

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 14 May 2003

The Council met at half-past Two o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

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

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

DR THE HONOURABLE DAVID CHU YU-LIN, J.P.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

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

THE HONOURABLE MARGARET NG

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE HUI CHEUNG-CHING, J.P.

THE HONOURABLE CHAN KWOK-KEUNG

THE HONOURABLE BERNARD CHAN, J.P.

THE HONOURABLE CHAN KAM-LAM, J.P.

THE HONOURABLE LEUNG YIU-CHUNG

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

THE HONOURABLE HOWARD YOUNG, J.P.

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE YEUNG YIU-CHUNG, B.B.S.

THE HONOURABLE LAU KONG-WAH

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

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

THE HONOURABLE AMBROSE LAU HON-CHUEN, G.B.S., J.P.

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

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE SZETO WAH

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

DR THE HONOURABLE LAW CHI-KWONG, J.P.

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

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

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

THE HONOURABLE LI FUNG-YING, J.P.

THE HONOURABLE HENRY WU KING-CHEONG, B.B.S., J.P.

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

THE HONOURABLE MICHAEL MAK KWOK-FUNG

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE LEUNG FU-WAH, M.H., J.P.

DR THE HONOURABLE LO WING-LOK

THE HONOURABLE WONG SING-CHI

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE IP KWOK-HIM, J.P.

THE HONOURABLE LAU PING-CHEUNG

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

THE HONOURABLE MA FUNG-KWOK, J.P.

MEMBERS ABSENT:

THE HONOURABLE CHAN YUEN-HAN, J.P.

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

THE HONOURABLE LAU CHIN-SHEK, J.P.

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE DONALD TSANG YAM-KUEN, G.B.M., J.P.
THE CHIEF SECRETARY FOR ADMINISTRATION

THE HONOURABLE ANTONY LEUNG KAM-CHUNG, G.B.S., J.P.
THE FINANCIAL SECRETARY

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

THE HONOURABLE HENRY TANG YING-YEN, G.B.S., J.P.
SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY

THE HONOURABLE MICHAEL SUEN MING-YEUNG, G.B.S., J.P.
SECRETARY FOR HOUSING, PLANNING AND LANDS

PROF THE HONOURABLE ARTHUR LI KWOK-CHEUNG, G.B.S., J.P.
SECRETARY FOR EDUCATION AND MANPOWER

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

THE HONOURABLE JOSEPH WONG WING-PING, G.B.S., J.P.
SECRETARY FOR THE CIVIL SERVICE

DR THE HONOURABLE PATRICK HO CHI-PING, J.P.
SECRETARY FOR HOME AFFAIRS

THE HONOURABLE MRS REGINA IP LAU SUK-YEE, G.B.S., J.P.
SECRETARY FOR SECURITY

THE HONOURABLE STEPHEN IP SHU-KWAN, G.B.S., J.P.
SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR

DR THE HONOURABLE SARAH LIAO SAU-TUNG, J.P.
SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

THE HONOURABLE FREDERICK MA SI-HANG, J.P.
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

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

PROF LAU SIU-KAI, J.P.
HEAD, CENTRAL POLICY UNIT

CLERKS IN ATTENDANCE:

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

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

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Fire Services (Fire Hazard Abatement) Regulation	113/2003
Statutes of The Chinese University of Hong Kong (Amendment) Statute 2003	114/2003
Occupational Safety and Health (Display Screen Equipment) Regulation (Cap. 509 sub. leg. B) (Commencement) Notice 2003	115/2003

Other Papers

No. 81 — Audited Statement of Accounts of the Quality Education Fund together with the Director of Audit's Report for the year ended 31 August 2002

No. 82 — Securities and Futures Commission Annual Report 2002-2003

Report of the Bills Committee on Land (Miscellaneous Provisions) (Amendment) Bill 2002

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Plan for Two Teachers Sharing One Post

1. **MR SIN CHUNG-KAI** (in Cantonese): *Madam President, it has been reported that the Government plans to launch a scheme under which one teaching*

post will be shared by two teachers or two teaching posts by three teachers. In this connection, will the Government inform this Council:

- (a) of the details and target participants of the scheme, and the present number of teachers who have volunteered to join the scheme;*
- (b) whether it will implement similar schemes for civil servants (including civil servants on agreement terms and government employees on short-term agreement, and so on) and staff of government-funded public bodies; if it will, of the justifications for the implementation of such schemes; and*
- (c) of the estimated number of persons who will be affected by the schemes mentioned in (a) and (b) and the savings on public funds to be achieved through the implementation of such schemes?*

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

- (a) Under the arrangement of "Appointment of Teachers on a Job Sharing Basis", aided schools may recruit more than one teacher to fill a teaching post within the approved staff establishment, subject to the needs of the schools and the wish of teachers concerned. Appointment of these part-time teachers to fill teaching posts at various ranks should be in accordance with the Code of Aid and the Guides to Appointment for the respective ranks currently in force. Regular part-time teachers, within the approved teaching establishment, like their regular full-time counterparts, are subject to the provisions of the Code of Aid, including eligibility for joining provident funds, entitlement to various types of leave such as paid sick leave, and their part-time teaching experience being recognized on a pro-rata basis for salary incremental and promotion purposes. In the 2002-03 school year, there are 77 teachers employed on part-time basis in aided schools.
- (b) Individual government departments create and retain posts according to their operational needs. The Government has no

intention to introduce the "job sharing" arrangement in the Civil Service so as to avoid creating pressure on the operation and staff deployment of individual departments, and possibly the quality of service delivered. In fact, flexibility is already allowed under the current system for government departments to employ non civil service contract staff for service needs which are short-term or ad hoc in nature.

