

# OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 10 November 1999

The Council met at half-past Two o'clock

## MEMBERS PRESENT:

THE PRESIDENT

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

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

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

THE HONOURABLE DAVID CHU YU-LIN

THE HONOURABLE HO SAI-CHU, S.B.S., J.P.

THE HONOURABLE CYD HO SAU-LAN

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

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

THE HONOURABLE LEE KAI-MING, S.B.S., 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 AMBROSE CHEUNG WING-SUM, J.P.

THE HONOURABLE HUI CHEUNG-CHING

THE HONOURABLE CHAN KWOK-KEUNG

THE HONOURABLE CHAN YUEN-HAN

THE HONOURABLE BERNARD CHAN

THE HONOURABLE CHAN WING-CHAN

THE HONOURABLE CHAN KAM-LAM

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

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

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE GARY CHENG KAI-NAM, J.P.

THE HONOURABLE SIN CHUNG-KAI

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 YEUNG YIU-CHUNG

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH

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

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

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

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

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE SZETO WAH

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

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

THE HONOURABLE CHRISTINE LOH

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

**PUBLIC OFFICERS ATTENDING:**

THE HONOURABLE MRS ANSON CHAN, G.B.M., J.P.  
THE CHIEF SECRETARY FOR ADMINISTRATION

THE HONOURABLE DONALD TSANG YAM-KUEN, J.P.  
THE FINANCIAL SECRETARY

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

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

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

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

MISS CHEUNG SIU-HING  
SECRETARY FOR TRADE AND INDUSTRY

**CLERKS IN ATTENDANCE:**

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

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT 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	<i>L.N. No.</i>
Port Control (Public Cargo Working Area) (No. 2) Order 1999 .....	268/99
Employees Retraining Ordinance (Replacement of Schedule 2) Notice 1999 .....	269/99
Shipping and Port Control Regulations (Amendment of Seventh Schedule) Notice 1999 .....	270/99
Factories and Industrial Undertakings (Confined Spaces) Regulation (L.N. 18 of 1999) (Commencement) Notice 1999 .....	271/99
Mutual Legal Assistance in Criminal Matters (Australia) Order (Cap. 525 Sub. Leg.) (Commencement) Notice 1999 .....	272/99

## ORAL ANSWERS TO QUESTIONS

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

### Strengthening Supervision over Kindergartens

1. **MISS EMILY LAU** (in Cantonese): *Madam President, in view of the recent cases of over-enrolment and overcharging of fees by some kindergartens, will the executive authorities inform this Council:*

- (a) *whether they plan to amend the relevant legislation to strengthen the supervision over kindergartens and increase the penalties for such*

*offences; if so, when the relevant bill is expected to be introduced into this Council;*

- (b) of the follow-up actions taken in regard to refunding the parents the fees overcharged by the kindergartens concerned; whether prosecution will be instituted against those kindergartens which refuse to refund the overcharged fees to the parents; and*
- (c) whether they will consider stepping up publicity efforts to educate parents on how to ascertain if a kindergarten has already been registered with the Education Department (ED), and to choose a suitable kindergarten?*

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

- (a) The Government takes a serious view of kindergartens over-enrolling and overcharging fees in breach of regulations. The ED has taken a number of measures to prevent recurrence of similar incidents; these include stepping up monitoring and prosecution action, and enhancing parents' knowledge of kindergartens.

The ED is at present conducting a review of the Education Ordinance and Regulations, including the introduction of substantial increases in the penalties for over-enrolment and overcharging of fees. We anticipate that the relevant legislative amendment will be submitted to the Legislative Council for consideration in 2001-02.

- (b) Regulation 67 of the Education Regulations requires every school to conspicuously exhibit in its premises a certificate setting out the fee per instalment, the number of instalments and the inclusive fee for every class in the school. Unless otherwise permitted in writing by the Director of Education, no supervisor, manager or teacher shall charge or accept payment of any money or any school fees whatsoever other than the inclusive fee as above stated. The ED will investigate cases of overcharging of fees. If a case is substantiated, the school concerned will be required to refund the

overcharged fees. Other actions, including the issue of warning to the offender, prosecution or withdrawal of approval of supervisor, may also be considered in respect of each individual case. The ED recently issued a warning to a kindergarten which overcharged school fees and required it to refund the overcharged fees to parents. The kindergarten has already effected the refund.

- (c) Section 18(2) of the Education Ordinance requires the supervisor of a school to exhibit the certificate of registration or the certificate of provisional registration or a copy issued by the Director of Education at all times in a conspicuous place in each of the premises specified in the certificate. The ED has adopted various measures to help parents identify registered kindergartens and choose a suitable kindergarten. These include:
- (i) A list of registered kindergartens as well as kindergartens undergoing registration is kept in the District Offices for viewing by parents and the public; it is also uploaded to the ED's website. The list is updated regularly.
  - (ii) Leaflets advising parents how to choose kindergartens are published. These leaflets are available in Maternal and Child Health Centres, District Education Offices and District Offices.
  - (iii) Public announcements on how to choose kindergartens are broadcast on radio and television.

In addition, the Committee on Home-School Co-operation will be publishing, before the end of the year, profiles on key features of kindergartens for reference by parents. The ED is also developing performance indicators to enable kindergartens to conduct self-evaluation and to improve their services. These indicators will be ready by September 2000 for distribution to kindergartens. They can also serve as reference by parents.



**MISS EMILY LAU** (in Cantonese): *Madam President, the Secretary mentioned in the main reply that the Government might issue warning to or prosecute a kindergarten that overcharges fees, or withdraw the approval of its supervisor. May I ask the Secretary the number of kindergartens on which penalties of various degrees have been imposed, the total amount of fees refunded, and the number of pupils involved to date?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): *Madam President, I do not have the data on the number of pupils involved on hand. I will obtain the information from the ED and answer this question in writing.*

In the past academic year, that is, 1998-99, the ED received a total of six complaints about overcharging of school fees or miscellaneous fees. Of the six cases, one was not substantiated; three were not about overcharging of school fees but about refreshment fees of which the school had not informed parents that they were paid on a voluntary basis, and the ED has already issued a warning to the schools concerned. The remaining two cases involving overcharging of school fees were substantiated upon investigation. The ED has issued a warning to the relevant schools which have agreed to refund the pupils. As regards the information on the other items requested by Miss Emily LAU, I will make a note of them and answer her in writing later on. (Annex I)

**MISS EMILY LAU** (in Cantonese): *Madam President, I would like to remind the Secretary that the information I asked for concerns the number of pupils and the amount of money involved. I wish to know the total amount of money refunded and how serious the problem is.*

**MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, recently there has been a case where parents were not in a position to bargain. A kindergarten recruited pupils at a lower school fee but charges a higher fee one month after school started. Its excuse is that the ED has approved of a higher fee only recently. May I ask whether: first, a school can change its school fees in the middle of a term; second, the Government has any means to prevent such incidents from happening again?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, schools are not allowed to charge a different school fee in the middle of the term without the approval of the Director of Education. As I have pointed out in the main reply, every school is required to conspicuously exhibit in its premises a certificate setting out the fee per instalment for every class in the school. If Mr YEUNG has further information in this regard, I am prepared to pass it to the ED for follow-up.

**MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, I have a follow-up. It is reported that the school has appealed on the account that the school fee approved by the ED was lower than standard, and the school was dissatisfied and lodged an appeal. The appeal was later substantiated and the school raised the school fee subsequently. This is the case reported in the newspaper.*

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

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): I do not have anything to add at the moment but if Mr YEUNG can provide me with more information, I am prepared to answer in writing what the specific situation is. As at the moment, I am not in a position to decide the authenticity of this report in the newspaper. (Annex II)

**MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, does the Government admit that it is due to its long-standing slackness in the supervision over kindergartens that a host of maladies such as operation in breach of regulations, overcharging and over-enrolment have arisen? Is the Government prepared to step up the inspection of kindergartens and prosecute those operating in breach of regulations? Also, to enhance the deterrent effect, will the Government also set up a simple reporting mechanism for the public and parents to complain against kindergartens operating in breach of regulations?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, over the last year, we have actually stepped up the inspection of kindergartens for over-enrolment or overcharging of fees. For example, last year, other than the six cases mentioned above, 16 cases of over-enrolment were investigated and the schools concerned were subsequently prosecuted. In August and September of this academic year, 1999-2000, colleagues of the ED inspected all kindergartens. At the same time, we will also step up the investigation and supervision of schools against which complaints have been received or the track records of which are less than satisfactory. Moreover, the ED will also consider Mr CHEUNG's suggestion of setting up a simpler or centralized reporting mechanism for the convenience of parents.

**MR HO SAI-CHU** (in Cantonese): *Madam President, I am particularly concerned about over-enrolment in kindergartens, as this substantially increases the risk of young lives being jeopardized when an accident happens. The Secretary has said in the first paragraph of the main reply that substantial increases in the penalties will be introduced. May I ask the Secretary how "substantial" the increases will be? As schools can reap huge profits in over-enrolment, if the increases in or the amounts of the penalties are not substantial enough, there will not be adequate deterrent effect on the schools. Apart from the substantial increase in the fines, will there be other penalties such as suspension of the licence of the kindergartens that have repeatedly committed offences, and even imprisonment of the persons-in-charge?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, the maximum penalties at present are a \$5,000 fine and one year's imprisonment. At the moment, we are contemplating raising the fine from \$5,000 to \$30,000. I would like to add that the fine of \$5,000 or any other amount meted out depends basically on the number of pupils over-enrolled in each class and is to be determined by the Court. Therefore, after the fine is increased from \$5,000 to \$30,000, if there are 10 classes and the Court rules that all the 10 classes are over-enrolled, the maximum fine will be 10 times \$30,000, totalling at \$300,000. I feel that this six-fold increase should qualify as a substantial increase.

**MR MA FUNG-KWOK** (in Cantonese): *Madam President, may I ask whether the Government will consider requiring kindergartens to state on the enrolment forms whether the school is licensed, the number of pupils to be enrolled and the rates of fees charged?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): As far as I know, Madam President, there is no requirement at present that kindergartens have to state clearly in the recruitment advertisement the rates of fees charged. However, I will put Mr MA's suggestion on record and discuss with colleagues in the ED whether this is feasible.

**MR LAU CHIN-SHEK** (in Cantonese): *Madam President, in the second paragraph of the main reply, the Secretary said that if a case is substantiated, the school concerned will be required to refund the fees overcharged and other actions may also be considered in respect of each individual case. Will the Government give us the relevant figures, other than the amounts refunded, on the number of schools subsequently prosecuted? If this information is not available, why not? If the schools are only required to refund the overcharged fees but no prosecutions are brought against them, is there any deterrent effect?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, according to the information I gave when answering Miss LAU, we issued a warning to the kindergartens against which the cases had been substantiated and the schools agreed to refund the money. We had considered if it was necessary to prosecute them but according to the advice we received, the chance of convicting them was slim under the circumstances and so we decided not to take further action. However, we also consider that this is a rather serious problem. So, I can make an undertaking here that we will continue to handle each case on an independent basis, and other than issuing a warning ordering the school to refund the overcharged fees, we will more actively examine whether other follow-up actions can be taken. As I have said in the main reply, the first follow-up action is of course prosecution, and the second is to draw up a provision allowing the Director of Education to withdraw the approval of the supervisor concerned when considering his appointment.

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

**MR HOWARD YOUNG:** *Madam President, the original question addresses two issues, one is over-enrolment, and the other is overcharging of fees. I notice that the Secretary's reply is concentrated on overcharging, and I would like to ask a question on over-enrolment. Does the Government feel that cases of over-enrolment have reached the extent of causing danger to the safety of students in kindergartens which should warrant more positive and quick actions rather than just imposing fines after the event?*

**SECRETARY FOR EDUCATION AND MANPOWER:** Madam President, over-enrolment of students in kindergartens, of course, is a matter of grave concern to the Administration. Therefore, when I said in my main reply that we are contemplating an increase in penalty, this penalty applies equally to cases of over-enrolment. Furthermore, in this academic year during the months of August and September, officers from the ED visited each one of the kindergartens. One main purpose is actually to head-count the students to ensure that the kindergartens have not over-enrolled the students. So I do agree that it is a matter of concern and we will continue to do our utmost to address this concern.

### **Implementation of the Interception of Communications Ordinance**

2. **MR JAMES TO** (in Cantonese): *Madam President, the Government has not yet announced the commencement date of the Interception of Communications Ordinance, which was enacted some two years ago at the end of June 1997. In this connection, will the Government inform this Council:*

- (a) *of the progress of the review and assessment conducted by the authorities since a question on this issue was raised in this Council last September; the anticipated date for the completion of these tasks and whether a timetable has been set for such;*

- (b) *whether it plans to implement the Ordinance; if so, of the preparation that has been made for implementing the Ordinance; and*
- (c) *whether the Government has changed its stance stated in the consultation paper on the White Bill on Interception of Communications Ordinance that it would accept the key recommendations in the Law Reform Commission Report, including the introduction of a judicial warrant system and the setting up of a Supervisory Authority to receive complaints about unlawful interception of communications by law enforcement agencies?*

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

- (a) When the Interception of Communications Bill was discussed in the then Legislative Council in June 1997, the Government expressed very clearly its objections to the enactment of the Bill. The Government considered that the implementation of the Interception of Communications Ordinance would seriously affect the ability of the law enforcement agencies to fight serious crime and to safeguard the security of Hong Kong. Since the Bill was passed by the then Legislative Council, we have been conducting a comprehensive review of the whole issue of regulation of interception of communications. The review includes researching and evaluating the legislation and operational practices of other countries in this area; assessing public views received from the public consultation on the White Bill on Interception of Communications as well as changes introduced by the Ordinance and the enforcement problems arising from it.

As issues relating to interception of communications are highly complicated, we need to handle them carefully. It is difficult for us to commit to a firm timetable for completing the review at this point in time but we will endeavour to proceed with the task as quickly as practicable.

- (b) The review of interception of communications is still underway. When the review has been completed, we shall report to this Council on how we propose to take the matter forward. The question of the implementation of the Interception of Communications Ordinance and the relevant preparatory work fall within the ambit of this review.
- (c) As stated above, the Government is conducting a comprehensive review of interception of communications which will include consideration of the recommendations of the Law Reform Commission. Until the review has been completed, we cannot confirm the various elements of the future system regulating the interception of communications. While we do not rule out the adoption of any of the Law Reform Commission's recommendations for they are covered by our review, it is premature at this stage to confirm whether any particular recommendation will be adopted.

**MR JAMES TO** (in Cantonese): *Madam President, the United Nations Human Rights Committee has recently come to a conclusion that our existing legislation is clearly in contravention of the covenant on human rights. The Chairperson of the Committee has also told our government officials that implementing the covenant is the least and immediate responsibility they have to carry out. It has been more than two years since the reunification of Hong Kong. Work related to the bill on "scrapping the two Municipal Councils" and the merging of the two exchanges were completed in a year or so. But according to the reply given by the Government, the review is not going to be completed within the foreseeable future.....*

**PRESIDENT** (in Cantonese): Mr TO, please come to your supplementary question direct.

**MR JAMES TO** (in Cantonese): *The Government has, on the one hand, allowed legislation to exist in violation of human rights, the covenant on human rights and the Basic Law every day and, on the other, failed to enforce legislation passed by the legislature, thereby bringing Hong Kong into disrepute. Will government officials, the government headed by Mr TUNG Chee-hwa feel ashamed as a result of this?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the Honourable James TO has made a number of key points, one of which is concerned with the views put forward by the Law Reform Commission and the Human Rights Committee. He pointed out that, according to the covenant on human rights, our current legislation may not be able to fully protect the privacy of the public to prevent them from being infringed indiscriminately or illegally. First of all, I need to point out that any work done currently with respect to the interception of communications is governed by the Telecommunication Ordinance or the Post Office Ordinance. It can be done only after the Chief Executive or the Chief Secretary for Administration has given their personal consent. Therefore, what has been done is absolutely legal. It is not done in an indiscriminate manner too. For these reasons, I cannot agree with Mr TO who considers our existing legislation in violation of the covenant on human rights.

As for how to perfect our legislation and enable it to fully protect human rights, we have undertaken to conduct a comprehensive review which is ongoing. Mr TO has also asked why it has taken so long for legislation already passed by this Council to be implemented. In fact, no matter it is in the United Kingdom or Hong Kong, it will take the executive authorities quite some time to examine how to implement the many ordinances passed in whole or part of them before implementation.

**MR ANDREW CHENG** (in Cantonese): *Madam President, according to the information provided by the Electronic Privacy Information Centre 1999, many liberal countries which safeguard personal privacy will safeguard the freedom of communications and regulate executive authorities' abusive acts or infringement*



*of privacy by legislative means. Although Hong Kong is already an international or Asian communications centre, we can still find paging companies having failed to take messages related to Falun Gong. Will the Government inform this Council how it can convince investors that the freedom of communications in Hong Kong is still being protected? Can the Government act as a role model to ensure that private communications between members of the public will not be intercepted by the Government indiscriminately?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the protection of personal privacy is of paramount importance. Legislation and operational guidelines of foreign countries have been constantly changing. In the course of study, technological development will also be considered jointly. Let me take the United Kingdom as an example. According to the information published by the Home Department of the United Kingdom, the British Government has, since as early as 1937, authorized the Secretary of State for the Home Department to intercept communications under a warrant system. It was only until 1985 that the British Government decided to regulate the interception of communications by law. We can thus see that it takes considerable time before a complete set of legislation can be put in place for comprehensive regulation. We have been constantly carrying out active research. We can also assure the Honourable Member that we will consider the situation in foreign countries in the course of research. For instance, the United Kingdom published a consultation paper in June this year on a review of legislation on interception of communications. We will examine the consultation paper, the views collected by the authorities concerned and legislation made by the British Government as well as other governments before coming to a conclusion.

**MR ALBERT HO** (in Cantonese): *Madam President, I think the Government is trying to evade part (c) of the main question. Actually, part (c) pointed out clearly that the Government had stated in the consultation paper on the White Bill on Interception of Communications Ordinance that it would accept the recommendations in the Law Reform Commission Report, that is, the Government is willing to come under the supervision of a judicial warrant system in exercising its power of interception. Now the Government is not only*

*unwilling to appoint an effective date for an ordinance that has already been enacted, but also trying to pass the subject back to the Law Reform Commission for another review. Nevertheless, the legislature has made it clear that it accepts the setting up of a supervisory mechanism by means of a judicial warrant system. Will the Government inform this Council what it really means if it is not altering its position for it is unwilling to make a clear commitment that it will continue to support in principle the recommendations originally put forward by the Commission? May I ask the Secretary for Security once again whether there has been a change in the Government's position? If so, why? Is it related to the change in Hong Kong's sovereignty in 1997?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, as I have stated in the main reply, we are holding an open attitude towards the views put forward by the Law Reform Commission. In the current review, we have fully examined all views held by the Commission. The judicial warrant system mentioned by the Honourable Member is a significant change. It may seriously affect our work in combating serious crimes or protecting Hong Kong's security. Therefore, before coming to a conclusion, we must examine the impact carefully. I want to cite the United Kingdom example once again. In the consultation paper published in June, the British Government expressed its view that administrative warrants rather than judicial warrants should be adopted. However, I must stress that this does not mean that we have reached any conclusion. The review we are conducting at the moment is absolutely not related to the transfer of Hong Kong's sovereignty.

**MR ALBERT HO** (in Cantonese): *Madam President, the Secretary has still not answered my supplementary question. The Government originally stated in the consultation paper that it would accept this principle. However, the Government seems to be thinking now that it is better to resort to administrative means. Will the Secretary answer clearly whether there is a change in the Government's position? Has the Government withdrawn the views it made in the former White Bill, thinking the assessment it made previously is wrong?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I have to reiterate that we have not yet reached any conclusion. We have only taken note of the views held by the Law Reform Commission and the views made by the Government in the White Bill published in 1997. Nevertheless, we still need to review whether a judicial warrant system provides the best solution.

**DR RAYMOND HO** (in Cantonese): *Madam President, according to the Secretary, the scope of the Interception of Communications Bill is very extensive and complicated. Will the Secretary inform this Council of the key elements leading to such complexity?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I think the most complicated issue involves how to effectively carry out enforcement work and safeguard Hong Kong while striking a balance between giving better protection to human rights and enhancing accountability to society. I believe Dr HO understands that every government needs to carry out a certain degree of interception, and such work also requires a certain degree of secrecy. Of course, we should enhance our accountability in the light of social development. We note that after undergoing development for one or two centuries, many foreign governments will introduce such systems as giving certain independent supervisory bodies and legislative organs a certain degree of supervisory power, setting up some complaints mechanisms or publicizing some figures. We are fully prepared to consider all these measures. However, before further publicizing our information, we must consider whether this will affect our law enforcement work and our ability to protect Hong Kong's security. This is where the complexity lies.

**MISS MARGARET NG** (in Cantonese): *Madam President, in the White Bill on Interception of Communications published in February 1997, the Hong Kong Government has taken into account Hong Kong's ability to protect itself and the established practice of seeking judicial warrants. In fact, the enacted Ordinance mentioned by Mr James TO will only be more conservative than the White Bill should there be any difference between the two. Will the Government*

*inform this Council what has really happened that makes it difficult for the Ordinance to be implemented while the former White Bill can allow for a more lenient approach?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, as a matter of fact, we have already pointed out that the private bill moved by Mr James TO in the former Legislative Council will pose enormous difficulties in enforcement. For instance, his bill has made no provisions for any exemption and this has made it impossible for some government departments to carry out essential interception work. For example, the Office of the Telecommunications Authority will not be able to monitor radio waves which have caused disturbance to the airport navigation system. The police might also find it impossible to monitor certain communications of unidentifiable targets or radio frequency (generally smuggling activities). Furthermore, the warrant proposed in the bill moved by Mr TO has a very limited validity period. However, as pointed out in the consultation paper published by the British Government recently, crimes have become increasingly complicated nowadays and the approaches adopted by criminals have become increasingly sophisticated. Therefore, it will take a long period of time for the interception of communications to be carried out. For these reasons, as I have mentioned repeatedly, this bill passed before the reunification will bring our law enforcement departments immense difficulties.

**MISS EMILY LAU** (in Cantonese): *Madam President, in answering the supplementary question raised by Mr James TO, the Secretary said that the Government had absolutely not violated the covenant in enforcing or implementing the Ordinance. She therefore did not agree to the views held by the Committee on Human Rights with respect to such violation. Madam President, if a place or a country has signed the covenant expressing its wish to accept and fulfil the covenant obligations and present reports to the Committee regularly but it eventually turns out that its local government stands up and objects to the Committee immediately after the Committee has made some authoritative remarks, does the Secretary mean to tell the public that what the Committee said is meaningless? What role does the Secretary think the Committee should play with respect to monitoring Hong Kong in enforcing*

*human rights? Does it mean that whenever there is a divergence of views between the Government and the Committee, they can go on to say whatever they like? Such being the case, what meaning does the hearings conducted in Geneva have?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, we very much respect the views held by the Committee on Human Rights, just as we very much respect the views held by the Law Reform Commission. However, I have to reiterate that what has been mentioned in the relevant covenant on human rights is "no one shall be subjected to arbitrary interference with his privacy". All acts related to the interception of communications under our existing legislation and system are legal. They can definitely not be carried out in an indiscriminate manner for the personal consent of the Chief Executive or the Chief Secretary for Administration must be sought beforehand. Therefore, I am of the view that what we have done is not in contravention of the covenant on human rights.

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

**MR ANDREW WONG** (in Cantonese): *Madam President, I think the Secretary has, in answering the supplementary question raised by the Honourable Miss Margaret NG, answered the supplementary question raised by Dr Raymond HO as well. After the enactment of the Members' Bill moved by Mr James TO in 1997, the Government found great difficulties in enforcement. The Secretary has also listed all the difficulties very clearly just now. Such being the case, why do we not move an amendment bill to solve all the problems raised by the Secretary completely? Why is the matter still dragging on after two years? This is precisely where the crux of the problems lies.*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, to start with, I want to reiterate that, according to our research information, no matter it is in the United Kingdom or Hong Kong, it is not at all rare for a piece of legislation to become effective several years after its enactment. Furthermore, we have no intention to delay the matter over the past two years. I can tell the Honourable Member that the Security Bureau has actually set up a working group of which I was appointed as chairman and the Secretary for Justice, officials from the police and the Independent Commission Against Corruption were appointed as members to examine how to perfect the existing legislation. As for the reasons why it needs to take time for the work to be done, I have actually said in answering the question raised by Dr HO that we hope we can not only safeguard our enforcement work effectively, but also enhance our accountability to society and protection for human rights. We may have introduced a mechanism which has been adopted by many Western countries. In that case, how can we strike a balance between the two to enable the mechanism to operate effectively? These are areas that warrant our examination.

### **Kindergarten Tuition Fees**

3. **MR FRED LI** (in Cantonese): *Madam President, will the Government inform this Council:*

- (a) *of the average and median kindergarten tuition fees in each of the 18 districts of the Education Department in Hong Kong last year; and*
- (b) *whether the Administration will consider providing all kindergarten pupils in Hong Kong a subsidy equivalent to half of the tuition fee; if it will provide the subsidy, of the estimated amount involved in each of the coming three years; if not, of the reasons for that?*

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

- (a) The average and median tuition fees for kindergartens in each of the 18 districts of the Education Department (ED) in Hong Kong for the 1998-99 school year are set out in Annexes A and B respectively.
- (b) The Government has all along been promoting the development of high quality kindergarten education. Although early childhood education is not part of nine-year free education, huge resources have been invested by the Government each year in this area. Take 1999-2000 as an example, we have earmarked \$139 million for the Kindergarten Subsidy Scheme to help kindergartens employ qualified teachers. We have also earmarked \$454 million to help needy parents pay kindergarten school fees. There are two levels of fee remission: half and full fee remissions. The amount of fee remission is calculated on the basis of the actual fee charged or the weighted average fee of non-profit-making kindergartens. In addition, the Government will continue to reimburse rent and rates to non-profit-making kindergartens and \$183.8 million has been reserved for this purpose. In other words, the amount of resources the Government has allocated to kindergarten education for this financial year adds up to \$776.8 million.

If the Government were to provide all kindergarten pupils in Hong Kong with a subsidy equivalent to half of the tuition fees, the additional expenditure for each of the coming three years is estimated to be \$1.25 billion, \$1.34 billion and \$1.44 billion respectively.

In the annual resource allocation exercise, we will consider all proposals requiring additional resources, including proposals to raise the quality of kindergarten education. We do not, at this stage, consider that priority should be given to using public money to subsidize half of the tuition fees of all kindergarten pupils in Hong Kong.

## Average School Fee per Pupil per Annum in Kindergartens by District by Session, 1998

<i>District</i>	<i>Session</i>	<i>Average School Fee (\$)</i>
Central and Western	Half-day	15,022
	Whole-day	27,443
Wan Chai	Half-day	15,462
	Whole-day	21,656
Eastern	Half-day	16,713
	Whole-day	27,553
Southern	Half-day	17,864
	Whole-day	23,494
Sham Shui Po	Half-day	11,342
	Whole-day	22,957
Yau Tsim Mong	Half-day	11,919
	Whole-day	28,452
Kowloon City	Half-day	16,263
	Whole-day	33,464
Wong Tai Sin	Half-day	9,532
	Whole-day	19,905
Kwun Tong	Half-day	11,925
	Whole-day	21,115
Tsuen Wan	Half-day	13,494
	Whole-day	24,006
Tuen Mun	Half-day	10,408
	Whole-day	20,898
Yuen Long	Half-day	11,352
	Whole-day	20,617
North	Half-day	10,170
	Whole-day	22,915
Tai Po	Half-day	10,396
	Whole-day	21,992
Sha Tin	Half-day	12,045
	Whole-day	20,027
Sai Kung	Half-day	10,415
	Whole-day	18,950
Island	Half-day	15,844
	Whole-day	20,102
Kwai Tsing	Half-day	10,790
	Whole-day	21,614
All Districts	Half-day	12,772
	Whole-day	23,469



## Annex B

## Median School Fee in Kindergartens by District by Session, 1998

<i>District</i>	<i>Session</i>	<i>Median School Fee (\$)</i>
Central and Western	Half-day	12,530
	Whole-day	29,513
Wan Chai	Half-day	13,900
	Whole-day	20,757
Eastern	Half-day	14,388
	Whole-day	24,696
Southern	Half-day	12,573
	Whole-day	20,328
Sham Shui Po	Half-day	10,920
	Whole-day	21,490
Yau Tsim Mong	Half-day	10,104
	Whole-day	26,400
Kowloon City	Half-day	13,524
	Whole-day	31,290
Wong Tai Sin	Half-day	9,306
	Whole-day	19,789
Kwun Tong	Half-day	9,830
	Whole-day	20,280
Tsuen Wan	Half-day	13,013
	Whole-day	20,460
Tuen Mun	Half-day	9,889
	Whole-day	19,162
Yuen Long	Half-day	10,593
	Whole-day	20,760
North	Half-day	9,075
	Whole-day	20,438
Tai Po	Half-day	9,516
	Whole-day	18,756
Sha Tin	Half-day	10,680
	Whole-day	18,469
Sai Kung	Half-day	9,548
	Whole-day	18,326
Island	Half-day	10,680
	Whole-day	17,325
Kwai Tsing	Half-day	9,878
	Whole-day	21,703
All Districts	Half-day	10,920
	Whole-day	21,208

**MR FRED LI** (in Cantonese): *Madam President, about 99% of school age children receive early childhood education, showing that this kind of education is both important and necessary. The present annual expenditure on education in Hong Kong is \$55 billion. In the main reply, the Secretary said that early childhood education accounts for less than 2% of the expenditure on education at present. Parents have to pay half-day or whole-day school fees of some \$10,000 to some \$20,000 every year. Does the Government consider that the fees are high? Why does the Government not provide a full subsidy to all pupils? Does the Government think that kindergarten education is not too important?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, in the main reply, I already said that first, we think that the Government should continue to promote the development of high quality kindergarten education. Second, we will consider all proposals requiring additional resources. Members can see from my main reply that we have a plan for kindergarten education and that is, we will consider giving half or full fee remissions to the children of needy parents. According to our latest figures, in 1998-99, approximately 38% of pupils were given half or full fee remissions.

If we consider subsidizing the tuition fees of all kindergarten pupils in Hong Kong, the sum involved will be over \$1 billion. In that case, we of course have to consider, in the first place, whether it is the most important factor in promoting the development of kindergarten education, especially the development of high quality kindergarten education. If we give half fee remissions to all pupils, no matter whether they are rich or poor, will it have a direct bearing on the enhancement of the quality of kindergarten education? If we have this money, should it not be allocated to other areas, such as helping kindergarten teachers to upgrade their quality, or helping kindergartens employ qualified teachers? We have to consider these questions.

The question becomes more complicated when it goes beyond the scope of kindergartens, since Mr LI, other Members or the education sector may have many proposals asking the Government to allocate resources to enhance the quality of education. How would Mr LI's proposal compare with other proposals? In the annual resource allocation exercise, we will actively consider these questions and we are willing to listen to Members' views. However, on basis of my initial analysis just now, I came to the conclusion that Mr LI did not

offer any specific reason for his proposal to give fee remissions to or subsidize half of the tuition fees of all kindergarten pupils in Hong Kong. Thus, I expressed the preliminary view that under these circumstances, it seems priority should not be given to this proposal.

**DR YEUNG SUM** (in Cantonese): *Madam President, at present, the Government places much less emphasis on pre-school education than on tertiary or secondary education. This results in the varied quality of pre-school education. While most parents indeed send their children to kindergartens, many education surveys also show that pre-school education has great influence on the future linguistic ability and personality of children. It is better for them to learn English well in kindergartens than improving their English when they get to university. Will the Government take this seriously and conduct a full review of its subsidy of kindergartens?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, actually, I agree with what Mr LI and Dr YEUNG said just now and that is, early childhood education is indeed extremely important. In the main reply, I said already that we would consider all proposals to raise the quality of kindergarten education. However, in terms of improving the quality of kindergarten education, is a half or full subsidy of tuition fees by the Government, regardless of means, the best proposal or a proposal that merits the highest priority? I think this is the crux of the matter. I do not deny, I can even undertake that the Government will continue to explore how to take on board proposals, including new proposals, to improve the quality of kindergarten education.

**DR TANG SIU-TONG** (in Cantonese): *Madam President, in the annexes to the main reply, the Secretary has listed the fees of kindergartens in detail. However, apart from fees, kindergartens also collect miscellaneous fees. Does the Education Department impose any restrictions on this or supervise over this?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, as far as I know, there are certain restrictions on the collection of miscellaneous fees. However, I do not have the information on hand. I will give Dr TANG a written reply later. (Annex III)

**MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, Mr Fred LI asked the question for a reason. At present, under the principle of universal education, primary and secondary school pupils enjoy a full subsidy regardless of whether they are rich or poor. Secondary, matriculation and university students, no matter rich or poor, also receive an 82% subsidy. At present, children in Hong Kong receive elementary education in the form of kindergarten education. Thus, it should be considered as part of universal education. Why can kindergarten pupils not receive a full subsidy as primary and secondary students do, or at least an 82% subsidy as university students do? Even Mr Fred LI's demand for a subsidy equivalent to half of the tuition fee for kindergarten pupils is rejected. Does the Government's policy discriminate against kindergartens? Why can they not be on the priority list as primary and secondary schools?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, I must clarify that my answer just now does not imply that Mr LI's proposal has no justification. In fact, all proposals on education have very good reasons behind them. If there are unlimited resources, all the proposals should be implemented. However, I have to repeat that in considering which proposal to implement, we of course have to take into account that the proposal is not the only proposal from the education sector. Among the many proposals put forward by the education sector, which do we think is most worthy of implementation? Even if we choose the proposal that is most worthy of implementation, there is still the question of resources. If we have only \$1.2 billion new resources, do we put all \$1.2 billion into subsidizing half of the tuition fees of kindergarten pupils? If so, will it be of greater help in improving the quality of kindergarten education, than if we put the resources into helping kindergartens employ qualified teachers, or upgrading the qualifications of kindergarten teachers? Actually, the Government, Members and various political parties have to consider these questions every year, rather than whether individual proposals are justified. All the proposals are 100% justified. The question is how to choose between them with our limited resources.

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, I do not wish to argue with the Secretary on matters of principle, that is, the question of universal education. What I am concerned about is the Secretary's remark that subsidy should not be provided to the rich and poor alike. 38% of pupils now receive half or full fee remissions. However, is the present means test too stringent, so that borderline cases might have to bear too heavy a burden? In this respect, will the Secretary conduct a review and relax the means test, so that more pupils can receive half or full fee remissions, in order that early childhood education can be improved?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, I thank the Honourable Member for asking this supplementary question, so that I have a chance to explain. In fact, at the start of this year, that is, the beginning of the 1999-2000 school year, we have relaxed the criteria of the means test. For example, for a four-person household, the monthly income level of a household that can receive full fee remission has been increased from less than \$6,501 to less than \$8,301. In other words, we have indeed considered this question and made improvement in this respect this year. As to whether there should be any further improvement in future, we will study the matter in the annual resource allocation exercise.

**MR LEE CHEUK-YAN** (in Cantonese): *Can the Secretary talk about the case of half fee remissions, because I asked about the criteria of the means test for half and full fee remissions?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, I do not have information on half fee remissions on hand. Maybe I will make a note of it and give a written reply later. (Annex IV)

**MR ANDREW CHENG** (in Cantonese): *Madam President, there is a Chinese saying that "the behaviour of a three-year-old determines his behaviour when he is 80". In many advanced countries, great emphasis is placed on early childhood education. Despite the enormous reserves of the Government, the Secretary tells us again and again that resources are limited, and so the*

*Government will not subsidize early childhood education which he also thinks is important. What education theory is the Government using to justify the present education policy of emphasizing advanced education while neglecting elementary education?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, actually, Members can see from my main reply that the Government puts a great deal of resources (amounting to some \$700 million as I said) into kindergarten education. Thus, it cannot be said that the Government emphasizes advanced education and neglects elementary education. The second point is that in considering any proposal, I hope that we should first consider whether it has a direct relationship with the enhancement of quality. If we compare the proposal to subsidize half of the tuition fees of all kindergarten pupils with other proposals made by the Legislative Council, the education sector or individual Members, it might not be a matter of the first priority. I wish to clarify this point.

**MISS CHOY SO-YUK** (in Cantonese): *Madam President, there should be no question that early childhood education should be made part of formal education as soon as possible. Just now, the Secretary talked about the question of resources. I would like to do some calculations for the Secretary. He said earlier that giving half fee remissions to all kindergarten pupils in Hong Kong would cost over \$1.2 billion. Actually, parents who can afford the fees now send their children to private kindergartens. If half fee remissions are given only in respect of non-profit-making kindergartens and child care centres under the Social Welfare Department, I am sure it would cost much less than \$1.2 billion. The Government is already putting \$700 million into early childhood education each year. Could the Secretary give us an accurate figure? If only the half fee remissions for non-profit-making kindergartens and child care centres are counted, what is the final figure after deducting the resources now being allocated to early childhood education? I do not think that it would come to \$1.2 billion.*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, the \$1.2 billion we referred to is additional expenditure. This figure is calculated on the basis of the number of kindergarten pupils in Hong Kong, discounting the resources we have earmarked to help needy parents pay kindergarten school fees. Therefore, I believe the figure is more or less accurate. Even if it is not \$1.2 billion, but \$1 billion or \$900 million as the Member said, it does not have much to do with the principle or the reason.

**MISS CHOY SO-YUK** (in Cantonese): *Will the Secretary tell us whether the number of pupils of private kindergartens is included in the calculation?*

**PRESIDENT** (in Cantonese): Mr Secretary, could you try to clarify?

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, I can confirm that all kindergartens, including private kindergartens, are included.

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

**MR YEUNG YIU-CHUNG** (in Cantonese): *Madam President, the Secretary talked about deciding how to use resources. The present government policy is to make light of kindergartens. Will the Secretary tell us under what conditions will kindergartens be given serious consideration?*

**SECRETARY FOR EDUCATION AND MANPOWER** (in Cantonese): Madam President, it seems that I have to clarify all the time. The point is not whether we make light of or place little importance on kindergartens, but whether the Government will consider providing all kindergarten pupils with a subsidy equivalent to half of the tuition fee. It is not that I will not consider it, that is, I will consider this proposal. In fact, I will consider all proposals. However, I want to tell Members clearly that due to the reasons that I gave earlier, I do not think priority should be given to this proposal.

**Copyright Infringement on the Internet**

4. **MR MA FUNG-KWOK** (in Cantonese): *Madam President, will the Government inform this Council whether:*

- (a) *copyright infringement by downloading, without the authorization of the copyright owners, computer software and audio-visual (AV) products from the Internet is prevalent and on the upward trend in Hong Kong, whether it has assessed the losses of copyright owners in copyright royalty charges; if it has, of the results of the assessment; if not, of the reasons for that;*
- (b) *it knows the reasons for some people setting up websites on the Internet to provide software and AV products downloading services free of charge, and the benefits for these people in doing so; and*
- (c) *it has formulated measures to prevent such acts of copyright infringement; if so, of the details of such measures; if not, of the reasons for that?*

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

- (a) We understand that some people have transmitted copyright works on the Internet without the authorization of the copyright owners. For instance, such activities have been facilitated by new compression technologies such as "MP3", which makes it easier to transmit music files on the Internet than before. The Internet is constantly evolving. Most of the downloading activities take place in private premises. In addition, there is no consensus even within the copyright industry on the definition of losses incurred by such infringement activities. As a result, it is impossible for the Government to ascertain exactly whether such activities are prevalent and assess the losses incurred.



- (b) We understand that some of the webmasters who transmit other people's copyright works on the Internet have been doing it for fun instead of monetary gain. However, there are also some webmasters who may use these activities for profit. For example, they may provide advertisement space on their web pages and levy charges according to the number of visits to their pages.
- (c) It is clearly stipulated in the Copyright Ordinance that works transmitted on the Internet, like the works transmitted through other media, enjoy copyright protection. In fact, Hong Kong is one of the first territories in the world which have incorporated the relevant standards of the World Intellectual Property Organization into the local law. We also maintain close liaison with copyright owners and organizations, encouraging them to take proactive action against infringing acts on the Internet.

The Customs and Excise Department will take enforcement action if sufficient evidence is available. Moreover, appropriate training will be provided for Customs staff to update them on the prevailing trends and to enable them to keep abreast of rapidly changing technological developments. The Department also co-operates closely with other countries to facilitate law enforcement.

Most important of all, however, is that the public should show more respect for intellectual property rights. We will therefore spare no effort in continuing the various educational and publicity activities to enhance the public's awareness in this respect.

**MR MA FUNG-KWOK** (in Cantonese): *Madam President, in parts (a) and (b) of the Government's main reply, it admitted some facts. For instance, firstly, most of the downloading activities take place in private premises, that is, it is extremely difficult to combat them. Secondly, some people levy charges directly or indirectly through services provided on the Internet. In other words, such infringement activities do exist. I have a feeling that part (c) of the reply seems to imply that the Government is being evasive. It only stressed that protection*

*has been given under the Copyright Ordinance but it failed to address the fact that copyright owners have no means of redress at all in respect of infringement acts conducted on the Internet. I suppose the Government is evading responding to this fact. If a person transmits a copyright work on the Internet outside the territory for downloading by other people within the territory, this is not regulated by our laws. Therefore, part (c) of the answer is basically not directed against the existing infringement cases.*

**PRESIDENT** (in Cantonese): Mr MA, please come to your supplementary direct.

**MR MA FUNG-KWOK** (in Cantonese): *My supplementary is that I hope that the Government will respond further as to the specific measures the Government has to help copyright owners to affix responsibilities. There are two issues. First, we all know that those who download the works are consumers. Besides educating them, what other measures do we have to make them refrain from doing so? Second, a service provider, that is, the operator of a certain site is actually liable. Will the Government impose some requirements on them to combat such infringement acts or remove or delete websites that involve infringement acts? Yet, the existing legislation has not given the Government this power or asked operators to shoulder the responsibilities. I hope that the Government will clarify this and inform the Council of its views on these two issues.*

**PRESIDENT** (in Cantonese): I believe these two supplementaries are related. *(Laughter)* Secretary for Trade and Industry.

