to what to do even if they want to disclose more information. I once heard some listed companies make such complaints: if we talk too much, the Government will not like it; if we do not say anything, we will be reprimanded by the Government. It is indeed necessary to make improvements to keep pace with GEM and main board companies which are frequently in fluctuation insofar as surveillance is concerned.

Just now, Mr Eric LI mentioned the provision of a level playing field for intermediaries. Our brokers also said something similar: the greater the responsibility, the smaller the return. This is really miserable.

Thank you, Madam President.

MR JAMES TIEN (in Cantonese): Madam President, the motion today touches upon the risk management of IT-related stocks. Actually, before the establishment of the Growth Enterprise Market (the Second Board), both the Honourable Kenneth TING and I were members of the relevant advisory committee. The Honourable FUNG Chi-kin has pointed out rightly that our intention at that time was to enable companies which could not be listed on the Main Board to raise capital in the market. IT-related stocks had not yet emerged at that time, and our intention was to assist small and medium enterprises (SMEs), that is, those companies with a turnover of several dozen million dollars earning a profit of several million dollars a year. We hoped that these companies could still raise capital for their businesses, even if their price/earnings difference was just about several dozen million dollars. However, right after the establishment of the GEM, a craze for IT-related stocks started to sweep through Hong Kong. Therefore, what have happened to the GEM recently are totally beyond the expectation of the Government.

I remember that our objective at that time was to enable more SMEs to get listed and raise capital. That was why we thought at that time that there was a need to relax the listing requirements for the GEM. In the Main Board, for example, a company applying for listing must have a track record of business profits for several years, and, what is more, such a record must be unbroken for a period of successive years. However, many SMEs do not have a business

record as long as four to five years, and they may not be making any profits yet. Or, they may be making profits for one year and then incur losses the next. But still, they wish to apply for listing. Besides, the investors we had in mind at that time were not the ordinary men in the street, but people whom we called "sponsors", who were supposed to be more well-versed in the market. In other words, we thought at that time that these stocks investors should have a duty to follow up the operation of the companies the stocks of which they had bought. The situation now is of course very different. The most important concern of an agent is to sell the IT-related stocks, and he will not care about anything else as long as he can do so. Besides, the investors are simply the common people, very much contrary to our original concept.

Mr Eric LI proposes to review the risk management of IT-related stocks. Well, in a way, the risk involved is already set out clearly, as evidenced by the prospectuses of the several stocks listed recently. But we can also say that the almost one-inch thick prospectuses do not actually contain anything of substance, for they are simply a reproduction of the requirements of the SFC. Unfortunately, people are still willing to buy these IT stocks, for they think that every single dollar they invest in these stocks will give them a return of 10 dollars, and then 20 dollars. It is with such a mentality that people buy these stocks. Mr Eric LI says that the legitimate rights and interests of these investors should be protected. But I must say that these investors should already know their rights and interests when they buy these stocks. They do not aim at getting just two or three dollars in return for each dollar of their investment over a period of several years; rather, they hope for much more, and they think they have good reasons to be disappointed if they cannot get a return of five dollars for one dollar of investment immediately after the stocks concerned are listed. This is the very mentality which has led to the over-subscription of some stocks by as much as several hundred times.

Recently, two so-called ".com" stocks were listed, and they were over-subscribed by as much as 50 to 100 times. However, once they were listed, their prices plunged below their listed prices. Actually, the buyers of these stocks were not genuine investors; they were simply speculators trying their luck like punters. Their chance of successfully subscribing the stocks was just 50:1. The fact that the prices of these stocks plunged below their listed prices immediately after listing was good proof that many of the successful subscribers actually sold their stocks right on the same days when these stocks were listed. This was the mentality of speculators, not genuine investors. Neither we in the

Legislative Council nor the Government can really do anything much to protect the legitimate rights and interests of these "investors", or speculators, I would rather say. They simply knew only too well that even if they could not be described as punters in the strictest sense, they should still be regarded as people hoping for a windfall. Basically, all of them wanted to get the money and make away quickly. This was certainly not in line with our original intention of establishing the GEM. At that time, we hoped that small businesses could get long- and medium-term support from investors, that is, for a period of two to five years. It was not our intention to give successful subscribers a chance to make money by selling their stocks immediately after listing. For this reason, I would say that it really served them right when the prices of the stocks plunged below their listed prices, making it impossible for them to reap any profit, because they simply had no intention of supporting the companies, nor did they know anything about them. They submitted their subscription application merely out of a profit-making motive.

Mr LI also proposes to develop an excellent culture of corporate governance. Actually, this is already dealt with extensively in the existing ordinance. The Honourable Albert HO talked about the possibility of major shareholders realizing their stocks after listing. They may not succeed in doing so anyway, because they are not permitted to realize their stocks until six months after listing. The new capital raised is the asset of the company, and, as we can see, in the case of some stocks, their prices have actually dropped from one dollar to 20 cents or 30 cents after listing. Well, when this happens, we can of course say that the investors have lost a good part of the money they have invested in the company, and I also agree that we may justifiably question whether the company has really invested the capital raised in the projects stated in the prospectus. This is a justified question, because many companies do not actually invest the capital raised in the specified businesses. Having raised new capital, they will just wait until there are good investment opportunities. This may not be entirely wrong. However, it is always wrong for them to invest the capital raised in businesses not specified in their prospectuses. This is a rule stated in prospectuses, and companies must abide by it.

Finally, about the point that professional intermediaries should be treated fairly, this may perhaps be the main purpose of Mr Eric LI in moving this motion. We are of the view that since these intermediaries, who may be auditors or lawyers like the Honourable Ronald ARCULLI, are paid by the companies concerned, it is only natural for stocks subscribers to blame them if they lose any money. This does not involve the question of fair treatment or otherwise.

Madam President, to sum up, the Liberal Party was initially neutral towards the motion moved by Mr Eric LI, but having listened to his remarks and those of other Members, we now find it hard to support the motion. Therefore, the Liberal Party will vote against it. Thank you, Madam President.

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

(No Member responded)

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, the rapid development of information technology in recent years, particularly the emergence of the Internet, has marked the advent of a new economy. This irreversible global trend is changing our way of living and has brought drastic changes to the securities market. The motion moved by Mr Eric LI today is timely and meaningful.

It has been the policy of the Government to ensure effective and orderly operation of the financial market and the financial services industry, and to create an open and fair business environment conducive to market development, thereby maintaining the position of Hong Kong as a major international financial centre. To achieve these objectives, we have endeavoured to upgrade our financial infrastructures, and to consistently improve the regulatory regime in order to meet international standards, with a view to providing a good foundation and adequate room for the development of the market. We have also continued to raise the standards in terms of the quality and quantity of the information disclosed, upgrade the standard of corporate governance and enhance education for investors in an effort to protect the interests of investors and other market participants.

The advent of the new economy has precipitated a fast-changing market that progresses by leaps and bounds. The challenge before us is how to strike a balance among the various objectives that I spoke of just now, having regard to the needs of every sector and participant of the market. Meanwhile, we must also consider the roles of the Government, regulatory bodies, intermediaries, professionals related to the market and the investing public, together with the responsibilities that each of these parties should take. Information technology development and the wide application of the Internet have, on the one hand,

brought risks and opportunities to market participants and investors, and on the other hand, they have brought unprecedented challenges to regulators. Just now Mr Jasper TSANG already spoke on this at some length and I very much agree with his views. However, one point worth mentioning is that regulators worldwide, including the Hong Kong Securities and Futures Commission (SFC), are well aware of this challenge and are making their utmost efforts to study and adopt appropriate regulatory measures and new standards.