Regarding other government-funded public bodies, staff employment is generally a matter between the organization as employer and the subvented staff as employees. Under the current subvention policy, the Government will not intervene in the employment of full-time or part-time staff by individual organizations. Nevertheless, individual Directors of Bureau have the discretion to handle matters relating to the flexible deployment of staff for subvented organizations under their purview.

- (c) The "job sharing" arrangement is to provide aided schools with greater flexibility to recruit teachers according to their needs, and to allow teachers more space for career and self development. In addition, as the number of teaching posts will not be reduced under the "job sharing" arrangement, there will not be savings on public funds as a result. The arrangement can nevertheless increase employment opportunities in the teaching profession.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, the Secretary stated in part (b) of the main reply that the Government had no intention to introduce the "job sharing" arrangement in the Civil Service. Will the Secretary inform this Council, though the Government has no such plan for the time being, whether such an arrangement — introduced on a voluntary basis — will help reduce the pressure on the Government to lay off its staff? Moreover, in view of the contracts and regulations related to civil servants, whether there will be practical difficulties when the arrangement is to be implemented?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, perhaps I can answer the question first. The implementation

of this arrangement has nothing to do with teacher redundancy. This arrangement has been in place for over 20 years and is not related to the current situation of redundancy of teachers. Therefore, the job sharing arrangement and the arrangement made for redundant teachers are completely different. As for civil servants, may I ask the Secretary for the Civil Service to reply.

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Madam President, in part (b) of the main reply, it is stated that the Government has no intention to introduce the "job sharing" arrangement throughout the Civil Service. According to our policy, the Government cannot force any civil servant to leave his/her full-time post, and have the post split and shared by two persons. However, in future, if because of other of policy considerations, or if individual Policy Bureau has operational or other considerations that certain categories of job can be conveniently split and shared by two persons, we will be most willing to discuss with the bureau to sort out the practical problems. However, we have not received any suggestions in this respect up to this moment.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, the Secretary has not answered my supplementary question.*

PRESIDENT (in Cantonese): Mr SIN Chung-kai, which part of your supplementary question has not been answered?

MR SIN CHUNG-KAI (in Cantonese): *Madam President, the part which the Secretary has not yet answered is that if the arrangement is to be implemented, what will be the practical difficulties?*

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

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Madam President, this is a hypothetical question. Unless we have a concrete proposal, we cannot consider questions like these.

MS LI FUNG-YING (in Cantonese): *Madam President, the Secretary has only mentioned aided schools but not government schools in his reply. Will the Secretary inform us whether the arrangement will also be introduced in government schools, if not, what are the reasons?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): *Madam President, the arrangement has not been introduced in government schools because teachers of government schools are civil servants and are thus governed by the regulations on civil servants.*

MR CHEUNG MAN-KWONG (in Cantonese): *Madam President, regarding the job sharing arrangement, the most important concern for teachers is whether the teachers participating are really voluntary and whether they need only to take up half of the duties of a post. Will the Government inform this Council whether there are any monitoring mechanisms in place to prevent individual schools from forcing their teachers to join the job sharing arrangement? Or to prevent the arrangement from becoming one in name but not in reality; in other words, only teachers' salary but not their workload is reduced and which makes them become victims to the arrangement?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): *Madam President, there are already 77 teachers taking part in the arrangement. As far as I know, none of the teachers have complained about the arrangement.*

MR YEUNG YIU-CHUNG (in Cantonese): *Madam President, will the Secretary inform us whether the Government has tried to understand the adverse impact the arrangement has on the administration and academic performance of the schools concerned?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): *Madam President, I have said that the arrangement has been in practice for over 20 years. Up to now, the arrangement is not mandatory but voluntary by nature. The introduction of the arrangement has to depend on the decisions of school principals based on the needs of schools and the consent of at least two teachers*

who are willing to join the arrangement voluntarily. I believe the arrangement will not affect the efficiency of the schools concerned.

DR TANG SIU-TONG (in Cantonese): *Madam President, the Government stated in part (a) of the main reply that there were 77 teachers employed on a part-time basis in aided schools. Will the Government inform us whether the above schools have any specific reasons or special needs to justify the employment of this type of teachers?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): *Madam President, we have not employed any teachers specifically under the job sharing arrangement, the teachers taking part are all serving teachers. Those teachers, owing to personal reasons, such as further studies or family commitment, volunteer to discuss the arrangement with their respective schools. In cases where two teachers wish to share one post or three teachers wish to share two posts, they will discuss the arrangements with their respective school principals.*

MR SIN CHUNG-KAI (in Cantonese): *Madam President, the Secretary for the Civil Service said earlier that the question I put forth was hypothetical. However, I think it is a chicken and egg issue. Without a comprehensive policy, other departments will not know whether the Government is determined to implement the arrangement or not. If the policy is proposed, other departments may consider taking part in the arrangement. Then who will take the first step? Will the Civil Service Bureau consider formulating a plan first to let other departments consider it? Besides, will the arrangement help reduce the pressure on the Government to lay off its staff?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): *Madam President, the most important principle with respect to management policies for the Civil Service is to ensure that civil servants can play their potential to the full in their posts, and that the departments can function effectively. At present, various departments have already had flexible arrangements in place to absorb employees on non-civil service contract terms to undertake certain periodical or part-time duties. Therefore, from a macroscopic point of view, I see no major reason*

policy-wise to change civil service jobs which are basically full-time in nature to part-time jobs. In my reply earlier, I said that if individual Policy Bureau or department considers it beneficial or necessary and makes the suggestion to us, I would not like to see that the suggestion is not considered just because there is no such policy. We will certainly consider the suggestion, and will take into consideration various practical issues.