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, firstly, I would like to stress that we have definitely not evaded this issue and we will not neglect this issue at all. We also think that we should start with the fundamentals and make efforts in respect of consumers, as the Honourable Member has suggested. The Government thinks that education is the most fundamental solution. At present, like most other regions, there are no penalty provisions in our legislation for the use of pirated works by consumers.

In the past, we discussed this with Members of the Legislative Council and the views were divergent. If Members consider it necessary to continue to follow up the issue related to the responsibilities of consumers, we can continue to examine this. Insofar as consumers are concerned, we think that the most fundamental solution is education. Within three years from this financial year, we will inject substantial resources into enhancing educational activities in different aspects including organizing talks, exhibitions and directly visiting schools.

Mr FUNG has mentioned another issue, that is, how we can deal with Internet service providers (ISPs). In fact, we have done something. We are holding regular meetings with the trade and its representatives indicated a few months ago that they were concerned about piracy activities on the Internet. Subsequently, we have arranged for a meeting with representatives of ISPs to follow this up. We will follow up the issue through the Intellectual Property Department and the Director of Intellectual Property and the representatives of ISPs will continue to find out more about the situation. We do not dismiss the possibility that we may consider together with representatives of ISPs whether it is necessary to formulate a code of practice.

Madam President, I would like to add that, as Mr MA has said, the Internet has no national boundaries and Hong Kong laws can only govern what happen within the territory but not infringement activities outside the territory. I cannot deny the fact that there are difficulties in combating piracy activities on the Internet. Therefore, I find it all the more necessary to keep track of international developments and technological development in this respect, and we are actively contacting advanced countries to find out how they handle similar issues. We are also considering whether we can co-operate with other countries to tackle this problem.

**MR HO SAI-CHU** (in Cantonese): *Madam President, I wonder if this is a point of order. I only want to ask the Chair to find out if it is inconvenient for the Secretary to stand up. Can the President allow her to remain in her seat when answering questions?*

**PRESIDENT** (in Cantonese): Mr HO, as regards your concern, we made already arrangements before the meeting.

**PROF NG CHING-FAI** (in Cantonese): *I would like to ask the Government a question. While it is actively promoting electronic commerce, if it cannot effectively combat infringement acts on the Internet at the same time, how can the Government effectively promote electronic commerce then?*

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, I hope what I just said has not given Members an incorrect impression that the Government cannot effectively combat infringement acts on the Internet. As I have stated in the main reply, Hong Kong is one of the most advanced regions in the world in combating pirating activities on the Internet in terms of the existing legislation. We have also adopted a series of matching actions such as requesting our colleagues in the Customs and Excise Department to receive training and maintain contacts with foreign law enforcement bodies. The Customs service has received a total of five complaints concerning piracy acts on the Internet so far this year. We have investigated into every case but as we have not grasped sufficient evidence after investigation, we have not initiated follow-up criminal proceedings. Yet, copyright owners do not need to give up all hope because other provisions of the Copyright Ordinance can allow them to initiate civil proceedings against infringing websites. Recently, an organization representing a copyright owner, the International Federation of the Phonographic Industry, has taken a very successful action. It co-operated with ISPs in taking "cleansing" actions on the Internet. Although this is an administrative measure to a very large extent, it has very good results. Many webmasters became aware that what they were doing were infringement acts and they speedily deleted infringement articles voluntarily. The ISPs have also been very co-operative. We think that we should take multi-faceted actions in this regard.

**PROF NG CHING-FAI** (in Cantonese): *Madam President, I would like to ask another question. The Secretary has just said .....*

**PRESIDENT** (in Cantonese): I am very sorry, Prof NG, you cannot ask another question. You can only ask the Secretary to answer the part of your question that has not been answered.

**PROF NG CHING-FAI** (in Cantonese): *The Secretary has answered my supplementary.*

**PRESIDENT** (in Cantonese): In that case, please wait for your turn to ask a question again.

**MR NG LEUNG-SING** (in Cantonese): *Madam President, on the basis of the Government's reply, we are glad to learn that Hong Kong ranks fairly high in the international community in combating piracy activities. May I ask the Secretary if the Government knows whether foreign countries have a comprehensive system for the public to report infringement acts on the Internet?*

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, as far as I know, there is no global reporting system at the moment but if the public or copyright owners discover infringement acts on the Internet, they can take a few steps. Firstly, as I have just said, copyright owners can contact the relevant ISPs or webmasters to see if efforts can be made by administrative means. Secondly, if they discover such problems in Hong Kong, they can certainly lodge complaints with the Customs and Excise Department for follow-up actions on the basis of the actual needs.

**MISS CHOY SO-YUK** (in Cantonese): *Madam President, forms of infringement on the Internet have developed from computer software to music and movies. Is the Government worried that if it does not take other more effective measures apart from the educational measures just mentioned, such acts will develop into other illegal acts such as gambling? Instead of passively waiting for problems to emerge before thinking of ways to hold them back, it should adopt a more proactive attitude and effective measures to prevent problems from emerging. Will this solve the relevant problems more speedily?*

**PRESIDENT** (in Cantonese): The main question is related to copyright infringement. Let me see if the Secretary can answer this supplementary.

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, technological development has really brought us many advantages but we cannot deny a possibility that it can allow evildoers to use it as a tool for committing offences. Generally speaking, we cannot deny this possibility but we have actually made proactive efforts. I mentioned earlier the provisions in the Copyright Ordinance concerning infringement acts on the Internet. They were actually borrowed from the provisions of two regulations of the World Intellectual Property Organization in 1996. In fact, these two provisions have not formally come into effect to date, but they are included in the Copyright Ordinance enacted by the Legislative Council in 1997. We are fairly proactive and I would also like to say that we have not been indifferent to this situation. I have just said that the Customs and Excise Department has made much effort and it will continue to do so.

**MR SIN CHUNG-KAI** (in Cantonese): *Madam President, may I ask how many complaints the Government has received in the past one to three years concerning infringement activities on the Internet? Are there instances of successful prosecution?*

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, according to the information at hand, we have received five complaints so far this year. As I have said, having conducted preliminary investigation on the five complaints, we found that we could not initiate follow-up criminal proceedings. I hope that Mr SIN will find this a satisfactory answer.

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

**MR CHAN KWOK-KEUNG** (in Cantonese): *Madam President, people can download a lot of information from and carry out many infringement activities on the Internet. May I ask the Government how Hong Kong ranks in the international community as to infringement acts? Is the situation very serious or insignificant?*

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, I do not know if we have conducted an objective survey on the extent of infringement and ranking, but we must consider squarely if there have been very serious infringement activities in Hong Kong or if they have been controlled. In respect of piracy activities, I can say that after rigorous clamp-down operations especially in the past few months, such activities have substantially been restrained compared to the past. We can certainly not be complacent and we still need to continue to make efforts. I can report to Members that our relevant legislation is comprehensive in the eyes of many major trade partners, and the enforcement actions we have taken in the past few months are appreciated by the trade and many trade partners. Therefore, I can say that considering the ranking alone may be less meaningful while considering the actual results may be better.

### **Demolition of the Hong Kong Stadium**

5. **MR AMBROSE CHEUNG** (in Cantonese): *Madam President, will the Government inform this Council:*

- (a) *whether it has any plans to demolish the Hong Kong Stadium which was redeveloped five years ago at a cost of \$1 billion, for the construction of luxurious residential buildings there; if so,*
  - (i) *of the specific demolition plan and timetable, and whether it has assessed if the decision to redevelop the Hong Kong Stadium was an appropriate one and whether the recreational and sports facilities matched the sports policy at the time the decision was made; and*

- (ii) *given that many major international sporting events require the host city to have two or more large stadia, whether another large stadium will be built, in addition to the proposed sports venue to be built in the South East Kowloon reclamation area; if so, of the specific plan and timetable;*
- (b) *whether it has assessed the advantages and disadvantages of demolishing the Hong Kong Stadium; if not, whether and when such an assessment will be made; and*
- (c) *of the criteria adopted, in planning land use, for determining the priorities in providing land for cultural and recreational facilities and residential development?*

**SECRETARY FOR HOME AFFAIRS:** Madam President, while I am responsible for policy related to the planning, financing and construction of SAR-wide cultural and sports projects, such as sports stadia, matters related to land use are the responsibility of the Secretary for Planning, Environment and Lands, who has kindly agreed to sit next to me at this Chamber here. Part of this reply, concerning whether the Government has any plans to demolish the Hong Kong Stadium to make way for residential development and the criteria adopted in planning land use, are based on information provided by the Secretary for Planning, Environment and Lands.

My replies to the questions raised by the Honourable Member are as follows:

- (a) the Government has no plans to demolish the Hong Kong Stadium;
- (b) we therefore have not undertaken any assessment of the advantages and disadvantages of demolishing the Hong Kong Stadium, nor do we have any plans to conduct such an assessment at this stage; and
- (c) in the overall planning of land use, the Government will, on the basis of the Hong Kong Planning Standards and Guidelines and the projected population in the area, provide sufficient land for building public facilities, including those related to arts, culture, recreation



and education, to meet the demands of nearby residents. In the course of site selection and actual planning of land use for individual sites, the Government will consider a range of factors carefully, including the compatibility of neighbouring land uses, the impact on the environment and the interface with the transport network, before making a final decision. In planning territory-wide cultural and recreational facilities (such as arts and cultural centres and sports stadia), the Government will take into consideration the recommendations in the Hong Kong Planning Standards and Guidelines and examine the needs, viability, feasibility and other aspects related to the implementation of these projects. We shall begin detailed studies in the coming year, with a view to determining clearly the viability of building major new sports facilities in appropriate locations.

**MR AMBROSE CHEUNG** (in Cantonese): *Madam President, the Secretary has obviously failed to answer the most important part of my question. In 1994, the British Hong Kong Administration spent \$1 billion of the donor organization on redeveloping the Hong Kong Stadium. However, at present, the Hong Kong Stadium is plagued with many irreparable defects such as noise pollution and the absence of a running track.*

*May I ask the Government of the Hong Kong Special Administrative Region (SAR) why it has not considered or assessed the possibility of altering the land use of the very significant site occupied by the Hong Kong Stadium, using it for a multi-purpose project comprising residential units, commercial premises and community facilities? The Hong Kong Stadium occupies an area of 600 000 sq m, or a total floor area about two million to three million sq m, and such a floor area will bring about a huge revenue of \$4 billion, \$5 billion or \$6 billion. If the Hong Kong Stadium is demolished and the site redeveloped, then this amount of money can be used to build the required world-class sports facilities on the South East Kowloon or West Kowloon reclamation sites. Why has the Administration not considered this idea?*

**PRESIDENT** (in Cantonese): Which Secretary will answer this question? Secretary for Planning, Environment and Lands.

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Madam President, as part of its long-term planning, the Administration has already reserved a site at the South East Kowloon reclamation site, so that thoughts can be given to the major sports venue Mr CHEUNG has just mentioned. The facility we have in mind is no longer a simple stadium, but a multi-purpose sports complex with huge seating capacity, comprising a soccer pitch and many other types of sports facilities. We tentatively call it a "sports city". However, this is really a very long-term plan, for such a large-scale development would require a complete support package in terms of transportation network, crowd dispersal and other facilities before it can be commissioned for use. Therefore, at this stage, the Administration will only take this idea as a concept on the blueprint, and it does not think that it is now necessary to study the need of converting a stadium still in use in the way suggested by Mr CHEUNG. However, I would make a note of Mr CHEUNG's suggestion, and the Administration will certainly consider his suggestion when it looks at this matter in the future. Thank you, Madam President.

**DR RAYMOND HO** (in Cantonese): *Madam President, according to the Secretary for Home Affairs, the provision or otherwise of cultural, art, recreational and sports facilities in an area is based on such factors as projected population, transportation network and environmental impact. Ten years later, there will be a population of 4 million in the New Territories. If the Administration has any funding problem, will it consider the BOT (that is, the build, operate and transfer) approach as a means of building a large scale sports venue in the New Territories, one which can provide adequate facilities for the 4 million people there and one which is viable in terms of transportation back-up and environmental impacts?*

**PRESIDENT** (in Cantonese): Which Secretary will answer this question? Secretary for Home Affairs.

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Madam President, when I gave my principal reply, I said that the Administration would take into account factors like projected population and transportation facilities and then make decisions in accordance with the Hong Kong Planning Standards and Guidelines. However, when it comes to territory-wide facilities, we may not necessarily choose to build these facilities in the New Territories simply because its population will reach a certain level. As for district-based facilities, we will certainly build the facilities in a district when its population reaches a certain level. For territory-wide facilities, such as large scale stadiums or indoor games halls for the whole of Hong Kong, the Secretary for Planning, Environment and Lands has already mentioned that sites have already been reserved at the West and East Kowloon reclamation areas, and even Tai Po and Tap Shek Kok. However, careful studies would be required before a final decision could be made on the location of such facilities.

**DR RAYMOND HO** (in Cantonese): *The Secretary has not answered my question on whether the Administration will consider adopting the BOT approach if it has funding problems?*

**PRESIDENT** (in Cantonese): Which Secretary will answer this question?

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Of course, we will not rule out the possibility of adopting the approach suggested by Dr Raymond HO. If there is an approach which is efficient, time-saving and highly effective, we will definitely not rule it out.

**MR ANDREW CHENG** (in Cantonese): *Madam President, I think that the most important points of the main question are items (i) and (ii) of part (a), but the Administration has not answered these points because it claims that there are no plans to demolish the Hong Kong Stadium. However, I think that there will be "no smoke without fire". If the Administration does not have any plans to demolish the Hong Kong Stadium, there will not be such rumours. Recently, there have been calls for hosting the Asian Games, but the biggest problem with the Hong Kong Stadium is that it does not have a running track which is up to international standards.*

*While assessing whether we should bid for the hosting of the Asian Games, has the Government considered the demolition of the Hong Kong Stadium and the building of other sports venues with international standard facilities?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): As regards the question whether it is necessary to build a new stadium if we wish to bid for hosting of the Asian Games, I recall that I have mentioned on various occasions that the two issues should be considered separately. If we are to bid for the hosting of the Asian Games, we will have to find out what sort of facilities we have and what we lack. Hosting the Asian Games is not simply a matter of whether we have the necessary facilities, for there are a number of factors which should also be considered, such as our capability, the costs involved, revenue and so on. Facilities are really only one of our considerations. As to whether we need a large-scale stadium, I have mentioned on various occasions that having looked at other cities, we are of the view that Hong Kong today really needs a new stadium of international standards, and we do have plans to build one. However, we also think that we should follow our own schedule and choose our own locations, and must not be influenced by the hosting of the Asian Games. Therefore, I really do not know where the "smoke" has actually come from.

**MR AMBROSE CHEUNG** (in Cantonese): *Madam President, the Secretary has said that the Administration has plans to build a stadium which is up to international standards, and the timetable, plan and cost for the stadium have already been worked out. Since cost may be the main concern, I have just asked the Administration whether it has any plans to demolish the Hong Kong Stadium, so that the revenue from its redevelopment could be spent on the building of international standard stadia at different sites.*

*Madam President, my supplementary question is: Based on my experience of managing the Hong Kong Stadium for the past five years, I believe that the Hong Kong Stadium does not have a future, and even after a new stadium of international standards has been built, the Hong Kong Stadium cannot possibly hold any diversified range of sports activities. Therefore, when we are considering the various possibilities, and no matter where the new stadium is eventually built, does the Secretary think that the best way to deal with the problems of the Hong Kong Stadium may be to demolish it and use the site for other purposes?*

**SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS** (in Cantonese): Madam President, as I have said, I think that this is a very innovative idea, and I will certainly consider it. *(Laughter)*

**PRESIDENT** (in Cantonese): Before we move on to the sixth question, I would like to remind Members that this is the time for oral questions and not a time for expressing your views or debate, so I hope that you will state your questions directly.

### **Mechanism for Reporting Counterfeit Goods**

6. **MRS SELINA CHOW** (in Cantonese): *Madam President, it was reported that in September this year, a member of the public had called the Report Hotline of the Customs and Excise Department (C&ED) to report the sale of suspected counterfeit fish oil gel, but was told to call other numbers. Following various instructions, this person made a total of six calls to different numbers but in the end was still unable to report the case. In this connection, will the Government inform this Council:*

- (a) *of the details of the incident and the criteria used by the Department for determining whether or not it will follow up a reported case, and the procedure it adopts for following up such cases;*

- (b) *of the number of reports on counterfeit goods through the hotline of the Department over the past three years, and the number of those resulting in successful prosecutions, together with their percentage of the total number of reported cases; as well as the average penalty imposed on convicted persons; and*
- (c) *whether it plans to review the mechanism for reporting counterfeiting goods?*

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

- (a) We understand that the reported case was about suspected false trade descriptions on fish oil gel products rather than counterfeit goods. The member of the public reported the case through the hotline of the C&ED on 26 August 1999. C&ED officers then conducted a preliminary analysis and checks on the information received. When the person called the C&ED again on 31 August 1999 to follow up the case, the Intellectual Property Investigation Branch asked her to provide further information to facilitate follow-up actions. However, we have yet to receive such information to date.

As regards the allegation that this member of the public had made a total of six calls to different numbers but was still unable to report the case, we are unable to ascertain whether there was any mishandling of the case. If there was indeed mishandling, we would like to offer our apologies for any inconvenience caused.

Based on the reliability of the information received and whether the alleged infringement is a criminal offence, the Customs will decide whether follow-up action will be taken. If the person reporting the case is not the trade mark owner himself or his authorized agent, the Customs will confirm with the trade mark owner or his authorized inspector about the authenticity of the goods involved before conducting an investigation according to the law.

- (b) It has been the practice of the C&ED to consolidate reports on forged trade marks and false trade descriptions for statistical purposes. Separate figures for cases on counterfeit goods reported through the hotline are hence not available.

The Customs brought 1 532 prosecution cases involving counterfeit goods and false trade descriptions in 1997, 1 497 cases in 1998 and 583 cases in 1999 (as at the end of August). Of these prosecutions, the conviction rates are 87%, 90% and 86% respectively. Most of the convicted persons were fined or sentenced to imprisonment. The average fine imposed was some \$6,300. The number of persons receiving a jail sentence was 73, 96 and 36 in the respective years. On average, 76% of these people were given a term less than six months while 24% had to serve a term of six to 12 months.

- (c) The C&ED has streamlined its procedures for reporting counterfeit goods. Members of the public can either report these cases in person or by phone. The Customs will follow up the complaints if they are provided with information on when and where these counterfeit goods transactions took place, the goods involved and the features of the suspected vendor.

At present, the public might still be unfamiliar with the Customs hotline, hence resulting in confusion. We will actively step up our promotional efforts in this regard. Should there be any room for improvement, the Customs will definitely review and introduce changes to the existing procedures to facilitate reporting by the public.

**MRS SELINA CHOW** (in Cantonese): *Madam President, it is unfortunate that there is no one from the C&ED in this Chamber today, and so the Secretary will have to reply in their place. I think the case well deserves our attention. For that member of the public made a total of six calls to different numbers, but after being passed around like a ball for a number of times, this person was still unable to report the case. Part (a) of the main reply mentions that "C&ED officers then conducted a preliminary analysis and checks on the information received". Will the Government inform this Council whether any C&ED*

*officers were asked to examine if the goods being complained about were in line with the description made in the complaint, or in other words, whether the Customs had confirmed with the trade mark owner or his authorized inspector about the authenticity of the goods involved? As regards the case in question, has the Customs taken these actions?*

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, I have mentioned in my main reply that in deciding whether any follow-up actions will be undertaken, the Customs will first look at the reliability of the information reported and whether the alleged infringement is a criminal offence. As for the reported case in question, I may of course contact the C&ED for further details. But as far as I know, they will have to check whether there are any doubts about the case in the first place and they will take follow-up action when necessary.

**MRS SELINA CHOW** (in Cantonese): *Madam President, had the C&ED done what I have just said when they conducted a preliminary analysis and checks on the information received?*

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, the C&ED did in fact want to follow up the case. C&ED officers contacted that member of the public for a second time in the hope that she would provide further information. However, they have yet to receive such information to date.

**MRS SELINA CHOW** (in Cantonese): *Sorry, Madam President, I was asking about the first time the case was reported, not the second time. When that member of the public reported the case on 26 August 1999, the C&ED said they would conduct a preliminary analysis. It is just a matter of course that information is to be received before any preliminary analysis can be made. Therefore, was the kind of work which I have mentioned just now, that is, ascertaining the reliability of the information as stated in the main reply, included in the preliminary analysis made upon receipt of information?*



**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, the C&ED did conduct a preliminary analysis of the information, but the information provided was not enough. So when that person called the C&ED for the second time, they asked her to provide further information. However, they have yet to receive such information to date.

**MR LAU KONG-WAH** (in Cantonese): *Madam President, the Secretary said in part (b) of the main reply that separate figures on cases were not available, could the Secretary give us the figures on the total number of cases reported so that we can have an idea of the gravity of the problem? Besides acting on reports, does the C&ED act on its own initiative? As there are more and more of these kinds of health products available, will the C&ED take some actions with regard to these products?*

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, as regards cases involving counterfeit goods and suspected false trade descriptions, there were 629 cases reported in 1997, 985 cases in 1998 and 1 136 cases during the first eight months of this year. Most of these cases concerned counterfeit goods. The C&ED handles these two kinds of cases together because these offences come under the Trade Descriptions Ordinance and the established practice is to handle these offences together.

As to whether the C&ED has acted on its own initiative, the answer is in the affirmative. In many cases, however, the C&ED has to rely on the trade mark owners to report on forged trade marks. In other circumstances, the C&ED will take investigative actions on its own initiative, but that will depend on individual cases.

**MR KENNETH TING** (in Cantonese): *Madam President, in part (b) of the main reply, the C&ED said that separate figures for cases on counterfeit goods reported through the hotline were not available. That sounds very strange to me, for if a report is made, it will be the first step towards subsequent law enforcement actions, then why are figures on that not available? If statistics are kept, it can be seen whether reporting cases in person or by phone is more effective. We know that conviction rates for prosecutions are very high,*

*amounting to more than 80%. The public should therefore be encouraged to report cases and they should be made to feel that it is a convenient thing to report cases to the Customs. The Customs must compile statistics in these areas in order to identify the most effective way to report cases. It sounds very strange to me indeed that there are no figures for cases reported by the public through the hotline.*

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, I wish to stress that we will take follow-up actions and make investigations regardless of how the cases are reported. Mr TING was right when he said that we should encourage people to report cases. The most important thing is that the public can report cases by telephone, letters and even e-mail. The C&ED will certainly take follow-up action. Under the existing mechanism, the C&ED will handle such cases together. I have asked my colleagues at the C&ED whether the cases can be handled in separate categories. They said that it was possible, but that it would be difficult to do so because a lot of manpower and resources would be involved. We will look into the possibility of handling the cases in separate categories in future. I would like to stress, however, that the most important thing is how to take follow-up action. As for how cases should be reported, I do not think it is the most important thing.

**MR JAMES TIEN** (in Cantonese): *Madam President, the Government, the Legislative Council and the public are all very much concerned about the issue of reporting cases. Madam President, part (c) of the main reply mentions that members of the public can either report cases in person or by phone. I think it would not be that convenient to report cases in person by going to any one of the C&ED offices. As for reporting cases through the phone, the last part of the main reply said that the Customs would definitely review and introduce changes to the existing procedures should there be any room for improvement. Would the Government inform this Council whether there is any information which shows that the public thinks that this way of reporting cases is not too "user-friendly", that is, not convenient for them? Who will conduct the review? Will it be the C&ED itself, or some other government departments?*

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Under the present *modus operandi*, the Customs is the front-line department for enforcement actions; they will certainly make a review of things from time to time. Recently, they have told me that they would introduce some measures to improve and streamline the procedures. I have mentioned this in my main reply. However, should the public feel that there is any room for improvement, or anything which is not too user-friendly, they can certainly talk to us and we will consider their opinions very carefully. We will see whether there is any need to introduce other improvement measures which we have not thought of.

**MRS MIRIAM LAU** (in Cantonese): *Madam President, we know from part (b) of the main reply that prosecution cases involving counterfeit goods and false trade descriptions have been on the decline over the years. In 1997 there were 1 532 cases, in 1998 there were 1 497 cases, and 583 cases as at the end of August 1999. Would the Secretary tell us whether this drop in prosecution figures over the years is an indication that the situation of cases involving counterfeit goods and false trade descriptions is improving, or that the efficiency of the C&ED in cracking down on these illegal activities has lowered?*

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, first of all, Honourable Members must be aware that over the past few years, there has been a change in the pattern of activities involving forged trade marks and counterfeiting. In the past, such activities involved mainly the local production of goods with forged trade marks. But in recent years, such counterfeit goods are made outside Hong Kong for later shipment back here. The quantity of goods involved varies from cases to case, so it would be quite difficult to assess the performance of the C&ED simply by looking at the number of prosecution cases. We may, however, look at the total value involved in these cases. In 1998, the total value of counterfeit goods and goods bearing false trade descriptions seized by the C&ED valued at over \$50 million. The value of such goods seized during the first 10 months of this year is similar. So if we look at these figures, we will not find any big difference.

**MR NG LEUNG-SING** (in Cantonese): *Madam President, it is mentioned in part (a) of the main reply that when such cases are reported, the Customs will confirm with the trade mark owner or his authorized inspector about the authenticity of the goods involved before conducting an investigation according to the law. Since Customs officers are not present today, could the Secretary tell us whether any difficulties would be encountered in this confirmation process and what are the difficulties involved?*

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, that is a good question from Mr NG Leung-sing. On the confirmation process, the main difficulties are: first, locating the trade mark owner; and second, whether the trade mark owner will co-operate. To be frank, if they do not co-operate, most probably it would be very difficult for us to follow up the case. That is to say, the follow-up actions we take when we take the initiative to act will also need the provision of information from the relevant trade mark owner so that we can conduct investigations and take follow-up action. Should they be unwilling to co-operate with us because of their limited resources available, then it will be the greatest difficulty we have to face.

**PRESIDENT** (in Cantonese): We have spent more than 17 minutes on this question. Although there are still many Honourable Members waiting for their turn to ask questions, I would suggest that they follow up the matter through other channels.

## **WRITTEN ANSWERS TO QUESTIONS**

### **Specialist Out-patient Services**

7. **MR MICHAEL HO** (in Chinese): *Madam President, regarding the specialist out-patient services provided by the Hospital Authority (HA), will the Government inform this Council:*

- (a) *whether it knows the 10 specialist out-patient services with the longest average waiting time for first appointments at present; for each of the above specialist out-patient services,*

- (i) *the annual number of first appointments;*
  - (ii) *the average and the longest waiting times for first appointments; and*
  - (iii) *the hospital which had the longest waiting time;*
- in the past three years;*
- (b) *of the measures, as stated in the Policy Objective published this year, introduced to increase the number of consultations for first appointments, and whether it has assessed the effectiveness of such measures;*
  - (c) *whether it knows how the HA is strengthening the co-ordinating mechanism for referring patients of its specialist out-patient clinics, whose condition has become stable, to the Department of Health (DH) and private medical practitioners for follow-up treatment, so as to relieve the pressure on specialist out-patient services; of the respective numbers of such referrals to the DH and private medical practitioners in each of the past three years; and*
  - (d) *given that the average time for first appointments at specialist out-patient clinics is about three months at present, of the basis for making a pledge in the Policy Objective this year to reduce the average waiting time to five weeks in the year 2000?*

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

- (a) At present, the 10 specialist out-patient services with the longest notional average waiting time for first appointments at the specialist outpatient clinics of the HA are: Ophthalmology; Orthopaedics and Trauma; Medicine; Surgery; Ear, Nose and Throat; Gynaecology; Psychiatry; Paediatrics; Neurosurgery; and Cardiothoracic Surgery.

For each of the above specialist out-patient services, (i) the annual number of first appointments; (ii) the notional average waiting time for first appointments; and (iii) the hospitals which had the longest notional average waiting time in the past three years are provided at Annex 1.

The HA has not, in the past three years, systematically collected information showing the longest waiting time for first appointments on individual case basis.

- (b) The HA has implemented various improvement measures to shorten the waiting time for first appointments at its specialist out-patient clinics. Apart from deploying additional resources and manpower for the provision of specialist out-patient services, the HA has also introduced various pilot improvement measures, in order to streamline and expedite treatment processes and increase the throughput at the specialist outpatient clinics. These measures include:
- (i) Arranging for doctors undergoing family medicine training to provide treatment for patients — The HA has arranged for doctors undergoing family medicine training to provide treatment at the specialist out-patient clinics and other clinics for patients who are in stabilized clinical conditions. This arrangement can reduce the number of patients waiting to be treated at the specialist outpatient clinics;
  - (ii) Setting up fast track clinics — Patients who have been triaged to be in more urgent conditions will be referred to fast track clinics for treatment. This can ensure that these patients will receive appropriate treatment promptly; and
  - (iii) Enhancing co-operation with general practitioners — The HA and general practitioners will, through the use of standardized clinical protocol, enable patients, who are referred from general practitioners to the HA's specialist

out-patient clinics, to receive treatment from doctors immediately, without having to go through preliminary examinations or other tests again. This can reduce patients' waiting time for consultation.

According to information provided by the HA in relation to the period from April to September 1999 (at Annex 2), the notional average waiting time for first appointments at the HA's specialist out-patient clinics has been shortened as a result of the implementation of the above measures.

- (c) The HA will continue to maintain regular liaison with the DH and private practitioners, to facilitate the referral of patients in stabilized clinical conditions, who no longer require specialist care, to the DH's general out-patient clinics or private practitioners' clinics for treatment. The HA has also arranged for doctors undergoing family medicine training to provide out-patient services for patients in stabilized conditions, so as to relieve the pressure of its specialist outpatient clinics.

The HA does not have information on the number of patients referred from the HA's specialist out-patient clinics to the DH or private practitioners for follow-up treatment in the past three years.

- (d) At present, the notional average waiting time for first appointments at the specialist out-patient clinics under the HA is about 10 weeks. The HA will continue to implement the various improvement measures as stated in (b) above, and depending on circumstances, deploy more resources for the provision of specialist out-patient services. The HA is confident in achieving the target notional average waiting time for first appointments of five weeks by the end of the year 2000.







**Labelling of Prepackaged Food**

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

- (a) *of the number of inspections made in the past 12 months by the authorities at retail shops for the purpose of identifying overdue prepackaged food on sale or prepackaged food without labelling, as well as the number of shops inspected; the respective numbers of shop owners warned and prosecuted as a result of such inspections; the geographical distribution of the retail shops prosecuted; as well as the number of convicted cases among them;*
- (b) *of the number of inspections made in the past 12 months by the authorities at direct sale shops to ensure that the directly imported prepackaged foods are affixed with labels in compliance with the statutory requirements before their delivery to customers;*
- (c) *whether it plans to introduce legislative amendments to require the printing of the relevant "use by" dates on all prepackaged food; if so, when such legislative amendments will be introduced; if not, of the reasons for that; and*
- (d) *whether it plans to review the list of items exempted from compliance with the labelling requirements of the Food and Drugs (Composition and Labelling) Regulation (Cap. 132 sub. leg.) and delete certain items from it; if so, when the review will be conducted; if not, of the reasons for that?*

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

- (a) In the past 12 months, Department of Health officers conducted 33 952 inspections in relation to labelling of prepackaged food, covering 3 309 retail outlets. In the same period, the authorities issued 573 warning letters and took out prosecutions on 22 occasions under the Food and Drugs (Composition and Labelling) Regulations. Thirteen cases were successfully prosecuted. The retail outlets involved spread over Hong Kong Island, Kowloon and the New Territories.
- (b) In the past 12 months, in order to monitor if the direct sale shops have complied with the food labelling legislation, Department of Health officers conducted 33 inspections targeted at prepackaged food sold by direct marketing.
- (c) In accordance with the Food and Drugs (Composition and Labelling) Regulations, all prepackaged food which, from the microbiological point of view, is highly perishable and is therefore likely to constitute an immediate danger to human health after a short period of time is required to be marked with "use by" dates on their labelling. Other prepackaged food is required to be marked with "best before" dates on their labelling. This is in line with the usual practice adopted by other food safety regulatory agencies overseas. That said, selected items listed in a Schedule of the Regulations are exempted from compliance with this requirement to have the "best before" or "use by" dates on their labelling.

- (d) We carry out regular reviews of the Schedule exempting items from compliance with the requirement to have "best before" or "use by" dates on their labelling under the Food and Drugs (Composition and Labelling) Regulations, having regard to international regulatory practices and consumer preference. The last review was completed in 1996, resulting in the deletion of two items from the exemption list. Only nine items currently remain on the exemption list.

### **Effect of the Proposed International Wetland Park on Flight Safety**

9. **MR TAM YIU-CHUNG** (in Chinese): *Madam President, regarding the effect of the proposed International Wetland Park at Tin Shui Wai on flight safety, will the Government inform this Council:*

- (a) *of the respective numbers of reports of birds interrupting aircraft during takeoff or landing or overflying Hong Kong, received by the Civil Aviation Department (CAD) in the past three years;*
- (b) *whether it knows the measures the Airport Authority (AA) and the CAD have in place for preventing birds from jeopardizing flight safety; and*
- (c) *whether it has assessed if more birds will be attracted to Hong Kong upon the completion of the wetland park and hence affect flight safety;*
- (i) *if it has, of the results of the assessment; if it is assessed that flight safety is likely to be affected, of the remedial action it will take; and*
- (ii) *if it has not made such assessment, of the reasons for that?*

**SECRETARY FOR ECONOMIC SERVICES** (in Chinese): Madam President, as part of the Tin Shui Wai new town development, a 64-hectare ecological mitigation area (EMA) is being constructed by the Territory Development Department at northeast Tin Shui Wai to compensate for the loss of natural habitats due to urban development. The EMA is a low-key amenity area. We propose to take the opportunity to develop this area into an international wetland park with ecology as the main theme. The project will provide ecological protection, education and recreational facilities for use by local residents and overseas visitors.

Our replies to the three parts of the above question are as follows:

- (a) As regards birds interrupting aircraft, the CAD and the AA have all along collected statistics on "birdstrike" by requiring pilots-in-command of aircraft to report any incidents of birds striking against flying or taxiing aircraft. The numbers of "birdstrike" reports received by the CAD and the AA in the past three years are as follows:

*Kai Tak Airport*

1996	17
1997	12
1998 (between January and June)	5

*New Airport*

1998 (between July and December)	7
1999 (between January and June)	5

- (b) The AA had already taken account of the question of bird interference when the airport at Chek Lap Kok was under construction. In 1994, the Authority commissioned a consultant to study bird ecology at Chek Lap Kok and submit recommendations on how to minimize bird interference to aircraft, for example, by restricting the types of plants to be grown at the airport, particularly within the airfield. The AA has also implemented a

recommendation of the consultant by establishing a Bird Control Unit since May 1998. The Unit now carries out daily bird control duties at the airfield during daytime. Its major duties include:

- (i) observing activities of birds on the airfield;
  - (ii) reporting immediately to the Airport Traffic Management Division of the CAD to ensure that pilots are notified once birds are found which may affect safety of aircraft movements;
  - (iii) driving out birds on the airfield;
  - (iv) investigating "birdstrike" incidents and collecting statistics on such incidents; and
  - (v) monitoring the management of the environment to ensure that the airfield will not attract birds to gather.
- (c) According to information provided by the Agriculture and Fisheries Department, birds attracted to the proposed Wetland Park would only constitute a small proportion of the existing flock of birds in the northwest New Territories. Moreover, as the Park will be located more than 15 km away from the airport, the Government believes that the future establishment of the Park will not affect aviation safety.

### **Prosecutions Relating to Smoky Vehicles**

10. **MR LAU KONG-WAH** (in Chinese): *Madam President, it was reported that the numbers of prosecutions relating to smoky vehicles in August and September this year were higher than those for each of the first seven months this year. In this connection, will the Government inform this Council:*

- (a) *of the number of roadside testing operations mounted by the police against smoky vehicles in each month from January to September this year, the average manpower and man-hours required in each operation, and the monthly number of prosecutions relating to various classes of smoky vehicles in the same period;*
- (b) *of the causes of the higher numbers of prosecutions in August and September this year; whether such causes include the fact that the police strengthened law enforcement action in this regard;*
- (c) *whether owners prosecuted for their smoky vehicles are granted a grace period for repairing their vehicles, thus avoiding their being prosecuted again for using the smoky vehicles; if so, of the length of the grace period and the criteria for setting such a period; and*
- (d) *whether any legislation is in place to require that the smoky vehicles in prosecution cases be subjected to emission tests on a regular basis?*

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

- (a) The police did not conduct dedicated roadside testing operations against smoky vehicles before June 1999. From June to September 1999, the police have mounted 165 dedicated roadside testing operations against smoky vehicles. Detailed breakdown on a monthly basis is at Annex A. The usual manpower deployment for a roadside testing operation against smoky vehicles is one Police Sergeant and three to four constables. Such operations are usually mounted for one to two hours per location. The monthly number of prosecutions relating to various classes of smoky vehicles from January to September 1999 are set out in Annex B.

- (b) One of the main reasons for the increase in the number of prosecutions against smoky vehicles in the past few months, as compared with previous months, could be attributed to the launching of dedicated roadside smoke-testing operations by the police since June 1999 as mentioned above. These operations which are conducted in support of the Government's overall action in reducing emissions from vehicles have been effective in raising the awareness among vehicle operators on the importance of proper vehicle maintenance to prevent smoke emissions.
- (c) A smoky vehicle detected by the police on the road will be subject to a road-side smoke test using a portable smokemeter. Vehicles failing the smoke test will be prosecuted by the police either through the issue of fixed penalty ticket or a summons. Thereafter, the police will normally refer smoky vehicles to the Environmental Protection Department (EPD) for a smoke emission test under the Smoky Vehicle Control Programme as a follow-up. The owners of such vehicles would be required to send the vehicles to designated emission testing centre for a smoke test within 14 days. This is to allow vehicle owners sufficient time to properly repair their vehicles and pass the smoke test.
- (d) There is no regulation specifically requiring prosecuted smoky vehicles to undergo regular emission tests. However, all commercial vehicles are required to undergo annual roadworthiness inspection, including a smoke test, by the Transport Department as a prerequisite of licence renewal. The Transport Department has randomly selected 10% of the vehicles undergoing the annual inspection for a strengthened smoke test. The Department will extend the strengthened smoke test to all vehicles undergoing the inspection next year. We are also implementing a number of educational and training programme to raise the awareness on the importance of proper vehicle maintenance to reduce smoke emissions among the transport and maintenance trades. To help



raise the standards of the vehicle maintenance, the EPD, in conjunction with Hong Kong Productivity Council and Vocational Training Centre (VTC), has conducted a number of seminars and workshops for the vehicle mechanics on the proper engine repair to reduce smoke emissions as well as familiarization of the requirements of the dynamometer smoke test. More seminars would be organized to allow all vehicle workshops who are interested to send at least one of their mechanics to attend them. The VTC also plans to organize short courses for vehicle mechanics on the use of dynamometer for better vehicle maintenance. In addition, the Government is setting up a working group with representatives from the vehicle maintenance trade to consider ways to assist the trade to raise the standards of vehicle maintenance.

## Annex A

Number of roadside testing operations carried out by police between  
June and September 1999

<i>Month</i>	<i>Number of operations</i>
January 1999	N/A
February 1999	N/A
March 1999	N/A
April 1999	N/A
May 1999	N/A
June 1999	26
July 1999	42
August 1999	46
September 1999	51
Total:	165

Monthly Enforcement Statistics on Smoke Offences by Vehicle Type  
Between January to September 1999

1999		<i>Private</i>		<i>Public</i>			<i>Private Bus</i>	<i>Public Bus</i>	<i>Motor Cycle</i>	<i>Others</i>	<i>Total</i>
		<i>Car</i>	<i>Light Bus</i>	<i>Taxi</i>	<i>Light Bus</i>	<i>Goods Vehicle</i>					
January	Summons	0	0	0	0	2	0	0	0	0	2
	FPT#	1	0	7	2	23	0	0	0	0	33
	Total	1	0	7	2	25	0	0	0	0	35
February	Summons	0	0	0	0	3	0	0	0	3	6
	FPT#	2	0	29	5	36	0	1	0	0	73
	Total	2	0	29	5	39	0	1	0	3	79
March	Summons	0	0	0	0	1	0	1	0	0	2
	FPT#	0	0	40	5	86	0	0	0	0	131
	Total	0	0	40	5	87	0	1	0	0	133
April	Summons	0	0	1	0	2	0	0	0	0	3
	FPT#	1	0	91	42	314	0	3	0	0	451
	Total	1	0	92	42	316	0	3	0	0	454
May	Summons	0	0	0	1	0	0	0	0	0	1
	FPT#	4	0	69	6	373	0	0	0	0	452
	Total	4	0	69	7	373	0	0	0	0	453
June	Summons	0	0	0	2	3	0	0	0	0	5
	FPT#	3	0	47	3	414	0	0	0	0	467
	Total	3	0	47	5	417	0	0	0	0	472
July	Summons	0	0	1	0	1	0	1	0	0	3
	FPT#	8	0	154	21	556	0	4	0	2	745
	Total	8	0	155	21	557	0	5	0	2	748
August	Summons	3	0	0	0	6	0	0	0	1	10
	FPT#	14	1	189	34	831	0	2	0	0	1 071
	Total	17	1	189	34	837	0	2	0	1	1 081
September	Summons	0	0	0	0	0	0	0	0	0	0
	FPT#	20	0	196	23	777	0	0	0	2	1 018
	Total	20	0	196	23	777	0	0	0	2	1 018
Total	Summons	3	0	2	3	18	0	2	0	4	32
	FPT#	53	1	822	141	3 410	0	10	0	4	4 441
	Total	56	1	824	144	3 428	0	12	0	8	4 473

- Note: (1) Goods Vehicles include light goods vehicles, medium and heavy goods vehicles and special purpose vehicles  
(2) Public buses include all franchised and non-franchised public buses  
(3) Others include Government Vehicles, Trailers and other vehicles

# Fixed Penalty Ticket

**Recent Changes to Evening News Bulletins by ATV**

11. **MISS EMILY LAU:** *Madam President, regarding the recent changes to the evening news bulletins by the Asia Television Limited (ATV), including the deployment of entertainers as newscasters, will the Executive Authorities inform this Council:*

- (a) of the number of complaints received by the Administration about such changes, and the nature of such complaints;*
- (b) whether they know if the Broadcasting Authority (BA) has received similar complaints and, if it has, the number and nature of such complaints; and*
- (c) whether the relevant authorities have examined if such changes have breached any conditions attached to the ATV's commercial television broadcasting licence; if they have, of their findings?*

**SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING:** Madam President,

(a) and (b)

As at 8 November 1999, the Television and Entertainment Licensing Authority (TELA), as the executive arm of the BA, has received a total of 42 complaints against the "Main News" programme on the ATV's Home Channel. The majority of the complaints are related to the deployment of artistes as newscasters; mixing of "hard" news with "soft" news; and frequent rescheduling of the programme.