These companies, which play up new technology, particularly those engaging in Internet-related business, are different from traditional enterprises. The major difference between them is that the former usually promote a concept to the market and investors. Their values are built on a relatively intangible basis, rather than being reflected in solid assets or business operation. As these companies are still in the process of development, the market is bereft of records accumulated from the past to make objective comparison and forecast in respect of their business prospects. Conventional methodology and tools, such as the price-earning ratios or profit records, which are commonly seen and used are not applicable to the assessment of the value and performance of these companies. Should we deprive these emerging technology ventures, which do not have the support of actual profits and track records, of access to financing in the stock market and hence deter them from developing their vision and business plans? In Hong Kong, we have the Growth Enterprise Market (GEM) providing these newcomers with the opportunity to secure financing. The goal of the GEM — just now a number of Members who took part in the initial design and establishment of the GEM gave an account of their perceptions of the goal of the GEM — is to assist growth enterprises in different trades and of different sizes which include (but are not limited to) high-tech companies to raise capital, so that their development plans or even concepts can be translated into actual business operation. As there is no profit record requirement for listing in the GEM, it is more difficult to project the future prospects and performance of these companies. For this reason, the GEM actually engenders a higher level of risks in nature. To protect the interests of investors, the listing rules of the GEM are more stringent than those of the Main Board, whether in respect of sponsors, disclosure of information or corporate governance. This is an essential balance, rather than a contradiction. Under the traditional listing system, a Listing Committee assesses whether an enterprise has reached a certain quality standard based on some established criteria and track records of the enterprise before deciding whether to allow it to raise capital in the market. The current trend, as reflected in the design of the GEM, features the transformation from a quality-

based system to a disclosure-based one, under which investors are provided with sufficient information and reminders for them to decide their own investment approach. Sufficient information does not only refer to adequacy in terms of quantity. Its accuracy and timing are also required to reach a certain standard. Under the new disclosure-based system, the listed companies, issuers, market intermediaries, professionals and consultants concerned all play an important role in providing the market with accurate and timely information.

Firstly, in addition to raising capital from the market, the issuers are also accountable to company shareholders. What the investors trust is the issuer's undertakings in respect of the business plans and the projection of profits to be generated in the end. So, the issuer should strive to put the concept into practice, honour his undertaking and ensure the disclosure of all relevant information to investors. The listing legislation also provided for quarterly disclosure of the company's financial position and business development by the issuer, and it is stipulated that the sponsor, in the two years after the listing of the company, must continue to give advice to the issuer so as to ensure continued compliance with the listing rules and other stipulations by the listed company under his sponsorship. Therefore, it is not the case that the sponsor can wash his hands of the company after sponsoring its listing and after reading the company's documents confirming its compliance with the rules.

As regards intermediaries and market professionals, their expertise and services are crucial in the process of investment. Most investors have to rely on the advice of intermediaries on financial matters, market conditions and other related information. For instance, lawyers are responsible for verifying the veracity of declarations in public documents and other papers; professional valuers provide independent opinion on the valuation of assets; independent auditors are to give their views on the veracity and equity of the financial statements published by the issuer. Even after the listing of the company, the auditor concerned is still required to audit the accounts of the company annually and give his views on whether the issuer has put his concept into practice and honoured his undertaking of business development.

In view of a higher risk profile of the GEM, it is very important to note that under the Listing Rules of the Stock Exchange of Hong Kong (SEHK), market intermediaries are required to clearly explain to investors the risks involved in investing in the GEM — just now we already spoke on this at great length — and arrangements have to be made for investors to sign a risk

acknowledgement statement that Mr FUNG mentioned earlier on. This is very important.

We all understand that the emergence of technology ventures have also brought new difficulties and challenges to market intermediaries and professionals. This we well appreciate. Take the new Internet services sector as an example. How can its actual effectiveness be gauged and in what way can growth be recognized? All these have aroused discussions in the accountancy profession all over the world. The securities commission has asked the accounting standards committee in the United States to study 20 accountancy issues with reference to Internet services providers. Moreover, studies and discussions on objective assessment criteria, such as the hit-rate of websites and the number of web participants, are underway. No consensus has been reached so far and there is no internationally accepted standard for the time being.

In view of this diversity of problems, the relevant professional bodies and regulatory authorities must update and improve some of the rules and regulations currently in force within the parameters of the existing framework to cater for the new needs of the market. This is also the demand and expectation of the investing public. We learned that the Hong Kong Society of Accountants (HKSA) has recently issued a new guideline stipulating that the pre-operational costs of a company cannot be capitalized as an asset unless certain requirements are satisfied. This is just one of the many examples.

Furthermore, the SFC and the HKSA will continue to work in concert to study the criteria for the evaluation of high-tech companies. We hope that the studies can be completed as soon as possible and sufficient guidelines will be provided for this area of work.

In respect of regulatory authorities, the SEHK and the SFC surely have certain responsibilities over the risk management of the market. As the statutory regulator, the SFC must also monitor the overall operation of the market effectively and must make every effort to combat market irregularities.

The regulation of high-tech companies and Internet-related stocks is a new topic in the international community. In this connection, the International Organization of Securities Commissions (IOSCO) which is made up of the

securities regulators of many countries has set up a committee recently to specifically look into this issue. The SFC in Hong Kong is an active member of this committee.

Faced with the globalization of securities markets, the SFC will continue to closely monitor the development of overseas regulatory systems and consider introducing new *modus operandi* when necessary. It will also closely co-operate with other international regulatory bodies to monitor multinational publicity activities or transactions.

Earlier in the debate, Mr Eric LI raised a question of whether accountants will be made to bear more legal liabilities than their fair share if accountants alone are made responsible for evaluating technology companies? In fact, we hold that a fair, open and efficient market hinges on the co-operation and collective responsibility of all parties concerned. The Government, regulators, market participants, listed companies and their shareholders, intermediaries, professionals and investors all have a part to play. Given increasing reliance on the accuracy and timing of the information disclosed under the new regulatory framework, the intermediaries and the professionals concerned, particularly the auditor of a company, cannot shirk their responsibility to ensure the adequacy and accuracy of the information disclosed by the listed companies. Certainly, we have sufficient guidelines in place to assist these professionals to discharge their duties.

On the Honourable NG Leung-sing's proposal of a clear division of responsibilities between the professionals and the corporate management, we are in fact very supportive of it. That is to say, if the auditor found suspected irregularities in the course of auditing, he should report the case to the regulator. We are all the more happy to expressly provide for statutory immunity for auditors under such circumstances, so that they will not be deterred from reporting the case out of their accountability to their clients or misgivings about revealing the secrets of their clients. We very much hope that this provision as incorporated in the composite Securities and Futures Bill published in the form of a white bill will obtain support from the public and the Legislative Council.

Now I wish to turn to an important aspect mentioned by Honourable Members, that is, education for investors. Publicity and education for investors, which are pivotal to the protection of investors' interests, aim at reminding

investors of the risks involved in investment and of their obligations and rights. Like any kind of investment activity, stock trading is a commercial activity that people can engage in freely. Investors should be responsible for their own decisions and shoulder all consequences, one of the worst scenarios is that their assets might vanish in a short while. If they made a decision after getting a good grasp of the information, it will hardly be convincing to say that the investors themselves should not be held responsible.