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, before I put forward my supplementary question, I would like to declare my interest first. I am one of the 77 teachers who have volunteered to join the job sharing arrangement. I took the initiative to ask the school to make the arrangement for me.*

At present, there are many underlying problems; not only is the number of classes in primary schools decreasing, but also that in secondary schools as well. Will the Secretary inform us, under such circumstances, whether the same method will be applied to solve the problems arising from the decrease in the number of classes, that is the redundancy of teachers? Or will it be done the other way round, that is, reducing the class size but not applying the job sharing arrangement?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the job-sharing arrangement for teachers is voluntary by nature. Teachers are not forced to do so. If teachers find it necessary, they can request their school to make the arrangement. However, for teachers made redundant by the decrease in the number of classes, it is a completely different issue.

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, I understand that the problem of teacher redundancy mentioned by the Secretary just now is another issue. But I would like to ask the Secretary, whether the Government will use the same method to solve the problem of teacher redundancy?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the arrangement is voluntary by nature. We can hardly solve

another problem by resorting to voluntary measures. Moreover, we know that there are 77 teachers who volunteer to share their posts with other teachers, but what are we going to do if the number of teachers made redundant exceeds 77? These two issues should be handled separately.

PRESIDENT (in Cantonese): Second question.

Labelling Scheme for Hand-held Mobile Phones

2. **MR FRED LI** (in Cantonese): *Madam President, the Office of the Telecommunications Authority (OFTA) launched a voluntary labelling scheme for hand-held mobile phones on 1 January this year, under which suppliers and manufacturers are permitted to affix a prescribed label to the mobile phones which have been certified by the OFTA as complying with the radio-frequency radiation safety standard to differentiate them from others. In this connection, will the Government inform this Council of:*

- (a) the countries or territories which have adopted similar labelling schemes; the details of such schemes and whether they are implemented on a voluntary basis;*
- (b) among the mobile phones being marketed in Hong Kong, the number of models affixed with the above-mentioned label, and the total market share of such models; and*
- (c) the OFTA's measures to encourage more mobile phone suppliers or manufacturers to participate in the above-mentioned scheme, and whether it will consider making the scheme compulsory?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President,

- (a) To ensure that mobile phones being marketed in Hong Kong meet the international standards on radiation safety, the OFTA, after discussions with the industry and the Consumer Council, implemented a voluntary labelling scheme from 1 April 2003. This would facilitate consumers' choice on mobile phones. This scheme was set up on the basis of a mandatory requirement on the

technical specification in terms of Specific Absorption Rate specified by the Telecommunications Authority (TA). Specific Absorption Rate measures the amount of radiation energy actually absorbed in a human body. The TA adopted such standards on radiation safety with reference to international standards and in consultation with the Director of Health.

Under the scheme, mobile phone manufacturers or dealers may apply to the OFTA for type approval of their mobile phones before marketing. Authorized labels can be affixed to the handsets, or displayed on the packing materials or user manuals of mobile phones which have been type-approved by the OFTA as indication of compliance with the TA's specifications. Such labels facilitate consumers in making their choices.

We understand that some places like the United States, European Union (EU), Japan and Australia adopt a stricter mandatory labelling scheme, that is, before the launch of mobile phones in the market, manufacturers and dealers must in advance affix labels on the mobile phones. Considering the increase in burden and operating cost of the industry under a mandatory labelling scheme, in particular the mobile phone dealers which are small and medium-sized enterprises, and given that consumer interests are already safeguarded by the mandatory requirement of compliance with the technical specifications as I have just explained, we consider it appropriate to adopt this voluntary labelling scheme. We believe that market forces will drive the mobile phone manufacturers and dealers to join this scheme in order to attract consumers to their products.

- (b) As of 9 May 2003, 55 models of mobile phones from 19 manufacturers have been approved against the technical specifications specified by the TA and may be affixed with authorized labels. The OFTA continues to receive applications for type-approval in order to affix the authorized labels.

As for market share, we do not have information on the market share of individual mobile phone models in Hong Kong.

- (c) To encourage more manufacturers and dealers to participate in the voluntary labelling scheme, the OFTA will streamline the type-

approval procedures as far as possible. At the same time, it is planning to conduct various publicity programmes, such as distribution of leaflets, posters and shelf-talkers to raise the awareness of the consumers and the industry of the benefits of the scheme. This in turn will encourage participation of manufacturers and dealers in the scheme.

At present, we would not consider changing the labelling scheme to a mandatory one based on my reply in (a). However, the OFTA will monitor the implementation of the scheme, and review it as appropriate.

MR FRED LI (in Cantonese): *Madam President, will the Government inform this Council whether it is out of health consideration or other reasons that the United States, EU and Japan have adopted a mandatory labelling scheme? If so, why Hong Kong has not implemented a mandatory labelling scheme to protect the health of our customers?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, the United States has adopted a set of standards called the American National Standard Institute (ANSI) and the Institute of Electrical and Electronics Engineers (IEEE) standards. I believe the aim of the adoption of this set of standards is to protect the safety of consumers. As for Hong Kong, apart from this set of standards, we have at the same time adopted another set of standards called the International Commission on Non-Ionizing Radiation Protection (ICNIRP) standards. These two sets of standards, despite some minor differences, are basically the same. As I have said in my main reply, mobile phones now available on the market must comply with either one of these two sets of standards. Certainly, our intention is to ensure the safety of consumers.

MR FRED LI (in Cantonese): *Madam President, the first part of my supplementary question is on health considerations. The Secretary has just answered this part but not the latter part. Given the same reason for the adoption of a labelling system, why has Hong Kong not implemented a mandatory labelling scheme as those countries have? The Secretary has not responded to this point.*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, regarding Mr Fred LI's supplementary question, my reply has in fact covered both parts of his question.