- (c) Pursuant to section 11 of the Broadcasting Authority Ordinance (Cap. 391), complaints received will be referred to the Broadcasting Authority Complaints Committee (the Committee) for consideration. The Committee will give the licensee who is the subject of the complaints a reasonable opportunity to make representations. Accordingly, the TELA has already invited the ATV to make such representations. Having considered the representations made, if any, and other relevant evidence, the Committee will make recommendations concerning the complaints to the BA. The BA's findings and ruling on the complaints will be made public as and when it has completed its deliberations.

### **Water Consumption in Hong Kong**

12. **MR LAU KONG-WAH** (in Chinese): *Madam President, will the Government inform this Council of:*

- (a) *the total water consumption in Hong Kong; whether such figures show a downward trend;*
- (b) *the percentage of the annual average of water storage as against the total storage capacity of reservoirs in Hong Kong; and*
- (c) *the estimated value of potable water which overflowed from Hong Kong's reservoirs, calculated in accordance with the current unit price of potable water conveyed to Hong Kong;*

in each of the past three years?

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

- (a) The total water consumption in Hong Kong in the past three years were fairly stable. The water consumption in million cubic metres (mcm) in each of the three years is as follows:

<i>Year</i>	<i>1996</i>	<i>1997</i>	<i>1998</i>
Consumption of potable water	928	913	916
Consumption of sea water	185	198	199
Total consumption	1 113	1 111	1 115

- (b) The total storage capacity of reservoirs in Hong Kong is 586 mcm. The average water storage and the percentage as against the total capacity in each of the past three years are as follows:

<i>Year</i>	<i>1996</i>	<i>1997</i>	<i>1998</i>
Average Storage (in mcm)	516	505	516
Percentage	88.1%	86.2%	88.1%

- (c) The storage capacity of reservoirs in Hong Kong is limited. When the water level in the reservoirs is already high and there is a series of heavy rainfall, water will overflow from the reservoirs. However, it is inappropriate to estimate economic loss simply using the unit price of Dongjiang water and the amount of overflow from reservoirs. The determination of the unit price of Dongjiang water is directly related to the agreed supply quantity. The Dongshen Water Supply Scheme is a long-term investment. In the past 30 years or so, the Guangdong authorities had repeatedly put in resources to expand the system to meet the long-term water demand of Hong Kong. Therefore, in determining the base figure of the unit price, we needed to take into account factors, such as the total supply quantity, the payback period and the operating cost. If we had reduced the agreed supply quantity at that time to avoid

reservoir overflowing or for other reasons, the unit price would have increased. Consequently, the current unit price would have gone up. Besides, when the total rainfall is low, we will have to face the threat of water rationing or pay a higher price for additional water from Dongjiang.

### **Promotion of Unified Chinese Language Interface**

13. **MR NG LEUNG-SING** (in Chinese): *Madam President, regarding the promotion of a unified Chinese language interface, will the Government inform this Council:*

- (a) *whether it has plans to discuss with the relevant mainland organizations the inclusion in the Mainland's Chinese Internal Code Specification (CICS) of those Chinese characters in the Hong Kong Supplementary Character Set not yet included in the CICS; and*
- (b) *of the details about the co-operation between the relevant authorities in Hong Kong and the characters standardization organizations in the Mainland in the standardization of Chinese language interface?*

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

- (a) The Information Technology and Broadcasting Bureau has no plans to discuss with the relevant mainland organizations regarding the inclusion in the CICS of those Chinese characters in the Hong Kong Supplementary Character Set not yet included in the CICS. Hong Kong will adopt the ISO 10646 standard, rather than other regional standards, in establishing an open and common Chinese language interface.

The compilation of the ideographic characters to be included in ISO 10646 is undertaken by the Ideographic Rapporteur Group (IRG), which is a working group under the International Organization for Standardization. At present, the mainland China and Hong Kong both participate actively in the work of the IRG. Both parties submit Chinese characters being used in the two places (including characters in the CICS and the Hong Kong Supplementary Character Set which have not yet been included in ISO 10646) to the IRG for consideration for inclusion in future extensions to ISO 10646. The adoption of these extensions would facilitate electronic communication using a single standard among computer users who wish to communicate in the Chinese language.

- (b) The development of an open and common Chinese language interface using ISO 10646 will facilitate electronic communication among computer users who prefer to use the Chinese language. At present, the relevant organizations in the Mainland and Hong Kong participate in the discussions of the IRG under the ISO. They work together on the development of a common Chinese language interface and aim to firm up a new global coding standard as early as possible. The government departments of the Hong Kong Special Administrative Region taking part in the IRG include the Information Technology Services Department and the Official Languages Agency. The mainland organizations involved in the IRG discussions include the Research Centre of Computer and Microelectronics Industry Development under the Ministry of Information Industry and the Chinese Electronics Standardization Institute.

**Legal Aid to Two-way Exit Permit Holders Overstaying in Hong Kong**

14. **MR KEENETH TING** (in Chinese): *Madam President, will the Government inform this Council:*

- (a) *of the number of approved legal aid applications lodged by Two-way Exit Permit holders overstaying in Hong Kong in the past 12 months, and the estimated legal costs involved;*
- (b) *of the number of law firms entrusted to handle such legal aid cases; and the number of such cases handled by each of these law firms; and*
- (c) *whether it knows if it has been a practice for legal aid agencies in other countries to provide legal aid to persons who do not have the right of abode in their countries; if so, of the details?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Chinese): Madam President, the Administration's response to the question raised by the Honourable Member is as follows:

- (a) In the past 12 months, the Legal Aid Department has granted legal aid to 21 Two-way Exit Permit holders overstaying in Hong Kong. The applications are being pursued through five sets of proceedings. As litigation is still in progress, it is difficult at this stage to estimate the total legal fees that would be incurred in these proceedings.
- (b) The five sets of legally-aided proceedings were entrusted to two law firms: one law firm handled four sets of the proceedings, and the other handled the remaining set.
- (c) We do not have comprehensive information on whether legal aid is provided by overseas legal aid agencies to persons who do not have the right of abode in those countries.



Information to hand indicates that legal aid is available to persons who do not have right of abode in Australia, Ontario of Canada, England and Wales, Belgium and Japan, provided that these persons satisfy the prescribed eligibility tests for legal aid in those jurisdictions.

We understand that some countries' laws provide that legal aid should only be provided to citizens or permanent residents, but there are other schemes to cover specific cases involving persons who do not have right of abode in the countries concerned. For instance, to qualify for receiving legal aid in Singapore, a person must be a Singaporean citizen or permanent resident. In the event an illegal immigrant is charged with criminal offences, volunteer lawyers under the Criminal Law Aid Scheme will provide legal aid to him. For capital cases, the Singaporean Government will provide two lawyers to represent a defendant who do not have right of abode in the country.

### **Amount of Homework Assigned to Students**

15. **MR LEE WING-TAT** (in Chinese): *Madam President, I have received complaints from parents of primary school students that some schools require their students to do a large amount of homework every day as the schools are keen on becoming elite schools. In this connection, will the Government inform this Council:*

- (a) *whether it has issued any guidelines to primary schools on the maximum amount of homework to be assigned to students every day;*
- (b) *of the measures in place to prevent schools from giving too much homework to students; and*
- (c) *of the measures in place to encourage schools to consult parents on the amount of homework given to students?*

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

- (a) Since circumstances of schools differ and students' learning needs vary, it is difficult and impractical to specify rigidly the maximum amount of homework to be assigned to students at each class level. The Government therefore has not issued any guidelines in this regard.

(b) and (c)

In 1996, the Education Department (ED) issued a "Guidelines on Homework and Tests in Schools" to all primary and secondary schools, reminding schools to pay attention to, supervise and regulate the type, frequency and amount of homework set for each class. The guidelines encourage school heads to draw up, in consultation with teachers, a comprehensive homework policy to ensure that the amount of homework is properly regulated. School heads should supervise the implementation of the homework policy and explain to students and parents the essence of the policy. The homework policy should be reviewed regularly and during the course of review, schools should take into account feedback and suggestions of parents. In addition, the ED also encourages schools to set up parent-teacher associations. Through these associations, schools may seek the views of parents on the amount of homework.

The guidelines also list some guiding principles in relation to the design of homework (including types, frequency and amount), which include:

- (i) schools may consider drawing up for each class a homework timetable to ensure an even spread of homework over the week (or teaching cycle) and a balanced coverage of subjects;

- (ii) in setting the amount of homework, teachers should consider different factors, including the age, abilities and learning needs of students, so as to allow students sufficient time for social functions, outdoor activities, extracurricular activities and rest; and
- (iii) teachers should vary types of assignment in accordance with the needs of students and the objectives of the subjects. Students should not be made to spend too much time on writing, and mechanical repetition or rote learning should be avoided.

Offices of the ED will liaise with schools on developing a homework policy and will offer relevant advice and assistance. During visits to schools, officers will also note the action taken, and check whether the frequency, amount and types of homework are appropriate. Where necessary, advice will be given to schools.

### **Retraining Courses Funded by the Employees Retraining Board**

16. **MR JAMES TIEN** (in Chinese): *Madam President, regarding the appropriation of funds by the Employees Retraining Board (ERB) to training bodies for organizing retraining courses, will the Government inform this Council whether it knows:*

- (a) *the criteria adopted by the ERB for selecting training bodies;*
- (b) *the measures taken by the ERB to ensure that the retraining courses are geared to the actual needs of the industrial and commercial sectors;*
- (c) *the mechanism through which the ERB assesses the quality of retraining courses; and*
- (d) *the means by which the ERB determines the cost-effectiveness of retraining courses?*

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

- (a) All retraining courses funded by the ERB are delivered by approved training bodies. Applications to become approved training bodies are considered by the Vetting and Monitoring Subcommittee (VMSC) established under the Course Development Committee of the ERB. The VMSC will consider each application against a set of criteria, including the background of and services provided by the applicant organization, its management structure, financial position and control mechanism, track record in providing adult education, training and employment services, network with employers and employees, training facilities, manpower resources, and the training places and types of courses to be offered under the Employees Retraining Scheme. Upon approval by the VMSC, a new training body will be put on a trial period of six months before its approved status can be confirmed.
  
- (b) To ensure that retraining courses are geared to meet the market needs, the ERB pays close attention to the labour market situation and exchanges views with employer associations and training bodies on a regular basis. To further enhance its work, the ERB is in the process of setting up Trade Advisory Groups and Course Steering Groups for major categories of courses. Trade Advisory Groups comprise mainly employers to enable the ERB gather views from employers of different industries in the development of retraining courses. The membership of Course Steering Groups is mainly drawn from training bodies to advise on the design, contents and evaluation of specific courses. At the training body level, training bodies are required to set up their own user advisory committees comprising employers' and retrainees' representatives for major categories of retraining courses. The aim is to enhance the quality of training courses and hence their recognition by employers.

Since 1995, the ERB has offered tailor-made retraining programmes. These tailor-made retraining courses are designed to meet the specific requirements of individual employers, groups of small and medium enterprises and trade associations. The potential employers and trade associations are heavily involved in the design, development and running of courses as well as post-training follow-up to ensure that the courses can meet their needs.

One of the primary performance indicators to assess whether retraining courses meet the market needs is the placement rate of full-time retrainees. When assessing the performance of training bodies and deciding whether a certain retraining course should be re-run, the ERB makes reference to the placement rate of its graduate retrainees. The benchmark placement rate was set at 70% in 1995 but it has been applied with some flexibility in the recent two years in recognition of the difficult labour market situation at a time of high unemployment.

- (c) As mentioned above, the placement rate of full-time retrainees is one of the primary performance indicators for the ERB. Since the majority of retrainees in part-time retraining courses are in employment, other assessment criteria including capacity utilization and attendance rates, feedback from retrainees and employers, administrative efficiency and cost-effectiveness in course delivery will be taken into account in assessing the effectiveness of these courses. Retraining courses that do not perform well in terms of placement and other assessment criteria will be discontinued. New courses are tried out on a pilot basis, and funding support for further classes is contingent upon satisfactory performance of the pilot classes.

To ensure that the above performance indicators are fulfilled, the ERB closely monitors the performance of the training bodies through regular meetings with the heads of training bodies and site visits.

- (d) The criteria for the ERB to assess the effectiveness of retraining courses have been outlined in (c). As regards the cost-effectiveness of individual courses, the ERB will compare the unit cost (that is, cost per head and cost per trainee hour) of similar training courses provided by different training bodies. In assessing funding proposals, the ERB will make reference to the average unit cost for delivering similar training courses by other training bodies.

### **Relocation of Shipyards at Northern Tsing Yi**

17. **MR LEE WING-TAT** (in Chinese): *Madam President, regarding the relocation of the shipyards at northern Tsing Yi, will the Government inform this Council:*

- (a) *of the date fixed for relocating the shipyards;*
- (b) *of the uses of the vacated sites upon the relocation of the shipyards; and*
- (c) *whether it has any plans to carry out reclamation in the waters off the shipyard sites after the relocation; if so, of the precautionary measures it will take to avoid the reclamation works causing nuisances to the residents nearby?*

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

- (a) The relocation of the shipyards in North Tsing Yi started on 2 November 1999 upon which the shipyard operators concerned were required to vacate the sites. As some shipyard operators need more time to remove their heavy machinery and equipment, they have been allowed a month's grace period to move out.

- (b) The vacated sites together with the adjoining land to be formed by reclamation will be used for the provision of district open space and government/institution/community facilities in accordance with the Tsing Yi Outline Zoning Plan.
- (c) Having taken back the vacated shipyard sites, the Government will conduct a land contamination study at the sites and demolish the structures left thereon. The government contractor will then carry out reclamation works in the waters off the shipyard sites in 2001. The contractor is required to employ environmental consultants to carry out environmental monitoring and audit work. This will ensure that the reclamation works will comply with the provisions of various ordinances on environmental protection and to reduce any unfavourable impact on the environment and residents nearby. During the works period, the contractor will implement appropriate environmental mitigation measures, including the use of quieter equipment, maximizing the use of marine access for delivering materials and minimizing the use of the nearby roads by construction trucks during peak hours so as to reduce any adverse traffic impact.

### **Workers Sustaining Eye Injuries Whilst at Work**

18. **DR DAVID LI:** *Madam President, it was reported that according to a study conducted by the Hong Kong Workers' Health Centre, about 70% of the workers who sustained eye injuries whilst at work had not worn any eye protection devices. In this connection, will the Government inform this Council:*

- (a) *of the number of workers who sustained eye injuries whilst at work in each of the past three years; among them, of the respective number of workers who:*

- (i) *had not been provided with proper eye protection devices by their employers; and*
  - (ii) *had chosen not to use the eye protection devices provided by their employers;*
- (b) *of the maximum penalty imposed on employers found guilty by the court in the past 12 months for failing to provide their workers with proper eye protection devices; and*
- (c) *whether it will consider allocating more financial resources to impress upon both employers and workers the importance of eye protection at workplaces?*

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

- (a) The Labour Department (LD) recorded 3 363 eye injury cases in 1998 which constituted 5.29% of the 63 526 occupational injuries reported in the same year. Most of the eye injury cases in 1998 occurred in construction sites (1 805 cases), restaurants, cafes and bars (247 cases) and repair workshops (232 cases). We do not have the number of accidents involving eye injuries for 1997 and before. Neither do we have information on the breakdown according to items (i) and (ii) of part (a) of the question.
- (b) During the 12-month period between 1 October 1998 and 30 September 1999, there were 161 summonses in which proprietors and contractors were convicted for failing to provide or ensure the use of eye protectors under the Factories and Industrial Undertakings (Protection of Eyes) Regulations or the Construction Sites (Safety) Regulations. The total fine for these 161 summonses amounted to \$1,836,500. The highest fine handed down was \$50,000 which was the maximum penalty prescribed for the relevant offence.



- (c) The LD has firm plans to promote eye protection at work. In its regular activities, the Department conducts training courses for workers and their supervisors and provides advice on eye protection during visits. The Department has also published pamphlets on the Factories and Industrial Undertakings (Protection of Eyes) Regulations and the Construction Sites (Safety) Regulations and on specific subjects such as welding, lighting and workstation design to keep the public informed.

Apart from its regular activities, the LD has set eye protection as a major feature in the promotion campaign on the use of personal protective equipment. The personal protective equipment promotion campaign is one of the three major safety promotion drives of the Department for 1999-2000. It has a provisional budget of \$4 million and will be launched in December 1999. The local construction industry, workers' organizations, statutory training and compensation boards, the Works Bureau, the Housing Authority and the Occupational Safety and Health Council will join hands with the LD in this exercise.

In this campaign, personal protective gears, such as eye goggles, will be distributed free of charge to workers to encourage them to form a habit of wearing eye protectors at work where necessary. An announcement of public interest is being prepared to complement this drive. The LD is also preparing a new pamphlet providing practical guidelines in choosing the right types of eye protectors at work. This guidebook will be published early next year.

A new regulation will be made under the Occupational Safety and Health Ordinance on the use of personal protective equipment and we intend to submit it to the Legislative Council for approval in the current session. We believe that through these efforts we should be able to impress upon employers and workers the importance of eye protection at work.

**Operation of the Small and Medium Enterprises Office**

19. **MR CHEUNG MAN-KWONG** (in Chinese): *Madam President, with regard to the operation of the Small and Medium Enterprises (SMEs) Office under the Industry Department, will the Government inform this Council of:*

- (a) *apart from setting up a Virtual SMEs Information Centre on the Internet, the details of the efforts that have been made by the SMEs Office since its establishment on 1 April 1999 in promoting and co-ordinating the efforts of other government departments and business organizations in supporting the SMEs; and the efforts it has made in finding out ways to facilitate the development of SMEs and enhance their competitiveness;*
- (b) *the organizational structure of the SMEs Office; whether it has set up any committee or held any regular meetings so as to allow various government departments and organizations providing support for trade and industry to make concerted efforts in planning and exploring ways to provide effective support for the SMEs;*
- (c) *the expenditure items and the expenditure for each item of the SMEs Office since its establishment; and*
- (d) *the working relationship with and division of responsibilities between the SMEs Office and other divisions within the Industry Department?*

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

- (a) Since its establishment on 1 April 1999, the SMEs Office has engaged in a number of initiatives to help promote and co-ordinate the efforts of other government departments and relevant organizations in supporting the SMEs. Examples of these initiatives include the following:

- (i) setting up an SMEs Information Centre and a Virtual SMEs Information Centre in August 1999 to help the SMEs gain access to the wide range of services provided by government departments, industry-support bodies and industry and trade organizations;
- (ii) preparation of a draft SMEs Development Support Plan with a view to facilitating co-ordination and improvement of services to help the SMEs;
- (iii) supporting the implementation and review of the Special Finance Scheme for SMEs; and
- (iv) planning for a pilot mentorship programme under which successful businessmen and experienced business executives would provide counselling service to assist the SMEs in Hong Kong.

As the secretariat of the SMEs Committee, the SMEs Office also plays an active part in implementing initiatives of the committee. The SMEs Office liaises with the relevant government departments and industry support organizations to follow up on the various recommendations of the SMEs Committee.

- (b) The SMEs Office comprises two sections. The Services and Administration Section is responsible for the operation of the SMEs Information Centre and Virtual SMEs Information Centre. The SMEs Policy Development Section is responsible for developing new SME-related services; monitoring the operation of the Special Finance Scheme for SMEs; and participating in SME-related activities of the Asia Pacific Economic Co-operation forum.

The SMEs Office has not on its own established standing committees to liaise with the relevant government departments or organizations. However, it brings the relevant government departments and organizations together for discussion of matters related to SMEs through the SMEs Committee. In addition, it holds meetings with relevant departments and organizations on SME matters on a need basis from time to time.

- (c) The capital expenditures on the major activities of the SMEs Office since its establishment are as follows:

<i>Item</i>	<i>Amount (HK\$)</i>
(i) Setting up of SMEs Information Centre and Virtual SMEs Information Centre	1,713,000
(ii) Publicity for Special Finance Scheme for SMEs	188,700
(iii) Publication of SMEs Development Support Plan	93,200
(iv) Participation in APEC SMEs meetings and related activities	231,500
Total:	2,226,400

Note: All figures rounded to the nearest hundred.

- (d) The Industry Department comprises five main divisions and their respective areas of responsibility are quality services, technology support, investment promotion, infrastructure support and development support. The SMEs Office is a special unit set up under the Development Support Division of the Department to promote and support the development of SMEs in Hong Kong.

**Radiation Level of the Equipment on Marine Police Launches**

20. **MR DAVID CHU** (in Chinese): *Madam President, it was reported that the level of radiation generated by the radar equipment on some marine police launches exceeded the safety standard and several marine police officers who had operated the equipment suffered from cancer. In this connection, will the Government inform this Council whether:*

- (a) *it has compiled statistics on the percentage of marine police officers who were confirmed to be suffering from cancer in the past five years, as against the total number of the marine police officers; how this percentage compares to the respective percentages in the entire Civil Service and in the overall population of Hong Kong in the same period;*
- (b) *the police have been conducting regular tests on the radiation level of the equipment on the marine police launches; if so, of the details of the regular tests and the findings of these tests; and*
- (c) *it has conducted researches to identify the civil service grades which have to work in environments with high radiation level; if it has, of the results of the researches; if not, of the reasons for that?*

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

- (a) According to the police's records, a total of nine marine police officers were confirmed to have suffered from cancer in the past five years. This represents about 0.4% of the average strength of 2 094 marine police officers in that period. As regards the respective percentages in the entire Civil Service and in the overall population of Hong Kong, the former is not available as we do not keep statistics on civil servants who suffered from cancer while the latter for the period of 1992 to 1996<sup>1</sup> is about 0.3%.

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<sup>1</sup> At present, statistical information about new cancer cases is kept by the Hong Kong Cancer Registry of the Hospital Authority. Due to the need to verify the accuracy of the data and cross-check cases reported from different sources, the Registry has only compiled the number of new cancer cases up to 1996.

When examining the above figures, we should bear in mind that apart from the working environment, there are other variables, including the age and the lifestyle of the persons concerned, that may affect their chances of contracting the disease. For these reasons, to determine whether people working with radar have a higher risk of contracting cancer, the police are seeking the assistance of the Health Department to conduct research on the profile of the marine police officers who have suffered from cancer in the past 10 years.

- (b) The police have not conducted regular tests on the radiation level of the radar and radio equipment installed on board the marine police launches because such equipment must conform to standards set by the American National Standards Institute or the International Radiation Protection Association (IRPA). In view of the staff's concerns, the police are seeking assistance from the Office of the Telecommunication Authority (OFTA) to conduct an independent study on the amount of radiation generated by the equipment.
- (c) The Administration has not conducted research to identify the civil service grades that have to work in environment with high radiation level. However, efforts have been made to protect members of the public and civil servants from unnecessary and excessive exposure to radiation caused by radio transmitting equipment, including radar. In 1996, based on the standards published by the IRPA, the OFTA issued a "Code of Practice for the Protection of Workers and Members of Public Against Non-ionizing Radiation Hazards from Radio Transmitting Equipment" to give guidance, among other things, on how to provide a safe and healthy working environment to those who work at radar sites. In addition, the OFTA will provide professional advice relating to the radiation level in any establishments including government departments should such requests arise.

**BILLS****First Reading of Bills**

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

**EXCHANGES AND CLEARING HOUSES (MERGER) BILL****REHABILITATION CENTRES BILL**

**CLERK** (in Cantonese): Exchanges and clearing house (Merger) Bill  
Rehabilitation Centres Bill.

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

**Second Reading of Bills**

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

**EXCHANGES AND CLEARING HOUSES (MERGER) BILL**

**SECRETARY FOR FINANCIAL SERVICES** (in Cantonese): Madam President, I move that the Exchanges and Clearing Houses (Merger) Bill be read the Second time. The Government introduced the Bill for the purpose of modifying the existing legislative framework for the securities and futures market to enable the implementation of the proposed merger of the two exchanges and their associating clearing houses.

Currently, the securities and futures markets in Hong Kong comprise two exchanges and three clearing houses. The Stock Exchange of Hong Kong, the Hong Kong Futures Exchange and their two clearing houses, which are wholly-owned subsidiaries of the two exchanges respectively, are essentially mutual, membership-driven organizations; and the securities market and the futures market operate independently. While the existing structure of the two markets has served Hong Kong well for the last decade, it has become increasingly inadequate to respond to new challenges from technological advances, globalization of the international financial markets and the needs of the increasingly sophisticated investors both locally and overseas. The local markets must be reformed to enhance our competitiveness so that Hong Kong can maintain its leading position as an international financial centre.

In March this year, the Financial Secretary announced in his Budget speech the proposed reform of the securities and futures markets. The reform calls for, *inter alia*, the merger of the two exchanges and three clearing houses under a single holding company known as Hong Kong Exchanges and Clearing Limited or the HKEC in short. The new holding company will be a performance-driven commercial entity. It will also be required to perform important public functions to maintain a fair and orderly market and ensure prudent risk management, having regard for the public interest in general. After the merger, ownership of exchanges and the right of access to the market will be separated to avoid conflicts of interests between the exchanges themselves and their shareholders and to allow more effective competition in the market. Through listing, ownership of the new holding company is expected to diversify over time to become a public-owned company.

The schemes of arrangements for the merger was approved by an overwhelming majority of members of the exchanges on 27 September and subsequently sanctioned by the Court on 11 October. However, the merger schemes will become effective only upon the enactment of the Exchanges and Clearing Houses (Merger) Bill tabled before this Council now.



Major provisions of the Bill include the following:

- (a) No person is allowed to control either directly or indirectly any exchange companies or clearing houses unless recognized by the Securities and Futures Commission (SFC) as a recognized exchange controller, and a system is put in place for the regulation of the recognized exchange controllers. The regulatory system will be applicable to the new HKEC;
- (b) Imposition of a 5% shareholding limit for the HKEC. Meanwhile, no person may exercise or control the exercise of more than 5% of the voting power of the HKEC, an exchange company or clearing house unless with the requisite approval in order to prevent control of the HKEC by any person either alone or with any associates;
- (c) The appointment of the Chairman, chief executive officer and chief operating officer of the HKEC must be subject to the approval of the Chief Executive of the Special Administrative Region and the SFC. The Chief Executive and the SFC are also empowered to order the removal of the Chairman, chief executive officer and chief operating officer from their office;
- (d) Any fees and charges imposed by the HKEC or any of its subsidiary exchange companies or clearing houses will be subject to the approval of the SFC in order to prevent the abuse of its monopolistic position in the market. Moreover, the HKEC is required to set up a risk management committee to enable the HKEC to perform the risk management function in a prudent manner;
- (e) The Bill also provides clear legal basis and procedures for the conversion of the Hong Kong Securities Clearing Company Limited from a company limited by guarantee to a company limited by shares to ensure smooth implementation of the merger; and

- (f) The Bill proposes consequential amendments to other related legislation, including the Prevention of Bribery Ordinance which will be amended to include the HKEC as a public body, and the Legislative Council (Amendment) Ordinance 1999, which will be amended to re-delineate the Financial Services Functional Constituency with respect to the two exchanges on the basis of "exchange participants".

Madam President, the merger proposal is integral to the reform of the securities and futures markets. Taking an overview of the global markets, similar reforms are carried out by other overseas markets successively to meet new challenges from international financial markets. At a time when one cannot afford to let go of one single minute and second, the implementation of the merger schemes can brook no delay in order to ensure that Hong Kong does not lag behind other competitors. The Bill is expected to be passed by the Legislative Council in January next year and the schemes of arrangements for the merger will only be implemented then. If the legislative procedures for the merger cannot be completed by the end of March, the schemes of arrangements will lapse unless the Court approves an extension of the expiry date for the schemes. For this reason, I urge Members to support the Bill and expeditiously proceed to the scrutiny of the Bill to enable the early implementation of the merger schemes. Thank you, Madam President.

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

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

**REHABILITATION CENTRES BILL**

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I move that the Rehabilitation Centres Bill be read the Second time. The Bill seeks to provide a legal basis for a rehabilitation centre programme to be developed and implemented for young offenders so that the Court can be provided with an additional sentencing option in dealing with young offenders. The proposed programme is a key initiative taken by the Government to improve the rehabilitation services for young offenders.

In 1996, the Standing Committee on Young Offenders of the Fight Crime Committee commissioned the City University of Hong Kong to conduct research into the effectiveness of rehabilitation programmes for young offenders. The research acknowledged the value of the various rehabilitation programmes in the reformation of young offenders, but it also identified a shortage of appropriate sentencing options for the Court to deal with young male offenders who are physically unfit for detention in a Detention Centre and young female offenders who are not involved in vice-related offences. Under the circumstance, the Court has no alternative but to sentence them to Training Centres operated by the Correctional Services Department (CSD), which may be too harsh in terms of the length of detention, or put them on probation under the supervision of the Social Welfare Department (SWD), which may be too lenient.

After detailed studies and extensive consultation, we propose to introduce a new short-term residential rehabilitation programme with emphasis on community-based measures. Unlike Detention Centres which prescribe stringent physical training, the new programme is physically less demanding and provides an additional penal option between the longer-term Training Centre programme run by the CSD and non-custodial measures administered by the SWD. The new programme, to be operated in the rehabilitation centres appointed by the Bill under the management of the CSD, will consist of two phases:

- (a) The first phase of the programme, which focuses on discipline training, will provide two to five months' training in a rehabilitation centre to help the inmates learn to exercise better self-control and develop a regular living pattern. In the meantime, counselling, social skills training and basic work skills training will also be provided by the CSD.
  
- (b) During the second phase, the young offenders will be accommodated in a hostel with a half-way house setting for a period of one to four months. They may go out for work, attend vocational training and educational courses, and participate in community service programmes during this period. Staff of the rehabilitation centre will also encourage and assist the inmates to maintain contact with their family members and friends so that they can rebuild their relationship with their families and establish healthy social ties.

The Bill provided that the total period of detention will range from a minimum of three months to a maximum of nine months. The actual period of detention served by a young offender will depend on the offender's conduct and progress. In this connection, staff of the rehabilitation centre will make on-going assessment of the offender's self-care ability and response towards counselling in order to determine the appropriate time to transfer the young offender from the first phase to the second phase of the programme and to release the offender from the rehabilitation centre. Moreover, the Bill also stipulated that discharged offenders will be subject to one year's supervision during which counselling services will be provided by CSD officers to facilitate their re-integration into society.

The rehabilitation centre programme targets young offenders who are aged from 14 to below 21 and whose offences call for a short-term custodial sentence. Under our proposal, the rehabilitation centres will cater for youngsters who do not have a series of previous convictions and whose offences are not serious in nature, such as shoplifting and minor assault offences, in which case a long

period of detention in a Training Centre (up to a maximum of 36 months) is not justified and rehabilitation may not be effectively achieved through non-custodial measures such as probation. The potential inmates of the rehabilitation centre should also include young male offenders who are physically unfit for detention in a Detention Centre, and young female offenders who are not involved in vice-related offences.

We believe that the rehabilitation centre programme can enable the Court to pass more appropriate sentences on young offenders so that different types of young offenders can be provided with services which cater for their rehabilitative needs best. The new programme aims to correct the delinquent values and behaviour of young offenders, deter them from committing further crimes, help them develop socially acceptable behaviour and respect for law, equip them with necessary social and life skills to enhance their problem-solving capacity, and provide them with opportunities to learn the necessary skills. The ultimate aim of our penal policy is to provide effective assistance for offenders to make a new start in life and re-integrate into society.

The rehabilitation centre programme has the support of the Judiciary. The Panel on Security, which was also consulted in December 1998, was supportive of the programme. I urge for the early passage of the Bill by the Legislative Council to enable the smooth commencement of the new programme.

Madam President, I beg to move.

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

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

**Resumption of Second Reading Debate on Bill**

**PRESIDENT** (in Cantonese): This Council now resumes the Second Reading debate on the Adaptation of Laws (No. 22) Bill 1999.

**ADAPTATION OF LAWS (NO. 22) BILL 1999****Resumption of debate on Second Reading which was moved on 14 July 1999**

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Adaptation of Laws (No. 22) Bill 1999 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Adaptation of Laws (No. 22) Bill 1999.

Council went into Committee.

**Committee Stage**

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

**ADAPTATION OF LAWS (NO. 22) BILL 1999**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Adaptation of Laws (No. 22) Bill 1999.

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

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedules 1 to 4, 6 to 14, and 16 to 22.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedules 5 and 15.

**SECRETARY FOR SECURITY** (in Cantonese): Madam Chairman, I move that Schedules 5 and 15 of the Bill be amended as set out in the paper circulated to Members.

*Schedule 5      Registration of Persons Regulations*

The proposed amendment to Schedule 5 is to repeal the regulation under the Registration of Persons Regulations which exempts the then Governor and his family members from the requirement to register or apply for an identity card. Taking account of Article 44 of the Basic Law which provides that the Chief Executive must, *inter alia*, be a permanent resident, we consider the exemption no longer justified.

*Schedule 15      Government Flying Service (Discipline) Regulation*

The proposed amendment to Schedule 15 is to adapt the term "Secretary of the Government Secretariat" under the Government Flying Service (Discipline) Regulation to "Director of Bureau". This is to reflect the proper rank title after the reunification.

I urge Members to support these amendments.



*Proposed amendments*

**Schedule 5 (see Annex V)**

**Schedule 15 (see Annex V)**

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedules 5 and 15 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

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

Council then resumed.

### **Third Reading of Bill**

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

### **ADAPTATION OF LAWS (NO. 22) BILL 1999**

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

Adaptation of Laws (No. 22) Bill 1999

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

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Adaptation of Laws (No. 22) Bill 1999 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Adaptation of Laws (No. 22) Bill 1999.

## **MOTION**

**PRESIDENT** (in Cantonese): Motion. Proposed resolution under the Mutual Legal Assistance in Criminal Matters Ordinance.

## **PROPOSED RESOLUTION UNDER THE MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS ORDINANCE**

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I move that the resolution to make the Mutual Legal Assistance in Criminal Matters (United States of America) Order which has been printed on the Agenda be passed.

The Hong Kong Special Administrative Region is fully committed to international co-operation in combating serious crimes. In this connection, we have embarked on a programme to establish a network of bilateral agreements with other jurisdictions on mutual legal assistance in criminal matters. These agreements ensure reciprocity between the contracting parties and enhance international co-operation in the fight against transnational crime. We have so far signed eight agreements with other jurisdictions on mutual legal assistance in criminal matters. These include agreements with Australia, France, New Zealand, the United Kingdom, the United States, Italy, South Korea and Switzerland.

The Mutual Legal Assistance in Criminal Matters Ordinance (the Ordinance) provides the necessary statutory framework for providing assistance in the investigation and prosecution of criminal offences, which includes the taking of evidence from witnesses, search and seizure, production of materials, transfer of persons to give evidence and confiscation of the proceeds of crime.

Pursuant to section 4(2) of the Ordinance, the Chief Executive in Council has made this Mutual Legal Assistance in Criminal Matters Order to implement the bilateral arrangements for mutual legal assistance in criminal matters with the United States. This Order specifies the scope and procedures in relation to the provision of assistance. It also provides for safeguards of the rights of persons involved in criminal proceedings. This Order is substantially in conformity with the provisions in the Ordinance. However, as mutual legal assistance practices vary from jurisdiction to jurisdiction, it is necessary to modify some of the provisions of the Ordinance to reflect the practice of a particular negotiating partner. These are necessary to enable Hong Kong to comply with its obligations in a specific agreement. The modifications in respect of the Agreement with the United States are summarized in the Schedule to the Order.

I would like to thank the Chairman, the Honourable James TO and other members of the Subcommittee for their careful examination of this Order.

The Subcommittee had deliberated in detail on a number of aspects of the Agreement. These include the arrangements for requests for assistance over offences which carry the death penalty, and the application of the double criminality principle under the terms of the Agreement, with particular reference to offences related to taxation, customs duties and so on. I would like to take this opportunity to assure Members that the relevant provisions in the Agreement represent the best balance which would, on the one hand, enable effective co-operation in law enforcement between the United States and Hong Kong, and on the other hand, provide for adequate safeguards of the rights of individuals. I am very grateful to the Subcommittee for their understanding and support.

The United States is our major partner in criminal justice and international law enforcement. It is therefore essential that this Mutual Legal Assistance in Criminal Matters (United States of America) Order be made to enable the relevant bilateral agreement to be brought into force. I urge Members to approve this Order.

Thank you, Madam President.

**The Secretary for Security moved the following motion:**

"That the Mutual Legal Assistance in Criminal Matters (United States of America) Order, made by the Chief Executive in Council on 13 October 1998, be approved."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Security, as set out on the Agenda, be passed.

**MR JAMES TO** (in Cantonese): Madam President, I rise to speak in my capacity as the Chairman of the Subcommittee responsible for examining the Mutual Legal Assistance in Criminal Matters (United States of America) Order (the United States Order).

Pursuant to section 4(2) of the Mutual Legal Assistance in Criminal Matters Ordinance (the Ordinance), the Chief Executive in Council has made the United States Order to implement the bilateral arrangements for mutual legal assistance in criminal matters with the United States.

The deliberation work carried out by the Subcommittee lasted for almost a year. I shall now highlight the main deliberations of the Subcommittee on the United States Order.

Section 5(3)(c) of the Ordinance provides that a request by a place outside Hong Kong for assistance under the Ordinance may be refused by the Secretary for Justice if the request relates to an external serious offence punishable with death. The Subcommittee notes that there is no provision in the Hong Kong Special Administrative Region/United States Agreement (the Agreement), which is annexed at Schedule 1 to the United States Order, for refusal of assistance by the requested party if the request relates to an offence which carries death penalty within the jurisdiction of the requesting party.

The Administration has explained that it is not uncommon in international agreements to leave out the "death penalty exception" provision. The Administration has further pointed out that there is an "essential interests" clause in the Agreement, and the United States accepts that a jurisdiction which does not impose the death penalty may refuse assistance for an offence which carries the death penalty on the basis of the "essential interests" clause. According to the Administration, the United States has advised that the "essential interests" exception should not be construed as a vehicle for a blanket prohibition of assistance in all cases that might theoretically involve the death penalty as this would unduly hamper law enforcement co-operation. Therefore, if the Secretary for Justice were to refuse a request from the United States by the exercise of her discretion pursuant to section 5(3)(c) of the Ordinance, the United States authorities would not consider this refusal to be a breach of the Agreement.

The Subcommittee has expressed concern that informal assistance currently provided to the Mainland in death penalty cases might be a factor to be taken account of in deciding whether to grant assistance to the United States. The Administration has clarified that such informal assistance provided to the Mainland is not relevant to the exercise of the Secretary for Justice's discretion to grant or refuse assistance to the United States in relation to offences which carry the death penalty.

Section 5(1)(g) of the Ordinance provides that the Secretary for Justice shall refuse assistance if the offence in respect of which assistance is sought will not be an offence under Hong Kong law.

The Subcommittee notes that Article 3(1)(d) of the Agreement makes an exception to this "double criminality" principle by requiring that assistance is to be given in respect of certain serious offences listed in the Annex to the Agreement, irrespective of whether the acts constituting the offence in the United States will also result in a criminal conviction in Hong Kong.

The Administration has explained that the United States Government initially would not agree to the inclusion of double criminality requirement in the Agreement on the grounds that none of their existing agreements include such a requirement and the prevailing international practice does not require double criminality to exist before assistance could be provided. According to the Administration, the provision in Article 3(1)(d) of the Agreement was included as a compromise instead of not having a double criminality requirement at all, in accordance with the international practice, and in order to meet the United States concerns that assistance should be available for certain serious offences which, by their nature, were regarded by the United States as likely to require assistance from outside the United States.

The Subcommittee has considered the submission by the Hong Kong Society of Accountants that the double criminality test should apply to offences related to taxation, customs duties and foreign exchange control specified at Item (3) of the Annex to the Agreement. The Subcommittee accepts the Administration's explanation that as the laws on taxation, customs duties as well as foreign import and export vary greatly in different jurisdictions, double criminality requirement should not be applied to mutual legal assistance.