Mr Eric LI called on the Government to have regard to the characteristics of the Hong Kong financial market in formulating policy objectives. This is certainly one of our important policy considerations. Just now Members already pointed out a very important characteristic of our stock market, that is, we have a strong "retail" element playing a very active part in the market. Some of these investors may be less experienced, so they generally developed a "herd mentality", following what others do blindly. However, as Mr Albert HO said earlier, some people are only mindful of reaping without sowing, and as the Honourable James TIEN has said, some are not in the least interested in the company and all they wish is to rake in a fortune in a short period of time. Notwithstanding this, the SFC will continue to promote education for investors through the various media with a view to reminding investors of the points that they should pay attention to in an easily comprehensible manner. For investors who wish to find out the truth, we will set up an electronic investment resources centre this year to provide investors with "one-stop" services so that they can have access to many information for reference. Moreover, the SFC will also foster co-operation with the Hong Kong Securities Institute to organize more courses on investment techniques for investors. Meanwhile, in view of the risks associated with the craze for technology-related shares, the SEHK has held many symposia to explain the risks involved in investing in high-tech business and other emerging business. The SFC will also issue risk warnings as and when appropriate in the light of the market environment and conditions.

The role of the Government is to formulate effective policies for the entire regulatory framework. We will make reference to the experience of other international market regulators on the one hand and cater for the needs of the local market on the other. Recently, we have proposed some new legislation to further improve the existing regulatory framework. Firstly, to enhance transparency and efficiency of the market, and to ensure the provision of accurate information by market participants to the SFC and other market operators, we have introduced a bill against the provision of false information,

making it a criminal offence to provide false information to market regulators or operators. The bill has been tabled to the Legislative Council for scrutiny. We very much hope to obtain Members' support for the passage of the bill in the current Session. Just now some Members indicated their support for the bill and I am grateful for them. We have also introduced the Securities and Futures Bill in the form of a white bill for public consultation which will last for three months. The Bill serves to modernize the relevant legislation and regulatory framework by, among other things, setting higher standards for the disclosure of information, stepping up efforts against market misconduct, and even expressly providing for private right to action by individual investors who suffered losses as a result of the provision of false information. These new measures will provide further safeguards for investors. A more recent measure is a review currently conducted by the SFC and the SEHK of the Growth Enterprise Market Listing Rules which have come into operation for a few months to see if modifications are required. In the meantime, the SFC has specifically set up a new committee comprising professionals of international renown who are experienced in managing the new market to look into the adequacy of protection for investors in the GEM. It is hoped that their recommendations can be available in a few months.

Just now many Members unanimously stressed that the standard of corporate governance is an area that cannot be neglected. A fair, open and efficient market indeed relies on a culture of best corporate governance, and only in this way can we build up investor confidence in the market. In March this year, the Financial Secretary announced in his Budget speech that a major task this year is the review of the corporate governance regime to identify and plug any gaps in it. We expect that the review can be completed in a year or two. However, I must point out that we cannot change or even revamp the culture of corporate governance simply through a few remarks of the Government. It requires the co-operation and support of various parties in order to be successful. To be specific, it includes: co-operation between the company's management and the principal shareholders; discharge of duties by Directors; the aspirations of investors (including small shareholders) and their monitoring efforts; regulatory bodies setting out standards and guidelines; and market participants (particularly professionals) drawing up a code of conduct and their support for it. Each of these elements is but indispensable. Having heard many Members unanimously stressing the need to improve the standard of corporate governance, I hope that the Legislative Council will endorse the requisite legislative proposals to be introduced in future to this end.

The new economy that emerged from technological development has brought risks to the investment environment. But at the same time, it has brought new opportunities. Insofar as the assessment and regulation of these companies are concerned, it is true that we are still groping the way forward. We are set to face new problems incessantly, problems that we may not be able to foretell; and we must resolve them. Of course, Hong Kong is not alone in the battlefield for many overseas markets are facing the same problem. Domestically, not only the Government is concerned about this. The Legislative Council is also very concerned about the development. Professional bodies and the regulatory institutions are at the same time monitoring this trend. Necessary measures have been adopted by all parties concerned in the hope that investors' interests can be protected while encouraging the development of the emerging market and enhancing its viability, so that the Hong Kong financial sector can continue to prosper under the auspices of the new economy.

Madam President, I think the discussions today are very meaningful and constructive. We have listened attentively to the views of Members. We will consider their views in detail and incorporate them into our work plans. We also hope that today's discussions can arouse more widespread discussions in the community and among intermediaries of the various markets as well as professional bodies, so that we can make concerted efforts to identify measures to further improve the operation and regulation of the local markets. Thank you, Madam President.

PRESIDENT (in Cantonese): Mr Eric LI, you may now reply. You have one minute 35 seconds.

MR ERIC LI (in Cantonese): Madam President, I will be quick and brief. I am grateful to the eight Honourable Members who have spoken eloquently, and in particular, I wish to thank the Government for its very positive response. In fact, the direction proposed by Members is very much the same. Only that Members have different interpretations of the wording of the motion. Perhaps it is because I did not have enough time to communicate with Honourable colleagues for I must submit the finalized wording within 24 hours after I was given a time slot to move this motion. From my earlier speech, Members will have known that I have not put across any negative messages. What I have said and done are only meant to make further improvements on a very sound

foundation. As for the direction of the review, it is also in line with the current practice of all other advanced markets worldwide, and it has even incorporated some of the aspirations of local analysts or market participants. Of course, the review may result in relaxation of rules, but it may also lead to tightened control. Most importantly, it is hoped that the ultimate goals of the Growth Enterprise Market can be achieved eventually, which include facilitating access to more and better information by professional investors and leaving speculators with no excuse to sue these companies. We cannot lag behind other markets for Hong Kong is one of the most advanced markets in the world, and we cannot be overtaken by other Asian markets. Therefore, this review is a must.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Eric LI, 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.

(Members raised their hands)

Mr CHAN Kam-lam rose to claim a division.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam has claimed a division. The division bell will ring for three minutes.

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

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Michael HO, Mr Eric LI, Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Mr CHAN Wing-chan, Dr LEONG Che-hung, Mr Timothy FOK, Mr LAW Chi-kwong, Mr FUNG Chi-kin and Dr TANG Siu-tong voted for the motion.

Mr Kenneth TING, Mr James TIEN, Mr Edward HO, Mrs Sophie LEUNG, Mr Howard YOUNG and Mrs Miriam LAU voted against the motion.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr Albert HO, Mr LEE Wing-tat, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr Gary CHENG, Mr Andrew WONG, Dr YEUNG Sum, Miss Emily LAU, Mr SZETO Wah, Mr TAM Yiu-chung, Mr NG Leung-sing, Mr CHAN Kam-lam, Mr Ambrose LAU and Miss CHOY So-yuk voted for the motion.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 16 were present, 10 were in favour of the motion and six against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 17 were present and 16 were in favour of the motion. Since the question was agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was carried.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 10 May 2000.

Adjourned accordingly at twenty minutes to Eight o'clock.