Firstly, all the mobile phones available on the market are safe, because they are required to meet either one of the standards mentioned above. Therefore, to consumers, all mobile phones should be safe. As to why we do not adopt a mandatory labelling scheme, the reason is that the current labelling scheme, only came into force on 1 April this year, is still voluntary in nature. Even so, many major manufacturers have already joined the scheme. However, if a number of Members consider a mandatory scheme necessary, I am willing to discuss the subject at the relevant panel of the Legislative Council to see whether most Members would share this view. We will then consider the next step forward.

MR HENRY WU (in Cantonese): *Madam President, the Secretary stated in part (a) of the main reply that consideration is given on the burden and operating costs of the mobile phone dealers which are small and medium-sized enterprises. It is obvious that the Government would like to alleviate their costs of doing business. At present, the labelling scheme is implemented on a voluntary basis. Will the Secretary inform us whether he knows if the cost to be incurred by this type of dealers or manufacturers on the implementation of a mandatory labelling scheme will be very high, such that the Secretary considers will increase their burden and so a mandatory scheme is not implemented?*

Moreover, I would like to ask whether the Government would do something to relieve their burden? For example, most of the mobile phones have been recognized by the United States, EU, Japan or Australia, in other words, they have obtained labels under the adopted standards. In this case, whether the Government will consider exempting small and medium-sized dealers and manufacturers from going through the application procedures again?

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, at present, mobile phones commonly found in Hong Kong are only limited to a few popular models. If all 60 Members in attendance would take out their mobile phones and compare, I think there will not be more than 10 different models. However, we have to take into account

that some people may not want to buy popular models in wide circulation, they may like mobile phones made in Taiwan or on the Mainland. If a mandatory labelling system is implemented, manufacturers must submit testing sample to us, and we have to request them to present the standards the original manufacturers applied when the mobile phones are made. In Hong Kong, these types of mobile phones are not in wide circulation and the numbers are only limited. Added to the fact that the market of Hong Kong is relatively small, we do understand original manufacturers, under these circumstances, may sometimes ignore the manufacturers' requests for information. Thus, the manufacturers concerned will not be able to obtain the relevant information. Given that, even if a mandatory labelling scheme is implemented, with manufacturers being unable to obtain the relevant information, we cannot conduct any test. As a result, the scheme cannot be implemented. For this reason, the scheme is just implemented on a voluntary basis at the time being. In other words, mobile phones have to comply with the standards I have mentioned earlier. We will select one of the mobile phones to conduct a test in the Chamber. The mobile phone is safe if it can pass the test. Madam President, given the limited number of mobile phones of less popular models, and that dealers may not be able to provide us with the relevant information, we will not implement a mandatory labelling scheme.

MR HENRY WU (in Cantonese): *Madam President, a part of my supplementary has not been answered by the Secretary. Firstly, I have asked the Secretary whether he knows the amount of costs incurred. If the amount involved is known, it will be much easier to understand.*

Secondly, I have also asked, if the costs related to the application procedure in Hong Kong is really expensive, whether the Government will consider adopting the labels issued by other countries, such as the United States, EU, Japan and Australia, and exempt the dealers concerned from going through the application procedures again. Is this a solution to the problem?

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, we do not know how much they have to pay for the information. In respect of standards, the two sets of standards, namely those of ICNIRP and ANSI IEEE, now adopted in Hong Kong are also adopted by almost every market throughout the world. Therefore, I believe we should be able to comply with the standards adopted by most mobile phones.

MR MICHAEL MAK (in Cantonese): *Madam President, as the scheme is not mandatory but only voluntary by nature, may I ask how can the authorities ensure that mobile phones with radiation level exceeding the one required under the radiation safety standards will not be made available to consumers in the mean time and the near future? Moreover, as mobile phones purchased before 1 April this year are not covered by the scheme, how can we know whether those mobile phones are in compliance with the required standards?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, although the scheme came into force on 1 April this year, it does not mean that mobile phones marketed before 1 April are not safe. Several major manufacturers of mobile phones have taken the initiative to announce information on the Specific Absorption Rate of their products. Those figures are listed on the packaging or users' manual of mobile phones, as well as on the manufacturers' websites. Moreover, the OFTA has conducted a spot check on mobile phones and found that all the products are in compliance with the required radiation safety standards.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, will the Secretary inform us whether the Government has imposed any charges under the entire voluntary labelling scheme, which includes the submission of mobile phones to the OFTA for testing and the issuance of labels? If charges are imposed, what is the amount involved?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, I am not sure about the situation in this respect. I will provide a written reply to Mr SIN Chung-kai later. (Appendix I)

PRESIDENT (in Cantonese): Third question.

Regulating Intensity of Light Emitted by Advertisement Signboards

3. **MR JAMES TIEN** (in Cantonese): *Madam President, it is learnt that at present there is no legislation to directly regulate the intensity of light emitted by*

advertisement signboards. In this connection, will the Government inform this Council:

- (a) of the number of locations in Hong Kong where the advertisement signboards have been subject to complaints by residents and motorists claiming that they were disturbed by the light the signboards emitted;*
- (b) how it handled the complaints mentioned in part (a); and*
- (c) whether or not it plans to introduce legislation to regulate the intensity of light emitted by advertisement signboards; if not, of the reasons for that?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, in accordance with section 6 of the Advertisements Regulation (Cap. 132B) under the Public Health and Municipal Services Ordinance (Cap. 132), no person shall erect or exhibit any advertisement which disfigures the natural beauty of any scenery or affects injuriously the amenities of any locality. Section 11 of the Regulation also provides that no person shall erect or cause to be erected any sign which interferes with road traffic. Any person who contravenes any of these sections shall be liable to a fine of \$2,000 upon conviction. The Court may also make an order for the removal of the advertisement signboard concerned.