The Subcommittee agrees with the Administration's explanation that the modifications to the Ordinance as summarized in Schedule 2 to the United States Order are necessary to enable Hong Kong to comply with its obligations specified in the Agreement.

The Subcommittee recommends that the United States Order be endorsed.

With these remarks, Madam President, I have briefed this Council on the deliberation work and results of the Subcommittee. Thank you.

**MR ERIC LI** (in Cantonese): Madam President, the Mutual Legal Assistance in Criminal Matters (United States of America) Order (the United States Order), one of the five resolutions made under section 4 of the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525), has adopted some wordings slightly different from those used by other countries. This has aroused concerns from the Hong Kong Society of Accountants (HKSA), which has put forward its views on the matter. First of all, I would like to make a reminder here. Members may recall that when the principal clauses were deliberated by this Council in 1997, the Committee of the whole Council endorsed that certain clauses on external offences related to taxation (section 5(2), 10(11), 12(13) and 15(19) of the Ordinance refer) be added to the Bill to impose restriction on the rendering of assistance to the requesting party. As the contents have been explicitly provided for, I am not going to repeat them here.

I originally intended to mention the crimes referred to in Item (3) (problems involving tax, customs duties, foreign exchange control and other taxation matters). I decided not to mention them here for the Chairman of the Subcommittee has already explained them in great detail. However, I would like to mention in particular that the definitions of the crimes referred to in Item (5) of the Annex (that is, export and import control offences, including conduct implicated of evading laws controlling the export of goods or arms, and other offences against the laws relating to the control of exportation or importation of goods of any type) indeed lack clarity and there are potential problems with the extensive scope covered by them. Furthermore, we have raised matters of our concern.

In the end, we accepted the Government's explanations. Just now, the Chairman of the Subcommittee has stated all the explanations. Therefore, I would not repeat them here. In accepting the Government's explanations, we do have a prerequisite which I would like to elaborate here. The Administration clarified once again that, apart from consideration of the global trend, it has also mentioned the amendment made by this Council in 1997, that is, amendment made for restricting the rendering of assistance for external offences related to taxation. Although this was proposed by the Government of the Hong Kong Special Administrative Region (SAR) during its negotiation with the United States, the SAR Government did inform the United States Government of the



relevant amendment. Moreover, the United States did not raise any objection or asked for other compromises on learning about the amendment. Therefore, the HKSA accepted the explanations offered by the SAR Government on the belief that these restrictions are absolutely effective and applicable to the United States Order. As the abovementioned restrictions are meant to be effective principles, the HKSA will not raise further objection to the United States Order and will give our support. Thank you, Madam President.

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

(No Member responded)

**PRESIDENT** (in Cantonese): Secretary for Security, do you wish to reply?

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

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Security, 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 of the Members present. I declare the motion passed.

**MEMBERS' BILL****First Reading of Members' Bill**

**PRESIDENT** (in Cantonese): Members' Bill: First Reading.

**ORDER OF FRIARS MINOR IN HONG KONG INCORPORATION BILL**

**CLERK** (in Cantonese): Order of Friars Minor in Hong Kong Incorporation Bill.

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

**Second Reading of Members' Bill**

**PRESIDENT** (in Cantonese): Members' Bill: Second Reading.

**ORDER OF FRIARS MINOR IN HONG KONG INCORPORATION BILL**

**MR AMBROSE LAU** (in Cantonese): Madam President, I move the Second Reading of the Order of Friars Minor in Hong Kong Incorporation Bill.

Established in Europe in the 13th century, the Order of Friars Minor is an old religious body. From 1948 onward, it carried the mission from Beijing to Hong Kong and has since come under the bishop of the Hong Kong diocese. Apart from organizing biblical study associations, the Order of Friars Minor also engaged in translation of the Bible, assisted in managing churches under parishes as well as sponsoring six schools. The bishop of the Hong Kong diocese acts as a trustee for all estates belonging to the Order of Friars Minor.

After a half century's development in Hong Kong, the Order of Friars Minor in Hong Kong deeply feels the need to set up a corporation and operate as an independent body. This will enable it to enjoy the right to perpetual succession and all rights to be enjoyed by a corporation and, under the religious spirit of serving people, continue with its non-profit-making community services and the relevant work.

This private Bill is in compliance with the spirit of the Basic Law, Rule 50 of the Rules of Procedure and the general format of Hong Kong law. I urge Honourable colleagues of this Council to support this Bill.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Order of Friars Minor in Hong Kong Incorporation Bill be read the Second time.

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

## **MEMBERS' MOTIONS**

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

First motion: Land departure tax.

## LAND DEPARTURE TAX

**MR LAU KONG-WAH** (in Cantonese): Madam President, I move the motion which has been printed on the Agenda.

Last month, the Financial Secretary met with Honourable colleagues on separate occasions to exchange views on next year's Budget. Undoubtedly, faced with economic uncertainty, we do not object to the Financial Secretary's introduction of new ideas in a bid to raise government revenue. However, this does not imply that we will support all measures for "widening the tax base". In particular, we have to prudently examine proposals affecting the people's livelihood and carefully consider their affordability. Recently, the Government made vigorous attempts to signal to us that it was contemplating levying land department tax, a proposal objected by the Democratic Alliance for the Betterment of Hong Kong (DAB). I think most members of the public will, like us, find it impossible to accept the Government's proposal.

In fact, as early as in February this year, some people proposed that for the sake of dampening Hong Kong people's desire to spend in the Mainland in order to protect Hong Kong's retailing industry, people crossing the border every day should be required to pay land departure tax at the Lo Wu crossing point. However, I believe no measure can resist market force. The fundamental way to tackle the problem should be to improve our own competitiveness. Furthermore, I do not see any sign showing that the mainland government will adopt any measures to deter mainlanders from spending in Hong Kong. On the contrary, there are only signs of encouragement. We should not interpret the so-called "one country, two systems" concept as doing things which are advantageous to ourselves and refusing to do things which are beneficial to others. This is in contravention of the spirit of "one country, two systems".

If we trace back to years well before the establishment of the Special Administrative Region (SAR), we can find that there were already some people who proposed levying land departure tax. At that time, crossing the border could be said to be the same as "crossing a national border". The entire proposal was finally aborted for there was a very big echo from various sectors of the community as well as much objection. Since the proposal was eventually not put into practice, why has it been raised again now? What justifications does the Administration have in levying departure tax, a tax embracing the notion of "two countries", under the "one country, two systems" concept?

With the year 2000 just around the corner, places all over the world are now advocating freedom of entry and exit, visa free arrangement and free trade. Even the last winner of the Nobel Peace Prize — "Medecins Sans Frontieres", stated that we needed to remove fences between nations and stumbling blocks impeding mutual exchanges and development among nations, not to mention places within the same country. In the policy address this year, the Chief Executive has also proposed strengthening ties with the Mainland, particularly the Pearl River Delta Region. In paragraph 48, he mentioned: "Under the concept of "one country, two systems", we will together explore ways to allow the free flow and pooling of manpower, goods, capital and other resources in response to economic forces, so as to rise to a higher level." If the Government really has the intention of levying land departure tax, is it running precisely counter to what the Chief Executive said?

Madam President, the Financial Secretary considers that the Hong Kong economy has already revived and there is room for various services to raise charges. Actually, we do not agree to this. Although our economy has started to show signs of revival, they are signs after all. Our economy has yet to regain its vitality. Levying a new tax is tantamount to adding to the misfortunes of a man who is already unfortunate. If we look around Asia at the governments of various countries and regions, we will find that encouraging internal consumption remains an important means of stimulating the economy. The DAB is of the view that we should give the public room to catch their breath and continue to encourage them to spend.

Let us look at the fare for an East Rail ticket to Lo Wu: \$9 from Hung Hom to Sheung Shui but \$33 from Hung Hom to Lo Wu. Why is there such a big difference between the fares with only one more stop? Why do we need to pay \$24 more? With such a high fare, the public will need to pay \$40 or \$50 more for a round trip to the Mainland. If the Government decides to levy tax in addition to that, is the "charging of double fares" going to be fair? Although not all fares collected go to the Government, it is an iron-clad fact that they all come from the pockets of the public, regardless whether the money is eventually credited to the accounts of the Government or the Kowloon-Canton Railway Corporation.

Madam President, the Government seems to have recently mastered the skill of "probing" or "taking advantage of" the public opinion. For instance, the Government tried to spread the rumour that the construction project of the Disneyland theme park was going to be "extremely disadvantageous" to the Hong Kong Government and those mice were going to be "very costly" too. After triggering off waves of echoes among the public, the Government finally presented us the "true version" of the story. As a result, people in various sectors of the community heaved a sigh with shouts of joy and cheer.

Now the Government seems to be using the same tactic once again. When all of us thought that the Government would levy a departure tax of \$20, it recently hinted that it would ask for \$30 and this had triggered off a great public outcry. The Government might in the end come up with a levy of \$10 to give us an impression that it has taken good care of the people's reaction. In doing so, it will easily get what it wants. Nevertheless, I earnestly hope that, in the wake of the "prediction" I made today and this debate, the Government will refrain from making this proposal. The DAB has conducted a signature campaign throughout Hong Kong in connection with its objection to departure tax and the public has given us a heated responses. At the community level, a number of public opinion surveys have also been conducted. The findings of the surveys have also shown that about 70% of the public object to the Government's proposal. Therefore, we would advise the Government that "the best way to show respect is to obey" and that it should obey the public opinion by withdrawing its proposal of levying land departure tax.

Madam President, I have to give the Government a warning here: there is no franchise or copy right for the levying of land departure tax. While our Government is making an attempt to collect departure tax from the public because of financial difficulty, we cannot prevent the Shenzhen government from doing the same thing for it similarly needs capitals for constructing departure facilities amid its own financial difficulties. While we hope to discourage Hong Kong people from spending in the Mainland, the mainland authorities can also do likewise by levying departure tax as mainlanders regularly come to Hong Kong to buy clothes and jewelry too. By then, Hong Kong people will need to pay tax upon departure as well as arrival. Coupled with the extra fares charged by the Kowloon-Canton Railway, are they going to pay "triple charges"?

Madam President, the levying of "land departure tax" carries a strong sense of protectionism. While it is a major trend for all of us to advocate for the freedom of communication, how can the revenue generated from the levying of tax every year make up for the damage done to Hong Kong's image as a free port?

For the various factors mentioned above, the DAB objects to the Government's levying of land departure tax. I urge Members to support my original motion.

Thank you, Madam President.

**Mr LAU Kong-wah moved the following motion: (Translation)**

"That this Council opposes the levying of land departure tax by the Government."

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

Mr Eric LI will move an amendment to this motion, as printed on the Agenda. In accordance with the Rules of Procedure, the motion and the amendment will now be debated together in a joint debate.

I now call upon Mr Eric LI to speak and to move his amendment.

**MR ERIC LI** (in Cantonese): Madam President, I move that Mr LAU Kong-wah's motion be amended, as set out on the Agenda.

First of all, I would like to state clearly my reasons for moving the amendment. I am not supporting the levying of departure tax with no reservations. However, from the accounting and financial management perspective and for the purpose of achieving a fiscal balance as stated in Article 107 of the Basic Law, I believe the Government must think long term and make prudent consideration with its management of public finances. Therefore, in considering a specific tax item, we should not look at a certain tax or tax item

alone. Instead, we should adopt a more open attitude and set our eyes on the whole situation before making a responsible and pragmatic decision.

Members should be aware that I have been studying taxation for a number of years. By experience, I can tell Members that there is basically no good or perfect tax system in this world or in reality. Even within a perfect economy, there are bound to be deviations and everyone will make an attempt to evade tax or transfer the liability onto others. Most ideally, there should be only "bad" or "worse" tax systems in the world. Under this regime, it will be more constructive for us, as Legislative Council Members, to compare the pros and cons of different tax systems than to say one-sidedly that a certain tax system is not good, such as by listing the demerits of departure tax. The rationale is very simple and fundamental. But in spite of all those good reasons, in the realistic political situation, I can still see that both the business and political sectors will try every means possible to deter the Government from raising tax, while the Government will also employ all means available, such as lobbying, to raise tax revenue.

There will be incessant struggles between the Government and Members in "serving their own master and pulling out all the stops". However, it is not going to change the fact that we all know society cannot live without taxation, as we all know. Without this process, people will easily forget that paying tax is one of their basic civic obligations. A renowned economist once said that paying tax is the price of civilization. More than a decade ago, tax revenue in Hong Kong was used only for meeting some basic expenditures such as maintaining law and order, keeping the environment clean and providing such services as medical care and education. Then slowly, in light of the political demands put forward over the past decade, taxation has almost developed into a political tool. Through taxation, the Government can stimulate the economy and distribute wealth evenly. These more lofty political and social objectives, which are more complicated or even more wasteful of energy and resources, have slowly infiltrated into the functions of taxation. Nevertheless, it is indisputable that, to enable society to give full play to its various functions, the Government must generate more tax revenue for the purpose of achieving its political objectives in a more comprehensive manner.

In the '90s, Hong Kong has been very lucky that it has been able to maintain rich coffers. Like me, people engaging in financial management have



been worrying that Hong Kong has put too much emphasis on land-related taxation and on an excessively narrow tax base. In the Budget debates conducted in 1996 and 1997, I reminded the Administration "to avoid relying too much on land sales and land-related income" and "the continuous narrowing of the tax net over the last few years has increased the instability of revenue from taxation and further planted a long-term financial risk". It is evident that, particularly over the last two years, the Government was determined to keep land prices at a reasonable level which was lower than usual. As a result, there was a drastic reduction in income derived from such sources as land sales, premium, stamp duty, rates and government rent, which I believe is in the region of tens of billions of dollars. To cope with these losses every year and coupled with the financial turmoil, I believe every Member should understand very well the difficulties encountered by the Government in fiscal management.

Nevertheless, some Members might think that once our economy begins to revive, all problems will disappear and the Government can make up for its loss in revenue. Such thinking could not be more unrealistic. Under Hong Kong's existing tax regime, even with an economic revival, money will not flow into the coffers if land prices cannot rise or return to its previous level for our narrow tax base is now relying too much on proceeds from land sale. This is because our tax net is unable to cover all reviving economic sectors. The coffers' income will definitely not be able to increase in pace with the rate of economic revival. This tax system is far from being healthy for it is overly reliant on proceeds from land sale and the tax base is too narrow. Now that the Government has frozen its fees and charges, of course we do not want to see it slash expenditure substantially in order to make up for its loss amounting to tens of billions of dollars. If it relies only on profits tax and salaries tax, it will have to double these two taxes before it can make up for the loss in income. I believe Members will not accept this.

I have mentioned earlier that it is impossible for the Government to alter its land sale policy at the moment. In the short run, it can only rely on selling its assets, including putting the Mass Transit Railway and government stocks up for sale, to alleviate its short-term financial difficulties. Nevertheless, Members should understand that this is not a long-term solution. Even if we can balance the Budget for one or two years, we can still not resolve this problem pertaining to long-term structural changes if we cannot consider introducing new tax types.

Earlier on, I have clearly explained the major structural changes with land proceeds. On the other hand, the Hong Kong economy is actually undergoing transformation at the moment. To achieve this, the Government is playing an active role in developing an environment for electronic transactions to be conducted and expediting new economic pillars such as tourism, information technology, shipping and finance. Compared with the Government's previous emphasis on real estate, this represents a substantial structural change. In particular, the existing tax net may not be able to catch all tax revenue related to electronic trading, and this will lead to loss of certain revenue. Bearing these longer-term structural changes in mind, I believe the Government, if given the opportunity, has reasons to conduct a more comprehensive taxation review to see what adjustments and changes should be made to the existing tax net for the purpose of solving long-term structural changes. This proposal has been raised by the accounting sector as well as by some Members in this Council, including Mr Fred LI, who put forward the proposal several years ago, if he can still remember it. However, the financial turmoil and problems pertaining to changes in land price policies had yet to appear at that time. Therefore, the opportunity available then was not so evident. I think the Government needs to implement the proposal now.

Perhaps I should give a little explanation with the help of a few figures. If the Government needs to levy tens of billions of dollars in tax and at the same time maintain its low taxation policy (Members do not want to raise tax rates because high tax rates will adversely affect economic activities) or to maintain a low tax rate while collecting a few billion dollars or even tens of billions of dollars in tax simultaneously, then the tax base must be very broad or the figure must be extremely huge, possibly by hundreds or thousands of billions, before the Government can collect billions or tens of billions of dollars in tax with a tax rate of 10% or below. If we calculate in terms of Hong Kong's current gross domestic product, the Government can only yield \$1,285.8 billion in 1988. How can the Government maintain such a broad tax base? It can only consider taxes related to land and real estate such as rates. Some Members did mention sales tax and taxes like passenger embarkation fee. However, the fee is levied in terms of per capita instead of each individual. Moreover, only a small amount of tax can be generated from several millions per capita. But apart from these, I believe the Government has few options.

Under such a restricted environment, the Government definitely needs to "pull out all the stops" in making a vigorous attempt to balance its budget. The road that lies ahead is going to be very difficult. The Government must drum up sufficient courage to explore the problems with Members. In particular, under the existing financial difficulties, it is even more imperative for the Government to face the reality and examine the hardship of the general public. We should sympathize with the painstaking effort made by the Financial Secretary in proposing the levying of departure tax. In fact, departure tax is, to a certain extent, in line with the notion of levying passenger embarkation fee and the principle of fairness. Some Members are concerned that the economic activities of visiting the Mainland will dwindle as a result of the levying of the tax. I think this is understandable. I believe, however, a responsible Legislative Council must, at the end of the day, appreciate the Government's hardship by negotiating and co-operating with it fully in a responsible manner in a bid to resolve the existing financial hardship.

This is precisely the spirit and objective of my amendment. However, it does not imply that I support the immediate levying of departure tax. As members of a responsible Legislative Council, we should discuss how to tackle the problems together with the Government instead of curbing a certain tax type one-sidedly. According to Mr LAU Kong-wah, 70% of the respondents objected to the levying of land departure tax. This has already proved that 30% of the respondents hold an open-minded attitude. I believe if we ask 10 people whether they welcome the levying of the tax, all of them will raise objection. As the wordings of the original motion are relatively restrictive and biased, I hope Members will support my amendment.

**Mr Eric LI moved the following amendment: (Translation)**

"To delete "opposes the levying of" and substitute with "urges the Government to take into account all factors in drawing up a"; and to delete "by the Government" after "land departure tax" and substitute with "proposal and consult this Council before making a decision"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Eric LI to Mr LAU Kong-wah's motion, be passed.

**MISS CHOY SO-YUK** (in Cantonese): Madam President, on the surface, levying land departure tax can bring Hong Kong considerable revenue. Calculated on the basis of a monthly average of over 3 million man-times departing the territory at Lo Wu in the first half of the year, levying a \$20 departure tax can generate over \$720 million revenue for the coffers every year. According to estimates, this figure will grow by 17% in the next few years. In other words, at that time, if 200 000 people depart the territory every day on average, levying a \$20 departure tax will bring the coffers almost \$1.5 billion in revenue. This will definitely help relieve the budget deficits of the Government in these three years. After the Disneyland has been completed, there will be a substantial increase in the number of mainland visitors to Hong Kong and the revenue so generated will be fairly considerable.

The problem is that we should not over-simplify or idealize the practice and result of levying departure tax, but we should weigh from various angles whether there will be more demerits than merits, set our eyes on the long run, and see whether Hong Kong will lose more than it gains.

In view of equality, the relationship between the Mainland and Hong Kong is actually equal and mutually complementary. We cannot just focus on the point that Hong Kong people go to Shenzhen for tailor-made cheongsam, massaging and buying food from the market, for so doing is tantamount to seeing the trees but not the forest. We should also see that mainlanders come to Hong Kong and spend money here, they live in our hotels and buy jewellery and high fashion here. At present, the spending made by mainland travellers in Hong Kong accounts for almost 60% of the earnings of the local tourism and retailing industries. Therefore, levying departure tax will only give rise to an unequal relationship between China and Hong Kong. Deliberating this further, what will be the result if the Shenzhen Customs similarly levies a departure tax? The public will suffer from the blow struck by double taxation and I am afraid the complementary relationship between China and Hong Kong that has been getting closer will be impaired.

Actually, although the low consumer prices in Shenzhen have certain effects on the retailing industries in Hong Kong especially those in the North District and along the railway, looking at this comprehensively and setting our eyes on the long run, Hong Kong can still gain something. Firstly, given that there are more and more impoverished people in Hong Kong, the low commodity prices in Shenzhen can reduce the costs of living of impoverished families and improve the quality of their life. Secondly, given our gradually ageing population, the lower costs of living in South China make it a feasible and long-term measure for Hong Kong people to live out their life in retirement there. Moreover, after the financial turmoil, people have much less capacity for spending, and it seems unjustifiable if the Government even deprives them of the "benefits" of spending in Shenzhen.

There is another issue that we cannot overlook, and that is, the additional fare of the Kowloon-Canton Railway (KCR) a land departure tax in disguise. As many people have said, the fare from Hong Hom to Sheung Shui is only \$9 but that from Hung Hom to Lo Wu is \$33. There is a difference of \$24 in the fare between two stations. Even if a person travels from Sheung Shui to Lo Wu, he has to pay \$20. Although the operating cost of the Lo Wu Station may be higher, is a \$20 difference in fare excessively high? Is it reasonable? Has this situation emerged because the fare to Lo Wu already included an indirect departure tax? However, the Government has never admitted that it has levied departure tax through the KCR, has the Government been somewhat dishonest? If the Government levies land departure tax, will people bear double taxation? Is it fair to them?

In regard to transport and planning, the Government spends a lot in building the Northwest Railway to Lok Ma Chau and the Sheung Shui to Lok Ma Chau extension of the East Rail in order to cope with the rapidly increasing cross-boundary passenger volume, and enhance the efficiency of economic exchange between China and Hong Kong. If departure tax is levied to stop the number of people departing the territory from increasing, why should it build these two railways in the first place? We should know that merely the interests payable on the investments in these two railways amount to \$8 billion a year, far more than the \$700 million to \$1.5 billion revenue that can be generated by the departure tax. Is this rather meaningless?

Evidently, regardless of the amounts involved, there are more demerits than merits in levying land departure tax, and it misses the purposes stated by the Chief Executive, Mr TUNG Chee-hwa, in his policy address, that is, to enhance co-operation among Guangzhou, Hong Kong, Macau, Shenzhen and Zhuhai. Besides, an opinion poll conducted by the China Relations Strategic Development Research Fund earlier on indicated that more than 70% of the interviewees opposed the levying of land departure tax by the Government. Among all the interviewees, 64% were disappointed at the Government of the Special Administrative Region. Therefore, I hope that the Government will not put land departure tax into practice against the people's will.

Lastly, I would like to discuss Mr Eric LI's amendment. Although the wordings of Mr LI's amendment are more explicit than those of the original motion, if the Government levies land departure tax, it must certainly consult this Council in advance. I hope Mr LI can excuse me for I find such an amendment not essential. As the Hong Kong Progressive Alliance will support the original motion and the amendment, I support the amendment. Yet, it does not mean that I support levying land departure tax. How can I oppose the amendment when it is stating a fact as undeniable as "my mother is a woman"?

Madam President, I so submit.

THE PRESIDENT'S DEPUTY, DR LEONG CHE-HUNG, took the Chair.

**DR YEUNG SUM** (in Cantonese): Mr Deputy, before reading out my speech, I would like to openly oppose on behalf of the Democratic Party Mr Eric LI's suggestion that the Government should consider a sales tax. I am saying this for the record. If ordinary people have to pay sales tax when they buy ordinary goods, their burden will relatively become heavier and a sales tax will become a regressive tax.

Mr Deputy, I support Mr LAU Kong-wah's motion on land departure tax and oppose the levying of land departure tax by the Government. Undeniably, the general public opposes the levying of such a tax by the Government. If the Government really puts such a tax into practice, it is undoubtedly overlooking the plight of the general public in an economic slump. I can say with dead

certainty that if the Government forces the levying of land departure tax, the general public will have to live even rougher.

Earlier on, the Democratic Party conducted an opinion poll on the levying of land departure tax by the Government and around 70% of the interviewees indicated that they opposed the levying of land departure tax while around 15% of them said that they could accept a land departure tax of \$1 to \$5. Coincidentally, the result of the opinion poll conducted by the China Relations Strategic Development Research Fund published on the same day had similar results. What is the significance of such a coincidence?

On 1 November, the Democratic Party received a letter signed by "ordinary citizen of the SAR" who expressed "great indignation" at the levying of land departure tax by the Government obstinately and he advised the Government that "intentions to levy additional taxes on ordinary people will not enjoy popular support". "Ordinary citizen of the SAR" also said that he did not know how he could question the legality of the levying of land departure tax by the Government but even if it is legal, he asked why it was not levied before the reunification. Ordinary citizens of Hong Kong swarm to Shenzhen for shopping just because they cannot afford the high commodity prices in Hong Kong and they have no alternatives. Is it not acceptable for them to relieve their burden of living this way? After reading the letter by "ordinary citizen of the SAR", I cannot help asking the high-ranking policy makers within the Government how they would regard the sentiments expressed in the letter.

There was a report in the press earlier on that the Financial Secretary planned to levy a \$30 land departure tax. According to the statistical figures provided by the Immigration Department, around 40 million man-times travel to mainland China by land every year. In other words, every person in Hong Kong travels for around seven times to the Mainland annually on average, and he is going to pay \$210 in land departure tax a year on average. By analogy, every person in Hong Kong spends only \$17.5 a month on average on land departure tax. Members may find it very strange for \$17.5 a month is not at all affordable by a person living below the poverty line. Is "ordinary citizen of the SAR" exaggerating and making a fuss of it? Well, from this perspective, even if an ordinary citizen goes to the Mainland for five times a month, he only pays \$150. For most people, paying \$150 a month seems not a significant life and death issue.

Yet, Mr Deputy, I hope Members can look at this issue from another perspective. On the basis of a \$30 land departure tax to be levied as proposed by the Financial Secretary, the government coffers will have around \$1.5 billion revenue a year. Honourable Members, \$1.5 billion almost accounts for 5% of the \$30.9 billion fiscal deficit to be reduced by the Government in the latter half of the year. The Financial Secretary should have done a series of calculation before saying that it is a good idea to levy land departure tax. However, if he cares to look up Chapter I of the "Report No. 32" submitted by the Director of Audit for his perusal regarding "Summary of Management Services in Public Rental Housing Estates, Summary and Key Findings", he will discover that in 1998-99, the Housing Department could have \$34.4 million additional revenue through refurbishment of vacant flats, \$59.5 million by reviewing the staffing level for hawker control, \$7.3 million through reviewing the staffing requirement of estate artisans, and \$53 million by making better use of the service of Tower Guard Supervisors. The Housing Department alone can save a total of \$220 million public expenditure, accounting for almost 15% of the annual revenue from land departure tax.

In fact, the reasons for various sectors to oppose land departure tax have been set out in detail through different media channels. I believe other Legislative Council Members will discuss their reasons for opposition in great detail. These reasons often include: the Government should not levy new taxes when the economy is not obviously reviving, or the Government should not make the grass roots the first target of attack, subsidize tax revenue reduced as a result of the economic slump, or the Lo Wu section of the KCR is already charging a particularly high fare, and levying land departure tax is suspected of double taxation. I believe the Financial Secretary understands very well that all these are tenable reasons. The problem is that the Financial Secretary has not been convinced by these reasons and it seems that he will insist on proposing the levying of land departure tax and increasing various charges next year to solve the problem of gradually increasing fiscal deficits.

The Democratic Party and the community have the same stance: we oppose levying land departure tax! The Democratic Party believes that a responsible and promising government should not levy a tax that will affect people's livelihood in order to develop a stable, considerable and convenient source of revenue. Instead, it should save (I stress "save") extremely extravagant or unnecessary expenses. I really hope that when we receive a



letter from "ordinary citizen of the SAR" next time, he will praise the Government for understanding and sympathizing with people's conditions instead of scolding the Government even more strongly for neglecting the people's plight.

With these remarks, Mr Deputy, I support Mr LAU Kong-wah's original motion and oppose Mr Eric LI's amendment.

**MR LEE KAI-MING** (in Cantonese): Mr Deputy, recently, the Financial Secretary and financial officials have stated time and again that as the Government is financially tight, it is essential to expand the tax base and increase revenue, and it intends to levy land departure tax. The Financial Secretary holds on to his own views and thinks that levying land departure tax will not affect people's livelihood. However, his objective wish must be tied up with the objective realistic circumstances, and those in office should consider how the current "circumstances, situation and people's conditions" can be co-ordinated with a policy before implementing it so that it can be successfully implemented.

As Mr LAU Kong-wah has said, more than 80% of those departing the territory by land depart at Lo Wu. As Lo Wu is specified as a closed area, Hong Kong people can only reach the place by taking the East Rail of the KCR. At present, those departing the territory by land do not need to pay departure tax but they have already paid an unreasonably high fare which is departure tax in disguise.

The KCR Corporation is a public body wholly owned by the Government. As the East Rail has the privilege of entering the Lo Wu closed area, it collects a high fare for the section from Sheung Shui to Lo Wu. The East Rail is 34 km long and \$33 is charged for the whole journey. While only \$9 is collected for the around 30 km section from Hung Hom to Sheung Shui, an additional \$24 is charged for the less than 4 km section from Sheung Shui to Lo Wu. If it is not a tax levied in disguise, what else is it?

If the Financial Secretary finds it fair enough to levy land departure tax, the KCR should reduce the railway fare to Lo Wu. While \$9 is charged for a 30 km journey from Hung Hom to Sheung Shui, as there is 4 km more to Lo Wu, only \$10.2 should be charged for the whole journey, in other words, \$22.8 less should be charged. It will then be pretty fair.

According to the Financial Secretary, the fares of the KCR have nothing to do with him. For the sake of fairness, why does the Government not open the Lo Wu closed area and repeal the KCR's privilege, and build roads so that people departing the territory through Lo Wu can choose to take buses, taxis or private cars to Lo Wu for the sake of fair competition.

Ruined by the financial turmoil, the general public should be allowed to rebuild their strength, lick their wounds and restore confidence. However, the Financial Secretary is anxious to levy a new tax and he has neglected that most of those being levied land departure tax come from the middle and lower classes. Restrained by the immigration policy formulated under the "one country, two systems" principle, many Hong Kong people and their family members including parents and couples are living apart in two places for a long time, not knowing when reunion will materialize. They have to return to the Mainland to visit their relatives every year and enjoy family happiness. As a result of the economic transformation of Hong Kong and the Mainland's economic take-off, the economic and trade development between Hong Kong and the Mainland has developed speedily in recent years. Many Hong Kong people do business, make investments, purchase homes, settle and work in Shenzhen and the Pearl River Delta Region. To force the levying of land departure tax will obviously increase their burden and is bound to arouse people's discontents. This will adversely affect the Government's prestige.

Mr Deputy, in the third policy address of the Chief Executive, it is stated that we will form a regional economy tied up more closely with the Pearl River Delta Region "under the concept of "one country, two systems", we will together explore ways to allow the free flow and pooling of manpower, goods, capital and other resources in response to economic forces, so as to rise to a higher level." To develop Hong Kong into a world-class city comparable to New York and London, and the third largest financial centre, we should have a vast hinterland as a backing force. Levying land departure tax will definitely create an artificial obstacle to the development of the relationship among the Guangdong Province, the Pearl River Delta and Hong Kong, put an end to the fervour of people going to the North and it will be disadvantageous to the intense co-operation between Shenzhen and Hong Kong. Even though levying the tax can generate some hundred million dollars for the Government, as compared with the economic impetus of joining and integrating with the Pearl River Delta, and the long-term benefits that will be brought by developing a mutually complementary

economy, we will obviously lose more than we gain and we can hardly attain a "win-win" situation.

The Government has plentiful fiscal reserves, and it has \$80.9 billion surplus in the 1997-98 financial year alone. Even if we deduct from it \$64.6 billion which is the total budget deficits in the three years from 1998 to 2001, there is still \$16.3 billion in surplus. Recently, the sale of the Tracker Fund was satisfactory and the Government scooped considerable earnings from investment in shares. It should use its reserves to stimulate our economy, improve people's livelihood and lay a firm foundation for our economic revival. Once our economy has revived and people become better-off, it will not be too late for the Government to levy new taxes and try to make up for the deficits. It should not be eager for quick success and instant benefit and blindly make a rash advance as it will make people more discontented.

With these remarks, I support the original motion and oppose the levying of land departure tax by the Government. Thank you, Mr Deputy.

**DR RAYMOND HO** (in Cantonese): Mr Deputy, I admire the unyielding spirit of officials of the Government of the Special Administrative Region (SAR) in charge of financial affairs. The prime example is the Government flying the balloon once again that it intends to levy land departure tax. I believe Members will recall that it was a fervour for Hong Kong people to go north to shop in Shenzhen earlier in the year and this aroused discussions over the levying of land departure tax. At that time, the major factor of consideration was the need to protect the local retailing industry. I guess the discussions finally came to an end as a result of the strong response of the people. The Government has flown the balloon once again that it is prepared to propose levying land departure tax in the next year's Budget to increase government revenue and attain a balanced budget. I wonder if the Government considers this reason more reasonable and that it will be easier for it to gain public support. Although I admire very much the persevering attitude of the officials concerned, their eagerness to broaden income sources makes me worried about the Government's revenue and expenditure in the future.

The levying of land departure tax involves discussions over the principles of fairness and reasonableness. For the Government, levying land departure tax complies with the principle of fairness. At present, air passenger departure tax is levied at the airport and embarkation fee at out-bound piers. The proposed levying of land departure tax is just a standardizing measure and it is not improper in any way. Besides, this tax fully complies with the "user pays" principle. However, many countries in the world rarely levy departure tax on passengers who cross borders on land. The Government is considering levying a "departure" tax now that the SAR and China have become one country, and this is really the most outstanding feature of "one country, two systems" implemented by Hong Kong and China. In fact, some people even think that there is a nationalistic aspect to this issue. Therefore, the Government must take this into consideration when it makes the relevant decision.

Moreover, unless the KCR Corporation will reduce the fare for the Kowloon to Lo Wu section while the Government implements land departure tax, otherwise, it is suspected of "double taxation". At present, the fare of the KCR from Hung Hom to Lo Wu is much higher than that from Hung Hom to Sheung Shui, and it is effectively departure tax in disguise. Before the Government levies land departure tax, it really needs to brief the public on the actual situation so that people can clearly understand the theoretical basis for levying land departure tax.

Let us not discuss the possibility of "double taxation" at the moment. The Government basically thinks that land departure tax is based on the "user pays" principle and is thus pretty fair. On the surface, this argument is justified to a certain extent. However, the Government must consider the fact that most commuters crossing the border on land are grass roots and some of them have to cross the border every day for work or school. While our economy has not yet revived and the people's difficulties have not been relieved, the Government is targeting at these people first in order to relieve the pressure of fiscal deficits. This will easily make people feel that the Government is not sympathetic of their plight. Therefore, the Government must consider the responses of those who may be affected.

On the basis of the above, when the Government works out the proposal to levy land departure tax, it must consider in detail the relevant factors and the intents of the public and it must consult this Council before making a decision. The Government should definitely not act obstinately to avoid strong opposition by the public and further damaging the Government's image.

With these remarks, Mr Deputy, I support Mr Eric LI's amendment. Thank you.

**MR CHAN KAM-LAM** (in Cantonese): Mr Deputy, the Democratic Alliance for the Betterment of Hong Kong (DAB) opposes the levying of land departure tax and the DAB cannot support the amendment proposed by Mr Eric LI. The amendment urges the Government to take into account all factors and consult this Council, which are steps the Government must take. As the amendment has an indistinct stance as to whether it opposes the levying of land departure tax, it is not desirable.

For some 20 years after the Mainland has been reformed and opened to the outside world, it has abundant produce and inexpensive goods. Property prices in the Mainland are only one tenth or one seventh of those in Hong Kong. As the living standard there is much lower than that in Hong Kong, naturally, there are more and more Hong Kong people commuting between Hong Kong and the Mainland for visit, family reunion, work and school as well as touring and vacationing. Some shop and spend money while some others do business there. We believe this tendency will continue to develop. It seems that the facilities at the boundary cannot meet the needs of lots of passengers crossing the boundary. The DAB thinks that besides opening more counters and expanding the crossing, the authorities should also simplify the verification formalities and consider keeping the boundary crossings open round the clock.

Undoubtedly, our economy is still undergoing an adjustment, and there is less tax revenue but huge expenditure. There is imbalance between fiscal revenue and expenditure and a fairly large deficit, and it is not easy for the Government to increase tax because the people have less income and are threatened by wage and benefit reduction, layoff and unemployment. It is understandable why the Government is thinking of ways to increase revenue sources to make up for the deficit. Yet, it is not reasonable to levy land departure tax!

Mr Deputy, East Rail passengers to Lo Wu are paying some \$20 more for an additional station, and the fares they paid have actually subsidized passengers for stations along the East Rail who enjoy inexpensive fares; they also brought the KCR Corporation profits and capital for development. Everybody knows that the KCR Corporation is a public enterprise, in other words, home visit passengers have indirectly paid taxes for the Government to develop rail transport services, and it is not fair to passengers if the Government should levy land departure tax.

Some said that levying land departure tax can compel Hong Kong people to stay and spend money in Hong Kong, but the DAB does not think this will be successful. If only a few dollars' tax is levied, it will not be useful. But an excessively high tax will make people discontented and upset the harmonious relationship between the Government and the public. After the reunification, the relationship between officials and the public has become delicate as a result of the downward economic adjustment, and the public complains about the Government's neglect of their livelihood whenever they are dissatisfied. The levying of land departure tax by the Government will only make people criticize the Government for unscrupulously levying a new tax and maladministration. Thus, a wise government should not do so.

After the reunification, as Hong Kong and China have become one country politically, "departure" is not an issue, therefore, all "departure" taxes related to people visiting the Mainland should immediately be abolished to tally with the political reality after the reunification. It is politically incorrect to levy land departure tax.

For many years, Hong Kong has enjoyed an edge over Guangzhou, Shenzhen and Zhuhai in respect of economic and trade development. Along with our economic adjustment and transformation, and the more mature development of the Pearl River Delta economic zone in the 21st century, Hong Kong must integrate with the Pearl River Delta to form a decisive South China economy featuring high-tech industries, a host of fundamental industries, an agricultural production base, a financial services centre, advanced freight

convergence and distribution systems, a tourist centre and a high quality living area. Each of these will play a different role, and they will compete against one another, be mutually promoting and complementary and become prosperous together. If we identify with this development trend, the choice we have to make is: Should we promote closer mutual contact or do something regardless of the consequences in a shortsighted manner that will harm the exchange between China and Hong Kong in order to make up for the fiscal deficit?

Mr Deputy, some said that the retailing market in Hong Kong is in a slump because people are spending money in Shenzhen and the Mainland but I totally disagree with them. Let us imagine this. If the Mainland does not provide people with quality goods at inexpensive prices, can we maintain today's quality and joys of life under the financial turmoil? In fact, only a small number of local people go to the Mainland on land every day, and the change in spending habits is not as serious as we think. Therefore, levying land departure tax is not a panacea for the poor business of the local retailing market. After Hong Kong has undergone a major economic adjustment rarely seen in a hundred years, the public should learn a lesson. Yet, we have not sincerely summed up our experience, knowing only to shirk our responsibilities onto others and blame others for the evil consequences. The trade should discuss and reflect on itself to examine how we can rebuild our market superiority and enhance our competitiveness.

In these two years, our economy has been dwindling and who would have the wild wish of having a fiscal surplus? When fiscal revenue has reduced, the public should understand that there will naturally be deficits. The DAB is of the view that the fiscal deficit in a year or two will not affect our healthy financial situation. Furthermore, the most difficult days for our economy have gradually passed, so long as our economy starts growing, fiscal revenue will naturally increase substantially and it will then become unnecessary to levy a new tax.

With these remarks, Mr Deputy, I support the original motion and oppose the amendment.

**MR JAMES TIEN** (in Cantonese): Mr Deputy, the levying of taxes is never something to be welcomed. No one would like to hand money over to the Government. So it is understandable to see the uproar in society when officials said earlier that the levying of land departure tax was being contemplated.

We need to know, however, that in the face of deficits in this financial year, it is only natural that the Government is thinking of ways to explore more sources of revenue and to cut expenses. The idea of land departure tax sounds attractive to the Government for it can bring million dollars of tax revenue.

The Liberal Party thinks that the levying of a new tax is a very serious matter and must be carefully considered. A decision on this can only be made after adequate consultation is held. However, no details on the land departure tax have been disclosed to date and this prevents the Council and the public from looking into the matter carefully and discuss it.

Therefore, the Liberal Party urges the Government to disclose the details as soon as possible. The following three main points should be included:

First, how much tax is to be levied on those departing from the territory? The media have reported that the land departure tax will be somewhere between \$15 to \$20. There is also a Chinese newspaper which said that the land departure tax would be set at \$30 at the initial stage. For the common people, there is a big difference between \$15 and \$30. The Liberal Party is of the view that land departure tax cannot be determined at a level beyond the affordability of the common people.

Second, is there any financial ground for the Government to impose such a tax and to set this land departure tax at the level proposed? We think it is fine if the Government wishes to levy taxes to cover its expenses. But at the present time when the economy is still in a downturn, there ought to be a sound reason to support the imposition of any new tax. Taxes cannot be levied recklessly. The Government should not just announce the amount of land departure tax to be levied, but also explain the financial needs behind it. This will ensure that the tax revenue will meet the minimum amount of revenue so needed and that no extra money is collected from the people.