Annex**WRITTEN ANSWER****Written answer by the Secretary for the Environment and Food to Miss Cyd HO's supplementary question to Question 2**

In regard to the question whether the Government would assess the impacts on air quality of incinerators like the one to be constructed at Tsing Yi, in response, the Secretary for the Environment and Food confirmed that the Government had conducted an environmental impact assessment study on the proposed Clinical Waste Treatment Centre at Tsing Yi.

The relevant extract from the Environmental Impact Assessment on the Proposed Clinical Waste Treatment Centre at Tsing Yi is now enclosed for Members' reference.

**Extract from
Environmental Impact Assessment for proposed
Clinical Waste Treatment Centre at Tsing Yi:
Section on Air Quality Assessment**

3.1 INTRODUCTION

This section presents an overview of the potential air quality impacts associated with the proposal to treat clinical waste at the existing CWTC. The assessment is focused upon the impacts which may arise during the incineration of clinical waste in combination with chemical wastes. The assessment does not address the current situation which is the subject of an EIA approved prior to the start of the operation of the CWTC in 1993.

The CWTC is located at the south-eastern corner of Tsing Yi Island and is currently treating chemical wastes by a variety of physio-chemical and thermal processes. A rotary kiln incinerator capable of incinerating 18,000 to 22,000 tpa of wastes (or a maximum daily throughput of 80 tpd, depending on the heat value of the waste) has been installed and is in operation at the site.

WRITTEN ANSWER — Continued

The existing CWTC will be slightly modified and the installed activated carbon injection system will be operated, where necessary, to satisfy the emission limits specified in the *Best Practical Means (BPM) for Pathological Waste Incinerators* (except for HCI which will satisfy the more stringent emission limit for incineration of chemical waste, ie 38 mg Nm⁻³), during the incineration of clinical waste. The distributed control system (DCS) will also be modified to allow easy switching of the emission control points (waste feed cut-offs) between the two sets of limits (clinical vs chemical waste control limits).

3.2 RELEVANT LEGISLATION AND GUIDELINES**3.2.1 Hong Kong Air Quality Objectives**

The principal legislation for the management of air quality in Hong Kong is the *Air Pollution Control Ordinance* (APCO) (Cap 311). The *Hong Kong Air Quality Objectives* (AQOs), see Table 3.2a, stipulate the statutory limits for the criteria air pollutants and the maximum allowable numbers of exceedances over specific periods.

3.2.2 Non-AQO Pollutants

For those pollutants not covered by the Hong Kong AQOs, international guidelines, such as those promulgated by the World Health Organisation (WHO), the United States Environmental Protection Agency (USEPA) and the Toxics Committee of the California Air Pollution Control Officers Association (CAPCOA) have been considered and will be applied, where practicable.

In the absence of all of the above guidelines, the assessment will be based upon a quantitative health risk assessment approach. This would typically rely on the combination of toxicity data with estimated levels of human exposure.

WRITTEN ANSWER — Continued**Table 3.2a Hong Kong Air Quality Objectives ($\mu\text{g m}^{-3}$)^(a)**

Pollutant	Averaging Time				
	1 Hour ^(b)	8 Hours ^(c)	24 Hours ^(c)	3 Months ^(d)	1 Year ^(d)
Total suspended particulates (TSP)	-	-	260	-	80
Respirable suspended particulates ^(e) (RSP)	-	-	180	-	55
Sulphur dioxide (SO ₂)	800	-	350	-	80
Nitrogen dioxide (NO ₂)	300	-	150	-	80
Carbon monoxide (CO)	30,000	10,000	-	-	-
Photochemical oxidants ^(f) (O ₃)	240	-	-	-	-
Lead	-	-	-	1.5	-

Notes:

- (a) Measured at 298 K (25°C) and 101.325 kPa (one atmosphere).
- (b) Not to be exceeded more than three times per year.
- (c) Not to be exceeded more than once per year.
- (d) Arithmetic means.
- (e) Respirable suspended particulates means suspended particles in air with a nominal aerodynamic diameter of 10 micrometres or smaller.
- (f) Photochemical oxidants are determined by measurement of ozone only.

Table 3.2b shows the guideline values for the non-criteria pollutants used in this assessment. The order of preference in selecting the guideline values to be used in the assessment was as follows:

- AQO (24hr, 3 month and annual averages);
- WHO guidelines (24hr and annual averages);
- USEPA Integrated Risk Information System (IRIS) (annual averages);
- CAPCOA guidelines (annual averages); and
- health risk assessment (annual averages).

3.2.3 Emission Standards

The design and operation of the incinerator will satisfy the requirements of *BPM*, issued by the *EPD*. The *BPM* apply to the incineration of clinical waste in plants with a capacity of more than 1t hr⁻¹. Existing emission standards for the incinerator at the CWTC and the limits for clinical waste from the *BPM*, are presented in *Table 3.2c*. The emission limits from the *BPM* will be used as a basis for calculating the emission rates of pollutants when the plant is combusting clinical wastes in combination with chemical

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waste. However, the more stringent emission limit (38mg Nm^{-3}) for hydrogen chloride will be used instead of that specified in the *BPM* (50mg Nm^{-3}) as advised by the EPD in their comments on the *Draft Inception Report*. The emission limits for those pollutants not covered by the *BPM* should follow the existing CWTC emission limits, such as for chlorine and acidity, to ensure that the proposals will lead to an improvement in or at least the same emission standards.

Table 3.2b *Guideline Values for Non-criteria Pollutants ($\mu\text{g m}^{-3}$)*

Pollutant	Averaging Time		
	24 Hours	3 Months	1 Year
Lead	-	1.5 ^(a)	0.5 ^(b)
Chlorine	-	-	7.1 ^(c)
Hydrogen sulphide	150 ^(b)	-	7 ^(h)
Hydrochloric acid	-	-	7 ^(c)
Phosphorus	-	-	0.07 ^(c)
Hydrogen fluoride	-	-	5.9 ^(c)
Hydrogen bromide	-	-	24 ^(c)
Mercury, Hg	-	-	1 ^(b)
Cadmium, Cd	-	-	3.5 ^(d) /6x10 ^{-2(e)}
Nickel, Ni	-	-	0.24 ^(c) /2.5x10 ^{-3(b)(g)}
Arsenic, As	-	-	0.5 ^(d) /3.0x10 ^{-2(b)(g)}
Copper, Cu	-	-	2.4 ^(c)
Manganese, Mn	-	-	0.05 ^(b)
Zinc, Zn	-	-	35 ^(c)
Dioxins and furans	-	-	HRA ^(f)

Notes:

- (a) Hong Kong AQOs
- (b) Revised WHO Air Quality Guidelines for Europe, 1996
- (c) CAPCOA Risk Assessment Guidelines, 1993
- (d) Non-carcinogenic reference level from CAPCOA
- (e) USEPA Integrated Risk Information System, 1 in 10,000 risk
- (f) Health Risk Assessment will be performed
- (g) Concentration associated with a lifetime risk of 1 in 10,000
- (h) USEPA IRIS Reference concentration

WRITTEN ANSWER — Continued**3.3 AIR SENSITIVE RECEIVERS AND BACKGROUND AIR QUALITY****3.3.1 Sensitive Receivers**

Air sensitive receivers (ASRs) were identified based on the *TM-EIAO* criteria. Domestic premises, hotel, hostel, hospital, clinic, nursery, temporary housing accommodation, school, educational institution, office, factory, shop, shopping centre, place of public worship, library, court of law, sports stadium or performing arts centre are classified as ASRs under this scheme.