The Food and Environmental Hygiene Department (FEHD) advised that it does not maintain formal statistics on the number of complaints by residents about the disturbance caused by the light emitted from advertisement signboards. The FEHD will take follow-up actions on any comments or complaints regarding this matter. Separately, since the enactment of the legislation concerned, the Government has not received any complaints from motorists about disturbance caused by the light emitted by advertisement signboards. In case any such complaint is received, the police will take enforcement action under section 11 of Cap. 132B. The police will also seek the advice of the Transport Department. If there is sufficient evidence to show that these signboards affect road safety, the police will apply to the Court for a summons and take prosecution action against the offender.

The current Advertisements Regulation already contains provisions governing the impact of advertisement signboards on the environment and road traffic. The Government, therefore, does not have any plan to introduce new legislation to regulate the intensity of light emitted by advertisement signboards.

MR JAMES TIEN (in Cantonese): *Madam President, I seldom raise questions with respect to the livelihood of the people. This time around, I raise this question because the Central and Western District Council discussed this issue recently, but no government official was able to answer the question. The issue was passed around like a ball among various government departments.*

Madam President, we are talking about the issue of the intensity of light emitted by advertisement signboards, not about the issue of disfiguring the natural beauty of scenery or affecting injuriously the amenities of locality in accordance with section 6 of the Advertisements Regulation. If residents inside a building could not get asleep all through the night due to the light emitted by advertisement signboards mounted onto the external wall of a building, will the Government enact new legislation to regulate the intensity of light emitted by advertisement signboards after taking note of this circumstance?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, as far as the issue of light emitted by advertisement signboards is concerned, according to the present procedure, the owner of a building and residents may institute civil proceedings against the owners of these advertisement signboards if they consider that they are disturbed by these advertisement signboards. If the owner of a building opposes the erection of advertisement signboards on the building, he may take appropriate action against the owner of those advertisement signboards through the deed of mutual covenant. At present, the Government does not intervene in such disputes.

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

MR JAMES TIEN (in Cantonese): *Madam President, the Secretary has not answered my question. What I mean is the intensity of light emitted by*

advertisement signboards. Will the Government consider enacting law to regulate the intensity of light emitted by those advertisement signboards?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, at present, the Government has yet to consider enacting law in this respect. We have referred to regulations of the United States and Singapore which regulate advertisement signboards. Regulations of Singapore do involve the light emitted by advertisement signboards, but they just prohibit flashing or occulting lights from outdoor advertisement signboards. We have considered putting that into practice, but we do not have plans to enact laws in that respect.

MR KENNETH TING (in Cantonese): *Madam President, it seems that the Secretary just now said that advertisement signboards did glow, but they did not flash. However, we could see at present that televisions with extraordinarily big screens are mounted onto the external wall of some buildings. With regards to these screens, how will the authorities take them into consideration?*

PRESIDENT (in Cantonese): Which of the two Secretaries will answer this supplementary?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese):

Madam President, perhaps let me reply to this supplementary question. Before 2000, the former municipal services ordinance did have provisions to regulate occulting lights. At that time, provisions of the Advertisement By-laws stipulated that signs emitting light were prohibited. However, when the two Municipal Councils were restructured in 1999, we took all subsidiary legislation into consideration by way of legislative proceedings. The By-law was also reviewed at that point, and it was found that the impact of the occulting lights on road safety and motorists was not so significant, therefore it was decided to repeal the restriction on light emitted by occulting signs. At present, if the light emitted by any occulting sign affects road traffic obscures any road marking or traffic sign, obstructs the course of ship, or interferes with the functions of any signal station or aid to navigation; or if it is exposed to the sky in the airport area

which may have an effect on the safety of aircraft, then all of these circumstances having an effect on vessel, vehicle or aircraft safety, are regulated by relevant regulations, such as the Road Traffic Ordinance (Cap. 374), the Shipping And Port Control Ordinance (Cap. 313) and the Hong Kong Airport (Control of Obstructions) Ordinance (Cap. 301). As to ordinary occulting lights, they are not subject to any specific stipulation after the relevant legislation was amended in 2000.

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

MR KENNETH TING (in Cantonese): *Madam President, my question is, will the Government take into consideration the issue of motorists disturbed by the flash of light (instead of the obstruction) caused by big televisions?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, as I have just explained, if the flash of light obscures no traffic signs, or the flashing is not caused by any mistake as the purpose is just conveying message, then this type of signboard is not subject to any restriction. With regards to what Mr TING has said just now, if the screen display or the television broadcast obscures no traffic signals, then it is not subject to any regulation.

MR CHAN KWOK-KEUNG (in Cantonese): *Madam President, numerous luminous advertisement signboards are currently erected at bus stops or tram stops. I would like to ask whether they are under the control of any government department? Has the Government received complaints from members of the public that the light emitted by these signboards disturbs their driving?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, just now I have pointed out in the main reply, we have not received any complaints from motorists about disturbance caused by the light emitted by advertisement signboards.

MR AMBROSE LAU (in Cantonese): *Madam President, the Secretary replied to Mr James TIEN earlier that the Government has no plan to introduce new legislation to regulate the intensity of light emitted by advertisement signboards. However, the Secretary mentioned in the second paragraph of the main reply that the FEHD would take follow-up actions on any comments or complaints regarding the disturbance caused by the light emitted from advertisement signboards. May I ask how the FEHD will follow the matter up, and on the basis of which ordinance or on the basis of what power will it follow the matter up?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): *Madam President, it is just as I have replied earlier, in accordance with the Advertisements Regulation, if any advertisement disfigures the natural beauty of any scenery or affects injuriously the amenities of any locality, whilst there are complaints from residents, the FEHD will take follow-up actions. Just now Mr James TIEN asked whether the Government would consider enacting law to regulate the intensity of light emitted by advertisement signboards. My answer is, the Government has no intention to make law in this respect.*

MR AMBROSE LAU (in Cantonese): *Madam President, I believe the Secretary has misunderstood my supplementary question. It is because in the second paragraph of the main reply, the Secretary said, "The FEHD advised that it does not maintain formal statistics on the number of complaints by residents about the disturbance caused by the light emitted from advertisement signboards. The FEHD will take follow-up actions on any comments or complaints regarding this matter." That is exactly about the issue of the disturbance caused by the intensity of light emitted.*

PRESIDENT (in Cantonese): *Mr Ambrose LAU, do you wish to ask the Secretary what follow-up actions have been taken by the FEHD?*

MR AMBROSE LAU (in Cantonese): *Yes, Madam President.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, I believe the disturbance could be divided into two categories. I just wish to explain earlier that within the purview of the relevant ordinances, the disturbance is only confined to the impact on the amenities, we would not measure the intensity of the light emitted and take follow-up actions. We have to enquire the FEHD about which category do these data fall into.