Third, the Government must give full explanation as to the types of people who may enjoy exemption. The Secretary for the Treasury, Miss Denise YUE, said earlier that the Government was inclined to giving exemption to pupils and professional drivers commuting between the two places. There are however, some other Hong Kong people who commute between the two places every day for business or work. There are also some Hong Kong people who have settled in Shenzhen and they cross the boundary every day to work in Hong Kong. For these people, it is a basic need to depart by land and return to the Mainland every day. Should the Government not also consider giving them exemption from the tax?

Mr Deputy, the levying of land departure tax is a specific proposal for taxation from the Government. It should be considered from the economic and financial perspectives and against its effect on the people's daily living before any decision is made to support or oppose it. The Liberal Party does not think that it is appropriate to raise this taxation issue to the political plane of the "one country" principle. As a matter of fact, after the reunification, Hong Kong people who travel to the Mainland by air or by sea are still required to pay departure tax. We have never heard from the Central Government that this is a contravention of the "one country" principle. So there is no cause for Honourable Members from the DAB to become worried about such non-questions. On the other hand, we should think about how land departure tax can be levied in a fair manner and how much should people be asked to pay.

The Liberal Party is of the view that the most pressing issue for the moment is to urge the Government to disclose the details of the proposed land departure tax as soon as possible. This will facilitate thorough and in-depth discussions in this Council and among the public. Given that sufficient information is still not yet available, the moving of a motion by Mr LAU Kong-wah against the land departure tax is, I think, overly rash and ill-considered. The Liberal Party will abstain from voting on the original motion. We are not supporting the levying of this tax item, nor are we strongly opposed to such a move. As for the amendment moved by Mr Eric LI, we will lend it our support because it embodies our view on that issue. Thank you, Mr Deputy.

**MR HUI CHEUNG-CHING** (in Cantonese): Mr Deputy, the Hong Kong Progressive Alliance (HKPA) understands that there is an accumulated deficit of \$60 billion in the last two fiscal years, and a further deficit of some \$6 billion is forecast for the next. So, it is understandable that the Government seeks to achieve a fiscal balance by broadening the tax base, introducing new taxes and imposing direct taxes in order to comply with the provision under Article 107 of the Basic Law. But the HKPA does not think the levying of land departure tax can help the Government achieve a fiscal balance. The HKPA is even worried that levying such a tax may eventually led to a reduction in overall revenue, in which case the losses suffered by the Government will outweigh its gains in the end.

By the Government's smug calculation, as there were 57 million people who left Hong Kong through land crossings last year and if a \$10 departure tax is levied on each person, an extra revenue of some \$500 million at least will be yielded even if students and professional drivers are exempted. If the land departure tax is pitched at the rate of the \$19 embarkation fee levied on passengers departing through ferry terminals, the Government will have an extra revenue of \$1 billion, and if the rate is on par with the air passenger departure tax, which is \$50, an extra \$2 billion-odd will be generated. What appears to be most attractive to the Government is that the number of people leaving through land crossings will continue to rise steadily. This means that the Government's income from this tax will continue to increase steadily too, especially upon the completion of the Disneyland, by then the land departure tax will be a money-spinner for the Hong Kong Government.

In the opinion of the HKPA, this calculation shows that the Government cannot see the wood for the trees. Things may not turn out as expected and worse still, adversities may even crop up!

Mr Deputy, for the past two decades or so, Hong Kong businessmen have grasped the opportunity of the opening of the Mainland, taking advantage of the low cost of production by setting up factories in Southern China. More and more Hong Kong people go to work and spend their twilight years in the Mainland. The smooth exchanges between Hong Kong and the Mainland helped maintain Hong Kong's competitive edge and facilitate economic development in Southern China. It also contributed to the prosperity in Hong Kong before the onslaught of the financial turmoil in 1997. Faced with an

economic downturn in Hong Kong, more people have turned to the Mainland for cheaper products, and more businesses have turned to the Mainland to explore business opportunities. This, in fact, serves as a channel for the people and businesses of Hong Kong to let off steam, and shows that they are working very hard to find a way out and strike a breakthrough. As the Chief Executive stressed in this year's policy address, the future of Hong Kong lies in the further utilization of the economic hinterland in the Mainland and the joint development of the Pearl River Delta Region.

In the past, when the people and businesses of Hong Kong needed resources of the Mainland, neither the Hong Kong Government nor the Chinese Government had levied any arrival or departure tax. Now that the people and businesses of Hong Kong need the resources of the Mainland most but the SAR Government wants to levy a departure tax from them. This is no doubt a retrograde step to take. While government officials said categorically on the one hand that Hong Kong and the Mainland should complement each other, they erected administrative hurdles on the other, pushing up the costs borne by the people and businesses of Hong Kong. How can Hong Kong make full use of the economic hinterland in the Mainland to provide new impetus for the Hong Kong economy? The HKPA does not believe that by locking up the people and businesses in Hong Kong, the Government can revive the local consumer market. On the contrary, it will only add to the burden of the people and businesses for they would be made to bear a higher cost of living and doing business.

The HKPA is of the view that although the SAR Government has a duty to reduce deficits, it is duty-bound to alleviate the burden of its people and businesses, and facilitate joint development by Hong Kong and the Mainland. This is the only way for Hong Kong to gather sufficient momentum for revitalization, and this is the only way through which the Government can hope for an increase in its revenue!

Moreover, under the principles of "one country, two systems" and "a high degree of autonomy", the SAR Government has been enjoying a special status financially. Article 106 of the Basic Law provides that the financial revenues of the Hong Kong Special Administrative Region shall not be handed over to the Central People's Government, and the Central People's Government shall not levy taxes in the Hong Kong Special Administrative Region. While the SAR Government enjoys a special financial status, it is now trying to levy taxes on

compatriots from the Mainland entering or leaving Hong Kong. Will governments of the various provinces and municipalities follow suit and levy taxes on Hong Kong people on the ground that they have to alleviate their financial burden?

Mr Deputy, in drawing up the budget the relevant government department should not adopt a short-sighted approach by looking at revenue only, losing sight of Hong Kong's economic lifelines and the importance of a smooth relationship with the Mainland. Therefore, the HKPA vehemently opposes the levying of land departure tax by the Government. It also hopes that the Government will consult this Council and seek approval from this Council before making any decision.

Mr Deputy, I so submit.

**MR CHAN WING-CHAN** (in Cantonese): Mr Deputy, the Government suggested the levying of a land departure tax early this year. The reason given for such a proposal was that Hong Kong people had been visiting the Mainland and spending money there at weekends in the last couple of years, thus dealing a blow to the local retail business. Levying a land departure tax would increase the cost of the people who visit the Mainland. In that case, the people would naturally stay in Hong Kong and spend money here, thus providing relief for the slacken local retail market.

Recently, the Government has been complaining about the tight finances, saying that expenditure must be cut, revenue increased and charges raised. The proposal of a land departure tax has thus been brought up again. The Government has been capricious in its justification for the proposal. But surely it cannot win public support no matter what pretext is used, and it gives the impression that it is so desperate that it will use every means to increase its revenue.

The levying of land departure tax is in principle a mistake. Hong Kong is an inseparable part of China. Hence, Hong Kong people leaving the territory for the Mainland should not be regarded as a departure. Speaking from a political point of view, the travel documents used by us before the reunification namely, the "home entry permit for compatriots in Hong Kong and Macau", and

that after the reunification namely, the "permit for travelling to the Mainland for residents in Hong Kong and Macau", carry no implication of a departure. Under the principle of "one country", Hong Kong people travelling to the Mainland are just "going from one province to another". It is difficult to see why a departure tax should be levied. We do not see a need to pay departure tax when one goes from the Guangdong Province to the Fujian Province. If the other provinces and municipalities follow suit, the governments would be acting like highwaymen in ancient warlord stories who collect money from whoever traverses their turf. This is undesirable.

In his speech just earlier, Mr James TIEN from the Liberal Party said that we should not politicize the issue. Surely we will not do so. We have always based our arguments on facts and reason.

Besides, the train fare to Lo Wu already includes a "*de facto* departure tax". It is unreasonable that the fare for a four-minute ride from Sheung Shui to Lo Wu should cost as much as \$20. As Mr LAU Kong-wah has discussed this point, I will not repeat it here.

If the Government levied a land departure tax without a corresponding reduction in the KCR fare to Lo Wu at the same time, this will constitute a "double departure tax" which is grossly unfair to the people.

As stated by Chief Executive TUNG Chee-hwa in his policy address this year (and as Members have mentioned), we need to strengthen co-operation with Shenzhen and the Pearl River Delta Region to become a more integrated regional economy. More Hong Kong people will invest, spend, acquire property, travel and settle in the region. However, if a land departure tax is imposed, co-operation will not be enhanced. On the contrary, it would constitute man-made hurdles impeding exchanges between Hong Kong and the Mainland, thus running counter to the policy objective of the Chief Executive. At the same time, the tax would greatly inconvenience people who frequently commute between Hong Kong and the Mainland. Is this not a contradiction in the Government's policy? Certainly, my views happen to coincide with those of Mr LAU Kong-wah. If a land departure tax is imposed at Lo Wu, the losses suffered by the Government will outweigh its gains.

A recent survey by the Hong Kong Federation of Trade Unions (FTU) shows that 70% of the respondents opposed the levying of a land departure tax. The Government must seriously consider this view of the overwhelming majority, and it must not make hasty decisions under tactfully-concocted pretexts.

Mr Deputy, these are my remarks. The FTU supports Mr LAU Kong-wah's original motion and opposes the amendment.

**MRS MIRIAM LAU** (in Cantonese): Mr Deputy, public opinion is divided on the question of levying a land departure tax as proposed by the Government. I have conducted an opinion poll among the land transportation groups in the shipping and transport sector with a view to gauging their initial responses to this issue. Findings of the questionnaires returned show that the number of groups which are in support or opposed to the idea is quite similar, though the number for the latter is slightly greater. Among those groups which support the idea, most of them think that should a land departure tax be imposed, the amount to be levied should be in the region of \$10 to \$20. They also think that exemption should be granted to drivers plying between Hong Kong and the Mainland, pupils and adults who commute between the two places to study and work, and senior citizens above the age of 65.

If the Government insists on levying a land departure tax, it should consider the affordability of the public and how should the tax be levied besides considering who should be exempted. A land departure tax embraces far more complicated issues than taxation, it has a direct bearing on transport, especially railway transport. The Government should therefore consider the following two points when it considers the issue of levying a land departure tax.

First, there are at present a daily average of 100 000 people who depart from the territory by using the KCR. According to reliable sources of information, should a land departure tax at a rate of \$10 per head be levied, then there will be a drop of about 9% in the number of cross-boundary passengers using the train. This drop in passenger volume will be greater when the amount of tax to be paid increases. At present, the train fare for a trip from Hung Hom to Lo Wu is \$33, but a nine-stop trip from Hung Hom to Sheung Shui costs only

\$9. Some people have criticized that a fare of \$24 charged for a one-stop trip from Sheung Shui to Lo Wu is already a land departure tax in disguise. Actually, for many years the fare for the cross-boundary service of the KCR is higher than those of the service within the territory. The reason for this is that the fare is used to offset the losses in the local line, the Light Rail and the KCR feeder buses. If the cross-boundary passenger volume falls as a result of the levying of high land departure tax, the revenue of the cross-boundary line of the KCR will also reduce. This will exert pressure on the local line of the KCR and the Light Rail to increase their fares. It may even affect the overall operation of the KCR.

Second, the KCRC has to borrow \$29 billion to finance the construction of the West Rail. If the transit passenger volume of the KCR falls and the income of drops as a result, it will affect the credit rating of the KCR and in the end the Government may have to inject more capital into the KCR in order that construction of the West Rail can proceed. In this way, the gains which the Government gets may not be able to offset the losses.

In the Budget speech for the year 1999-2000, the Financial Secretary pointed out that if a reasonable rate of land and sea departure tax is levied, then people who depart from the territory will need to pay tax regardless of the means of transport they take. In this way, the existing unfair situation will be removed. For many years I have been advocating the abolition of the embarkation fee for passengers using ferry terminals. The reason is that people who depart by sea have to pay tax, but people who depart by land do not have to do so. This is unfair. All along the Government has denied that any unfairness exists. Now it is eating its own words and admits that something unfair does exist.

Although the Financial Secretary has reduced the embarkation fee payable by passengers at ferry terminals from \$25 to \$18 last year, the amount is still quite high. Another point is that the number of passengers of the China-Hong Kong Ferry Terminal in Tsim Sha Tsui and the Hong Kong-Macau Ferry Terminal in Central has been increasing all the time, but berths and passenger waiting areas are still very limited. A departure tax of \$18 is still levied even when no improvement measures are adopted. I wish to make use of this opportunity to urge the Government to further reduce or even cancel the

departure tax levied at the ferry terminals to make it free to depart by sea as in the case of departure on land. Meanwhile, facilities at the ferry terminals should be improved as well.

Mr Deputy, I so submit.

**MR LEE CHEUK-YAN** (in Cantonese): Mr Deputy, on behalf of the Hong Kong Confederation of Trade Unions and the Frontier, I support the original motion moved by Mr LAU Kong-wah to oppose the levying of land departure tax.

The Financial Secretary and the Secretary for the Treasury are in a very difficult position lately and they have my sympathy. They said that they needed to increase fees and charges and levy new tax items because the Government was out of money. And they were having a headache because of that. Then all of a sudden they said that it was all right if we made an investment of more than \$20 billion to build the Disney theme park for everything had been well taken care of beforehand. There would be no fee hike, no tax increase and no cut in public expenditure. All in all, they are saying whatever they want. How would they see the present financial situation? Sometimes they say that everything is all right. But all of a sudden they will say no to everything. Taxes must be increased. I really have the impression that the Government is swaying from one extreme to the other and it just makes people feel confused. Of course, what we are discussing is not the Disney theme park, but whether or not land departure tax should be levied.

I do not wish to repeat what many Honourable Members have said before. I just want to quote some heart-felt remarks made by an ordinary man-in-the-street. I will quote his words to show how most of the people of Hong Kong feel about this issue of land departure tax. There is a letter which I want to read out now. It is from some people who just call themselves some members of the public. I wish to make the Financial Secretary know what the people want to tell him, in the language they used:



"The people of Hong Kong strongly oppose to the proposal to levy land departure tax. They would like to tell your Honour what they think, in the hope that this stupid move of the Government which loses the support of the people and which brings more losses than gains, be stopped. Mr TSANG the financial chief said that the levying of land departure tax would broaden the tax base, that is true. Those good-for-nothing scholars based their calculations on the number of people who cross the boundary by train and come up with an idea of billions of dollars of revenue for the Government. Our financial chief is really carried away by this fantastic idea. For without having to do anything, a huge sum of money can be scooped. That is really easy money. That saves his efforts to deal with the economy. But that also shows that he is good for nothing and so he is attracted to this idea of making money without doing anything. Why not go ahead with it?

"Second, the argument that the tax will not affect people's lives. Just look. What kind of people will take a train to China? Are these not the lower and middle class people? Are these not the people who spend hours in the holidays queuing up at the Lo Wu check-point? Are they rich people? No, those who are rich will not do it. They will fly first class to some foreign places and have a good time. The middle class people will go by ferries to China. Only the poor will save a few dozen dollars and take a train to China. How unfortunate. But the Government picks on these poor people and tries to take money from them. Since there are a huge number of these people, the money so made is also huge. This is easy money. For the well-off, a departure tax of \$10 or \$20 means nothing. But it will surely mean a lot to those poor folks who care about every dime they spend.

"Third, the question of fairness. That really beats us. Just as we have said above, only the money from the poor is collected. The tax paid by these poor people going in and out of China a few times is less than the amount paid by the rich on one single occasion of airport tax. The rich are already making money out of the poor and now the Government is also trying to make money out of the poor. Is that fair?

"The Government is passing the bucket by saying that the higher train fare for the Lo Wu section has nothing to do with the Government and the legislators are told to talk with the KCRC themselves. The Government is completely blind to the interest of the people and is totally irresponsible. It is entirely incompetent in improving the economy to benefit the people. It is really pathetic to see the Government not feeling the shame of it and it is trying to make money out of the people."

There are more details in the letter but I would not go into them. This member of the public has told us what the public thinks about this matter. We may not agree with his view that the Financial Secretary is good for nothing. I think the Financial Secretary is very competent but the public thinks that he is trying to squeeze money from them. That is where the problem lies. They think that they often go to the Mainland because they have relatives or family members there. Should the Government levy a departure tax, it will certainly increase their burden. The principle of retrogressive tax is used in the proposed land departure tax. For the poor, the sum of \$10 or \$20 has a significant weight on them, but for the well-off, they may not share that feeling. This is a feature of retrogressive tax and it is the greatest shortcoming for a departure tax. Therefore, I hope that the Financial Secretary will think seriously on how the ordinary people think about the land departure tax.

Finally, I would also like to oppose the amendment proposed by Mr Eric LI. I fail to see why Miss CHOY So-yuk of the Hong Kong Progressive Alliance (HKPA) say just now that she had to support the amendment although she did not see any sense in it. She said that she had to support it because of a simple and obvious reason, in as much the same argument as "My mother is a woman". I do not think so. For if there is an argument that "My mother is a woman" and another "May my mother become a healthier woman", then if one supports the former argument of "My mother is a woman", then the wish that my mother be a healthier woman will fall flat. One cannot just support the proposal because "My mother is a woman". One needs to think seriously whether the motion of "May my mother become a healthier woman" can realize after one supports the argument of "My mother is a woman". I therefore hope that the HKPA will support the motion "May my mother become a healthier woman". Thank you.

**MR BERNARD CHAN:** Mr Deputy, last week, we had a motion debate on the "user pays" principle. Today, I am going to forward my arguments based on similar philosophy, as I believe that departure tax can be, and should be discussed on the same ground.

In the midst of a battered economy, few people would advocate any measure that will dig more money out of their pockets. But we must also bear in mind that our Government is also facing a similar difficult situation. Our Government also needs to excavate wells for water.

I am not prepared to discuss if it is an appropriate time for opening the coffers to pay money back to people as some of our unionists have suggested. I would only say that it is not unreasonable for the Government to tap water from new sources.

Should the Government resort to raising fees or increasing tax? No easy answer can be given here. "No fee rising" sounds to be the best proposal and the best slogan by politicians who are counting potential votes ahead elections.

We can of course stand up at any time, yelling at the Government for its "unscrupulous" move to raise revenue when the people are plagued by unemployment and pay cuts. Some of our colleagues also tell the Government not to cut public spending on a cluster of existing and new programmes.

Making demands is always easy. But I wonder who should be picked for responsibility if diminution of revenue weakens our solid financial base. My worry is that the Government will have to resort to widening the tax base or introducing other value-added taxes in order to subsidize public services and facilities. In that case, more people will have to pay tax. More people are bound to suffer.

Mr Deputy, I am not speaking here to justify or defend the Government's move. I only perceive the proposal of a land departure tax as an option that is less painstaking and least likely to affect people's daily living. Levying higher salaries tax, higher profits tax or higher fees of widely used public services and facilities would certainly exacerbate the financial burden of the general public.

In some sense, land departure tax can be viewed as a voluntary tax. Not a penny would be charged if you do not cross the Lo Wu boundary. This would treat fairer the people who never use the boundary-crossing facilities at Lo Wu. And this is in line with the principle of "user pays". Users should pay in accordance with the frequency of use. This is fair to people who never use such a kind of service, who never cross Lo Wu.

Some may disagree. They say that the existing higher fare for trains to Lo Wu has already taken into account some amount of departure tax. I am not totally convinced. Tax is tax. Fare is fare. Should commuters not be charged more for travelling a longer distance? I doubt it. Critics like to say that the fare for Lo Wu is unproportionally higher. But should we suppose that we have already paid the air passenger departure tax by riding the Airport Express? Bear in mind a trip to the airport on the Airport Express is almost three times that on the Tung Chung line of the Mass Transit Railway.

Many people travel to Shenzhen because the cost of living there is lower. They go for shopping, "yum cha", singing karaoke and spend and spend and spend. I would say that a departure tax like \$20 or something should not be an unbearable burden to them.

I am aware that there are some citizens who have to cross Lo Wu to work or study every day. They are frequent users of Lo Wu facilities, and the purpose of their trip is different from those who go to Shenzhen mainly for entertaining. A caring government should think of granting them certain tax concessions to reduce their burden.

I do agree that there might be difficulties in implementation. So I urge the Government to plan well before making the policy effective. The Government has to work out comprehensive details of actual implementation so as to guard against people taking advantage out of legal loopholes.

Mr Deputy, I second the Honourable Eric LI's call. I urge the Government to consult this Council before any decision is made. I support the amendment and oppose the original motion. Thank you.

**MRS SELINA CHOW** (in Cantonese): Madam President, I have a question in mind. I wonder whether Members have in fact tried to get the sparks flying in this motion debate just because of the forthcoming election. Well, anyway, I think whenever we discuss the issue of taxation, especially the introduction of any new taxes, we must refrain from shouting emotive slogans, and we must not think that the matter can be settled in a simple and straightforward manner. This is really a very serious issue which requires thorough and detailed consideration.

To begin with, I wish to say that Mr James TIEN has already made the position of the Liberal Party very clear, and I am also convinced that our position is very appropriate. We believe that we must first consider very carefully whether there is any need for the Government to levy such a tax, to introduce such a tax item. And, we must also consider what the proper tax rate should be, whether people will accept this new tax, and whether people can really afford it. All these factors must be considered, and we simply should not make any final decision before giving thoughts to them.

I have just heard a very strange argument, an argument advanced by some colleagues. These Members said that the relevant fare charged by the KCRC was already very high, so they could not see any justification for this new tax. Well, if their logic really holds, by the same token, the air passenger departure tax must then be lifted. The reason is that since each passenger must have paid thousands of dollars for his air ticket, there should be no reason to ask him to pay anything extra as tax. In that case, the Government may probably have to lift the \$50 air passenger departure tax. However, this is hardly a good analogy, for two entirely different matters are being mixed up as one. The point raised by these Members actually involves the operation of the KCRC; as explained clearly by Mrs Miriam LAU a moment ago, all parties involved will have their own principles and considerations. Therefore, these two matters must not be mixed up as one.

Some said that they had conducted an opinion poll, and the findings revealed that 70% of the respondents were against this tax proposal. But, why was it not 100%? I really wonder. Well, if I am ever asked in any opinion poll to say whether or not I will support the introduction of a new tax, I will most

definitely answer that I oppose the proposal. How can I possibly answer the otherwise? When it comes to things like fare increases and new taxes, and when people are asked to put down their signatures as a form of protest, they will certainly do so, because such things will require them to pay more money. So, is there any real meaning in these opinion polls? We are now talking about something which no one likes. If people ask for my opinion, I will also tell them that I do not like such things.

An even stranger argument is that a "free port" should not levy any departure tax. But I must say that a "free port" is not a port of "free services", so a free port is certainly not a port where services are offered for free. At present, when we board a ship, we have to pay an "embarkation fee", and an aircraft entering and parking in the airport also has to pay a "landing charge". But still, someone has asked, "Since ours is a free port, should not all these fees be lifted?" Well, the term "free port" should not of course be interpreted that way.

Some other Members say that the opinions of the common people must be listened to, for they are already suspecting that the Government is now trying to wring money out of them. I can tell Mr LEE Cheuk-yan that his suspicion is totally justified. The commercial sector, for example, is always the target of the Government, and businessmen are always the "first victims". Whenever the Government wants to introduce any fees and charges, it will first turn to the businessmen, and it will do the same to the common people only after long periods of consideration. This is only natural, because the Government is not supposed to make any commercial investments, nor is it supposed to know how to make money. That is why it must try to get money from all of us. So, it is always trying to wring money out of us, and this is nothing strange at all. The only thing is that we must consider whether its actions are reasonable and acceptable to us. In other words, we must consider whether the fees and charges levied are fair enough as a share of the costs and expenses which the Government has to shift to members of the public. This is very important, and must be considered. Whenever Mr LEE Cheuk-yan talks about the burden we have to bear, he often advances a most divisive argument which I oppose very strongly. He often talks about "you people" and "we the grass-roots people". How can he look at our community in such a way? The grass-roots people are no doubt members of our community, but so are the business people, I must say. We simply should not split up our community in such a way and then go on to

say that some people should shoulder all the responsibilities while the rest of the others should not. This is simply not the case in reality, and people certainly do not think that way too. Our people are all very responsible. The only thing is that they want to take account of their own ability; they have never said that they should not consider the matter at all.

I am a representative of the retail and wholesale sectors. So, no matter how I think about the matter, I am still obligated to voice their opinions very clearly. Yes, the retail sector does support the introduction of a land departure tax very strongly, and the reason is very simple. Retail merchants' business has been dealt a very heavy blow, and they all think that this is largely caused by the fact that many people go to Shenzhen to spend their money. They maintain that this has affected their business very greatly. So, they think that a land departure tax can be of some help to them. However, as their representative, am I going to support their position unconditionally? Well, of course, in some cases, I will give them my total support, but when it comes to a land departure tax, I will have to consider the rate to be imposed before I can decide whether to give them my total support. If the tax is to be \$100, for example, I cannot of course give my support. However, it will be fine if people can generally afford the tax. But even in the latter case, I still think that we should consider one more thing — this explains why I support the Liberal Party's position of not asking for an exemption. We must examine whether the Government really needs that amount of revenue and whether it cannot get the revenue through other means. This is also very important because the Government should always give us a comprehensive picture of its financial position.

Actually, the retail and wholesale sectors, in particular the retail sector, have suffered very heavy losses, and the petty shop owners along the railway are in an especially miserable situation. Therefore, we should not criticize them for asking the Government to help them by introducing a land departure tax. However, is a land departure tax really going to help? This will largely depend on whether or not we really want such a tax to provide the kind of help desired. In other words, we have to ask, "What should be the objective of such a tax?" This is a question we must consider very carefully. It is obvious that in the case of those who go to Shenzhen to buy their food almost every day, or those who go there habitually to spend their money, the tax is sure to affect them, no matter how low the rate is going to be. But these people are precisely the ones we have in mind. They go to Shenzhen to buy their food every day, but we hope that

they can stop doing so and buy their food back in Hong Kong instead. And, there are also those who spend their money in Shenzhen only once in a while. In their case, a very small tax amount, I think, may not necessarily affect them in any significant manner. And, the tax may well fail to achieve any significant deterrent effect as well. So, I think we really have to look at this matter in greater depths. Well, this is all I have to say for the moment. I shall talk more about the matter after further studies. (*Laughter*)

**MISS CHAN YUEN-HAN** (in Cantonese): Mr Deputy, I originally intended to put forward the findings of our study on the Government's tax proposal. But after I have listened to the pros and cons cited by Members of this Council, I think I should not comment on the Government's proposal right at the beginning. Instead, I should talk about the situation of this Council.

A fund under the Hong Kong Federation of Trade Unions (FTU) conducted a study on land departure tax this year. I believe the figures quoted by some colleagues today are based on the findings of our survey too. According to our study, 70% of the respondents opposed the introduction of land departure tax while 20% to 30% of the respondents were undecided. But it does not mean that those who were undecided had a very strong feeling against it. Just now, some colleagues said that it was only logical for the whole community to oppose any increase in tax. But if we apply dialectical materialism, we can see that there are supporting as well as opposing views in this Council today. And I think it is normal. Now let us look at the public opinion — unfortunately the Financial Secretary left the Chamber when I rose to speak. Perhaps it is because my comments are not too pleasing. If we talk about the public opinion, the objective fact is that 70% of the respondents were against this tax. If land departure tax is really levied, will people refrain from going back to the Mainland? No, as we can see, they will still go back to the Mainland for various purposes. Some people will go there to work, some return home and some for business. Anyway, they have to go back.



Just now Mrs Selina CHOW said that some people would go there for shopping, because they find it worthwhile to do so even after deducting all the expenses. I believe some of those who went shopping in the Mainland had done some calculations. I am also a Legislative Council Member representing the retailing industry. But I represent the workers, not the employers. Still I also listen to the voices of employers. We will often ask this question: Will people be willing to spend money in Hong Kong if a new tax is really introduced? The findings of our survey seem to suggest the negative.

As I have often said, if we want Hong Kong people to stay and spend money in Hong Kong, it is imperative for the Government to introduce measures to help the retailing industry. This is the most pragmatic approach. If we lack competitiveness while other places such as Shenzhen are doing better, how can we compete with them? Let me cite one example. I have often criticized many of the flea markets set up in the New Territories. Although the commodities they sell come from the Mainland, they are still able to do some business. Can the Government offer some assistance in setting up these markets? There is a flea market in Yuen Long where many coaches frequent. Although the car park there is very dusty, the market is still patronized by coach loads of local visitors. Why do we not provide more facilities like this?

Frankly speaking, the Shenzhen authorities, on the contrary, have done a lot to help the tourism industry and shoppers. Shenzhen will pose a greater threat to Hong Kong in the future. As I mentioned earlier in this Chamber, I did make a trip back to Zhongshan. It was very dirty in the past, but has now restored its original continental style and become a new tourist spot. We often say that we have to encourage Hong Kong people to stay and spend money in Hong Kong. But I would like to ask the Government a question: Where would you suggest me to go if I want to spend a short holiday here? I have no idea for the time being. But I believe I would have some choices a few years later and the situation may improve. So, I must tell Mrs Selina CHOW that our arguments must be based on reasons. If you say that we can deter people from visiting the Mainland and spending there by introducing a new tax, I may not think in the same way today. The findings of our survey have negated this argument, showing that people will still go back to the Mainland.

I am personally of the view that it is desirable for the tax base to be widened. It is impossible for the Government to have no revenue. I want to ask my colleagues in this Council a question and hope they will think about it — I would also like to lobby the Hong Kong Progressive Alliance (HKPA) and some independent Members to give it a thought. We seemed to be thinking along the same line when we were talking about helping the business sector and reducing tax amid an economic depression. But why is the departure tax so controversial? I really have no idea. I found it really strange on entering this Chamber Building today. Outside the Chamber, many government officials responsible for economic affairs have done a terrific job in lobbying. But I would like to tell Members that they believe in others too easily if the Government really succeeded in lobbying them into believing that it is impossible for the Government to have not this revenue and so departure tax should be introduced. Why? It is because this tax will have a direct impact on the general public, particularly those people who frequently travel to and from the Mainland. If we recklessly support Mr Eric LI's amendment today, we have to think of the consequences. Frankly speaking, those who work, reside or conduct activities in the Mainland are all grass-roots people, as we have specified the target respondents in our survey. In discussing issues concerning the people's livelihood in this Council, we often said that assistance should be given to the small and medium enterprises and the general public to enable them to ride out the difficulties. We have almost reached a consensus that the Government should not increase taxes under such a difficult situation. Why do Members support the levying of a tax which will affect the people's livelihood? I do not know what Members are thinking about, particularly when some Members said as far as taxes are concerned, it is desirable to widen the tax base. But I have a question for Mr Eric LI, the mover of the amendment. He said that it was very important to consider the whole amendment from the angle of accounting management. Then I would like to raise a question out of a very important principle. Is it also very important to consider whether the tax is fair and vertical? In my opinion, the levying of departure tax is running against the idea of having fair and vertical tax types. I think this is unfair, just as what we thought when we debated with the Government on the sales tax in late 1980s. Mr LI Ka-shing will need to pay \$20 on departure. I, CHAN Yuen-han, will need to pay \$20 too. On the other hand, the grass-roots people who are very poor, will also need to pay \$20. Can we consider this tax fair? I think it is unfair.

I hope all colleagues can consider the point that this tax which will have an impact on the people's livelihood actually does not merit our support. I would like to tell the HKPA and some independent Members that I find the HKPA's viewpoint very strange for it agreed to conducting a study in spite of the fact that it opposed the introduction of the tax. What position does it actually hold? Why did it oppose the tax if it agreed to conduct a study? I hope my friends from the HKPA can tell me the reason. I would also like to warn independent Members against feeling perplexed by the Government's academic arguments. The most important point is that when our economy was not so bad as today, we already considered it necessary to support the small and medium enterprises and the public. Why should we allow the Government to levy a departure tax now? Once again, I would like to appeal to Members here. If Members want to examine the findings of our survey, the FTU will be happy to send them to Members. Thank you.

**DR LUI MING-WAH** (in Cantonese): Mr Deputy, the economy of Hong Kong has been particularly hard hit by the regional financial turmoil. To stimulate the economy, the Government has introduced a number of measures, including putting a nine-month moratorium on land sale, granting rates concessions and freezing a number of fees and charges. Although these measures can help people ride out the storm, they also cause the Government's revenue to dwindle. These measures, together with the considerable increase in expenditure on Comprehensive Social Security Assistance payments and the launching of the Special Finance Scheme for Small and Medium Enterprises, have resulted in a budget deficit of over \$30 billion for the Government in the next financial year. So, it is understandable that the Government is considering a land departure tax to help reduce the deficit.

However, to levy a land departure tax on people travelling to the Mainland, consideration must first be given from the perceptual angle. In this connection, Hong Kong residents travelling from Hong Kong to the Mainland should be treated as if they were travelling from Hong Kong Island to Kowloon. Although under the principle of "one country, two systems" Hong Kong and the Mainland have their respective administration, levying a land departure tax still sounds a little odd and is hardly convincing. Furthermore, if Hong Kong levies a land departure tax, the Shenzhen authorities may just follow suit and levy the same to improve its financial position. At the end of the day, the governments

of both sides of the boundary will be benefited at the expense of the people of Hong Kong. So, this is the livelihood consideration.

Moreover, the practical enforcement of the land departure tax proposal is bound to be immensely difficult. The people of Hong Kong go to the Mainland for a good many reasons. For example, some people go there every morning to work and return to Hong Kong in the evening, while others return there in the evenings but come to work in Hong Kong in the mornings. There are also students who return to the Mainland after a day's schooling in Hong Kong. Further still, there are people who go to Shenzhen to buy daily necessities, to sell goods, to spend their holidays, for wining and dining, or for entertainment and fun. In addition, people doing business in the Mainland and people who are drivers by profession also need to cross the boundary frequently. Should all those people who leave Hong Kong on land be required to pay a land departure tax? If not, who should be paying and who should not? Could the Government produce any argument that is convincing enough?

Mr Deputy, owing to the above discussion, I believe the Government should deliberate carefully and consult this Council before making any decision regarding the land departure tax proposal, albeit I agree that the Government does have a need for additional tax items. Thank you.

**MR FUNG CHI-KIN** (in Cantonese): Mr Deputy, I need to answer some questions raised by Mr LEE Cheuk-yan and Miss CHAN Yuen-han as both of them have asked the HKPA some questions..

Earlier in the debate, Miss CHOY So-yuk said the reason for agreeing to Mr Eric LI's amendment was as simple as that for agreeing to the statement "My mother is a woman". But someone said it was more than that. It has to be a healthier mother. I think for a mother to be healthy, she must not stop taking food. She must not just give food to her children. Otherwise, she would not be healthy. If the mother is likened to a government, giving food to her children without taking food is definitely not healthy. I have reservations about objecting to any increase in fees and charges. My personal view is that to act as a responsible government and a responsible council, we must not confine ourselves in giving support only to reductions in fees and taxes.

Two colleagues from the HKPA have expressed their opinions which also represent the views of the HKPA. Having listened to the speech of many colleagues, I feel that colleagues other than Mr Bernard CHAN, seemed to have avoided the issue of the "user pays" principle. We need to pay a departure tax when we leave the territory by air or by sea, whatever the name of the tax. If we do not want to call it a tax, we may call it a charge. If we do not want the Government to collect the charge, a corporatized institution may be given the duty to collect it. But if a tax is levied on departure by air or by sea, why should there not be a tax on departure on land? We must not relate the issue to nationality or boundary-crossing, or even worse, to politicize it. Even though the Chinese name of our Immigration Department has the sense of boundary, I do not think it is reasonable to elevate the issue to that level. One may oppose the proposal but one should not use such issues as their argument. The Government notes many Hong Kong people, over the years, have been visiting the Mainland for sight-seeing, entertainment, visiting relatives, working, shopping or even for buying a small amount of groceries or furniture items. So it has been providing service to these people through injecting a large amount of resources. Our consideration should now be: Should the 6.6 million people of Hong Kong subsidize the 200 000 who cross the boundary daily?

If we agree to the "user pays" principle on other occasions, I need to ask whether we should invest more on this occasion. The Government could well have said: "Let's install less counters at the check-points so that visitors to and from the Mainland are not required to produce their home-visit permits or identity cards." Then people may come and go freely. Unless that is the case we want it to be, we need to invest resources, and such resources invariably come from taxpayers. The question is which taxpayers are required to pay. This is the way we should be looking at the question, that is, from the point of view of the interests of all sectors in Hong Kong.

Therefore I said Mr Eric LI's amendment could give us more time to deal with the issue, to allow more time for discussion and listen to the views of this Council. Some views have already been heard today, then we can consider any relevant amendment. I do not think it is the right time to object to the land departure tax now, for reasons which I do not want to repeat here.

Secondly, if the Government wants to grant exemption to some people, such as those who go to the Mainland to work or to school, extra administrative costs will be incurred. There may be costs in issuing a certificate to these people so that they can cross the boundary free of charge. How much administrative costs will be incurred? We need to hear from the Government about that. Of course, we may resort to an over-simplified way to handle this but this may compromise the interests of many people and we would not want that to happen. Then there are some who say the train fare may have included a tax in disguise. I have spoken to the Financial Secretary about this several times. I think if that is the case, the part of the fare, which is a tax, should be separated. Departure taxes for passengers travelling by air or by sea are not charged that way. To be consistent, the Government should give an explanation for that.

That those who go to the Mainland to spend money are just the general public and the poor I definitely would not agree. It is not just the poor who go to the Mainland to spend money. Whether the goods he buys is expensive or cheap is another issue. At least he can afford to spend money in the Mainland. Many spend a lot there. They do not just buy cheap stuff. Indeed for every trip to the Mainland each person has to spend at least several hundred to a thousand dollars. If they cannot afford that amount, they should stay in Hong Kong and buy goods at their lowest price. As Miss CHAN Yuen-han said, there is a flea market in Yuen Long where many of the goods come from the Mainland. We need not go to Lo Wu to buy them for there is a flea market at Yuen Long. If one cannot afford anything at all, one should stay home. I am quite sure people who travel to the Mainland are not poor people and they are willing to pay more. But for the extra amount they pay, the Government has to invest more resources in support. Should the Government recover the cost? How? This is what we need to consider. I do not think we should polarize the issue by saying that tycoon LI Ka-shing is paying the same amount as the poor.

At the moment, the HKPA opposes the levying of land departure tax. As a representative of the financial services sector, I would like to talk about my personal views. I do not think we should adopt the arguments advanced by some Members. We should not presume the Shenzhen government will impose a levy in a tooth-for-a-tooth manner. Miss CHAN Yuen-han said the

Guangdong Province and the Pearl River Delta Region are particularly attractive for Hong Kong people. In fact, Hong Kong people visit the Mainland not just for sight-seeing. Some buy houses or get married there. If the Mainland likes us so much, and if I were the governor of Shenzhen I would give away cash coupons to anyone from Hong Kong who visits the Mainland and this can offset the effects of the land departure tax imposed by the Hong Kong Government. Visitors may get a \$5 or \$10 refund on any purchase done in the Mainland. I do not think the Shenzhen government will retaliate if it wants to remain competitive. It would rather give us cash coupons. *(Laughter)*

Thank you, Mr Deputy.

**MR LEUNG YIU-CHUNG** (in Cantonese): Mr Deputy, when the Government made known that it was considering a land departure tax, people in general responded negatively. Most found it unacceptable. I would now like to respond to some of the points raised by Honourable colleagues. I think the feasibility of a tax must depend on the degree of acceptance by the people. From the public opinions obtained, the land departure tax is not readily accepted by the public. If the Government wants to force its way through (as it often does) would it be able to achieve good results? The Government should think twice before doing so. But if it wants to compel people to pay a land departure tax, I think there must be three reasons. First, the Government wants a new source of tax revenue. Second, as some colleagues have mentioned, since we have departure tax for air and sea passengers, why not impose a tax on land passengers as well? Third, the Government wants to encourage consumers to spend money in Hong Kong. There is considerable support for these three reasons. After some analysis on the reasons, we need to ask: Does the Government have a real need to impose a land departure tax? This is a question that warrants our discussion.

First, a new source for tax revenue. The Government surely needs new sources of revenue. But the question, as some colleagues have said, is whether a land departure tax is the only source. Is it a necessary source? Are there any other channels? In fact, I think some colleagues have met with the Financial Secretary and given him proposals on different sources of revenue for his

consideration. They have not yet come to a decision because they find it hard to decide which tax is more readily acceptable to the public. So, we do have proposals for the Financial Secretary. For example, we have proposed raising the rate for profits tax so that people with a higher income pay more tax. Not that we are short of proposals for new sources of tax revenue, the only question is whether land departure tax is the only option.

Second, why do we rule out a land departure tax when there is departure tax for sea and air passengers? Well, this is not the kind of question we should be asking, because this is a complex issue. There are general aspects and specific features to be considered. Let us consider other taxes. Many goods are taxed but some are not, or are exempted. Liquor is an example in mind. Some liquors attract a higher duty whereas some, a lower one. Why? Why are some wines more expensive but some are less so? Their special features account for this. So, we cannot generalize that a land departure tax must be imposed. Departures by sea and by air have special features that distinguish them from departure on land. At least we know departure on land, rather than by air or by sea, has been adopted by the general public. Leaving the territory by air or by sea is less convenient, and is seldom adopted. Hence, we need to consider the special features rather than saying simply that everyone leaving Hong Kong has to pay a tax, which cannot stand as a principle and is far from being a reasonable one.