The landuses in the vicinity of the CWTC are predominantly for industrial, G/IC, residential and container - related uses. Representative ASRs have been identified in *Table 3.3a* and are also shown in *Figure 3.3a*.

Table 3.2c Emission Limits for Burning Chemical Waste and Clinical Waste at CWTC

Pollutant	Existing Emission Limits for Burning Chemical Waste (mg Nm⁻³)	BPM Limits for Burning Clinical Waste (mg Nm⁻³)
Particulates	75	<u>50</u>
Chlorine & its compounds (as chlorine)	<u>100</u>	n/a
Fluorine & its compounds (as fluorine)	25	<u>10</u>
Hydrogen sulphide	5	<u>5</u>
Carbon monoxide	150	<u>100</u>
Acidity (as sulphuric acid)	<u>100</u>	n/a
Sulphur dioxide	750	<u>250</u>
Nitrogen oxides (as NO ₂)	500	<u>400</u>
Hydrochloric acid/hydrogen chloride	<u>38</u>	50
Total phosphorus (as phosphorus)	7.5	<u>5</u>
Hydrogen fluoride	7.5	<u>5</u>
Hydrogen bromide	7.5	<u>5</u>
Toxic metals I ^(a)	3	<u>Total Cd+Hg=0.2</u>
Toxic metals II ^(b)	10	<u>Total Ni+As=1</u>
Total of toxic metals I and II	10	<u>5</u>
Other heavy metals ^(c)	n/a	<u>5</u>
Total hydrocarbons/organics (as C)	35	<u>25</u>
Opacity/smoke density	10%	<u>Ringelmann shade 1</u>
Dioxins and furans (as TEQ)	0.1x10 ⁻⁶	<u>0.1x10⁻⁶</u>

Notes:

- (a) Mercury, cadmium, antimony, and their compounds
- (b) Lead, copper, arsenic, nickel, chromium and their compounds
- (c) Lead, antimony, copper, manganese, zinc and their compounds
- (d) Emission limits to be used as a basis for calculating the emission rate of pollutants when the plant is combusting clinical wastes in combination with chemical waste are underlined

WRITTEN ANSWER — Continued**Table 3.3a** *Representative Air Sensitive Receivers*

ASR	Location	Height (mPD)	Distance from CWTC(m)
A1	Dow Chemical	6	75
A2	Tien Chu Chemical	6	110
A3	CRC Oil Depot	4.2	75
A4	Esso Oil Depot	5	375
A5	Outboard Marine	6	180
A6	Proposed CT 9	5.5	380
A7	Mayfair Gardens	25	1,500

3.3.2 *Background Air Quality*

The ambient air quality is mainly affected by emissions from the nearby industrial facilities, mobile sources and the CWTC. The nearest EPD Air Quality Monitoring Station (AQMS) is at Kwai Chung. Background air quality data monitored at this station for the year 1997 were employed in this assessment and are shown in *Table 3.3b*.

Table 3.3b *Ambient Air Quality in the Study Area^(a)*

Pollutant	Maximum 1-hr Concentration ($\mu\text{g m}^{-3}$)	Maximum 24-hr Concentration ($\mu\text{g m}^{-3}$)	Annual Average Concentration ($\mu\text{g m}^{-3}$)
RSP	-	153 (180)	46 (55)
SO ₂	258 (800)	92 (350)	18 (80)
NO ₂	238 (300)	147 (150)	49 (80)
CO	3,230 (30,000)	-	-

Notes:

- (a) Kwai Chung Air Quality Monitoring Station for the year 1997.
 (b) AQOs shown in parentheses

With reference to *Table 3.2b* it is evident that the AQMS is in full compliance with the AQOs. It should be noted that this includes the contribution from the CWTC to the background levels and that under the proposed scheme the emission limits will become more stringent.

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Background air quality data are available from a CWTC monitoring station which has operated for the last 12 months. However, as these data only cover short-term, non-continuous monitoring, they cannot truly reflect the background air quality for the criteria pollutants. Only the non-criteria pollutants will be referenced to these monitoring data as advised by the EPD, and the daily average ambient concentrations detected in 1997 are shown in *Table 3.3c*.

Table 3.3c Daily Average Ambient Concentrations of Non-criteria Pollutants

Pollutant	Average ($\mu\text{g m}^{-3}$)	Range ($\mu\text{g m}^{-3}$)
NMHC (non-methane hydrocarbon) ^(a)	125	38 - 322
VOC ^(b)	56.5	41.8 - 71.2
PCBs ^(b)	<LOD ^(d)	<LOD
Dioxins and furans ^{(b)(c)}	0.0618pgTEQ m ⁻³	4.1x10 ⁻⁴ -0.17 pgTEQ m ⁻³

Notes:

- (a) 17 measurements were taken during June and September 1997, and 17 measurements were taken in December 1997.
- (b) 2 measurements, one was taken in September 1997 and one in January 1998.
- (c) Dioxin concentration is expressed as pg m⁻³ and as 2,3,7,8 tetrachlorinated dibenzo-p-dioxin equivalents calculated by multiplying with the equivalence.
- (d) <LOD=Less than Limit of Detection

3.4**ASSESSMENT METHODOLOGY**

The incinerator discharges its atmospheric emissions through a 76.24m high stack with a standard flue gas flow rate more than 30,000Nm³ hr⁻¹. The air quality modelling was conducted using the *Industrial Source Complex (ISC3) Dispersion Model*. The emission rate of pollutants was assumed to be 1g s⁻¹ and the concentrations at the ASRs for each pollutant were evaluated based upon their respective emission rates. Meteorological data of the Tsing Yi weather station, operated by the Hong Kong Observatory for the past three years, was employed in the model runs. The maximum emission rates from clinical waste incineration at the CWTC were estimated based on the emission limits as shown in *Table 3.4a*.

WRITTEN ANSWER — Continued**Table 3.4a Emission Rates for Clinical Waste Incineration at the CWTC**

Pollutant	Emission Limit (mg Nm³)	Emission Rate (g s⁻¹)^(a)
Particulates	50	0.42
Chlorine	100	0.83
Fluorine & its compounds	10	0.08
Hydrogen sulphide	5	0.04
Carbon monoxide	100	0.83
Sulphur dioxide	250	2.08
Nitrogen oxides (as NO ₂)	400	3.33
Hydrochloric acid/hydrogen	38	0.32
Total phosphorus (as phosphorus)	5	0.04
Hydrogen fluoride	5	0.04
Hydrogen bromide	5	0.04
Cd and Hg	0.2	0.002
Ni and As	1	0.008
Other heavy metals ^(b)	5	0.042
Total heavy metals	5	0.042
Total hydrocarbons/organics (as C)	25	0.21
Dioxins and furans (as TEQ)	0.1 ng Nm ⁻³	0.833 ng s ⁻¹

Notes:

- (a) Emission rate calculated based on the CWTC existing flue gas flow rate of 30,000Nm³ hr⁻¹
- (b) Lead, antimony, copper, manganese and zinc

3.5**ASSESSMENT OF POTENTIAL IMPACTS**

The CWTC is located at the south-eastern part of the Tsing Yi Island. A review of meteorological data from the Hong Kong Observatory shows that Hong Kong is influenced by north-easterly winds for about 70% of the year. As the majority of the ASRs are located upwind of the site for the majority of the time, the potential impact of the CWTC emissions on the ASRs will be minimized.