MR IP KWOK-HIM (in Cantonese): *Madam President, I appreciate that the Honourable James TIEN has raised this question. In fact, I have raised the same question in the Central and Western District Council. Can the Secretary tell us again whether any ordinance is in place to regulate light pollution which disturbs residents in the neighbourhood? The core of this question is that those advertisement signboards are basically erected outside the windows of homes of residents, they are lit up from dawn to dusk, or to be more precise, from dusk to dawn. At nightfall, residents need not turn on the light inside their premises, because those advertisement signboards are all lit up. Of course residents will consume less electrical energy, but while they are sleeping, they have no choice but to sleep practically in broad daylight. May I ask the Secretary, how could residents be ensured that they would not be disturbed? Which legislation could protect them? I hope the Secretary could give us an answer. I am not asking the Secretary about traffic issues, as they have just been answered. I only wish to ask the Secretary whether any legislation is in place to protect these residents?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese):

Madam President, please allow me to give a detailed reply on this. If the owner of a building and residents doubt about the amenities or works of the building, they may refer to provisions stipulated in the deed of mutual covenant. Likewise, if they consider that those advertisement signboards have caused any disturbance, they had better study the content of the deed of mutual covenant in order to see whether any regulation is in place. Secretary Dr Sarah LIAO has just replied that the question in this respect could be settled through civil proceedings, that is why we should refer to the terms in the deed of mutual covenant.

With regards to the question of whether the Government has considered to enact law to regulate advertisement signboards in addition to taking action in this

respect, perhaps Honourable Members have noted that the Government has recently proposed an amendment on a bill relating to minor works to be carried out in buildings. Most advertisement signboards are included in the minor works category in that amendment and all of these minor works should conform to certain regulations. However, the focus of the Government is on the structural safety and the major concern rests on the fact that the structure of advertisement signboards would not endanger the personal safety of the public, therefore our focus does not include the intensity of the light. As it will not affect the structural safety, therefore we have not included it within the scope of our consideration. In the Government's opinion, we should make law on safety for parties concerned to follow. However, the intensity of light is a somewhat subjective opinion. Furthermore, if provisions in this respect are specified in the deed of mutual covenant, then the public may act on these and institute civil proceedings in accordance with the stipulations in the deed of mutual covenant.

MR IP KWOK-HIM (in Cantonese): *Madam President, the Secretary has not answered my supplementary question. I was asking the Secretary whether any legislation is in place to regulate the light emitted by advertisement signboards which disturb the public, as these signboards are turned on from dusk to dawn? Just now the Secretary mentioned the issue of minor works, which is just a structural issue. In my constituency, no government department expresses that it has the right to deal with or to solve this problem, I therefore bring forth this question to the Secretary, but the Secretary has not answered my question at all. Is there any legislation which ensures the well-being of the public?*

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

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, just now I have given my reply. In fact, no legislation is in place for the time being. *(Laughter)* In view of that, we have also considered making law, but at the present time, we have no intention to do so. The course now available to residents is that they may consider taking action according to the deed of mutual covenant.

PRESIDENT (in Cantonese): This Council has spent more than 16 minutes on this question. This is the last supplementary question.

MRS SELINA CHOW (in Cantonese): *Madam President, I hope that the Secretary for the Environment, Transport and Works needs not take a look at the officials sitting next to her when I ask this supplementary question, because what we are discussing is the impact on the living environment of residents caused by the intensity of light emitted by advertisement signboards, therefore this supplementary question should be answered by the official in charge of environmental affairs. I have a strange feeling that the main reply mentioned that "since the enactment of the legislation concerned, the Government has not received any complaints from motorists about disturbance caused by the light emitted by advertisement signboards." The Regulation does not mention the light emitted by advertisement signboard, because that Regulation is just about natural beauty, scenery and so forth, of course it does not mention disturbance in this respect.*

PRESIDENT (in Cantonese): Mrs Selina CHOW, please raise your supplementary question directly.

MRS SELINA CHOW (in Cantonese): *Madam President, I hope that in her capacity as the Secretary for the Environment, Transport and Works, she can reply to this supplementary question. Two Honourable Members told us that residents were deeply distressed because of the light emitted by these advertisement signboards, they did not have to turn on the light as their homes were lit up from dusk to dawn. I hope the Secretary could tell us whether the authorities have any plan to spare some efforts to deal with the nuisance which affects the living environment of residents? If the authorities have no plan to enact law, should these residents give the Secretary a call whenever they wish to lodge this kind of complaint?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, first of all, I would like to reply to the issue raised by Mrs Selina CHOW concerning motorists disturbed by the light emitted by advertisement signboards. According to section 11 of Cap. 132B, no signs erected in any premises should interfere with road traffic. These regulatory measures are within the purview of the Transport Department, and that is what I have replied just now, the Advertisements Regulation is just a part of it.