Furthermore, an argument of the Government is that it hopes to use the land departure tax to encourage people to spend money in Hong Kong. In fact, we know spending money is not necessarily done. Even if people stay in Hong Kong they may not need to spend money. Must I spend money in Hong Kong if I do not go to the Mainland? Not necessarily, unless I spend money on necessities such as food. I need to eat, be I in Hong Kong or in the Mainland. Other things, such as artefacts, are not items I must buy. I would only if I find them pleasing. I may not necessarily buy them in Hong Kong even if I find them pleasing. So, the idea that a land departure tax may help the local retail business is not necessarily correct. Indeed colleagues who uphold the interest of the retail industry should try to figure out why the retail industry is not popular. Why are local goods more expensive? Why do we not come up with other ways such as cheaper land prices, cheaper rents? Why do we not consider such



factors? They may work. If rents are not so high, the price of goods may drop. Why do we not consider this aspect? I do not think the land departure tax is not necessarily an effective tool in maintaining the local consumer market or reviving the economy.

Lastly, Mr Deputy, I want to point out that in levying a tax, the Government must consider if it is fair to the general public. Some colleagues have pointed out that a land departure tax is in fact a tax charged on a per capita basis, in disguise, which is most unfair. Why? As Miss CHAN Yuen-han said, one has to pay the same amount irrespective of income. I am not trying, as some colleagues may suggest, to divide Hong Kong people. The fact remains, however, that a land departure tax is unfair. For a man in the street, he must have found it a heavy burden because the same amount is charged whether he is earning a lot of money or just a small sum. I hope the Financial Secretary can give careful consideration to this point.

Mr Deputy, I so submit.

**PROF NG CHING-FAI** (in Cantonese): Mr Deputy, I can understand the Government's need to look for new sources of revenue in face of a budget deficit, but I do not think the proposed land departure tax is a good choice. As already mentioned by certain Honourable colleagues, the effective and fundamental measure in this regard should be to extend the tax base.

Now that the principle of "one country, two systems" has been put into practice upon the reunification of Hong Kong with China, it is only natural for the people of both the Mainland and Hong Kong to cross the boundary more frequently. This is indeed a good sign and could contribute to the development of both sides of the boundary on all fronts. The benefits generated are enjoyable by both the Mainland and Hong Kong. The proposed land departure tax, however, would definitely have a negative effect on cross-boundary communication. Hence, there is a need for us to look into the question as to whether the disadvantages of the proposed tax would outweigh the advantages it could bring.

Some of the Honourable colleagues who spoke just now have questioned whether it would be reasonable to levy "air, sea and land departure taxes". Here I will give some of my views for Members' consideration. On the surface, given that passenger departure taxes are collected at the airport and ferry terminals, land departure tax should of course be collected as well. There is no need for us to discuss any other sentimental issues. However, one point I wish to raise for Members' reference is that in the United States, it is a government requirement that if toll should be levied on a certain highway, a toll-free road must also be provided to ensure the communication between the destinations concerned. That way, people who do not wish to pay any tolls would still have an alternative in the face of the policy to levy toll on road. Hence, it should be fine for the Government to levy passenger departure taxes at the airport and ferry terminals so long as departure by land remains tax-free. But if land departure tax should also be levied, as proposed recently, problems are bound to arise. In this connection, I should like to draw Members' attention to the Government's rationale for levying land departure tax. As regards the situation in France, similarly, a toll-free "N" route would be provided next to the super-highway where toll will be levied. On the local front, the Government of the Special Administrative Region holds that it should at least be given the opportunity to put forward a comprehensive proposal; besides, since the proposal has yet to be put forward, it would be incorrect of us to seek to reject it today. I consider this argument of the Government reasonable and will therefore give it the benefit of the doubt. I do not object the amendment moved by Mr Eric LI; however, if Mr LI's amendment should be negated, I would vote in favour of the motion moved by Mr LAU Kong-wah. Furthermore, I also wish to point out that if the Government should put forward its proposal to levy land departure tax in the future, unless it could submit together with its proposal plenty of convincing data and reasons, I would not lend it my support.

Thank you, Mr Deputy.

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

(No Member responded)

**DEPUTY PRESIDENT** (in Cantonese): Mr LAU Kong-wah, you may now speak on Mr Eric LI's amendment. You have up to five minutes to speak.

**MR LAU KONG-WAH** (in Cantonese): Mr Deputy, I rise to speak on Mr Eric LI's amendment and some of the points he has raised in his speech. I understand very much why Mr Eric LI needs to move an amendment to my motion, and I also respect his rationale for doing so. However, even though I have listened very carefully to the speech he made, I still could not see any strong reasons why he must object to my motion. Hence, I should like to make an effort to appeal to Honourable Members for the last time. I hope that Members would adopt an open attitude to consider my motion if Mr Eric LI's amendment should be negated. Certainly, some Honourable colleagues support Mr LI's amendment and have raised their views in this regard. As such, I would like to appeal to them for support as well.

I wish to speak on the following points raised by Mr Eric LI. To begin with, Mr LI has referred to a provision under the Basic Law requiring the Government to strive to achieve a fiscal balance. On our part, we are naturally concerned about the fiscal balance issue as well. Actually, during our discussions with the Financial Secretary we made it clear that budget deficits should not arise too frequently; this is just unacceptable. On the other hand, it seems that we should be able to achieve a fiscal balance in the foreseeable future. For this reason, I wish to ask the Government whether it would abolish the proposed tax item when the economy prospers again, bearing in mind that it believes new taxes should be levied in times of an economic slump. If the Government should refuse to abolish the proposed tax item then, its argument that new tax items are necessitated by financial difficulties just could not hold water any more.

Secondly, Mr Eric LI has also referred to our obligation to pay tax. We certainly raise no objection to this spirit. We are not raising objection to the salaries tax, nor are we raising objection to the profits tax or any of the taxes we are currently required to pay. What we are objecting to is a new tax item. I hope Mr LI could see this point clearly.

Thirdly, I agree very much with Mr LI in that there is a need for us to conduct a comprehensive review of the taxation system in place in Hong Kong. However, just do not forget that the review has yet to be conducted. Actually, a comprehensive review of the taxation system is badly needed in Hong Kong. But the problem is that before conducting any comprehensive review or making any careful observation of Hong Kong's practical situations, the Government has focused its effort on the levying of this new tax item to the neglect of all other issues. It is for this reason that we have to air our views and raise our objections to this proposed new tax item before the review commences. To put his question the other way round, why does Mr Eric LI support the proposed new tax item when the comprehensive review of the taxation system has yet to be conducted by the Government?

Last but not least, Mr Eric LI has talked about "being responsible" in both the first and second halves of his speech. As Members of this Council, we should of course be responsible. Perhaps let me speak a few words on my views on this. As a matter of fact, the relationship between the legislature and the executive authorities has been rather tense over the past year, and one of the reasons is that the Government is determined to remain "executive-led". What is more, after the "executive-led" Government has put forward some proposals, it simply expects this Council to render support to those proposals. However, this Council will not lend support to the Government unconditionally nor without any limit. Am I correct that Mr Eric LI has recently criticized the Government for being autocratic and overbearing? With regard to the relationship between the legislature and the executive authorities, I hope that under the "executive-led" premise, the Government would take into account the views of this Council and that of the members of the community, with a view to incorporating the views into the proposals it will put forward under the "executive-led" principle.

Actually, the amendment moved by Mr Eric LI does not have any significant meaning at all, since the procedure he urges for are exactly which the Government is required to follow. Hence, it is all the more important for each of us to make clear our stance to the Financial Secretary at the present stage, we must let him know clearly whether we are in support of or opposed to the proposed tax item. Insofar as my motion is concerned, we must make our stance very clear to the Secretary. Otherwise, if our stance should remain unclear after the "executive-led" Government has put forward its proposal, the Secretary would have to waste a lot of time and effort lobbying Members for support.

In any case, being responsible Members of this Council, we must at this stage each make it clear to members of the public whether we are in support of or opposed to the proposed tax item. Thank you, Mr Deputy.

THE PRESIDENT resumed the Chair.

**SECRETARY FOR THE TREASURY** (in Cantonese): Madam President, since the Financial Secretary mentioned in the Budget in March this year that the Government was considering the levying of a land and sea departure tax, the proposal has instantly aroused concerns in many sectors of the community. Recently, the proposal has again become the focus of discussion. In the course of the debate just now, Members put forward a lot of opinions and observations on the original motion concerning the "land departure tax" and its amendment. I would like to take this opportunity to elucidate the position of the Government on the land departure tax and respond to Members' views in general.

First of all, I wish to point out that the Government has never attempted to deter Hong Kong people from spending in the Mainland by levying a land departure tax. The Government proposed a land and sea departure tax only for the purpose of public finance. The proposed tax mainly seeks to broaden the tax base, thereby increasing the Government's recurrent revenue and enabling the Government to return to a fiscal balance over the medium term. We forecast a deficit of \$36.5 billion for the current year and \$5.6 billion for the next financial year. I believe that Members and the public will understand that in view of budget deficits and tight finances, the Government must be more prudent in managing the common wealth of Hong Kong people and exert itself to increase revenue and reduce expenditure. On the initiatives to cut expenditure, the Government has committed itself to implementing the Enhanced Productivity Programme in an effort to control more effectively the growth in public expenditure. As regards the means to increase revenue, we consider land and sea departure tax a feasible and reasonable option. Not only does it comply with the constitutional provision of Article 107 of the Basic Law which provided the principle of "keeping expenditure within the limits of revenues" in drawing up the budget, it is also crucial to maintaining the position of Hong Kong in the opinion of investors worldwide and credit rating agencies. This is particularly important to maintaining the competitive edge and economic status of Hong Kong in the long run.

Given the many tax concessions introduced by the Government over the past few years, the tax base in Hong Kong has been narrowing. Insofar as salaries tax is concerned, the proportion of taxpayers in our total workforce dropped to 42% last year from 52% in 1994-95; the proportion of people paying tax at the standard rate among all taxpayers also slipped drastically to around 5% last year from 9.4% in 1994-95. We forecast a further decline in the percentage to some 0.3% this year (which means 10 000 out of the 1.2 million taxpayers). Besides, about 70% of the revenue from salaries tax was generated from 15% of the taxpayers. With regard to profits tax, about 80% of the tax revenue came from some 5% of companies paying the tax. (In other words, out of the 60 000 companies required to pay profits tax in Hong Kong last year, the tax paid by 3 000 of them accounted for 80% of the total revenue from profits tax.) A mechanism whereby the majority of the tax revenue is yielded from a tiny minority of individuals and companies is not a sound mechanism by any standard.

Revenue from land sales and taxes relating to real estate investment, such as property tax, stamp duty and rates, have all along been the major sources of government revenue. This is also a main reason why the Government has been able to maintain a low tax regime. Given that the gap between supply and demand in the real estate and property market was gradually shortened in the past few years, coupled with the fact that property speculation has quietened down considerably, we forecast that the revenue from land transactions will account for a smaller and smaller percentage in the overall government revenue. In view of this structural change in revenue, and being a sensible Government, we are duty-bound to take vigorous and effective measures and study ways to tap new sources of income. This is to ensure that we have sufficient revenue to cope with the necessary public expenditure, thereby maintaining social stability and safeguarding people's livelihood.

In fact, some Members and many academics as well as commentators on economic issues hold that the Government should spare no effort to broaden the tax base in order to ensure that Hong Kong has in place a stable taxation system which can absorb the impact of economic downturn. The Government considers land and sea departure tax an effective measure to broaden the tax base. Besides, this is not a brand new taxation idea but one derived from the long-established air passenger departure tax and passenger embarkation fee.

At present, mainland-bound air passengers departing through the Hong Kong International Airport have to pay a \$50 air passenger departure tax. People leaving for Macau and the Mainland by sea through the Hong Kong-Macau Ferry Terminal and Hong Kong-China Ferry Terminal have to pay a passenger embarkation fee of \$18. However, those departing through the land crossings are not required to pay any fees. They include people departing via the Lo Wu boundary crossing point by the KCR, and those departing through boundary crossing points at Lok Ma Chau, Man Kam To and Sha Tau Kok by cross-boundary shuttle bus, coach, rented car and private car. Moreover, people departing Hong Kong by ocean liners or pleasure vessels are not required to pay any form of departure charges or taxes now. This arrangement is indeed inequitable. With the introduction of a land and sea departure tax, all departing passengers would have to pay a tax irrespective of the mode of transport they take, thus removing the inequity. Furthermore, the resources that the Government ploughed into providing immigration and customs control facilities and services at the boundary crossing points are definitely no less than those injected for the same purpose at the airport, Hong Kong-China Ferry Terminal and Hong Kong-Macau Ferry Terminal.

Departure tax is not a concept unique to Hong Kong. At present, the mainland authorities levy a number of departure charges from all vehicles leaving and entering the Mainland through boundary crossing points at Lok Ma Chau, Man Kam To and Sha Tau Kok. These charges include the fees levied by the frontier bureau of the Ministry of Public Security for the vehicular entry and exit inspection card, fees for the construction and management of the Shenzhen border control point, vehicle licence fees, and fees for animal and plant quarantine and hygiene inspection charged on the basis of the varieties and quantity of goods.

In recent months, the Government has received views from many Members and also from the public on the proposed land and sea departure tax. Some are supportive of the tax for it can broaden the tax base and serve as a stable source of government revenue. However, some are strongly opposed to the proposal. They contended that after Hong Kong's reunification with the Motherland, Hong Kong citizens leaving Hong Kong for the Mainland should not be regarded as an instance of "departure" and therefore, no departure tax should be imposed. There are also views that at a time when the economy remains slack, the Government should not find ways to pull money out of the

people's pockets and even discourage Hong Kong people to go to Shenzhen for consumer spending or other parts of the Mainland to visit relatives by imposing a departure tax. Some hold that the introduction of a land and sea departure tax by the Government will add to the burden of those people who travel between Hong Kong and the Mainland frequently. Some critics opine that the revenue generated from this tax, compared to the overall government revenue, merely constitutes a drop in the ocean so it will be of little help to buttressing public finance.

Firstly, I wish to point out that the Government has proposed a land and sea departure tax with the purpose of increasing its recurrent — I emphasize "recurrent" — revenue. Therefore, we should not make a judgment as to whether the proposal should be put into practice simply based on the estimated revenue generated from this tax on a yearly basis. On the contrary, we should focus on the "recurrent" feature of such tax, and particularly the point that the tax can broaden the tax base in Hong Kong and yield a stable revenue over the medium to long term.

Secondly, after Hong Kong's reunification with the Motherland, Hong Kong citizens going to the Mainland by air or by sea are still required to pay to a departure tax or passenger embarkation fee. As I pointed out just now, the mainland authorities also levy fees on vehicles plying between the Mainland and Hong Kong.

Let me reiterate that the Government has no intention whatsoever to use the land and sea departure tax to deter Hong Kong people from going to the Mainland to visit relatives, for shopping, sightseeing, business or for other purposes. On the contrary, we think that the more interaction between Hong Kong and the Mainland, the more beneficial to the economic and academic exchanges between the two places. In recent years, the Government has been working actively to facilitate cross-boundary traffic and channelled enormous resources for the purpose. First, with the co-operation of the mainland authorities, we have extended the operating hours of the Lo Wu and Lok Ma Chau crossing points, and also introduced a shuttle bus service between Lok Ma Chau and Huanggang. Besides, the project of expanding vehicular kiosks at the Lok Ma Chau Boundary Crossing and the related facilities is underway. Upon the completion of phase one of the expansion project at the end of this year, the handling capacity of the Boundary Crossing can be increased from the present



19 000 to 32 000 vehicles on average daily. Under phase two of the expansion project, advanced equipment (including X-ray inspection facilities for vehicles) will be acquired to expedite customs clearance and step up efforts against smuggling activities. The expansion project will involve a cost no less than \$1.4 billion in total. Moreover, we plan to build the Deep Bay Link and embark on public works projects for Sheung Shui to Lok Ma Chau Spur Line of the KCR. It is estimated that the two projects will cost no less than \$7.3 billion altogether. We, therefore, do not believe that the levying of a land and sea departure tax will produce any negative impact on exchanges between Hong Kong and the Mainland.

With regard to cross-boundary tourism, as the imposition of the air passenger departure tax and passenger embarkation fee has not brought about a decrease in the number of visitors from the Mainland, we can infer that the levying of a land and sea departure tax should not result in a smaller number of mainland tourists visiting Hong Kong. According to the statistics of the Immigration Department, the total number of non-Hong Kong residents arriving in Hong Kong from the Mainland was about 3 423 000, representing some 18% higher than the figure recorded in the corresponding period last year. Among these visitors, the number of those who came by air and paid the departure tax has also increased by about 30%.

The Government fully appreciates the concerns and anxieties of the general public about the levying of a new tax when the economy has not fully recovered. For this reason, in determining the tax rate we will certainly take into full consideration public affordability and the level of fares of the various modes of cross-boundary transport on the principle that the general livelihood of the people should not be compromised. Speaking of the fares for the various modes of cross-boundary transport, a number of Members who oppose the land departure tax said just now that the levying of such a tax is tantamount to double taxation. Their main argument is that the fare charged by the Kowloon-Canton Railway Corporation (KCRC) for the Lo Wu to Sheung Shui section is much higher than that for the journey from Kowloon to Sheung Shui, so they consider that the price differential is a *de facto* taxation on passengers crossing the boundary and therefore, the Government should not further impose a departure tax on them. Here, I must emphasize again that the KCRC is an independent public transport company serving as a mass transit carrier. It has to compete with other transport operators in the market, so its fares must be determined on

commercial principles with a view to maintaining its competitiveness in the market. Most importantly, the KCRC's revenue from ticketing is all used to cover its expenses and is not a source of the Government's tax revenue so there is no question of double taxation. As I said earlier on, we will take account of the level of fares of the various modes of cross-boundary transport, including the KCR fares, in determining the rate of the land departure tax.

As the Financial Secretary pointed out in the 1999-2000 Budget, we will make appropriate arrangements when drawing up the proposal on the land and sea departure tax to avoid causing disruption to traffic plying between Hong Kong and the Mainland. Moreover, we will ensure that children crossing the boundary for schooling or truck drivers crossing the boundary for business are unaffected. As for people who travel frequently between Hong Kong and the Mainland for business or other purposes, we will carefully study whether special arrangements should be made for them, and the feasibility of such arrangements.

The Government is now studying the specific arrangements for the levying of the land and sea departure tax, including when the new tax is to be introduced, the method of collection, the tax rate, the exempted categories, arrangements for exemption and the mechanism to prevent cheating and tax evasion. In the course of the study, we will certainly take into careful and thorough consideration all factors, including the views of all sectors in the community.

Madam President, I would like to take this opportunity to thank Mr Eric LI for his amendment which has the merit of giving the Government a chance to consult the Legislative Council, transport operators, tourism industry and other parties concerned on completion of our study on the land and sea departure tax. In this connection, the Government hopes that Members can remain objective and open at this stage. When the Government is ready to consult the Legislative Council on the specific arrangements for the whole proposal, Members will be given sufficient time to consider whether the proposal should be supported.

Finally, I wish to point out that the Government should not be the sole party endeavouring to broaden the tax base, increase revenue to ease the budget deficit and restore a fiscal balance. Instead, these tasks require the concerted efforts and commitment of the whole community of Hong Kong, and this Council should also work with the Government in concert and assist the Government to resolve problems. Therefore, I hope that Members of this Council, being

representatives of the people, can see this point clearly and put forward positive and constructive views on a proposal which is proper and conducive to effectively easing the budget deficit, but not flatly rejecting it before the details of the proposal have yet been finalized. For this reason, Madam President, I hope Members can support Mr Eric LI's amendment and oppose the original motion of Mr LAU Kong-wah.

Thank you, Madam President.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Eric LI rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Eric LI has claimed a division. The division bell will ring for three minutes.

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

**PRESIDENT** (in Cantonese): Before I declare that voting shall stop, are there any queries? Voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Kenneth TING, Mr James TIEN, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Mrs Selina CHOW, Mr Ambrose CHEUNG, Mr HUI Cheung-ching, Mr Bernard CHAN, Dr LEONG Che-hung, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr FUNG Chi-kin and Dr TANG Siu-tong voted for the amendment.

Mr Michael HO, Mr LEE kai-ming, Miss Margaret NG, Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Mr CHAN Wing-chan, Mr SIN Chung-kai, Mr WONG Yung-kan and Mr LAW Chi-kwong voted against the amendment.

Geographical Constituencies and Election Committee:

Mr Andrew WONG, Mr David CHU, Mr HO Sai-chu, Mr NG Leung-sing, Prof NG Ching-fai, Mr MA Fung-kwok and Mr Ambrose LAU voted for the amendment.

Miss Cyd HO, Mr Albert HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Mr Gary CHENG, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Miss Emily LAU, Mr SZETO Wah, Mr TAM Yiu-chung, Mr CHAN Kam-lam and Mr YEUNG Yiu-chung voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 26 were present, 17 were in favour of the amendment and nine against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 26 were present, seven were in favour of the amendment and 18 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negated.

**PRESIDENT** (in Cantonese): Mr LAU Kong-wah, you may now reply and you have up to six minutes eight seconds out of your original 15 minutes.

**MR LAU KONG-WAH** (in Cantonese): Madam President, just now I have listened carefully to the speech made by Secretary Denise YUE. As a matter of fact, in addition to explaining to this Council today her difficulties, she did also discuss with me in detail the departure tax issue during our telephone conversation earlier on. Naturally, the Democratic Alliance for the Betterment of Hong Kong (DAB) definitely hopes that this Council could come up with some new measures to deal with the issue. As regards the existing proposal, however, it is apparently heading in the wrong direction despite its good intentions. Earlier on I have already explained our views in this respect, now I should like to speak mainly on the views raised by several Honourable Members just now.

To me, the vote we take today is of utmost importance. At first when the wording of the motion was under discussion within the DAB, there were several different versions for consideration. But in the end, we decided on the present version, which reflects very clearly in one single sentence whether one is in support of or against the proposed land departure tax. Members' voting decisions on the motion today will go down in history, bearing in mind that the proposed land departure tax is not a one-off tax item. Members of the public may still remember how we have voted on this motion when they pay the tax 10 years later.

Early on a Member considered that we might have rendered the matter very political in making mention of "one country, two systems". Actually, it has never been my intention to raise the matter to the political plane either. Perhaps let us look at it this way: Say, we are going from New York to Boston, do we need to pay any tax? How about travelling from London to Oxford, do we need to pay any tax for that? On the home front, a proposal has currently been put forward to require people visiting Shenzhen from Hong Kong to pay a departure tax, is it reasonable? I just hope Members could give careful thoughts to these questions.

According to Dr Raymond HO, now that the principle of "one country, two systems" has been put into practice, levying an additional departure tax would serve to bring out the essence of the principle. I am afraid this way of thinking is a little too dangerous. Actually, the implementation of the concept of "one country, two systems" is a positive and beneficial process of interaction; besides, it is also our hope that the two systems currently in practice in the Mainland and Hong Kong respectively could remain unchanged. As such, I consider it undesirable to incorporate into the concept the idea that the Mainland and Hong Kong are two separate places.

As regards the "user pays" concept to which Mr Bernard CHAN referred, I believe it is not an incorrect of him to say that people crossing the boundary should pay the proposed tax. But then again, he also said that people who genuinely need to cross the boundary every day should be exempted from the tax. People who need to commute between the Mainland and Hong Kong every day are the frequent users of the relevant facilities, for what reason could they be exempted from the tax then? Is Mr CHAN not contradicting himself? Hence, I suggest the Honourable Member think it over carefully whether the "user pays" principle would really be applicable in this respect.

Finally, Mrs Selina CHOW has mentioned in her speech that opinion polls are useless because the public opinion would naturally be opposed to the proposed tax. I think Mrs CHOW should not have made so absolute a comment. Maybe this has something to do with the fact that she is now running for the first time in a geographical direct election. As a matter of fact, many of the district board members affiliated to the Liberal Party have also conducted a large number of signature campaigns and opinion surveys. Will Mrs CHOW also consider those campaigns and surveys useless? How is she going to justify herself then?

**MRS SELINA CHOW** (in Cantonese): Point of order, Madam President. Mr LAU Kong-wah has twisted my words.

**PRESIDENT** (in Cantonese): Mrs Selina CHOW, you may make a point of clarification later, but you cannot do so by raising a point of order. Mr LAU Kong-wah, please continue with your speech.

**MR LAU KONG-WAH** (in Cantonese): Madam President, actually, Mrs Selina CHOW has expressed a number of views. Yet the most important message is: people coming in have to pay. This phrase best sums up the Liberal Party's stand today and indicates their future voting intention. The Liberal Party leader, Mr James TIEN, said they would think about it and named three conditions. If the three conditions are met, they will think about it. There is no need for them to think about it. Mrs Selina CHOW already made it clear that one has to pay on entering Hong Kong. Is that not right? The question is, one cannot care about nothing but money.

If the Liberal Party's platform is protectionism, it has abandoned its own fundamental beliefs. Therefore, in my view, the Liberal Party should think more deeply about this question and be farsighted. It should also be clear about its own fundamental beliefs and stands. I believe this is very important.

In any case, the result just now shows the stands of most Members. Of course, I hope that Members who support Mr Eric LI would reconsider it carefully. One cannot stall as long as one likes on this question. Even if one stalls, one has to take a stand in the end, either for or against the motion. Members might as well oppose it today, in keeping with Hong Kong people's opposition. If my motion is passed today, there will be no need for Secretary Denise YUE and the Government to come up with any more ideas or talk to the KCRC. They might as well think of other ideas, instead of spending any more resources on this.

With these remarks, Madam President, I urge Members to support my original motion.

**PRESIDENT** (in Cantonese): Mrs Selina CHOW, do you wish to clarify the parts on which you have been misunderstood?

**MRS SELINA CHOW** (in Cantonese): Madam President, my words have not been misunderstood; rather, words have been put into my mouth. *(Laughter)* I never said people coming in have to pay. I was just trying to point out the absurdity of Mr LAU Kong-wah's argument that a "free port" should be a place where people could always enter free of charge. Mr LAU also alleged that we had referred to .....

**PRESIDENT** (in Cantonese): Mrs Selina CHOW, I do not want such kind of debate to go on. You should only clarify the parts of your speech which you believe have been misunderstood.

**MRS SELINA CHOW** (in Cantonese): Madam President, I am now explaining that the speech I made earlier on was to point out the absurdity of Mr LAU's argument, which maintained that a "free port" should be a place where people could enter free of charge. That was the point I made then. I made this point because Mr LAU had claimed that Hong Kong would not be a "free port" if departure tax should be levied; however, I never said people coming in have to pay. He has twisted my words.

Secondly, Mr LAU alleged that we had raised the view that "opinion polls are useless". I never said such words. Madam President, I definitely have not said opinion polls are useless. All I said was that we could actually do without the opinion polls as we could all foresee the findings of the surveys, and that it was only natural for the public to oppose the new tax proposed. I would still say so if the Honourable Member should ask for my opinion. I would tell him that it is just natural that we definitely do not want to pay any land departure tax. So, that was what I said then. The words "opinion polls are useless" did not come from me. Perhaps we should all think more carefully and take a longer view in this respect. Let us wait and see how the DAB would react when the land departure tax proposal is submitted to this Council. *(Laughter)*



**MR BERNARD CHAN** (in Cantonese): Madam President, I wish to make a point of clarification. Perhaps I did not make it very clear when I spoke in English just now, but the term I referred to was "tax concession", not "tax exemption". There is a slight difference between these two terms.

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

**PRESIDENT** (in Cantonese): Mr LAU Kong-wah 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 LEE Kai-ming, Miss Margaret NG, Mr CHEUNG Man-kwong, Mr Ambrose CHEUNG, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr CHAN Wing-chan, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr LAW Chi-kwong and Dr TANG Siu-tong voted for the motion.

Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Mr Bernard CHAN, Dr LEONG Che-hung and Dr Philip WONG voted against the motion.

Mr Kenneth TING, Mr James TIEN, Mrs Selina CHOW, Mrs Sophie LEUNG, Mr Howard YOUNG, Mr LAU Wong-fat and Mrs Miriam LAU abstained.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr Albert HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Mr Gary CHENG, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Miss Emily LAU, Mr SZETO Wah, Mr TAM Yiu-chung, Mr David CHU, Prof NG Ching-fai, Mr MA Fung-kwok, Mr CHAN Kam-lam, Mr YEUNG Yiu-chung and Mr Ambrose LAU voted for the motion.

Mr Andrew WONG voted against the motion.

Mr HO Sai-chu and Mr NG Leung-sing abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 25 were present, 12 were in favour of the motion, six against it and seven abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 26 were present, 22 were in favour of the motion, one against it and two abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

*(Members were talking among themselves)*

**PRESIDENT** (in Cantonese): Will Members please keep quiet.

Second motion: Establishing a dedicated investment promotion agency.

## **ESTABLISHING A DEDICATED INVESTMENT PROMOTION AGENCY**

**MR MA FUNG-KWOK** (in Cantonese): Madam President, I move the motion which has been printed on the Agenda.

Madam President, the Cyberport and the Disney theme park proposals put forward and confirmed recently have caused enormous impact on the economic thinking and strategies of Hong Kong. To begin with, the financing arrangement of the developer of the Cyberport has reflected that the market attaches far greater importance to the high-technology concept of the relevant company than to its real estate development items, since the market price of the company has risen way above the land price of the Cyberport. Indeed, the Cyberport project has changed the past investment philosophy of the people of Hong Kong. Instead of attaching great importance to real estate investment, people will now give more consideration to the ideas and prospects of the companies concerned. However, since the Government has given consent to and announced the Cyberport project in a hasty manner, as if it has omitted the normal transparent procedures, public criticisms were aroused as a result.

As regards the Disney theme park, it is a strategic investment project to be undertaken by the Government of the Special Administrative Region (SAR) in partnership with a private company, the community has started talking about the role of the Government in attracting investment into Hong Kong. In particular, should the Government take an active role in introducing multinational corporations into Hong Kong? In this connection, I am very glad that the Democratic Party agrees with the spirit of my urge on the Government to step up efforts to attract overseas investments into Hong Kong.

What would happen if the community as a whole should consider the Disney theme park project beneficial to Hong Kong? Should the Government make this just a one-off example? Should the Government refrain from playing an active role in attracting overseas investors in the future? On the other hand, what if the Government should decide to actively attract overseas investment into Hong Kong? Would there be any need for us to set up a mechanism with specific responsibility for attracting foreign capital into the territory? Given that proposals such as the Silicon Harbour, the Chinese Medicine Port, the Universal Studios and other investment projects are expected to be forthcoming, we need to have in place a comprehensive mechanism responsible for studying, selecting and conducting detailed planning for the various inward investment projects. So, the need for a structure and mechanism charged with specific responsibility for attracting investment into Hong Kong is not only obvious but also urgent.

In fact, it is not possible for the Government to ask some of its government officials from the existing civil service establishment to put aside their jobs at hand to form an ad hoc team to deal with some seasoned masters of commercial negotiation every time a large-scale investment project comes up. Moreover, with such an arrangement the Government could only wait around for an exceptional investment proposal to turn up. This is no different from trusting to chance and strokes of luck. With this, I can be sure of one thing — we are not getting anywhere if we are not proactive enough.

Madam President, the incentive of multinational corporations to invest in Asia has already been dampened by the regional financial turmoil in general, and the rate of our economic growth has yet to achieve a satisfactory level. Under such circumstances, how are we going to compete with the cities in mainland China and other Southeast Asian cities in attracting foreign capital into? We might perhaps get some inspirations if we visit the website of the Government of Singapore. As we enter the website, we could see the banner of the Economic Development Board of Singapore (EDB) flashing on the page. The EDB is Singapore's flagship department responsible for investment promotion and for conducting strategic research and studies; besides, it also serves as the evidence proving the active effort made by the Singaporean Government to attract inward investment. Judging from the fact that Caltex Oil has moved its global

headquarters to Singapore, it may perhaps be fair to say that Singapore is the "most desirable" business environment to international investors. In view of the keen competition in the international arena, both my fellow members of the New Century Forum and I have come to the view that there is no more "most desirable" business environment in this world, nor is there any chance or strokes of luck. It is only through the continuous efforts, proactive policies and flexible measures of the Government that we could maintain the competitiveness of Hong Kong. In a nutshell, the Hong Kong Government must inspire an entrepreneurial spirit.

As shown in the results of a recent survey among multinational corporations choosing Hong Kong as their Asian-Pacific headquarters, 13% of the companies surveyed have indicated an intent to move their regional base elsewhere. I do not know how government officials would analyse and interpret this message. However they interpret the message, the undeniable fact remains that government departments have only a very limited sense of competition for overseas investment, and that no government department has been vested with specific responsibility for co-ordinating and providing support services for foreign investors making investments in Hong Kong. I have received reliable information that over the past years a number of multinational corporations have intended to carry out large-scale investment projects in Hong Kong, only that they did not know which government departments they should make contact with and have thus wasted a lot of time searching around. Besides, the support services received were rather incomplete and passive; and in most cases the government departments concerned were not very ready to help and would only provide them with some basic information. What is more, the assessment procedures were very inflexible and time-consuming. As a result, many investors lost their interests in Hong Kong and switched to our more active and welcoming neighbours like Singapore and Malaysia.

Madam President, the New Century Forum is urging the Government to establish a dedicated high-level investment promotion agency in the hope that it would change its "trusting-to-chance-and-strokes-of-luck" attitude and stop regarding Hong Kong as the "most desirable" business environment. Instead, the Government should establish a sound mechanism whereby foreign investments could be attracted into Hong Kong.

The New Century Forum urges the Government to establish a dedicated high-level investment promotion agency independent of the civil service framework and to be answerable direct to the Chief Executive. Upon establishment, the agency should directly submit for the Chief Executive's consideration and adoption advice on policies and strategies concerning economic development, as well as on investment projects.

The functions of the proposed investment promotion agency could be classified mainly into three aspects as follows. Firstly, it is to attract investments into Hong Kong. Upon establishment, the proposed agency would be actively giving publicity to Hong Kong and lobbying potential investors, in particular those industrial investors who are of strategic importance to the economy of Hong Kong. Of equal importance is the provision of "one-stop" support services, co-ordination and application assessment for potential investors. To this end, staff from relevant government departments should be seconded full-time to the agency, with a view to helping the potential investors resolve their problems as far as practicable.

The second function of the proposed investment promotion agency is to conduct research into and analyse long-term economic development trends. Basing on the relevant research results and analyses, the agency would then formulate development strategies and identify the investment projects for pursuit. While the investment projects would to a large extent be undertaken by private enterprises, government participation in terms of land supply, supply of other resources and policy making would still be required. Bearing in mind that large-scale investment projects would involve a considerable amount of public resources and policies, before deciding on the investment projects to be undertaken, the Government needs to refer to in-depth high-level research studies and strategic planning to analyse the relevant projects in a comprehensive manner, so as to ascertain their relationship with and the future development and potential needs of the economy of Hong Kong. The agency would be the co-ordinator responsible for meticulously scrutinizing, selecting and conducting detailed planning for large-scale investment projects.

The investment projects recommended by the agency would be directly submitted to key government officials for consideration and adoption. Once adopted, the relevant recommendations and the investment projects would then be implemented by government departments under the existing framework, such as units and divisions under the Financial Secretary's Office.

The third function of the agency is to take active measures to strengthen the traditional industries of Hong Kong, as well as to extend the foundation of our economy by identifying and developing new industries. Two typical examples in this connection are the Disney theme park project and the proposed Chinese Medicine Port project.

Madam President, I should like to stress that the investment promotion agency proposed by the New Century Forum should be a high-level agency independent of the civil service establishment. If it is not of a high level, it would not be able to co-ordinate the efforts of the various Policy Bureaux to provide foreign investors with "one-stop" services. Moreover, the civil service team of Hong Kong has all along been a system of administrative officers with generalist training. Doubtlessly, our key government officials are well-experienced administrators, but it does not follow that it would necessarily be the best arrangement to have them dealing with senior executives of multinational corporations who are well versed in business operation and international commercial negotiations. Actually, large-scale multinational enterprises would most often prefer to set up their Asian-Pacific headquarters or Greater China headquarters in either Beijing or Shanghai, while those choosing Hong Kong as their regional headquarters are mostly medium-scale multinational enterprises. As we strive to attract these medium-scale multinational enterprises to make investment or to set up regional headquarters in Hong Kong, we should be prepared to encounter exceptionally keen competition from all directions.

To take charge of the investment promotion agency, we would need a Commissioner for Investment Promotion who must be well versed in both the local and overseas trends of economic development. In addition to the ability to conduct world-class researches into large-scale investment projects, the Commissioner must also be well connected with the international commercial community. For these reasons, the investment promotion agency must be

established as a body independent of the civil service framework, while the Commissioner must be selected by means of open recruitment, with a view to appointing to the post the best talent available in the market.

In view of the criticisms directed against the Government in relation to the Disney negotiations and the Cyberport negotiations, such as "putting the visible hands into a pair of white gloves", violating the fair competition principle of the free market and so on, the investment promotion agency must be established outside the civil service framework so as to prevent the same thing from happening again. In this connection, the agency must conduct research into and analyse each and every investment proposal during the assessment and selection processes, with a view to preventing the preference of individual officials from affecting the choice of investment projects.

Despite the fact that it should be established outside the civil service framework, the investment promotion agency is by no means any overlapping structure or "super organization", nor an organization of a massive scale. With respect to the board of directors of the agency, which should be responsible to the Chief Executive, apart from a directorate key official from the relevant Policy Bureau, the composition of the board must also include entrepreneurs and scholars who are well versed in the globalization of world economic development. The board of directors should be able to rally extensive support for the investment projects recommended by the agency and to co-ordinate the efforts of different government departments, thereby ensuring the smooth implementation of the relevant investment projects.

Naturally the investment promotion agency would need to set up offices overseas, but only in some key places where most overseas investors gather, including the east and west coasts of the United States, Europe and Japan. These overseas offices would by no means be comparable to those of the Trade Development Council (TDC) in terms of their size and structure, since they would comprise no more than the officers stationed overseas with specific responsibility for investment promotion. These overseas offices are so lean and fit that they could even be set up in affiliation to the existing Overseas Economic and Trade Offices.



On the other hand, the New Century Forum is opposed to the proposal to enhance the function of the TDC, which has been focused on marketing all along, to include also the responsibility for attracting inward investment. The reason is very simple. The effort to promote the export of products manufactured in Hong Kong is a kind of process-oriented marketing activities, entirely different from the work to attract investment into Hong Kong, which is target-oriented. I believe Honourable Members in this Chamber who come from the industrial and commercial sector will all understand the difference. In any large business establishments, the marketing departments are definitely separated from departments responsible for making investment. It is simply impossible to integrate them into one single department, as marketing and investment are two separate and completely different fields of work, not just in nature but also in terms of the respective professionals and expertise involved. Since anyone with even minimal common sense in business operation could understand this simple truth. I am sure Mr SIN Chung-kai, who works for a large-scale multinational financial corporation, should be able to understand that even better.

Moreover, what we ask of the Commissioner and the agency is to concentrate on attracting investments into Hong Kong, but how could they make the best of their work if we should include investment promotion as one of the functions of the enormous TDC.

In regard to the proposal put forward in the amendment to create a fair business environment by legislative means, I agree that the Government should seek to create a fair business environment through different channels and means. But then, this is a story completely different from that of the Government playing an active role in attracting foreign investments into Hong Kong. So, the amendment proposed by Mr SIN Chung-kai has in fact deviated from the objective of the original motion.

Madam President, it has become an international rule of the game for countries to offer a variety of concessions to attract investors, Hong Kong cannot but adapt to this trend. Looking back on the past, due to the inactive measures and attitude adopted by the Government in attracting overseas investors to invest in Hong Kong, many overseas and local investors intending to invest in Hong Kong were unable to get the support services they needed. As a result,

enormous capital was invested in the real estate and financial markets to the neglect of the development of other industries. The regional financial turmoil has fully exposed the fragility of the Hong Kong economy. In the face of the digital 21st century and the competition brought about by the globalization of the world economy, it is all the more necessary for Hong Kong to be more proactive, to discard its past economic attitude, and to make active moves to seek more opportunities of development for our economy.

With the establishment of the proposed investment promotion agency, I believe the SAR Government should be able to remedy the shortcomings of its policy on attracting investments to Hong Kong. I hope very much that Honourable Members can lend their support to the motion moved by me on behalf of the New Century Forum. Thank you, Madam President.

**Mr MA Fung-kwok moved the following motion: (Translation)**

"That, in the face of the highly competitive economic environment, this Council urges the Government to establish a dedicated high-level investment promotion agency with specific responsibility for implementing concrete measures to canvass and attract overseas investors to invest in Hong Kong, co-ordinating the government departments concerned to provide "one-stop" investment services, and studying, selecting and conducting detailed planning for strategic investment projects to be undertaken by the Government in partnership with private enterprises, so as to promote Hong Kong's overall economic development."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr MA Fung-kwok, as set out on the Agenda, be passed.

Mr SIN Chung-kai will move an amendment to this motion, as printed on the Agenda. In accordance with the Rules of Procedure, the motion and the amendment will now be debated together in a joint debate.

I now call upon Mr SIN Chung-kai to speak and to move his amendment.

**MR SIN CHUNG-KAI** (in Cantonese): Madam President, I move that Mr MA Fung-kwok's original motion be amended, as set out on the Agenda.

Before I start, I should like to ask Mr MA Fung-kwok this question: Why does the Disney Company prefer to build a theme park in Hong Kong despite our lack of an investment promotion agency, rather than in Singapore where an investment promotion agency is in place?