Three trial burns of clinical waste in the rotary kiln incinerator at the CWTC have been carried out in 18, 22 and 27 November 1996. A total of 10 tonnes of clinical waste from Tuen Mun, Princess Margaret and Prince of Wales Hospitals were incinerated. The modified incinerator operated smoothly during all three trials, and the emissions of carbon monoxide, sulphur dioxide, nitrogen oxides, total hydrocarbons, and hydrochloric acid were all well

WRITTEN ANSWER — Continued

within the *BPM* emission limits for clinical waste. However, the mercury limit⁽¹¹⁾ was exceeded by approximately 0.3mg Nm⁻³. *Table 3.5a* compares the performance of the plant during the trial burn with that during the routine combustion of chemical wastes.

- (11) Please note that mercury and cadmium are regulated together and are limited by a single standard for their combined concentration.

Table 3.5a *Comparison of Emissions During the Trial Burn with those during Normal Operations*

Pollutant	Concentration (mg Nm ⁻³)	
	Trial Burn	Normal Operations
Particulates	0.2, 0.2	0.2 - 5.5
Chlorine & its compounds (as chlorine)	<1.8, <1.9	<3.3 - <4.2
Fluorine & its compounds (as fluorine)	<0.4, <0.4	<0.3 - <0.4
Hydrogen sulphide	No valid data	<0.3 -1.7
Carbon monoxide	10, 19	3 - 19
Acidity (as sulphuric acid)	8.2, 4.8	<3.1 -69.8
Sulphur dioxide	<1.5, <1.7	17.3 - 378.6
Nitrogen oxide (as NO ₂)	141, 177	199.2 - 301.2
Hydrochloric acid/hydrogen chloride	3.5, <4.5	12.1 - 30.8
Hydrogen fluoride	<0.8, <0.9	<0.8 - 1
Hydrogen bromide	<0.8, <0.9	<0.8 - <2.2
Mercury	0.5, 0.6	<0.9 x 10 ⁻³ - <0.72
Cadmium	<1.8 x 10 ⁻² , <2 x 10 ⁻²	<4.4 x 10 ⁻² - <6.4 x 10 ⁻²
Antimony	<3 x 10 ⁻³ , <3 x 10 ⁻³	<0.44 - <0.61
Lead	<2.1 x 10 ⁻² , <1.9 x 10 ⁻²	<0.52 - <0.72
Copper	<9.1 x 10 ⁻² , <9.8 x 10 ⁻²	<6 x 10 ⁻² - <0.33
Arsenic	<2 x 10 ⁻³ , <1 x 10 ⁻³	<5 x 10 ⁻³ - <2.1 x 10 ⁻²
Nickel	<9.8 x 10 ⁻² , <9.1 x 10 ⁻²	<0.11 - <0.33
Chromium	<8.5 x 10 ⁻² , <9.7 x 10 ⁻²	<4.4 x 10 ⁻² - <0.4
Manganese	6 x 10 ⁻³ - 2 x 10 ⁻² 1.4 x 10 ⁻² - 2 x 10 ⁻²	-
Zinc	1 x 10 ⁻² - 2.3 x 10 ⁻² 1 x 10 ⁻² - 2.5 x 10 ⁻²	-
Total hydrocarbons/organics (as C)	0.18, 0.25	0 - 2.3
Dioxins and furans (ngTEQ Nm ⁻³)	1.6x10 ⁻² , 2.7x10 ⁻²	2 x 10 ⁻³ - 9 x 10 ⁻²

WRITTEN ANSWER — Continued

Predicted concentrations at the identified ASRs at various height for hourly, daily and annual averages are given in *Tables 3.5b to 3.5d*. Please note that elevated ASRs are applicable for high rise buildings, such as ASR7, but that for most of the ASRs, they are less than or equal to 30mPD. The data presented in the tables are the concentration predicted at an emission rate of 1g s^{-1} .

Table 3.5b Peak Hourly Air Quality Impacts at ASRs

ASR	Location	Peak Hourly Concentration ($\mu\text{g m}^{-3}$)					
		Ground Level	30mPD	70mPD	100mPD	120mPD	150mPD
A1	Dow Chemical	3	4.5	-	-	-	-
A2	TC Chemical	3.1	4.5	-	-	-	-
A3	CRC Oil Depot	2.3	3.9	-	-	-	-
A4	Esso Oil Depot	4.6	4.8	-	-	-	-
A5	Outboard Marine	4.5	4.9	-	-	-	-
A6	Future CT 9	4.8	5	-	-	-	-
A7	Mayfair Gardens	7.7	8.9	13	15.3	15.6	14

Note:

(a) For the location of the ASRs, see *Figure 3.3a*

Table 3.5c Predicted Daily Air Quality Impact at Identified ASRs

ASR	Location	Peak 24-hr Concentration ($\mu\text{g m}^{-3}$)					
		Ground Level	30mPD	70mPD	100mPD	120mPD	150mPD
A1	Dow Chemical	0.6	1.1	-	-	-	-
A2	TC Chemical	0.7	1.9	-	-	-	-
A3	CRC Oil Depot	0.1	0.3	-	-	-	-
A4	Esso Oil Depot	1.5	2	-	-	-	-
A5	Outboard Marine	0.7	0.9	-	-	-	-
A6	Future CT 9	1.1	1.2	-	-	-	-
A7	Mayfair Gardens	0.8	0.9	1.2	1.4	1.4	1.2

Note:

(a) For the location of the ASRs, see *Figure 3.3a*

WRITTEN ANSWER — Continued**Table 3.5d Predicted Annual Average Air Quality Impact at Identified ASRs**

ASR	Location	Predicted Annual Concentration ($\mu\text{g m}^{-3}$)					
		Ground Level	30mPD	70mPD	100mPD	120mPD	150mPD
A1	Dow Chemical	0.06	0.12	-	-	-	-
A2	TC Chemical	0.09	0.34	-	-	-	-
A3	CRC Oil Depot	0.004	0.01	-	-	-	-
A4	Esso Oil Depot	0.13	0.17	-	-	-	-
A5	Outboard Marine	0.05	0.06	-	-	-	-
A6	Future CT 9	0.07	0.08	-	-	-	-
A7	Mayfair Gardens	0.06	0.06	0.07	0.07	0.07	0.07

Note:(a) For the location of the ASRs, see *Figure 3.3a*

These tables indicate that the maximum predicted concentrations are expected at 120 mPD, which is above all ASRs with the exception of A7. The worst affected level for A1 to A6 is at 30 mPD. For Mayfair Gardens (A7), which are 32 storeys high, the worst affected level will be at 120 mPD. Predicted maximum concentrations of the criteria and non-criteria pollutants at ASRs for different averaging times are shown in *Tables 3.5e to 3.5g*.