With regards to the impact on the environment, I have replied just now that we have studied the issue and we have taken reference from measures Singapore and the United States adopted in dealing with disturbance from lights. At present, we could not find a good solution to control the level or the intensity of light. A guideline or standard should be put in place before we could enact the relevant law. If that guideline is not yet in place, it would be difficult for us to enforce the relevant law. My reply is that the issue is under the consideration of the Government, but it is not the time to make the relevant law, because we have not come up with the standard to measure accurately the extent of impact of these kind of light disturbances on the environment, as well as the life and the homes of residents.

MRS SELINA CHOW (in Cantonese): *Madam President, the Secretary has not answered my supplementary. I did not ask the Secretary whether or not law should be enacted, as the Secretary has already given a full reply in that respect, which I hope the Secretary will not repeat. I was asking the Secretary how would she solve this problem?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, right now we are taking the issue of light disturbance into consideration from the angle of complaint mechanism. Members of the public may lodge their complaints in accordance with the Advertisements Regulation. Besides, just now Secretary Michael SUEN has also mentioned that residents may institute civil proceedings, because many of these advertisement signboards are installations erected on private premises, therefore, if these signboards affect residents, they may sue the owners of these privately owned advertisement signboards by way of civil proceedings.

PRESIDENT (in Cantonese): Fourth question.

Prevention of Dengue Fever Outbreak

4. **MR LAU KONG-WAH** (in Cantonese): *Madam President, it is reported that there are 11 cases of dengue fever in Hong Kong in the first four months of this year, which are 2.7 times of the cases in the corresponding period last year. In this connection, will the Government inform this Council:*

- (a) *as the authorities have now concentrated their efforts on tackling and containing the spread of atypical pneumonia, whether they have separately set up a task force to prevent an extensive outbreak of dengue fever in the territory;*
- (b) *whether the measures taken to prevent an extensive outbreak of dengue fever in the territory include issuing guidelines to various private housing estates and schools on the points to note in relation to mosquito eradication and personal precautions against the disease; and*
- (c) *regarding the 44 and 11 dengue fever cases reported in the past year and the first four months of this year respectively, of the districts in which the patients involved lived and the other details of these cases?*

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

- (a) Since dengue fever was declared a statutory notifiable disease in 1994, we have stepped up efforts to prevent its spread. Being a mosquito-borne disease, dengue fever is best prevented by combating the vector mosquitoes. Efforts to prevent and control the spread of dengue fever is co-ordinated at three levels. The Food and Environmental Hygiene Department (FEHD) has set up the Interdepartmental Working Group on Pest Prevention and Control to co-ordinate control actions on pest including mosquitoes. The Department of Health (DH) has set up the Interdepartmental Co-ordinating Committee (ICC) on Dengue Fever, involving other government departments and the Hospital Authority, to co-ordinate prevention work and contingency measures. The Anti-mosquito Steering Committee comprising senior officials from a number of Policy Bureaux and government departments was established to oversee strategies and direction setting in anti-mosquito work.
- (b) The strategy to eradicate mosquitoes necessitates the control of mosquito problems at source by eliminating their breeding places. The FEHD has prepared sector-specific advisory notes on how to

identify and eliminate breeding places for mosquitoes and the proper means to eliminate mosquito larva and adult mosquitoes for various sectors, including housing estates and schools. The DH has also issued health advice on personal precautionary measures like wearing long-sleeved clothes and trousers and applying insect repellent. These advisory notes are available on the websites and offices of DH and FEHD, as well as distributed at the offices of Home Affairs Department, public clinics, management offices of public housing estates and public libraries. With the approach of the wet season, we will arrange to send copies of the relevant advisory notes to the management of public/private housing estates and schools to remind them of the need to take control measures.

- (c) A total of 44 confirmed cases of dengue fever were reported to the DH in 2002, of which 24 were imported cases and 20 were local cases. Of the imported cases, 21 had history of travel to Southeast Asian countries, two to the Mainland and one to South Asia. For the local cases, 16 were related to Ma Wan, three had residency in Tin Shui Wai, Tsuen Wan and Sham Shui Po respectively and one contracted the disease through blood transfusion.

In 2003, a total of 12 confirmed cases of dengue fever were reported up to date. All were imported cases. Of these cases, 11 had history of travel to Southeast Asian countries and one to South Asia.

MR LAU KONG-WAH (in Cantonese): *Madam President, the epidemic of Severe Acute Respiratory Syndrome (SARS) is not yet over, but then an outbreak of dengue fever may well follow. Yesterday, I saw on television that the news crew could still find lots of stagnant water in Tsuen Wan and Ma Wan. Can one thus say that the authorities have left their work half-done? In the main reply, the Secretary advises people to wear long-sleeved clothes and long trousers when going outdoors. But practically all the people we see in the streets are wearing short-sleeved clothes and short trousers. What can we possibly do? The Secretary says that an interdepartmental steering committee has been established to oversee anti-dengue fever work, but I have no idea whether this committee is a new one, and whether it is doing any concrete preventive work. Also, has the Government learnt any lesson from its fight against atypical pneumonia and applied the experience to the work of the committee, so as to achieve greater effects?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, the steering committee, chaired by the Permanent Secretary, was established at the time when the first confirmed local case was reported last year. The job of the steering committee is co-ordination in nature and it oversees strategies and sets direction in anti-mosquito work. We have formulated a series of targets, that is why our anti-mosquito work has started earlier than usual this year.