The motion moved by Mr MA today is on "establishing a dedicated investment promotion agency", and its content is largely composed of three major parts. First, the Government should play the role of attracting foreign investment into Hong Kong; second, a high-level statutory body or co-ordinating agency should be established to take charge of the relevant work; and third, the Government should continue to directly intervene and participate in the practicalities of commercial investments.

With regard to these three major parts of the motion, although the Democratic Party could lend support to the first part, we are doubtful about the need for the second and opposed to the concept of the third in principle. For this reason, I am moving on behalf of the Democratic Party to amend the second and third parts of Mr MA's motion, as tabled before this Council now. Mr CHEUNG Man-kwong, my Honourable colleague, will speak on the reasons why the Democratic Party is opposed to the third part of the motion, which advocates active government intervention in commercial activities. I will concentrate on explaining the reasons for our support for the first part of the motion and doubts about the second.

To begin with, do we need to strengthen our efforts to attract foreign investors to invest in Hong Kong? The answer is of course in the affirmative. In fact, any country and region would need to have foreign investors to inject capital into its economy, and Hong Kong is no exception. The question remains whether the resources put into this by Hong Kong over the past years are adequate and efficient? If we spend a little time to visit the website of the Government Information Centre, we could very easily notice that many government departments, quasi-government organizations or subvented organizations, such as the Trade and Industry Bureau (TIB), the Industry Department, the Trade Department and the Hong Kong Trade Development

Council (TDC), are performing, *inter alia*, functions similar to promoting two-way investment and trade. In this connection, the Industry Department has already formulated an investment promotion programme the core of which comprises also the One-Stop Unit in Hong Kong and various the Investment Promotion Units in a number of cities overseas. Apparently these Units can answer Mr MA's appeal for an investment promotion agency, only that they are of different levels.

Insofar as quantity is concerned, it appears that the Government has already put in a lot of resources to open up overseas markets and to invite overseas investors to invest in Hong Kong. However, if we take a look at the data on the investment made by overseas investors in Hong Kong, we can see that the effectiveness of these units in promoting investment is apparently not in proportion to their number. As indicated in the results of an Industry Department survey, the number of foreign enterprises choosing Hong Kong as their regional headquarters has dropped by 9% in 1998, compared to that of the year before. In particular, significant rates of decrease have been recorded in both the financial services industry and the telecommunications industry. Even though these data may not have reflected precisely a total loss of interest of overseas investors in investing in Hong Kong, it has doubtlessly pointed to the fact that overseas businessmen have lost that old enthusiasm for investments in Hong Kong. And I believe this should be the major factor that has prompted Mr MA Fung-kwok to move the motion today.

The Democratic Party agrees that the Government should adopt some remedial measures to tackle the continuous drop in foreign investment in Hong Kong, and that strengthening the publicity efforts overseas and conducting more investment promotion activities is certainly one of the feasible ways. The Democratic Party supports that the Government should make good use of the existing resources and set up inter-departmental investment promotion groups under the existing support structure. Actually, as I said just now, similar bodies have already been set up under many government departments and quasi-government organizations to tackle the work in this regard. The overseas offices set up respectively by the TIB and the TDC in Singapore, London and Tokyo are just some examples. However, we have a problem only in that the overseas offices of different organizations are set up in different places, leading

to wastage of many resources. Bearing in mind that the difference between the service nature and functions of the offices concerned is just negligible, should the Government not consider cutting back on the number of these offices to enable the effective utilization of resources? Given that the TDC has set up offices in over 50 countries and regions worldwide, and that the funding of these offices does not come solely from the market but is subsidized by the Government to a certain extent, the Democratic Party holds that the Government should consider delegating the relevant responsibilities to the TDC, as well as inviting it to take on some more duties in addition to its existing ones, like giving publicity to Hong Kong, promoting inward investment and so on. At the same time, the TDC should also maintain its role under the present structure and continue with its effort to attract overseas investors to invest in Hong Kong. As regards such high level functions as organizational work, efforts co-ordination, research and vetting, they should all be discharged by the Business and Services Promotion Unit of the Financial Secretary's Office (BSPU). Actually, these are the well-defined roles played by the TIB and the BSPU. Any efforts in this regard are either handled by the Financial Secretary or by the Secretary for Trade and Industry.

The Democratic Party could accept the idea of stepping up the efforts to promote inward investment; however, we are opposed to the proposal to spend a large amount of public fund to establish an investment promotion agency outside the civil service framework to take up duties which could be handled completely by the existing over-specialized public bodies. The Democratic Party considers that what the Government should do at the present stage is to resolve the matters concerned by redeploying the resources available, rather than setting up a high profile overlapping agency that will add burden to public expenditure. If we should look back on the policy addresses presented by the Chief Executive since he assumed office, we could see that a large number of committees have been set up over the past few years, including many steering committees, the Commission on Strategic Development, the Commission on Innovation and Technology, the Council of International Advisers, the Council for Sustainable Development and so on. Please do not mistake us for saying that it is wrong to set up the respective committees. So long as there is a need for such committees, we will certainly render them our support. However, is it really that useful to set up two more agencies under all these committees?

Dr Joseph GOEBBELS, main propagandist of the German Nazi Party, was best known for his theory that "a lie repeated a hundred times would be taken as the truth". Today, marketing specialists love to quote this theory to give weight to the powerful effect of promotion and publicity campaigns. Nevertheless, even though Dr GOEBBELS was able to dupe the majority of the German people into sacrificing their lives for the Nazi Party, at the end of the day he and the other Nazis just could not avoid the fate of death. Similarly, if we are to attract overseas investors to invest in Hong Kong, we still have to rely on some concrete fundamental attributes, including democratic institutions, a sound legal system, a healthy financial system, an efficient and clean government, low business costs, state-of-the-art infrastructural facilities, superb manpower training, quality living conditions, a fair business environment and so on. The Democratic Party do not believe that a high-level investment promotion agency, upon establishment, would have any magic power to maintain or bolster the confidence of overseas investors in making investment in Hong Kong.

It is true that the various aspects of Hong Kong still have much room for improvement; nevertheless, we should always hold fast to the "small government" principle that we have been upholding all along. Besides, we should also strive to create a favourable business environment by keeping the markets fair, just and open. In this connection, many overseas investors just could not understand why the SAR Government so far has no intention to draw up any legislation on fair competition or to legislate against monopolization. With regard to the business environment of our power supply, banking, aviation and communications sectors, there are still plenty examples of unfair competition and market manipulation. For this reason, we hold that the Government should put in a greater effort to liberalize the relevant markets and to rectify the unfair aspects of these markets.

In the view of the Democratic Party, the downhill trend of Hong Kong's inward investment should be attributable to our declining competitiveness and appeal to investors, rather than to the absence of a highly efficient agency with specific responsibility for co-ordinating or giving emphasis to efforts of investment promotion. Hence, in addition to stepping up the efforts to promote inward investment, the Government should make an effort to improve the various fundamental conditions to which I referred just now, for these are the most important factors in attracting overseas investments to Hong Kong.

Last but not least, I urge Honourable Members to lend their support to my amendment. I so submit.

**Mr SIN Chung-kai moved the following amendment: (Translation)**

"To delete "in the face of the highly competitive economic environment" and substitute with "to strengthen the work on attracting investment from overseas"; to delete "establish a dedicated high-level" after "this Council urges the Government to" and substitute with "set up an"; to delete "agency" after "investment promotion" and substitute with "group in the relevant existing support structure, such as the Hong Kong Trade Development Council or the Business and Services Promotion Unit of the Financial Secretary's Office,"; to delete "concrete" from "with specific responsibility for implementing concrete measures"; to delete "," after "attract overseas investors to invest in Hong Kong" and substitute with "and"; and to delete ", and studying, selecting and conducting detailed planning for strategic investment projects to be undertaken by the Government in partnership with private enterprises" and substitute with "; the Government should also create a fair business environment expeditiously by way of legislation". "

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr SIN Chung-kai to Mr MA Fung-kwok's motion, be passed.

**MR CHAN KAM-LAM** (in Cantonese): Madam President, although Hong Kong still ranks fourth in the world in its export of overseas direct investments, its effort in attracting foreign investment is far from satisfactory. In this connection, the Investment Promotion Division under the Industry Department, which is responsible for inward investment promotion, is but a very small establishment. As a low-level division with limited terms of reference, it can hardly provide investors with services that are comprehensive enough. As regards the Investment Promotion Units set up under the various Economic and Trade Offices overseas, even though these offices are also engaged in inward investment promotion services, they are far too small in scale compared to the corresponding departments of other countries.

So, the problem before us remains that the existing investment promotion units and support structure are unable to achieve the intended good results. However, Mr SIN Chung-kai has proposed to delete "dedicated investment promotion agency" from the original motion and substitute with "investment promotion group". Furthermore, he has also suggested setting up the "investment promotion group" under the TDC or the BSPU. I am afraid it is due to his failure to understand how inward investment is actually promoted that Mr SIN has made such a suggestion, which would serve to complicate the roles and functions of the organizations concerned. Moreover, it is rather questionable if these organizations have the suitable authority and status to represent Hong Kong to appeal to international investors. We consider the proposed amendment undesirable and unable to achieve the objective of the original motion, which is to actively attract investments from overseas.

According to our understanding, owing to the absence of a high-level department to co-ordinate the efforts of introducing foreign investments, more often than not overseas investors are just unable to embark on their investment plans in Hong Kong. This situation will naturally have a detrimental effect on the ability of Hong Kong to compete for overseas investments. Let me now switch to the issue of mutual investment between Hong Kong and the Mainland. Regardless of whether you are Hong Kong businessmen investing in the Mainland or mainland institutions investing in Hong Kong, you just could not find any mechanism to help you resolve your investment-related problems. I should like to ask this question: In the absence of an authority responsible for co-ordinating the various efforts and making decisions, how many potential investment projects would be affected as a result?



Actually, what has the Government done to attract foreign investment? Generally speaking, the Government has largely been able to provide investors with information on making investments in Hong Kong. However, with respect to such efforts as actively attracting overseas investors to invest in Hong Kong, co-ordinating the relevant government departments, providing investors with "one-stop" investment services and so on, I am afraid the existing investment promotion units of the Government are unable to offer sufficient support. As a matter of fact, some people who are engaged in economic and trade activities have found the efforts made by the Government to attract foreign investors far from adequate. These people hold that even though the business environment in Hong Kong is comparatively less restrictive, given the sluggish economic situation, the Government should really put in more effort. In addition to the formation of an investment promotion board, they have also suggested that our senior government officials and even the Chief Executive should participate directly in negotiations concerning large-scale investment projects.

Indeed, competition for foreign capital has always been keen in the international arena. To attract idle funds worldwide, many countries have set up dedicated agencies with specific responsibility for co-ordinating the various efforts to attract foreign investors. My Honourable colleagues from the Democratic Alliance for the Betterment of Hong Kong (DAB) will talk more about that later. Actually, there are a lot of functions that a dedicated investment promotion agency can perform. The original motion has already made some suggestions and we do agree with them in general. In this connection, the first and foremost function is of course to attract foreign investments to Hong Kong. Upon establishment, the dedicated investment promotion agency should actively liaise with overseas investors and multinational enterprises, with a view to attracting foreign technology and capital into Hong Kong, thereby creating more employment opportunities. Besides, it should also provide investors with assistance in conducting study tours and in finding business partners. As regards other functions, in addition to assisting investors to make contact with local trade associations, government departments, private organizations and public utilities, the dedicated investment promotion agency should also be responsible for providing "one-stop" investment services.

Certainly, the Government does not need to take on every single task all by itself. With respect to the building of a data bank, for example, since the various tertiary education institutions, research institutes, trade associations and even regulatory bodies must have collected a considerable amount of reference materials, the Government should act as a co-ordinator, look into the information compiled by the different organizations and identify their research strengths. Still, the economic researches we have conducted may just be regrettably insufficient to cater for our needs if the investment item investors have in mind should be some massive scale strategic investment projects. In that case, the Government should mobilize the relevant professionals within the government structure, as well as those of our community and the various tertiary education institutions, to conduct researches and formulate plans. In addition, the Government should also be responsible for requesting the relevant organizations to provide us with the necessary information.

The motion moved by Mr MA Fung-kwok is mainly aimed at providing the Government with some suggestions in relation to the roles and functions of a dedicated investment promotion agency. Regarding the structure of the agency, Mr MA has mentioned slightly that it should be established outside the civil service framework. However, in order to explain the difference between a "group" and an "agency" to Mr SIN Chung-kai, who has moved an amendment to the motion, the DAB should like to make some suggestions regarding the structure of the proposed agency. To begin with, we could follow the example of other countries and set up the agency under a relevant Policy Bureau, such as the Trade and Industry Bureau. The merit of this arrangement is that the agency, being part of the government structure, should be able to co-ordinate the efforts of government departments more easily. However, the downside to this is that the agency, as a government department, may not be able to grasp the market trend promptly. Secondly, we may also set up an investment promotion body with statutory powers. Generally speaking, providing its management is sound, the agency would be in a better position to compete for overseas investment if it should function as a statutory body. But then again, it is generally more difficult for the Government to monitor the performance of statutory bodies. Lastly, the Government could consider upgrading the Investment Promotion Unit under the Industry Department to an Investment Promotion Agency vested with more powers and functions. That way, the

existing manpower and relevant experience will be consolidated under one single agency, thereby ameliorating the problem of overlapping functions and powers government departments.

Madam President, I support the original motion but not the amendment.

**DR RAYMOND HO** (in Cantonese): Madam President, Hong Kong managed to make such economic achievements today because of the speedy growth of export trade and the very important role foreign investments have played in Hong Kong. In fact, the Government has promoted to foreign investors the beneficial investment environment of Hong Kong through different departments and bodies including the One-Stop Unit of the Industry Department. They give advice and assistance to people overseas who are interested in making investments in Hong Kong. The Hong Kong economic and trade offices overseas are also responsible to a certain extent for enhancing the image of Hong Kong in various places overseas. Moreover, the TDC is devoted to promoting the image of Hong Kong as an international centre of commerce. Some local industrial and business bodies and business associations will also take the initiative to promote Hong Kong as an ideal place for investments to businessmen from other countries. Undeniably, such dispersed promotional efforts have been effective to a certain extent in attracting foreign companies to invest in Hong Kong.

Nowadays, Hong Kong is no longer a unique and ideal place for investment in Asia and we are facing competition from many neighbouring countries. We must make active efforts to attract foreign investors to invest in Hong Kong. In this regard, the Government must play an enhanced leading role and it can no longer wish to get significant results by relying on fragmented and unco-ordinated promotional efforts. Certainly, a simpler and easier method is to set up investment promotion teams within the existing support structure concerned such as the TDC or the BSPU under the Financial Secretary's Office. However, I do not think it is thorough or enough to do so. The proposal can only improve the existing arrangement a little bit, but we need a higher level specialized agency to take up this important responsibility.

Besides conducting lobbying work and organizing promotional activities abroad to attract foreign investors to Hong Kong, this high-level investment promotion agency should also study policies and related economic strategies for attracting foreign investment to Hong Kong, as well as making concrete suggestions to the Government. It should also provide investors with "one-stop" services, co-ordinate the relevant government departments, provide investors with assistance in different aspects and take the initiative to boost investors' confidence in Hong Kong.

Along with the transformation of our economic structure and the importance attached to innovation and technology, while we attract inward investment to Hong Kong, we are inclined towards development projects for new industries and of larger scale, and even some projects that involve a great deal of public resources and require matching policies. Such significant investment projects call for in-depth study and analysis. In this regard, a high-level investment promotion agency can precisely perform such functions.

To rise to the challenges from our neighbouring regions, we must race against time and set up as soon as possible an investment promotion agency which is responsible for attracting foreign investments to Hong Kong, speeding up our economic transformation, creating job opportunities and promoting the overall economic development of Hong Kong.

Madam President, I so submit.

**DR LUI MING-WAH** (in Cantonese): Madam President, at this time and age, every country is trying its best to attract foreign investment, since it can promote economic development, help introduce science and technology, upgrade management skills and foster the training of personnel. It is crucial to the development of a society. One obvious example can be seen in the birth of the manufacturing industries in Hong Kong and their growth to the present state.

Between the '50s and the '70s, with its strategic position at the heart of Asia, a sound legal system, and good communications and transport facilities, Hong Kong attracted a lot of inward investment, resulting in economic prosperity driven by the manufacturing industries. Later, the governments of Taiwan and Singapore took initiatives and adopted vigorous measures to attract foreign investment and these stimulated the rapid development of their respective economies. They have since far surpassed Hong Kong in the realm of hi-tech industries. In the process of their economic takeoff, Singapore's Economic Development Board and Taiwan's Council for Economic Planning and Development which were responsible for attracting foreign investment made enormous contributions. Among the developed countries, Britain is very successful in attracting foreign investment. Each year, to introduce foreigners to the British investment environment, the Invest in Britain Bureau invites some 20 Hong Kong industrialists to visit Britain for free. It is a very successful and good example.

In this age where countries and places vie with each other for foreign investment, Hong Kong ought to have an agency to formulate investment policies and measures and to take the right initiatives to attract overseas investors. Such an investment agency must be given powers to formulate policies to attract investment and approve projects, and be vested with a high degree of administrative authority. It should be an independent government department instead of merely a group under a certain policy secretary.

With the help of this agency and a long-term policy, we will be able to attract investors with sufficient flexibility and a clear direction. This will have a fundamental impact on the future economic development of Hong Kong. The Government should give serious thoughts to this idea.

With these remarks, Madam President, I support Mr MA Fung-kiat's original motion.

**MR JAMES TIEN** (in Cantonese): Madam President, over the past few years, the Hong Kong economy has really been in tatters. To improve the economic conditions, we must promote overseas investment. With regard to today's original motion and amendment, I would like to talk about the amendment moved by Mr SIN Chung-kai first. As Mr SIN should be aware, we will support the

first half of his amendment. He should also know that we will oppose the second half of his amendment, that is, asking the Government to create a fair business environment expeditiously by way of legislation. We have talked about the reasons many times. The Liberal Party has always held the view that in the business environment of Hong Kong, the Government cannot legislate to ensure fairer competition in some industries, such as among power companies and bus companies. Neither can it legislate to force power companies to operate jointly or to be interconnected or legislate to allow more bus companies to operate. As a matter of fact, the Hong Kong Government does help industries such as the telecommunications industry to improve. This industry has seen much improvement in recent years and achieved the aim of lowering costs. That is why we do not think that the Government needs to legislate to improve the business environment in every case. Madam President, for this reason, we oppose Mr SIN Chung-kai's amendment.

Madam President, as for the original motion, I told Mr MA Fung-kwok just now that the Liberal Party had not yet decided, since we did not quite understand what point he was trying to make on the investment promotion agency he proposed. I believe that the Government did not quite know what point he was trying to make either. Earlier, during the first motion debate, the Financial Secretary listened to our debate attentively, since it concerns the land departure tax of a few hundred million dollars. Now, we are debating about foreign investors in Hong Kong, and what the Administration should or should not do. It is a pity that he is not present. But then, the Secretary can reflect our views to him.

Madam President, the Hong Kong economy is so bad today that if we want to attract more foreign investment, the first thing we should do is to boost foreign businessmen's confidence in Hong Kong. Recently, China and the United States reopened talks on the issue of China's entry into the World Trade Organization (WTO). If China joins the WTO, how great would be the impact on Hong Kong? I believe that the amount of foreign investment coming to Hong Kong will surge at once. Much of it will go to the Mainland via Hong Kong. We are also very supportive of the Government's decision to take the Disney theme park project forward. I have read many foreign newspapers recently which have made some extremely positive comments on this matter, saying that the Disney Company has chosen Hong Kong as the place to build a theme park after they have done the same in Paris and Tokyo. This piece of

news is much more effective than having the commissioner of the proposed investment promotion agency going to different parts of the world to promote the advantages of Hong Kong. In my view, to attract foreign investment, some work must first be done, such as improving the environment. In terms of education, the standard or use of English must also be improved. When improvements have been made in these areas, foreign investment can easily be attracted.

At first, we did not quite know what the investment promotion agency proposed by Mr MA Fung-kiwok was all about. Having heard his explanation earlier on, I find the idea a rather difficult one to realize. According to him, the commissioner should not be a civil servant. He should be a person of high calibre and probably may have to be recruited from overseas. The board of directors must also be a high-power one. According to what he said later on, the commissioner should preferably be a "jack of all trades". He must have much wider knowledge than even our Commissioner for Tourism. He must know not only about tourism, but almost every kind of investment project under the sun. He must also make decisions and recommendations to the Government. I wonder where this commissioner is to be found, since there is a limit to the remuneration we can offer him. This person must be knowledgeable enough about the hot topics now, such as the Cyberport, Chinese medicine centre, Disneyland, as well as the garment, plastics and toy industries, all kinds of technology and various trades before he can confidently take up the post. Actually, even if such a person does exist, he would probably have made a fortune already and would not need to work for other people. Will this suggestion work at all? Mr MA later suggested that the agency should set up overseas offices. Of course, he said it might just need to set up a few offices, instead of dozens of offices like what the TDC has done. But where should they be set up? If someone wants to invest in a certain place and there is no office there, he would not know where he could make inquiries. The proposed "one-stop" investment services are also not feasible. As far as this part is concerned, I agree with Mr SIN Chung-kai that the relevant existing organizations of Hong Kong should be retained, such as the Investment Promotion Units set up in seven overseas countries by the Industry Department mentioned earlier. The Industry Department also has an One-Stop Unit, Hong Kong, in addition to a similar unit under the Financial Secretary in Hong Kong. In the Liberal Party's view, there are so many such units that if they could work in unison and make decisions in line with the Government's wishes, it would suffice.

Another thing I would like to say is that the Liberal Party thinks that since the Government's present expenditure is so huge, it should carefully consider all proposals that will cost money. We have had much discussion on the question of the "user pays" principle. If such an agency is to be set up, a foreigner will have to be hired as the commissioner and overseas offices will have to be established. While so much money has to be spent, Mr MA Fung-kwok did not say in the motion where savings could be made. He did not say whether some units under the TDC or the Industry Department should be scrapped if this plan is implemented. If he can say where savings could be made, we might reconsider his proposal. Sad to say, Mr MA Fung-kwok did not talk about these questions just now, but merely urged for the setting up of a new agency with considerable powers. Since we think that there would be difficulty in recruiting a suitable person to head the agency and a lot of money has to be spent, we will not support the original motion. The Liberal Party will oppose both the amendment and the original motion.

Thank you, Madam President.

**MR BERNARD CHAN:** Madam President, I rise to support the Honourable MA Fung-kwok's motion urging for the setting up of an investment promotion agency. My support to this proposal should cast no doubt if any of you remember the motion debate I raised in this Council in June, calling for proactive strategies from the Government and the business sector to join forces to promote the financial services of Hong Kong worldwide.

Though the two motions aim at different targets, the debate today indeed shares the same logic with the one I raised before the summer recess — that is, to ask our inactive Government to take actions and salvage the future of Hong Kong's financial and trade industries. Contrary to asking for promotion of Hong Kong's investment worldwide, we now urge the Administration to canvass and lure overseas investors to invest here.

With this call, I expect to see our bureaucrats reacting with responsive measures that will accurately address what we desperately need for survival instead of words that reassure red tape.



The sheer fact to believe is that Hong Kong would be likely to lag behind or even lose out to its neighbours if our Government still sits complacently with its *laissez-faire*, non-intervention policy and stays hands-off in boosting our competitiveness. In the aftermath of the Asian financial turmoil, many of our Asian counterparts were aware and have learnt to better equip themselves for future challenges. Competitions ahead are expected to be ferocious, and governments of many other cities have already stretched out their invisible hands to bolster and strengthen local financial industries.

Senior Minister of Singapore, Mr LEE Kuan-yew, said earlier in a visit to Hong Kong that competition between the two cities is not a zero-sum game, and the market is huge enough for both to gain. I can hardly be optimistic enough to see this happen if our Government kept feeling comfortable and remained stagnant to foreseeable challenges.

As I said before, the duties of supervisory bodies that monitor our financial industry, such as the Hong Kong Monetary Authority and the Insurance Authority, have limited resources to do with market promotion. If, at this time of global market restructuring, the Government limits its role to that of regulator and takes no new initiatives, I envisage that Hong Kong will no longer be able to secure its advantages and doomed to lose out to cities with more proactive strategies.

Madam President, I am not advocating the Government to intervene the market, but to provide incentives that help rear an attractive environment for foreign investments instead. Besides the Business and Services Promotion Unit established under the Financial Secretary recently, the Government so far has been lacking a strong body empowered to formulate timely strategies and coordinate various government departments for the long-term development of our financial and trade industries. An official or a strong quasi-official organization to be designated for this purpose can greatly help map out a more comprehensive blueprint for Hong Kong's overall economic development and facilitate promotion work accordingly.

Such work should not be confined to luring foreign investments only, but necessarily be broadened to boosting industries of the entire business sector.

However, I support the Honourable SIN Chung-kai's call that urges our Government to create a fair business environment expeditiously, which I believe will be greatly beneficial to Hong Kong's overall economic development. Although I fail to agree with Mr SIN's suggestion that the proposed investment promotion body be placed under the existing support structure, I will also render my support to the amendment as a whole. Thank you.

**MR CHAN KWOK-KEUNG** (in Cantonese): Madam President, Hong Kong is one of the few havens for investors in the world. In addition to creating a totally free and open business environment for us, the Government has also spared no effort with infrastructural development. At present, with some 2 000 multinational enterprises having set up their regional offices or headquarters here, Hong Kong is second only to Japan as the place in Asia with the most foreign investments. This shows the instrumental role and significant influence of the Government in attracting foreign investments.

Having said that, I must hasten to add that the work of the Government still leaves much to be desired. It has been observed that there is now a dwindling desire among foreign investors to invest in Hong Kong. In 1998, for example, as many as 84 foreign companies having a presence in Hong Kong moved their regional offices or headquarters from here to other places like Singapore and Malaysia. Moreover, as revealed by the statistics compiled by the Industry Department, the number of completed foreign investment projects has also dropped recently, from 99 projects in 1997 to only 76 projects in 1999. All this is an apt reflection that Hong Kong is facing increasingly keen external competition. What is more, with the development of some mainland cities like Shanghai, Tianjin and Beijing, Hong Kong faces innumerable potential rivals in the future.

In the meantime, with the emergence of electronic commerce and the advances in telecommunications and transport facilities, Hong Kong is also losing the geographical advantage it used to enjoy. Although the survey conducted by an international consultancy firm shows that Hong Kong has once again become one of the top 25 investment havens in the world, we must also note that our ranking is in fact lower than the other three Little Dragons of Asia. Therefore, if we are to attract more foreign investments, the Government must try to publicize the merits of Hong Kong with a more proactive attitude, in the hope that we can maintain or even upgrade our image and status among foreign investors.

Foreign investments can actually bring many benefits to Hong Kong. In the case of the Cyberport, for example, a lack of foreign investments will probably make it difficult for us to introduce any advanced information technologies from overseas, and Hong Kong enterprises will also find it hard to effect exchanges with the outside world. Besides, foreign investments may also stimulate our economy and pull our economic recovery. The Disney theme park is a good example.

At present, the responsibilities for attracting foreign investments are scattered among several government departments. Since there is an absence of any central co-ordination, foreign investors often do not know how to start; and, they may not know whether the government departments they approach are actually vested with the powers of negotiation. The One-Stop Unit and the Investment Promotion Units under the Industry Department lack any mechanism to assist foreign investors in solving their investment problems. And, they also lack any initiative and sense of direction in their work of attracting foreign investments. Furthermore, owing to the closer ties between Hong Kong and the Mainland following the reunification, there is also a need for Hong Kong to put in place a mechanism for co-ordinating mutual investments between Hong Kong and the Mainland.

The setting up of an investment promotion agency will enable the Government to take active steps to market Hong Kong and to persuade foreign investors to come here for investments. Such an agency can also serve as an intermediary for mainland and foreign investments, thus better enabling Hong Kong to grasp such investment opportunities. For foreign investors, they will certainly find the agency a reliable adviser, whose extensive "one-stop" services can reduce their costs very significantly. Besides, the studies on economic development trends conducted by the agency, as well as the development strategies and investment projects set down by it, will also provide very useful reference and indicators to foreign investors.

We must realize that assistance is not quite the same as intervention. The establishment of an investment promotion agency certainly does not mean that the Government is going to abandon its policy of "positive non-intervention"; on the contrary, it will show that while the Government is committed to providing the infrastructure and maintaining a highly liberal business environment, it will also take concrete steps to assist foreign investors, so that

they can come to Hong Kong to foster the development of our market economy. Hong Kong will certainly benefit from this. All in all, the establishment of an investment promotion agency is actually a "win-win" proposal which will bring substantial and long-term benefits to both Hong Kong and foreign investors.

With these remarks, Madam President, I support the motion of Mr MA Fung-kwok.

**MR CHEUNG MAN-KWONG** (in Cantonese): Madam President, as explained by Mr MA Fung-kwok himself, his proposal on establishing an investment promotion agency is based on the following reason: In the face of keen competition, Hong Kong must try actively to attract new investments in new types of industries and formulate appropriate measures to strengthen the long-term development of traditional industries. He also said that the Government should provide the necessary infrastructure facilities, manpower and other types of support, so as to create a business environment conducive to investment. Mr MA went on to stress that his proposal was not meant to request government intervention.

Not many people will probably object to Mr MA's opinions. In fact, the Democratic Party has been urging the Government to listen more to the views of the industries and put in place some business-friendly measures such as simplification of administrative formalities and enhancement of government administrative efficiency. We have also been urging the Government to provide more support in the areas of market development, technologies, financing, manpower and information access. The work in these respects has hitherto been done by different government departments; the most important matter now is to further improve the quality of the services provided.

However, the investment promotion agency proposed by Mr MA actually aims to achieve a perhaps more important objective. He proposes that the agency should assist the Government in formulating long-term development strategies, to be followed by the setting down of specific investment projects, for which both land and financial assistance will be provided. The Democratic Party does not support such an approach. The Democratic Party is of the view that decisions about commercial investments should best be left to private consortia, and it is not appropriate for the Government to meddle with and assess

any private investment projects. And, for even more obvious reasons, it should not unnecessarily provide any capital assistance in the hope of attracting foreign investments.

Madam President, following the financial turmoil, the Government has been trying to boost the economy by hook and by crook, and it has gone so far as to expend public resources on private commercial development projects. This is really a very great departure from the policy of non-intervention upheld in the past, and the public has been induced to expect more from the Government as a result. The endless demands for land grants and tax concessions relating to the Chinese Medicine Port and the Silicon Harbour are just some examples. Even Mr MA admitted that he was actually inspired to propose an investment promotion agency after hearing all those controversies arising from huge private investment projects like the Cyberport and the Chinese Medicine Port. So, in his motion, he requests the Government to formulate a clear strategy which can systematically handle similar government-private sector joint ventures in the future. Well, considering the fact that the policy of the Government has already changed, I would agree that this is indeed a pragmatic proposal. But Mr MA must also admit that such government-private sector joint ventures along the line of Singapore are pulling Hong Kong farther and farther away from the policy of non-intervention it used to uphold.

The Democratic Party is of the view that the provision of infrastructure facilities should always remain the sole emphasis, whether we are talking about investments in new types of development projects or assistance to traditional industries. Only this can be called "assistance". There should be no need to offer any concessions such as lands and capitals, or else all will become government intervention and involvement. The Chinese Medicine Port is an example. Many property developers once expressed very keen interest in the project, but they were attracted only by the associated real estate development rights. So, when the Government clarified a couple of days ago that its only intention was just to set up a traditional Chinese medicine research institute in the Science Park, the enthusiasm of property developers immediately died down. In contrast, many small and medium companies engaged in traditional Chinese medicine research will continue their research regardless of whether or not a traditional Chinese medicine port is to be set up. To these companies, a traditional Chinese medicine research institute will be more useful than a traditional Chinese medicine port because the kinds of assistance they want from

the Government are no more than adequate research funding, testing equipment and market information. And, these kinds of assistance are precisely the basic assistance and support which the Government should offer.

Madam President, the Democratic Party is of the view that if we wish to maintain our status as the business hub of the Asia-Pacific Region and continue to attract foreign investments, we must pay attention to one important thing. We must seek to ensure that in the new century, Hong Kong can continue to provide a free and fair business environment, enjoy freedom of the press, uphold the rule of law, train up a sufficient supply of manpower, maintain a satisfactory and clean living environment, and enable flexible small and medium enterprises to survive.

The research report on global competitiveness published by the World Economic Forum at Switzerland states that the ability of a place to attract foreign investments will depend largely on its openness, social freedom, rule of law, infrastructure facilities, technologies and so on. And, even the questionnaire survey conducted by the Industry Department last year shows that before foreign companies decide to set up their regional offices in Hong Kong, they would consider the presence or otherwise of a clean government, freedom of the press and the rule of law.

Madam President, both the Swiss survey and that of the Government have come up with findings which support the views of the Democratic Party. Therefore, if we wish to maintain Hong Kong as the popular first choice of foreign investors, we should do the best we can to maintain a business environment characterized by democracy, freedom, the rule of law, openness and fair competition. We must not make the existing framework more complicated by setting up an investment promotion agency. We must guard against a tendency of "big government" in the conduct of our economic affairs.

With these remarks, Madam President, I support the amendment of Mr SIN Chung-kai.

Thank you, Madam President.

**MR JASPER TSANG** (in Cantonese): Madam President, as already pointed out by my colleague, Mr CHAN Kam-lam, the Democratic Alliance for the Betterment of Hong Kong (DAB) agrees that the SAR Government should set up an investment promotion agency, because we believe that it can help co-ordinate the work of the relevant government departments. We believe that an agency with sole responsibility for overseas lobbying will be able to enhance the image of Hong Kong as a haven for investors. We also believe that such an agency will be able to solve the problems encountered by investors with high efficiency, thus upgrading the ability of Hong Kong to attract foreign investment.

We are afraid that simply by adopting the proposal of Mr SIN Chung-kai, that is, establishing an investment promotion unit within the existing support framework, we cannot possibly co-ordinate the work of the relevant departments as desired, and this may make it difficult for us to achieve the aim of enhancing our appeal to foreign investors.

Over the years, we have heard so much about the complaint that the Government of Hong Kong, whether before or after the reunification, has acted far less actively than our rivals in attracting inward investment.

Early this year, the group of international advisers appointed by the Chief Executive also pointed that Hong Kong was less active than Singapore in attracting foreign investment. And, in June this year, the findings of an international consultancy survey targeted at the top management of major international companies indicated that Hong Kong ranked just the 25th among the most popular investment places in the world, falling behind our competitors like South Korea, Japan, Singapore, Malaysia, Taiwan and even the Philippines. There are many reasons of course that can explain why we are not as attractive as others. However, we do think that our failure to promote ourselves actively and to assist foreign investors in solving their problems must have been a significant reason.

Just look at how other countries try to attract foreign investments, and we will realize how far we have lagged behind. In many countries, special departments or organizations have been set up to assume sole responsibility for the work of attracting and co-ordinating foreign investment. These departments or organizations will contact potential investors all over the world on their own initiative, and they are also given the authority to implement their plans. And, even a country as economically powerful as the United States also sees the need to attract foreign investment. There, in California, a foreign investment office has been set up, and its job is to attract foreign investment by working in co-ordination with the overseas offices operated by the California Council for International Trade. With the help of the investment promotion professionals it employs, this office also identifies the major developing industries in California, such as those relating to information technologies, multimedia technologies and environmental protection technologies, and markets them overseas.

As mentioned by some colleagues just now, in Britain, there is the Invest in Britain Bureau (IBB) under the Department of Trade and Industry. The IBB aims to foster both regional and nation-wide economic development by promoting the balanced development of all regions in the country and by stimulating the economic development of its backward regions. Besides, the IBB has also put in place a number of business-friendly measures such as the provision of loans, planning back-up and concessions in respect of plant facilities. Last year, the British Parliament also endorsed the establishment of the Invest in Britain Fund. With an operating fund amounting to 1.5% of the country's Gross National Product, the Fund aims to encourage people to invest in Britain.

In Sweden, under the Foreign Ministry, there is the Invest in Sweden Agency, which implements the country's policy objectives relating to the introduction of foreign investment, and particular emphasis is placed on information technologies, market development and technological products. The people of Hong Kong should be very familiar with the Swedish brands of mobile telephone. The measures adopted by Sweden to attract foreign investments include the formulation of regional development strategies, incentives for the employment of more staff and encouragement of strategic alliances and joint ventures.



Let us also look at our rivals in Asia. In Singapore, there is the Economic Development Board; its sole responsibility is to introduce foreign investment, and it is also given concrete authority to formulate policies and finalize investment projects. And, in this country, there are also a Venture Investment Fund, a Biotechnology Fund, a Technological Enterprises Investment Fund and a regional investment company. Elsewhere, in countries like Thailand, the Philippines, Indonesia and Malaysia, investment bureaux or economic development bureaux are found. Whenever they notice any large-scale investment projects, their relevant government departments or organizations will always do the best they can; sometimes, even their Presidents or Prime Ministers will get personally involved, so as to attract foreign investment.

In contrast, the efforts made by the Government to attract foreign investment are extremely feeble. All along, the Government seems to be convinced that "good wine needs no bush", so it has always thought that as long as our business environment remains attractive to investors, there is no need to hard sell Hong Kong. As a result, it has never attached any great importance to the work of attracting foreign investment. The Investment Promotion Division under the Industry Department, which is responsible for introducing foreign investment into Hong Kong, has only a very small establishment and very limited powers, and is thus unable to provide any comprehensive services to investors. The Investment Promotion Units attached to our Economic and Trade Offices overseas are also far smaller in scale than their counterparts in other countries. I do agree that the Disney theme park is a special case, and I do not think that every investment project should require the personal involvement of the Financial Secretary or the Chief Executive. However, I must point out that at present, the various problems relating to foreign investment in Hong Kong are handled by separate government departments without any central co-ordination. The absence of a special department to entertain big investors and the consequent failure to achieve any co-ordination in terms of land use planning, transportation, infrastructure facilities, construction works and so on have made it impossible for many investors to proceed with their projects.

Madam President, given the keen competition in the arena of international commerce and trade, if the Government wishes to attract any foreign investment, it must act proactively instead of waiting passively for the inflow of capitals. To sum up, the DAB thinks that there is a real need to set up a high-level "agency" to assume the important responsibility of promoting foreign investment in Hong Kong.

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

**MISS CHOY SO-YUK** (in Cantonese): Madam President, Hong Kong was once a paradise to investors and businessmen. Hong Kong was then famous for its simple tax regime with low tax rates, deep-rooted adherence to the rule of law, stable government policies, as well as well-developed transport and communications infrastructure. In addition, Hong Kong people were bright and efficient. All these are the advantages that had made Hong Kong stand out as one of the investment havens in Asia. More importantly, since the Mainland opened its doors and reformed its economy, Hong Kong had been an important window for China's foreign trade. It was also an important springboard for foreign investors to enter the China market. So, before the reunification, despite the uncertainties due to the 1997 question, foreign investors were as zealous as ever in looking to Hong Kong for investment opportunities. The Hong Kong Government did not have to work hard to attract investment.

The times have changed now. In the wake of the regional financial turmoil that took place in 1997, even though the basic attributes of the investment environment in Hong Kong remains good, our competitive edge is no longer that apparent comparing with other competitors like Singapore and Taiwan. On the one hand, operating costs are still much higher in Hong Kong than in its rivals. On the other hand, our competitors have been intentionally targeting at our deficiency by offering all kinds of concession to investors. One obvious example is Singapore, which provides a tax holiday of 10 years for industries related to innovation and technology. We have nothing of this sort in Hong Kong. Whereas the human resources quality in Hong Kong keeps deteriorating, Singapore has invited expert groups from top universities like Harvard to advise it on measures to strengthen the training provided for students in such fields as

foreign languages, innovation and technology. Further still, while Hong Kong's plan to import experts in technology has yet to commence, the Singaporean Government has been implementing an open-door policy to provide assistance in housing and employment to attract experts into the country, as well as to make it more convenient for businessmen to launch their investment plans.

Hong Kong's competitors come from not just overseas countries but also the Mainland. While the financial services industry in Shanghai is blooming, technology industries in Shenzhen have also taken shape. As such, these two places are becoming more and more attractive to foreign investors. As a matter of fact, foreign investors have accumulated plenty of experience in dealing with China over the past 20 years since China adopted an open-door policy and started implementing its economic reform. By and large, they have what it takes to directly enter the Chinese market. Some of these investors have chosen to use Hong Kong as their base because of the superior management experience, accounting and financial services and better quality of life available here. However, in recent years, due to the worry that both the quality of life and the business environment for professional services in Hong Kong would deteriorate, and the fact that some media in the international community have unfairly criticized Hong Kong, out of their insufficient understanding of the "one country, two systems" principle, as having its rule of law undermined, foreign investors have somehow harboured certain misunderstandings or worries regarding Hong Kong. As a result, it has become exceptionally difficult for Hong Kong to attract foreign investment.

Madam President, Hong Kong does not have enormous inexpensive land, nor does it provide any tax concessions for individual industries. However, these are probably not the key factors for the difficulties in attracting foreign investment now. In my opinion, the crux of the problem probably lies in the attitude of government officials.