Table 3.5e Predicted Maximum Hourly Average Concentrations

ASR	Location	Predicted Hourly Concentration ($\mu\text{g m}^{-3}$) ^(a)		
		SO ₂	NO ₂ ^(b)	CO
A1	Dow Chemical	9.3	4.5	3.7
A2	TC Chemical	9.4	4.5	3.8
A3	CRC Oil Depot	8.1	3.9	3.2
A4	Esso Oil Depot	10	4.8	4
A5	Outboard Marine	10.2	4.9	4.1
A6	Future CT 9	10.3	5	4.1
A7	Mayfair Gardens	32.5	15.6	13
Background Concentration (maximum) ^(c)		258	238	3,230
AQO Assessment Criterion		800	300	30,000

Notes:

(a) Background pollutant concentrations not included in the figures.

(b) NO₂ concentration assumed to be 30% of the total NO_x.

(c) Kwai Chung Air Quality Monitoring Station for the year 1997.

WRITTEN ANSWER — Continued

It is evident from *Table 3.5e* that the incremental impact of emissions from the proposal facilities are negligible. All of the predicted concentrations are at or below 5% of the impact criteria with the exception of arsenic which was predicted at a level 40% of the criterion. It should be noted that the emission concentration for arsenic assumed that no nickel was emitted from the plant and that is a highly conservative assumption. Likewise the nickel emission rate assumed that arsenic levels were at zero. As the Kwai Chung AQMS is in full compliance with the AQOs and because the proposals will tighten emission standards, the cumulative impact will not result in breaches of the AQOs.

Table 3.5f Predicted Maximum Daily Average Concentrations

ASR	Location	Predicted Daily Concentration ($\mu\text{g m}^{-3}$) ^(a)			
		SO ₂	NO ₂ ^(b)	RSP	Hydrogen Sulphide
A1	Dow Chemical	2.3	1.1	0.5	0.045
A2	TC Chemical	3.9	1.9	0.8	0.078
A3	CRC Oil Depot	0.6	0.3	0.1	0.012
A4	Esso Oil Depot	4.1	2	0.8	0.082
A5	Outboard Marine	1.8	0.9	0.4	0.035
A6	Future CT 9	2.5	1.2	0.5	0.050
A7	Mayfair Gardens	2.9	1.4	0.6	0.058
Background Concentration (max.)^(c)		92	147	153	-
AQO Assessment Criterion/Health Standard		350	150	180	150^(d)

Notes:

(a) Background pollutants concentration not included in the figures.

(b) NO₂ concentration assumed to be 30% of the total NO_x.

(c) Kwai Chung Air Quality Monitoring Station for the year 1997.

(d) Revised WHO Air Quality Guidelines for Europe, 1996

The incremental impacts are predicted to be a maximum of approximately 1% of the assessment criteria. For the reasons outlined above the cumulative impact will not lead to a breach of these levels.

WRITTEN ANSWER — Continued**Table 3.5g Predicted Maximum Annual Average Concentrations ($\mu\text{g m}^{-3}$)**

Pollutant	A1	A2	A3	A4	A5	A6	A7	Assessment Criteria
NO ₂	0.4	1.132	3.3x10 ⁻²	0.566	0.2	0.267	0.233	80
SO ₂	0.25	0.707	2.1x10 ⁻²	0.354	0.125	0.166	0.146	80
RSP	5x10 ⁻²	0.143	4x10 ⁻³	7.1x10 ⁻²	2.5x10 ⁻²	3.4x10 ⁻²	2.9x10 ⁻²	55
HCI	3.7x10 ⁻²	0.106	3x10 ⁻³	5.4x10 ⁻²	1.9x10 ⁻²	2.6x10 ⁻²	2.3x10 ⁻²	7
P	5x10 ⁻³	1.4x10 ⁻²	4x10 ⁻⁴	7x10 ⁻³	2.5x10 ⁻³	3x10 ⁻³	3x10 ⁻³	0.07
HF	5x10 ⁻³	1.4x10 ⁻²	4x10 ⁻⁴	7x10 ⁻³	2.5x10 ⁻³	3x10 ⁻³	3x10 ⁻³	5.9
HBr	5x10 ⁻³	1.4x10 ⁻²	4x10 ⁻⁴	7x10 ⁻³	2.5x10 ⁻³	3x10 ⁻³	3x10 ⁻³	24
Cd	1x10 ⁻⁴	3.5x10 ⁻⁴	1x10 ⁻⁵	1.5x10 ⁻⁴	5x10 ⁻⁵	1x10 ⁻⁴	5x10 ⁻⁵	3.5^(a) / 6x10^{-2(b)}
Hg	1x10 ⁻⁴	3.5x10 ⁻⁴	1x10 ⁻⁵	1.5x10 ⁻⁴	5x10 ⁻⁵	1x10 ⁻⁴	5x10 ⁻⁵	1
Ni	5x10 ⁻⁴	1.5 x10 ⁻³	4x10 ⁻⁵	5x10 ⁻⁴	2.5x10 ⁻⁴	3x10 ⁻⁴	2.5x10 ⁻⁴	0.24^(a) / 3x10^{-2(b)}
As	5x10 ⁻⁴	1.5 x10 ⁻³	4x10 ⁻⁵	5x10 ⁻⁴	2.5x10 ⁻⁴	3x10 ⁻⁴	2.5x10 ⁻⁴	0.5^(a) / 2.5x10^{-3 (b)}
Pb	1x10 ⁻³	2.8x10 ⁻³	8x10 ⁻⁵	1.4x10 ⁻³	5x10 ⁻⁴	6x10 ⁻⁴	6x10 ⁻⁴	0.5
Cu	1x10 ⁻³	2.8x10 ⁻³	8x10 ⁻⁵	1.4x10 ⁻³	5x10 ⁻⁴	6x10 ⁻⁴	6x10 ⁻⁴	2.4
Mn	1x10 ⁻³	2.8x10 ⁻³	8x10 ⁻⁵	1.4x10 ⁻³	5x10 ⁻⁴	6x10 ⁻⁴	6x10 ⁻⁴	0.05
Zn	1x10 ⁻³	2.8x10 ⁻³	8x10 ⁻⁵	1.4x10 ⁻³	5x10 ⁻⁴	6x10 ⁻⁴	6x10 ⁻⁴	35

Notes:

(a) Non-carcinogenic Reference Concentration

(b) Concentration equivalent to a lifetime risk of 1x10⁻⁴

It is evident that the impacts of the emissions represent a minor fraction of the assessment criteria. The increased stringency of the new standards will ensure that the cumulative effects do not result in breaches of the AQOs. Heavy metal concentrations have been conservatively estimated to be based upon 100% of their respective class. Even under such a worst case assumption the levels are well below the respective assessment criteria.

WRITTEN ANSWER — *Continued*

Plots of pollutant concentration at 1 g s^{-1} at ground level, 30mPD, 70mPD, 100mPD and 120mPD are shown in *Figures 3.5a to 3.5e*.

The assessment of possible impacts due to emissions of polychlorinated dibenzo-p-dioxins (PCDD) and polychlorinated dibenzofurans (PCDF) was based upon a simple quantitative health risk assessment approach⁽¹²⁾. The assessment was focused upon the risks at the nearest residential ASR and used the maximum predicted annual average concentration, as reported in *Table 3.5d*.