In fact, the current operating costs in Hong Kong are at their lowest in the recent 10-odd years. A number of overseas consortia have actively approached government officials to indicate their wish to invest in Hong Kong or to expand their businesses here. What they want most may not be inexpensive land or a tax holiday, but a warm welcome from the Government. Yet it is worrying that some officials still hold the attitude that Hong Kong should have all the attractions and hence there is no need to be welcoming; hence, they might have

shown a could-not-care-less attitude and adopted a lay-back bureaucratic style in dealing with these consortia. When asked if inexpensive land is available, the relevant officials told people to find out for themselves. When asked if a tax holiday is available, they would only tell people to go and ask the Inland Revenue Department. They simply showed a lack of intention of a good host who is eager to help overseas investors to achieve their objectives and to implement their investment plans as soon as possible. Other countries, on the contrary, look to big investors as their honoured guests who knock at their doors but once. In Singapore, for example again, as these big overseas investors step off their planes, representatives from the relevant government departments are already there to welcome them. In addition to introducing the investment opportunities available in Singapore, these government officials will also actively provide investors with investment services and explanation on certain procedures concerned. On the home front, have we ever seen any government officials willing to put aside their pride and do the same?

Madam President, our government officials must discard their haughty manners they used to hold and face the reality. In addition to a sense of adversity, proactive actions are also what they need, since they should act as salesmen in much the same way as their Taiwanese counterparts did in seeking to promote the Industrial Park in Taiwan. In order to attract investment into their Industrial Park, Taiwanese government officials have persistently knocked at the doors of companies overseas, striving very hard to lobby for investment. As regards Malaysia, although Prime Minister Mahathir Mohamad's foreign exchange control policy is not something we should borrow, his immense efforts in personally lobbying for foreign investment and foreign commercial expertise is good lesson for our government officials.

This year, the Chief Executive has paid visits to Israel and the Silicon Valley in the United States. In this connection, he has successfully lobbied some enterprises to invest in Hong Kong's innovation and technology industries. Besides, he has also successfully wheeled a deal to build a Disneyland in Hong Kong. These are the results of proactive moves. Earlier, the Chief Executive mentioned that financial services, tourism, innovation and technology and airfreight and transport are the four pillars of the Hone Kong economy. Whether we can bolster them very much depends on how positive the Government is in attracting foreign investment. I do not insist that the Government must set up a department for investment promotion, but I do hope

that it can allocate more resources and manpower to focus on persuading overseas investors to come to invest in Hong Kong, as well as to provide investors with "one-stop" investment services that would enable them to launch their investment plans as soon as possible.

Madam President, I hereby raise my objection to the amendment on the ground that the issue of a fair business environment raised in it, though important, has deviated from the subject of the original motion.

Madam President, I so submit.

**PROF NG CHING-FAI** (in Cantonese): Madam President, regarding Mr MA Fung-kwok's proposal to set up an investment promotion agency, I think this Council should really support it and urge the Government to put it into practice. We really need to set up a high-level and inter-departmental investment promotion body in Hong Kong, so that we can more effectively attract investments by multinational corporations from all over the world. With such a body, we will be able to:

- (1) take more active steps to introduce Hong Kong to the whole world, and to publicize the true facets of our social and economic life;
- (2) provide active and more effective support and assistance to all enterprises intending to invest in Hong Kong; and
- (3) analyse economic trends and assess the feasibility of large-scale projects more accurately.

Over the past two years, the Chief Executive, the Chief Secretary for Administration and the Financial Secretary have made many overseas visits to market Hong Kong and attract foreign investment. However, the time they can spend on this is after all very limited, and they cannot possibly spend any more time or energy on this. Besides, we must admit that the policy of "positive non-intervention" upheld over the years has made Hong Kong civil servants rather conformist in mentality. Almost as a corporate culture, civil servants of Hong Kong are not as experienced in commerce and investment as their counterparts in Taiwan and Singapore. And, Hong Kong civil servants in

general are not prepared to bear any risks to the economy. That being the case, there is an absolute need to set up an investment promotion agency which is independent of the Civil Service and which is directly accountable to the Chief Executive.

"Big market but small government" is now a world trend. I very much agree that the Hong Kong Civil Service does need further rationalization. However, in view of the worldwide trend of economic competition and the inadequacy of the existing governmental framework, I also think that the creation of a new investment promotion agency will by no means be "superfluous" as some colleagues fear. Actually, similar organizations have existed for a long time in other countries, and they have proven themselves to be immensely helpful in enhancing the competitiveness of their own countries. The Economic Development Board of Singapore, for example, has impressed many multinational consortia very deeply because of its enterprising spirit. In contrast, as rightly pointed out by Mr MA, we in Hong Kong seem to be waiting so passively for a windfall to come. Such a passive attitude may well have stemmed from the fear that any positive attempts to attract foreign investment may violate the principle of "positive non-intervention". But I think no principle of any kind should remain unchanged forever, and all principles must keep abreast of the times. If we look at what have been happening elsewhere in the world, we will notice that in modern economic development strategies, the definition of a market economy is no longer founded on a simple distinction between intervention and non-intervention. The traditional mentality which sees non-intervention and intervention as mutually exclusive must now be changed. We can see that in many countries, the governments there are now playing a very active role in long-term economic planning. Such a mode of development actually sees the market as a means, not as an end as we think. At a time when the major economies in Asia have recovered far better than Hong Kong, we really need to adjust our economic policy and do the best we can to catch up with them. In this context, the proposal of Mr MA today is indeed very important as a means of bettering the economy of Hong Kong.

Madam President, the economic growth of China this year is likely to exceed 7% ; authoritative bodies in the world have all revised their assessment of the Chinese economy very favourably, forecasting that China will become a major economic power in the next century. This means that huge capitals from multinational corporations in Europe and America may flow to the East. We

should really grasp this opportunity by capitalizing on our huge support from the Chinese market, by enhancing our economic co-operation with the world, and by introducing foreign investment as much as possible. At least, Hong Kong possesses an inherent edge in attracting investment from medium multinational corporations. Unfortunately, we have so far failed to prepare ourselves well enough for this opportunity. Not too long ago, the findings of a survey indicated that of all those foreign companies now having their Asia-Pacific headquarters in Hong Kong, as much as 13% wanted to relocate their regional headquarters to other places. Such a finding is not quite in line with the edge possessed by Hong Kong.

Madam President, just ask anyone who has but a very basic understanding about the development, or lack of it, of technology industries in Hong Kong, and he will tell us that over the years, because of the "lukewarm" responses of Hong Kong, many companies intending to build up a presence here have lost their interest in us and have thus turned away to other places. Other Members have already given many examples of this, and I am not going to repeat them here. But all these examples do show us that we really lack a high-level organization with sole responsibility for promoting foreign investment. It is about time that we set up such an organization to keep abreast of the times.

Madam President, with your permission, I now wish to say a few words on the knowledge-driven economy and knowledge-based industries, the concepts and interpretations of which are relevant to our discussions on investment promotion this evening. In a knowledge-driven economy, knowledge is regarded as a kind of capital, and a very important capital too. Therefore, in trying to promote investment, we should not concentrate only on attracting multinational corporations to shift their financial capitals to Hong Kong; we must at the same time seek to introduce the latest expertise and innovative systems to Hong Kong. That Microsoft has out-competed the gigantic IBM is an apt illustration of the power of knowledge and innovation.

In other words, as knowledge has come to be regarded increasingly as a kind of capital all over the world, the investment promotion agency we need in Hong Kong should be one which knows how to promote investment in the global knowledge-based economy. Besides introducing financial capitals to Hong Kong, it must also bring in new knowledge, technologies and knowledge-based industries, which, as I have just said, are also an important kind of capital.

With this in mind, we will see why the existing Hong Kong Trade Development Council cannot possibly play such a role; then we will not misinterpret Mr MA's proposal as an attempt to make the governmental framework more complicated.

Madam President, here, let me read out a famous quote from Charles DARWIN, the pioneer of the theory of evolution:

"It is not the fittest of the species which will survive, nor the most intelligent, but the most responsive to change."

Madam President, there is only 51 days to go before the world enters the 21st century, when all will be driven by the knowledge-based economy. How is Hong Kong going to position itself in the midst of the vast and ever-changing economic torrents of the future? I hope my colleagues in this Council and the decision-making echelons of the Government can all realize the real-life relevance of Charles DARWIN's famous quote.

Lastly, I wish to say a few words on Mr SIN Chung-kai's amendment. His amendment basically involves two points. One of them is to downgrade the high-level investment promotion agency to a group. Well, this is the same as saying that though there is a need to attract foreign investment, the whole thing is after all not so important. The essence of the original motion is that an organization with stronger administrative authority should be set up to bring about greater improvement to our efforts of attracting foreign investment. But the amendment of Mr SIN rules out the significance of this point, and the original motion, if amended, will thus become entirely meaningless. Besides, it seems that the very important concept of "knowledge-based economy" is not given any consideration in the amendment. What I mean is that we must first consider our needs in the age of a knowledge-based economy before we can see why the proposed high-level body has to be set up. So, in a way, the amendment itself is also entirely meaningless.

Regarding the second point in the amendment, that is, the part which reads "the Government should also create a fair business environment expeditiously by way of legislation", I must say that this is actually quite another issue. Its inclusion in the motion smacks of an attempt to hijack the subject to make an attack on the Government.

With these remarks, I support the original motion of Mr MA Fung-kwok.



**MRS SOPHIE LEUNG** (in Cantonese): Madam President, the motion subject today is kind of interesting, because it virtually puts investors very much "in the limelight" and leads us to examine what they are lacking from different perspectives.

Earlier in the debate, many Members cited the example of Singapore, saying that Hong Kong should also set up a similar agency. However, I must say that even in Singapore, the situation is not quite like what many of us here have depicted; there is no specific person vested with sole responsibility for the matter. Actually, all the staff members of the Economic Development Board in Singapore are civil servants, and this is somewhat different from the proposal that a "person of high calibre" should be identified for the job. As pointed out by Mr James TIEN, even if there is such a person, it is still doubtful whether he will really be willing to work for the proposed agency. Why does he not build up his own industrial and commercial empire instead?

Actually, the Liberal Party has already stated its position regarding the original motion and the amendment today. However, since investors in Hong Kong have been put "in the limelight" today, I may as well try to give my views on the motion from the perspective of an investor.

Many say that we can actually help investors in many ways, and Members have indeed put forward many such suggestions today. They even go so far as to suggest that our high-ranking government officials may perhaps need to receive investors at the airport, and they also say that we must offer investors as many concessions as possible. Well, their suggestions remind me of one thing — a major principle of marketing. If the quality of a product is poor, then no matter how we dress it up, that is, no matter how attractive the packaging is, the product will still be a product of poor quality.

On the basis of this principle, I wish to talk about the business environment in Hong Kong, a matter also discussed by many colleagues today. Can we possibly create a good business environment simply by all such packaging, or by offering tax concessions? To be honest, if business is really good, investors simply will not bother about whether there are any tax concessions. If their business is successful, they simply will not grumble about anything like the shortage of land. I certainly agree that an integrated policy will definitely help investors. But can packaging alone make them think that our business

environment is really good. Actually, it all depends on their desire to start up their business here.

I hope that after today, the relevant government departments will stop evading this problem and try instead to really find out why investment desire has diminished so drastically over the past five or 10 years. Is the financial turmoil the only reason? The answer is "no". Actually, even before the financial turmoil, investment desire was already declining. But are we really courageous enough to face up to such a decline and find out the reasons?

I know we have made a lot of efforts, and over the years, Members here have always wanted to do good to Hong Kong. But has it ever occurred to us that in some cases, what we did might well have achieved the opposite results? Have we ever done anything to create a climate which makes investors less willing to invest? All these are things which we must bravely look into.

Very soon, we will enter the 21st century. China is now holding negotiations on its admission to the WTO, and we now frequently talk about technologies as the key to national prosperity or Hong Kong prosperity. But before we can attain such a level, we still have to deal with many problems relating to our existing industries and commerces, to find out what they need. If we simply concentrate on packaging work before we can really understand what they need ..... if we ask our government officials to receive investors at the airport, for example ..... if we then force all these proposals on them, saying that things will turn our way ..... I do not think that this is in any way good enough.

I now wish to talk about a book. This book is written by the "No. 2" man of Microsoft. He is very good at marketing. In his book, he talks about how people can become successful in businesses of technology substance. By giving some figures, he points out that 90% of those who engage in such businesses (this is only a rough figure, for I have forgotten the exact percentage) are unsuccessful, and only 10% or less have achieved some success. And, the key to their success is their concentration. Of the 10% who have achieved some success, 90% will still fail in the end, and only 10% or less will sustain their success. What is the key to these people's success? Their perseverance. And, of this 10% who can sustain their success, only less than 10% will really succeed eventually. What about their key to success? Product quality.

The road to success outlined above, as we can all see, is far more twisty and difficult than the road of success we used to follow. Does our society, or do our people, possess that kind of mentality and quality as the 21st century approaches? If we still do not try to find out the inadequacies of our existing industries, if we still do not try to find out what has gone wrong with people's investment desire, if we still do not try to find out why our industries have declined so much, if we still do not have the courage to face all these problems ..... well, it will be useless talking about anything at all.

Madam President, I so submit.

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

(No Member responded)

**PRESIDENT** (in Cantonese): Mr MA Fung-kwok, you may now speak on Mr SIN Chung-kai's amendment. You have up to five minutes.

**MR MA FUNG-KWOK** (in Cantonese): Madam President, when Mr SIN Chung-kai spoke on his amendment a moment ago, he asked me why The Walt Disney Company had chosen Hong Kong as the site of a new Disney theme park, instead of selecting another place with an investment promotion agency. Well, it is also my intention to take this opportunity to say a few words on the matter. But of course, no one knows the precise reason except Walt Disney itself.

I had the opportunity to take part in the process last year. In March last year, I arranged a meeting between the staff of the Universal Studios and the officials of the Economic Services Bureau. The impression I got on that occasion was that our government officials still held very much the mentality that "good wine needs no bush". Their responses were altogether lukewarm. Later, when Walt Disney learnt of this, that is, when it learnt that the Universal Studios had expressed interest in building a theme park in Hong Kong, it immediately hastened to approach the Government (the company had been eyeing Hong Kong as the site of a new theme park for four to five years, but it had never approached the Hong Kong Government on this).

As far I am aware, when the Government discussed the matter with Disney, it was under immense community pressure. People generally expected it to do something economically, which was why there was a change in its attitude. Within a very short time, the Government was able to form a team consisting of relevant officials, organizations and departments, and in a very proactive manner, it offered this famous company a "one-stop" service comprising land use modification, reclamation, road construction, an MTR extension, land grants, environmental impact assessment, immigration policy adjustments, manpower support, financing and even equity injection. In a way, the Government was actually doing the work of an investment promotion agency. Of course, I should add that there was really no such agency, and people were pooled at short notice to do the work.

Here, I would like to ask one question. In the past, how many investors or projects (which were not as famous as Disney) could get similar services? Having provided all these positive services in the Disney project, will the Government continue to do the same in the future? This leads precisely to another question. In the days and years to come, how is Hong Kong going to attract foreign investment institutions or investors?

Mr James TIEN explained why the Liberal Party would oppose my motion. But I find his argument a bit baffling. He argued that my proposal was unrealistic since I wanted an all-rounder as the head of the agency; he said that no such a person could be found anyway. He also argued against my motion by saying that the establishment of the investment promotion agency would increase government expenditure. But let me point out that the person I have in mind is just one who is knowledgeable in economic development, one who is able to take charge of world-class research projects, and one who has extensive personal connections in the international commercial community.

The Liberal Party also says that the proposed investment promotion agency may incur huge expenses, and this is not in line with the principle of "small government". Well, the proposed agency is in itself an investment project, I must say, and for this reason, it must also have a simple structure. My proposal is that civil servants can be seconded to the new agency to fill some of its posts, and I also propose that the overseas offices of the agency should be attached to our existing overseas offices. All this can hopefully reduce costs. The Liberal Party has a heavy commercial background, so I cannot see why they

should fail to see that "a small expenditure may yield very high returns". Therefore, I really cannot understand why they should oppose my motion.

Once again, I wish to call upon Honourable colleagues to support my motion. My proposal on an investment promotion agency is founded basically on the long-term interests of Hong Kong, because I hope that we can provide sustained, not one-off, services to prospective investors. I naturally also hope that the agency can operate with openness and transparency. I hope Members will support my motion. Thank you, Madam President.

**PRESIDENT** (in Cantonese): Mr MA Fung-kwok, please sit down. I wish to remind you that you can speak in reply later on. But you were supposed to speak on Mr SIN Chung-kai's amendment in the past five minutes.

**SECRETARY FOR TRADE AND INDUSTRY** (in Cantonese): Madam President, I am very grateful to Honourable Members who have spoken in the debate. They have given a lot of valuable advice on how to attract foreign investors.

The promotion of inward investment has always been the work of the SAR Government. We understand that foreign investment facilitates the broadening of our industrial base, transfer of technology, creation of employment opportunities and access to international markets. I am glad to hear from those Honourable Members who have spoken that they recognize and attach much importance to the role played by foreign investment in our economy.

Facts have shown that inward investment has brought a lot of advantages to the local economy. As at the end of 1997, there were more than 360 foreign-owned manufacturing enterprises and 7 440 foreign-owned non-manufacturing enterprises in the territory. The total value of foreign investment calculated at original cost is over \$730 billion. For those foreign companies which have set up their regional headquarters and regional offices here, they have employed a total number of staff amounting to 5.7% of the local working population.

Therefore, we have been doing the best we can to attract foreign investment. Work in this respect mainly involves two areas. First, we must create an excellent business environment. We have a sound legal system, our taxes are low and simple, our infrastructure is among the best in the world, our society is corruption-free and efficient and we have quality talents. All these will give foreign investors confidence and attract them to invest here. We will continue to work hard on that and to maintain our competitive edge by providing a first-rate investment environment to investors from all over the world.

Apart from having an excellent investment environment, proper publicity and promotion efforts, consultation and support services are also equally important in attracting foreign investors. As some Honourable Members have said, the Industry Department has a One-Stop Unit on investment services. We have set up Investment Promotion Units in each of our trade offices in seven overseas cities. These seven cities are Brussels, London, New York, San Francisco, Sydney, Tokyo and Toronto. Our One-Stop Unit which is responsible for investment promotion in Hong Kong works in co-operation with the Overseas Investment Promotion Units to attract foreign investment into Hong Kong.

The Overseas Investment Promotion Units have the responsibility of making contact with foreign businessmen who are interested in making investments in Hong Kong. These Units also help overseas businessmen formulate their investment plans in Hong Kong. The Units also launch all sorts of promotional activities, for example, investment exhibitions and seminars which aim at introducing the excellent investment environment here to overseas businessmen and giving them information on making investment in Hong Kong. Such information includes general information on various business and industrial sectors; the costs, supply and demand of land, factories, offices and human resources; matters on taxation and government support schemes for business and industries. The One-Stop Unit for Hong Kong has the responsibility of following up cases referred to it from the Overseas Investment Promotion Units. The services provided include: providing assistance to foreign businessmen in finding suitable local partners, making arrangements for foreign businessmen to conduct study tours and engage in talks, facilitating contacts between foreign businessmen and government organizations, handling matters concerning doing business here and to provide "after-sale" services to foreign businessmen who have set up their business in Hong Kong by helping them to formulate business expansion plans.

In the two-and-a-half-year period from 1997 to the first half of this year, the Overseas Investment Promotion Units and the One-Stop Unit in Hong Kong have made 3 900 visits to companies and held more than 110 investment exhibitions and seminars. They handled an average of about 500 investment projects every year. The number of investment projects completed from 1997 to the first half of this year is about 230, including 16 cases concerning the setting up of regional headquarters in Hong Kong.

As many Honourable Members have pointed out, matters concerning investment promotion involve many government departments, and even some non-governmental organizations as well. Therefore, it is important to have effective co-ordination, and we are well aware of this. The One-Stop Unit of the Industry Department often liaises with various government departments in the course of their day-to-day work. These departments include the Immigration Department, the Companies Registry and the Inland Revenue Department. The One-Stop Unit maintains close contact with these departments in order to follow up cases of companies interested in making investment in Hong Kong. When formulating investment promotion plans every year, the Industry Department will consult the advice of all relevant Policy Bureaux and departments so that efforts made in investment promotion can tie in with the overall policy objectives in this area. Besides, when making overseas visits, the key officials of the Government will also endeavour to brief overseas investors on the latest developments of the territory and try to attract foreign investment and promote trade. Key officials in the territory are also charged with the same duties.

From the brief introduction given above, it can be seen that there are government departments specifically charged with the responsibility of carrying out and co-ordinating work in investment promotion. Of course, when faced with increasing competition, we understand that we must strive to become better and improve the quality of our services. These will enable us to enhance our efforts in attracting foreign investment in the face of fierce competition. As the Financial Secretary has said in his Budget speech this year, the Government is making a comprehensive review of the strategies and policies with regard to attracting foreign investment. We have hired some consultants to conduct in-depth research into enhancing our efforts in attracting foreign investment.

In the process of conducting consultancy studies, we have made some detailed studies and research into certain key issues, including some of the questions raised by Honourable Members today. These questions are for example: how to raise our research abilities and promotion work, how to make contact with and give support to investors who show an interest in making investments here, and how to pool our resources to develop some trades which are beneficial to the long-term interest of Hong Kong. In addition, we will look into what kinds of excellent "after-sale" service we can give to our investors and what kinds of support we may give to investors who have just come to Hong Kong. This will help them consolidate their business and attract them to inject more capital into expanding the scale of their operations here.

Another key area of concern of the consultancy study is the framework for the attraction of foreign investment. Many Honourable Members have given a lot of valuable advice in this regard, for which we are very grateful. We are of the view that while trying to improve the strategies and mode of attracting investment, there must be some suitable matching framework to go with it. As to whether the existing framework should be kept, or whether a new department or an organization independent of the Government should be set up to take the work forward, or if some other existing departments or organizations should be used to promote investment, all these are questions we are looking into. The consultancy report will be available shortly. We will certainly consider each and every proposal made in the report. We will also consider the views put forward by Honourable Members today, so that we can arrive at an arrangement which is the best for Hong Kong and one which will best serve our needs. When the consultancy report is ready and after the Government has looked into the recommendations made, we will certainly report our findings to this Council.

Honourable Members have also mentioned the efforts in studying, selecting and planning for strategic investment projects to be undertaken by the Government in partnership with private enterprises. In this regard, the Finance Bureau has issued guidelines on how to handle investment projects proposed by private consortia to the Government. As far as I know, our colleagues in the Finance Bureau have briefed the relevant panel of the Legislative Council on the guidelines. The issuance of the guidelines shows that we attach great importance to the strategic investment projects proposed by private consortia. It will also furnish us with a clear basis upon which we can deal with projects of a similar nature in future.



Mr SIN Chung-kai proposes in his amendment that the Government should create a fair business environment by way of legislation. Hong Kong has always practised the free market principle. The Government has been committed to improving the business environment. Businesses have always been able to reap the benefits of operating in a fair and free business environment. All these factors have contributed to our excellent international reputation. In many of the research reports compiled by many internationally renowned organizations on the freedom to do business and competitiveness, Hong Kong is always ranked in the forefront.

The Government is committed to promoting competition. All Policy Bureaux and departments must take account of the policy on competition in formulating policies or measures. More specifically, Policy Bureaux and departments must study the implications of their major policy proposals on competition. They must also consider new proposals to induce more competition, make a review of the current practice to see if it contravenes the competition policy and to handle complaints with regard to the policy. Moreover, the Competition Policy Advisory Group chaired by the Financial Secretary will review competition-related issues which have substantial policy or institutional implications, and examine the extent to which more competition should be introduced in the public and private sectors. The Government will adopt sector-specific measures such as legislation, licensing conditions and codes of practice and so on to promote competition

Some Honourable Members have urged the Government to enact fair competition laws. We are of the view that since Hong Kong is such a small economic system with a heavy reliance on foreign trade, and since competition is already well-developed, an enactment of competition laws may lead to unwanted regulation on the market, and from a long-term perspective, cause negative impact on the business environment, the consumers and the economy as a whole. On the other hand, the existing sector-specific measures on the promotion of competition may address the needs of individual sectors more effectively and flexibly. For these reasons, we think that there is no need to enact any comprehensive laws on fair competition at the moment.

Currently we have quite a number of laws regulating unfair, fraudulent or misleading commercial practice. These laws include the Trade Descriptions Ordinance, the Control of Exemption Clauses Ordinance, the Unconscionable Contracts Ordinance, and Supply of Services (Implied Terms) Ordinance and so on. These laws provide straightforward and effective protection of a level playing field for business.

It is undeniable that we faced many difficulties and challenges during the Asian financial turmoil. As some Honourable Members have pointed out, in 1998, 84 companies which had their regional headquarters in Hong Kong downsized the scale of their operation in the territory. This warrants our attention. However, there is no cause for us to be too pessimistic about it. The slackening of foreign investment over the past two years is not unique to Hong Kong alone. Besides, only 11 out of these 84 companies have actually pulled out of Hong Kong. The remaining ones only trimmed the scale of their operation and they are still doing business here.

What I wish to say is we still have a considerable number of fundamental advantages. We are a society characterized by the rule of law, we have first-class talents and infrastructure, and we have the back-up of our mighty Motherland as our economic hinterland. The financial turmoil has served to cut a large portion of operating costs and that makes Hong Kong all the more attractive for investment. Over the past few years the SAR Government has put in a lot of efforts to promote innovation and technology, laying a solid foundation for the development of the territory into a knowledge-based economy in the next century. Meanwhile, more business opportunities and greater room for development are provided. The plans to build the Cyberport and the Disney theme park have prompted many hi-tech companies to plan to set up their regional headquarters in Hong Kong. Local companies are forging strategic alliances with famous foreign hi-tech companies. All these are proofs that Hong Kong is still an attractive place for investment.

The new capital will certainly provide new opportunities and momentum for our development in the century to come. The Chief Executive proposed in his October policy address a series of initiatives to raise the quality of our human resources and improve the living environment. From a long-term perspective,

these new initiatives will enable the people to lead a more comfortable life; and for the foreign investors, they will be given a better environment to seek business opportunities.

Madam President, the Government knows perfectly well that there are still many potential investors from many other places in the world whom we shall yet to know and whose support we shall yet to win. In the face of severe competition among countries striving hard to promote investment in their own countries, we have to work extra hard to improve strategies in foreign investment and the framework related to it. As I have pointed out just now, we are making an in-depth study of the issue through a consultancy study commissioned by us. When the consultants have finished with their work, we will follow up the issue proactively, in the hope that we can do better to attract investment. I therefore urge Honourable Members to support our work in this respect, so that Hong Kong can become a world-class metropolis in the 21st century — a place most welcomed by investors.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): In the course of the speech by the Secretary for Trade and Industry, Mrs Selina CHOW returned to the Chamber and requested to speak. According to the Rules of Procedure, Members may claim the floor at this stage, so I will now call on Mrs Selina CHOW to speak.

**MRS SELINA CHOW** (in Cantonese): Madam President, originally I did not intend to speak in this motion debate but I think I must respond to Mr MA Fung-kwok on some of his comments on the Liberal Party when he spoke in response to the amendment earlier on. In the beginning of the motion debate, the Liberal Party very much agreed with some of the ideas in Mr MA Fung-kwok's motion. Being a political party which is greatly concerned about the Hong Kong economy, we certainly consider it vitally important to encourage investment from overseas investors, so there is no reason for us to oppose this idea. But having heard Mr MA's proposals on the establishment of a dedicated agency and its terms of reference, we strongly disagree with him. We believe that we have to be cautious in establishing a dedicated agency for that purpose. Unless the agency could really put taxpayers' money into good use, it might lead

to duplication of work, making the government structure too cumbersome to be effective. This, I believe, is not agreeable to any taxpayer.

Earlier on when he spoke the first time, Mr MA opined that the agency should comprise persons who command a certain degree of recognition or respect in the international community. He went further in his second speech that those people should readily have a powerful international network, and that the agency board should also comprise persons of a reasonable degree of international recognition. As far as I understand it, these people are on a very high level; and according to Mr MA, they should also be non-government officials. So, firstly, he pointed out who the members of the agency are. Secondly, as regards its level of work, Mr MA said that the agency would be on the higher echelon and even responsible for co-ordinating the work of all Policy Bureaux. As we can see from the motion, the last part of it reads "..... studying, selecting and conducting detailed planning for strategic investment projects to be undertaken by the Government in partnership with private enterprises ....." . It is fine for studies to be conducted but he subsequently mentioned the selection of investment projects, meaning that the agency would be screening the projects. For example, if an idea is conceived, the next step to take is not to find out how many investors are interested in that idea, but how many of them are interested in the specific investment project, and the agency would then proceed with the selection process. In that case, the agency is certainly on a very high level.

We think that under the existing structure of the SAR Government, the Chief Executive, the Financial Secretary and the Chief Secretary for Administration should be the responsible officials if it is necessary to carry out this kind of work. This is similar to the Disney project in Hong Kong for which the three of them are ultimately held responsible. What sort of structure would the agency have if it was intended to be made up of persons of international renown? What scenario will actually arise under the existing structure of the Government of Hong Kong? Even for the EDB of Singapore, it is composed of civil servants and is not as powerful as the agency described by Mr MA when he spoke the first time earlier on. When Mr MA spoke the second time, he obviously changed his tone a bit as he remarked that the agency could also incorporate some civil servants and that this could be done by redeploying staff within the existing structure. His views on the dedicated agency appear to be somewhat different in the two speeches he made.

Just now Mr MA asked why the Liberal Party, members of which mostly come from the commercial sector, does not even understand the rule of "investing a small sum of money before one can reap handsome profits". As a matter of fact, the Liberal Party does understand this point but it is basically not a question of "investing a small sum of money to reap handsome profits". The question lies in the need to arouse investors' interest in making investments in Hong Kong, whether they are local businessmen or overseas investors. I believe that this is a concept recognized not only by the Liberal Party, which attaches great importance to the economy, but also by all the other political parties or non-affiliated Members. Yet, the question remains: What methods can be adopted to achieve the goal? It is not our wish to see that when we have come up with an idea and want to put it into practice, we then urge the Government to set up a dedicated agency for the purpose, subsequently conferring on that agency the highest authority, providing the highest remuneration for its staff, and even putting it on a very high echelon as Mr MA said at first. I trust this will not be a very pragmatic proposal. Nor is this something that Members or the public should ask the SAR Government to do. Our view is that if the circumstances so warrant, prompt actions should be taken within the existing framework; and if assistance is required from the subordinates, say, the Commissioner for Tourism, the Commissioner for Tourism could be appointed to assist the Secretary for Economic Services, but not establishing a superior structure to take over the responsibilities of the present leadership.

Thank you, Madam President.

**MR NG LEUNG-SING** (in Cantonese): I attended a charity function just now. I thank the Chair for giving me an opportunity to speak now.

The motion proposed by Mr MA concerns a matter of principle, that is, whether the Government should take initiatives to a certain extent to attract investment and enhance our attractiveness. The Government's positive non-intervention policy has all along met with much criticism. In view of the present economic environment, the Government should make timely adjustment to its role in the economy, while adhering firmly to the principles of the free and market-oriented economy, in order to promote the structural upgrading of industries.

In his policy address, when talking about the Government's role in the economy, the Chief Executive said that when the market mechanism is not working properly, the Government has to step in and exercise necessary and limited intervention. Besides, the Government will focus its work on the software and hardware infrastructure. In the face of rapid changes and fierce competition, the Government will respond more quickly on the economic front. In my view, this kind of positioning is entirely correct. The only thing to add is that in order to promote economic restructuring, the Government must not only respond more quickly on the economic front but also play a more active and positive role.

Under the above principles, the Government undoubtedly has a responsibility to promote investment. This entails persuading and attracting overseas businessmen to invest in Hong Kong and providing convenience and co-ordinating investment services to investors to a reasonable degree. It also entails conducting feasibility studies or even planning for some large-scale infrastructural and strategic investment projects, as well as participating in them in Hong Kong's interest, according to the actual investment circumstances.

Today's amendment seems to disagree with this, since it opposes the Government's participation in these projects. Actually, with regard to large-scale infrastructural and strategic investment projects which are of great benefit to Hong Kong's overall economy, especially those which can promote the structural upgrading of industries and the economic restructuring, the Government certainly has no reason to compete for profit with the private sector if private investors can undertake them by themselves. The question is, it is not easy for private investors to make long-term commitments and huge capital injections, nor is Hong Kong a place where stone can be turned into gold. Obviously, the Government cannot afford to sit back and wait. If so, Hong Kong would not have the MTR system today or the Disneyland tomorrow, while the high technology and high value-added transformation would remain a dream forever. When this Council debated the Chief Executive's third policy address, a certain political party questioned the policy address for lacking in measures to stimulate the economy. The implementation of the Disneyland project is an example of the Government's initiative to stimulate the local economy. I do not see how those who questioned the policy address could have reasons for opposing it. By the same token, if the Government participates to an appropriate extent to help launch large-scale infrastructural and strategic

investment projects which can stimulate economic growth in future according to the needs of the actual investment environment, I do not think they have strong reasons for opposing it. As for the Government's role, as long as the Government's investment is privatized at an appropriate time, we can limit the Government's participation and give more scope and offer more choices to private investments. Upholding the "non-intervention" doctrine rigidly is neither necessary nor good for the economy. It is also against the pragmatism on which Hong Kong's economic development has always depended.

For the above reasons, I believe that it is appropriate to establish a higher level investment promotion agency. I understand that it is probably for the sake of making good use of resources and streamlining the structure that the amendment proposes that the existing support structure of the Government should play a co-ordinating role. This is no doubt a constructive suggestion. However, if it is to provide "one-stop" investment services and undertake the studying and planning of projects, it would obviously be inadequate to have the existing structure provide these services concurrently. If we believe that the promotion of investment has economic value and social benefits, it is worth considering upgrading the co-ordination structure to a higher level, as long as we deploy and make use of the existing manpower and resources of the support services as far as possible.

Madam President, I so submit.

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

(Members raised their hands)

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

(Members raised their hands)

Mr SIN Chung-kai rose to claim a division.

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

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

**PRESIDENT** (in Cantonese): Before I declare that voting shall stop, are there any queries? Voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Michael HO, Mr LEE Kai-ming, Mr CHEUNG Man-kwong, Mr Bernard CHAN, Mr SIN Chung-kai and Mr LAW Chi-kwong voted for the amendment.

Mr James TIEN, Dr Raymond HO, Dr LUI Ming-wah, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr CHAN Wing-chan, Dr LEONG Che-hung, Mrs Sophie LEUNG, Mr Howard YOUNG, Mrs Miriam LAU, Mr FUNG Chi-kin and Dr TANG Siu-tong voted against the amendment.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr LAU Chin-shek, Miss Emily LAU and Mr SZETO Wah voted for the amendment.

Miss CHAN Yuen-han, Mr Gary CHENG, Mr Jasper TSANG, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr HO Sai-chu, Mr NG Leung-sing, Prof NG Ching-fai, Mr MA Fung-kwok, Mr CHAN Kam-lam, Mr Ambrose LAU and Miss CHOY So-yuk voted against the amendment.

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



THE PRESIDENT announced that among the Members returned by functional constituencies, 19 were present, six were in favour of the amendment and 13 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 23 were present, 10 were in favour of the amendment and 12 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

**PRESIDENT** (in Cantonese): Mr MA Fung-kwok, you may now reply and you have two minutes 27 seconds.

**MR MA FUNG-KWOK** (in Cantonese): Madam President, I would like to take this opportunity to thank the 14 Honourable colleagues who have spoken on this motion. Here, I would like to clarify a few points raised by Mrs Selina CHOW just now.

With regard to the requirements of the Commissioner, in my second speech I only repeated what I had said in my first. As for membership of the board of the dedicated investment promotion agency, I have made it very clear that it should comprise a certain number of government officials, entrepreneurs — who do not necessarily have to be international entrepreneurs — as well as academics. I did not say that members of the board have to be world-class professionals, and this is actually inconsistent with my idea. But all I want to say here is that from what Honourable colleagues said in their speeches, we do have a consensus among us, that is, we all call on the Government to step up its efforts in promoting investment and be dedicated to this task. I hope the Government can take the matter seriously. Incidentally, I would like to express great appreciation of the Government as it said in its response earlier that it will adopt an open attitude on this issue.

To end, I would like to say that there is no conflict between the establishment of a dedicated agency and our business environment. Better still, the agency can help us monitor the efforts of the community as a whole in improving the business environment. On the question of selection, I just hope that those projects which are conducive to the overall development of Hong Kong will be selected, but not giving preference to those companies or investors which are better than others. This is a point that I must clarify. Lastly, I would like to thank Members again for their input. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr MA Fung-kwok 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 MA Fung-kwok rose to claim a division.

**PRESIDENT** (in Cantonese): Mr MA Fung-kwok has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Dr Raymond HO, Mr LEE kai-ming, Dr LUI Ming-wah, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mr CHAN Wing-chan and Dr LEONG Che-hung voted for the motion.

Mr James TIEN, Mr Michael HO, Mrs Selina CHOW, Mr CHEUNG Man-kwong, Mrs Sophie LEUNG, Mr SIN Chung-kai, Mr Howard YOUNG, Mrs Miriam LAU and Mr LAW Chi-kwong voted against the motion.

Mr HUI Cheung-ching, Mr FUNG Chi-kin and Dr TANG Siu-tong abstained.

Geographical Constituencies and Election Committee:

Miss CHAN Yuen-han, Mr Gary CHENG, Mr Jasper TSANG, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr NG Leung-sing, Prof NG Ching-fai, Mr MA Fung-kwok and Mr CHAN Kam-lam voted for the motion.

Miss Cyd HO, Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr LAU Chin-shek, Miss Emily LAU, Mr SZETO Wah and Mr HO Sai-chu voted against the motion.

Mr Ambrose LAU and Miss CHOY So-yuk abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 19 were present, seven were in favour of the motion, nine against it and three abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 23 were present, nine were in favour of the motion, 11 against it and two abstained.

Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

#### **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 17 November 1999.

*Adjourned accordingly at twenty-nine minutes to Ten o'clock.*

**Annex I****WRITTEN ANSWER****Translation of written answer by the Secretary for Education and Manpower to Miss Emily LAU's supplementary question to Question 1**

The two kindergartens have refunded the full amount of overcharged school fees to the parents concerned upon receipt of warnings from the Education Department. The amounts of money refunded are \$2,936,668 and \$1,559,565 respectively, and the numbers of pupils involved are 830 and 940.

**WRITTEN ANSWER****Translation of written answer by the Secretary for Education and Manpower to Mr YEUNG Yiu-chung's supplementary question to Question 1**

According to a newspaper report on 18 October 1999, before the school term started, the Education Department (ED) had given an approval to the St. Teresa Kindergarten at Cosmopolitan Estates for raising its school fee in the new school year. The school is now suspected of hiding the fee increase from parents who were informed of the approval made by the ED on 24 July more than one month after the school had started and were asked to pay for the shortfall in school fee for the previous two months. Some parents have expressed dissatisfaction with the arrangement of the school management for it has not given them sufficient time to consider changing school.

According to the report, the school management explained that it had lodged an appeal for a case review for it was not satisfied with rate of increase approved by the ED at the end of June 1999. Furthermore, the school management claimed that it did not receive the approval letter issued by the ED on 24 July 1999 regarding the school fee adjustment until September 1999. It argued that the incident might have been caused by postal errors.

However, according to the ED's record, a letter was sent to the said kindergarten on 22 June 1999 informing it of the new school fee approved for 1999-2000. On 5 July, the school lodged an appeal which was followed by a submission of updated information. After considering the justifications provided by the kindergarten and the revised information, the ED readjusted the approved rate of increase for the kindergarten for the new school year and notified it again on 24 July. The approval letter was collected by a staff member of the kindergarten at the Mong Kok District Education Office in the same morning.

**WRITTEN ANSWER — *Continued***

After investigation, it was confirmed by the ED that the kindergarten had failed to inform parents of the approved school fee immediately. Moreover, parents were asked to pay for the shortfall for the previous two months after the school had already started for more than a month. In doing so, the school has not only misled the parents, but also brought them unnecessary disturbances. This is inappropriate and has led to discontent among parents. The ED has issued a written warning to the kindergarten requiring it to enhance communication with parents in handling school fees in future and reminding it to notify parents of the new approved school fee as early as possible to prevent recurrence of the same problem. The ED will continue to closely monitor the operation of the relevant kindergarten.

**Annex III****WRITTEN ANSWER****Translation of written answer by the Secretary for Education and Manpower to Dr TANG Siu-tong's supplementary question to Question 3**

According to section 61(1) of the Education Regulations, if schools are to collect entrance examination fees and pupil registration and withdrawal fees, they must have the previous written approval of the Director of Education which must be displayed on the school premises. As regards charges for other services such as school buses, school uniforms, snacks, exercise books and so on, the Education Department has spelt out clearly in circulars to schools that parents are to take on such services on a voluntary basis.

Moreover, in order to ensure that kindergartens abide by the relevant legislation and requirements, district inspectors of the Education Department will check the relevant information, which includes school circulars to parents on the provision of other services and their charges, when inspecting kindergartens. This is meant to ensure that schools have explained clearly that the taking on of such services is purely on a voluntary basis, and that details for charges have been listed out in the circulars.



**Annex IV****WRITTEN ANSWER****Translation of written answer by the Secretary for Education and Manpower to Mr LEE Cheuk-yan's supplementary question to Question 3**

According to the criteria of the means test, whether an applicant will receive full or half fee remissions depends on the number and composition of his family members as well as the aggregate household income. For a four-person household, for example, an applicant can receive half fee remission if its monthly income does not exceed \$17,400. As to whether there will be a further relaxation in the future, we will consider this together with the other recommendations on improving our education system in our annual resource allocation exercise.

**Annex V**

## ADAPTATION OF LAWS (NO. 22) BILL 1999

**COMMITTEE STAGE**Amendments to be moved by the Secretary for SecurityClauseAmendment Proposed

Schedule 5    By adding -

"8.    Regulation 25(a) is repealed."

Schedule 15, By deleting "Director of the Government Secretariat" and section 12(a) substituting "Director of Bureau".