The maximum predicted concentration was 5.8×10^{-2} fg TEQ m^{-3} , which is equivalent to 0.09% of the background concentration reported in *Table 3.3c* (61.8 fgTEQ m^{-3}). This assumes that the operation of the CWTC when incinerating clinical waste will add to the background concentrations but it should be noted that this is a highly conservative assumption for three reasons:

- the CWTC must attain the same emission limit (0.1 ngTEQ Nm^{-3}) whether operating in its current mode and treating just chemical wastes or should it be used for the coincineration of clinical and chemical wastes;
- as presented in *Table 3.5a*, the trial burn data demonstrate that during the trial burns, the concentration of dioxins and furans was reported to be below the upper end of the range reported during normal operations;
- the use of activated carbon injection will significantly reduce the concentrations of volatile dioxins and furans emitted from the facility during the combustion of clinical wastes.

Notwithstanding the above, the assessment has been undertaken on the conservative assumption that the emissions are in addition to those currently observed. The estimated worst case dose was calculated based upon the following equation:

WRITTEN ANSWER — Continued

$$INH = \frac{Cy \times 10^3 \times IR \times ET \times EF \times ED \times ABS_{inh}}{BW \times AT}$$

Where:

- INH* = intake via inhalation (ngTEQ kg⁻¹ d⁻¹);
Cy = concentration in air (µg m⁻³);
IR = inhalation rate (m³ hr⁻¹);
ET = exposure time (hr d⁻¹);
EF = exposure frequency (d a⁻¹);
ED = exposure duration (a);
ABS_{inh} = absorption fraction (unitless);
BW = body weight (kg);
AT = averaging time (d).

- (12) Environmental Resources Management (1996) *Risk Assessment of Dioxin Releases from Municipal Waste Incineration Processes* DoE Reference HMIP/CPR2/41/1/181.

The following were the assumed values for each of these parameters:

- Cy* = 5.8 x 10⁻¹¹ µgTEQ m⁻³;
IR = 0.62 m³ hr⁻¹;
ET = 21 hr d⁻¹;
EF = 330 d a⁻¹;
ED = 30 a;
ABS_{inh} = 1;
BW = 60 kg;
AT = 10,950 d

On the basis of these conservative assumptions, the calculated intake via inhalation was estimated to be 1.1x10⁻⁸ ngTEQ kg⁻¹ d⁻¹, which is equivalent to 1.1x10⁻⁵ pgTEQ kg⁻¹ d⁻¹. The emerging international consensus is that an exposure of 1 pgTEQ kg⁻¹ d⁻¹ is deemed the Tolerable Daily Intake (TDI) from all sources. The maximum incremental impact of the emissions from the modified CWTC is therefore 0.001% of the TDI and hence must be considered to be negligible.

WRITTEN ANSWER — Continued**3.6** ***MITIGATION MEASURES***

The existing CWTC will be modified to satisfy the emission limits and criteria specified in the *BPM* (except for HCl which will satisfy the more stringent emission limit for incineration of chemical waste, ie 38 mg Nm⁻³). Modelling results indicated that both the AQO and non-AQO criteria will be satisfied with the modified CWTC. Further mitigation measures are therefore not necessary in terms of air quality.

3.7 ***ENVIRONMENTAL MONITORING AND AUDIT REQUIREMENTS***

The *BPM* specifies monitoring requirements for pathological waste incinerators which are designed to oversee the performance of the incinerator, and to ensure that any breaches of air pollution control requirements are easily identified. The current EM&A programme (see *Tables 3.7a* and *3.7b*) for the CWTC has already included the continuous monitoring all the priority parameters (including oxygen, carbon monoxide, carbon dioxide, particulates, sulphur dioxide, nitrogen oxides, hydrogen chloride, gas temperature) specified in the *BPM* at the stack, it is considered that modification of the existing EM&A programme are therefore not required except for the monitoring frequency for mercury which should also be monitoring continuously.

3.8 ***SUMMARY AND RECOMMENDATIONS***

An air quality assessment for the proposed disposal of clinical waste at the CWTC has been performed. From the air quality modelling results, adverse air quality impacts are not expected if the emissions from the incineration stack comply with the requirements of the *BPM*. More stringent limits will apply to the atmospheric emissions during the combustion of clinical waste, and the trial burn has demonstrated that the levels of all pollutants can meet the more stringent limits than when clinical waste is combusted.

WRITTEN ANSWER — Continued**Table 3.7a Existing Air Quality Monitoring Requirements at CWTC - Regular Stack Gas Monitoring**

Pollutant	Existing Requirements for Burning Chemical Waste	Suitability for Burning Clinical Waste
Particulates	Once per week	✓ ^(c)
Chlorine & its compounds (as chlorine)	Once per week	✓ ^(c)
Fluorine & its compounds (as fluorine)	Once per week	✓ ^(c)
Carbon monoxide	Continuous	✓ ^(c)
Hydrogen sulphide	Once per week	✓ ^(c)
Acidity (as sulphuric acid)	Once per week	✓ ^(c)
Sulphur dioxide	Continuous	✓ ^(c)
Nitrogen oxide (as NO ₂)	Continuous	✓ ^(c)
Hydrochloric acid/hydrogen chloride	Continuous	✓ ^(c)
Total phosphorus (as phosphorus)	Once per month	✓ ^(c)
Hydrogen fluoride	Once per month	✓ ^(c)
Hydrogen bromide	Once per month	✓ ^(c)
Toxic metals I ^(a)	Once per week	✓ ^(c) but increase the monitoring frequency for mercury to continuously
Toxic metals II ^(b)	Once per week	✓ ^(c)
Total of toxic metals I and II	Once per week	✓ ^(c)
Total hydrocarbons / organics (as C)	Continuous	✓ ^(c)
Opacity / smoke density	Continuous	✓ ^(c)
Dioxins and furans (as TEQ)	Monthly	✓ ^(c)

Notes:

- (a) Mercury, cadmium, antimony, and their compounds
- (b) Lead, copper, arsenic, nickel, chromium and their compounds
- (c) Maintain the same monitoring frequency

WRITTEN ANSWER — *Continued***Table 3.7b** *Existing Air Quality Monitoring Requirements at CWTC - Ambient Air Quality Monitoring*

Parameter	Existing Requirements for Burning Chemical Waste^(c)	Suitability for Burning Clinical Waste
Sulphide dioxide	Half yearly ^(a) at on-site and off-site monitoring stations ^(b)	✓ ^(d)
Nitrogen oxides (as Nitrogen dioxide)	Half yearly (summer & winter), at on-site and off-site monitoring stations ^(b)	✓ ^(d)
TSP	Half yearly at on-site and off-site monitoring stations ^(b)	✓ ^(d)
RSP	Half yearly at on-site and off-site monitoring stations ^(b)	✓ ^(d)
Non-methane hydrocarbons	Half yearly at on-site and off-site monitoring stations ^(b)	✓ ^(d)
VOCs	Half yearly at on-site and off-site monitoring stations ^(b)	✓ ^(d)
PCB	Half yearly at on-site and off-site monitoring stations ^(b)	✓ ^(d)
Dioxins	Half yearly at on-site and off-site monitoring stations ^(b)	✓ ^(d)

Notes:

- (a) One monitoring during summer and one during winter
- (b) See *Figures 3.7a* and *3.7b* for the monitoring locations
- (c) For those parameters (SO₂, NO₂, TSP and RSP) that are listed in the AQO, it should comply with the 24 hr limits specified in AQO. For those parameters which are not defined under the AQO, no control limits are defined but the monitoring results will be compared with the baseline levels
- (d) Maintain the same monitoring locations and frequency