MR WONG YUNG-KAN (in Cantonese): *Madam President, in view of the 20 confirmed local cases of dengue fever last year, the Government has placed Oviposition Traps (Ovitrap) in many locations to collect breeding data of mosquitoes for analysis. May I ask the Government whether it can tell us anything about the breeding data collected by the Ovitrap so far? Has there been a rising trend? Ma Wan and certain other places saw the largest number of infected cases last year. What is the situation there now? How is the Government going to tackle the situation? Is there still stagnant water everywhere in these places?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, the Ovitrap Indices this year have shown steady improvement when compared with those of last year. The monthly Ovitrap Index of March last year was 6.4%, but that of March this year was just 1.4%. The monthly Ovitrap Index up to April last year was 23.2%, and that of April this year was just 11.4%. Therefore, overall, we have managed to make improvement in our prevention work. Understandably, as pointed out by Mr WONG Yung-kan, the indices for some particular areas, such as Ma Wan, are higher than those for other places. We are currently dealing with the areas separately. In places where the indices are higher, our colleagues will put in place more measures. We will take account of the index for each area and enhance the measures for areas with higher risks.

PRESIDENT (in Cantonese): Mr WONG Yung-kan, has your supplementary question not been answered?

MR WONG YUNG-KAN (in Cantonese): *No, Madam President. The Secretary has said that the work concerned will be enhanced. But to what*

extent will such work be enhanced? Are immediate actions being taken, or do we have to wait?

PRESIDENT (in Cantonese): Mr WONG, the Secretary has already answered your supplementary question. What you have raised just now is in fact another supplementary question. Would you please wait for your turn again?

DR LO WING-LOK (in Cantonese): *Madam President, the Government has been paying most of its attention to SARS over the past two months or so. This is right, but the season of dengue fever is approaching. May I ask the Government whether the manpower and resources spent on handling SARS will reduce the resources which can be allocated to the prevention of dengue fever, anti-mosquito efforts and other related work? Does the Government think that it has already achieved the relevant targets?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, when there are SARS cases, it is only proper for us to deploy part of our resources to deal with them, but the Government will also assess the priority of various fields and policy areas, instead of focusing solely on the SARS epidemic to the neglect of other matters. Members can rest assured that we have not neglected anti-mosquito work. The comparison of monthly Ovitrap Indices I have provided to Members — 23.2% for April last year and 11.4% for April this year — can show precisely that we have done more in anti-mosquito work this year. We will take appropriate measures in the light of Area Ovitrap Indices. We know clearly that we must do the best we can before an outbreak of dengue fever can be prevented. We do not wish to see any more local cases of dengue fever this year. That is why the Director of Food and Environmental Hygiene has been following up the matter very actively. I can assure Members that the need to tackle SARS cases will never lead us to neglect anti-mosquito work.

MR JASPER TSANG (in Cantonese): *Madam President, it is mentioned in part (a) of the main reply that the ICC on Dengue Fever has been set up to co-ordinate prevention work and contingency measures. May I ask what contingency*

measures are being referred to? The main reply of the Secretary seems to be talking about anti-mosquito work only. Are contingency measures limited to anti-mosquito work?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, the three committees mentioned in the main reply actually work at three separate levels. To begin with, the FEHD is mainly responsible for anti-mosquito work. At the second level, the ICC on Dengue Fever set up by the DH has a wider scope of responsibilities. Besides anti-mosquito work, it also has to consider what the authorities should do in case any members of the public contract dengue fever. The contingency measures mentioned cover many different aspects, and they are not limited to anti-mosquito work. For instance, if there is an outbreak of dengue fever at the community level in Hong Kong, the ICC will have to explore how to deal with the situation. The Anti-Mosquito Steering Committee at the third level, chaired by the Permanent Secretary, is responsible for evaluating the overall direction to identify areas which require enhancement. The Permanent Secretary is mainly responsible for setting strategies and directions. As for contingency measures, they actually refer to what the authorities should do in the unfortunate event of numerous local cases. Such measures will cover hospital services, the preventive work of the DH and the need or otherwise to step up publicity. The Steering Committee is responsible for crisis management at a higher level.

MISS CHOY SO-YUK (in Cantonese): *Madam President, part (a) of the main reply mentions the establishment of the Interdepartmental Working Group on Pest Prevention and Control, and it also mentions contingency measures. I am more concerned about the contingency measures in regard to pest control. The reason is that pests are found in many buildings now, but since these are private premises, the Government will not step in. On the other hand, the residents of these buildings may not be able to take any actions themselves either because of the poor performance of their management agencies or the absence of an Owners' Corporation. In such cases, will the Government seriously consider the possibility of first conducting pest control at the request of residents and charging them at a later stage? Or, has the Government worked out any other measures?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, as I have already mentioned in the main reply, we will discuss with the management of private/public housing estates to find out what preventive measures can be taken. We would of course enter these buildings for mosquito control if public hygiene is at risk. However, we should first communicate with the residents and ask them to conduct preventive work themselves. In any case, we will take actions if public hygiene is at risk.

MISS CHOY SO-YUK (in Cantonese): *Madam President, as far as I am aware, experience has shown that this would not work. Will the Secretary*

PRESIDENT (in Cantonese): Miss CHOY So-yuk, you need only to point out the part which the Secretary has not answered.

MISS CHOY SO-YUK (in Cantonese): *If they really have such a need, will the Secretary take the actions required?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, of course we do not wish to see any pest problem on private premises. We will take appropriate actions and measures in the light of the actual circumstances.

DR RAYMOND HO (in Cantonese): *Madam President, the Secretary talks about pest control in part (b) of the main reply. But besides talking about housing estates and schools, he does not mention works sites. Works sites should include excavation works, for every year in Hong Kong, there are as many as some 20 000 excavation works projects going on. Is the Interdepartmental Working Group aware that if this Council passes the Land (Miscellaneous Provisions) (Amendment) Bill 2002 later today, Excavation Permits will be required for excavation works? In that case, will the prompt removal of stagnant water be stated as one of the requirements of an Excavation Permit?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, in the course of doing our work, we will pay attention to the problem in works sites. We know that many works sites are not well looked after, and this has led to the accumulation of stagnant water and the consequent breeding of mosquitoes. Our Interdepartmental Working Group and the Steering Committee will monitor the situation in this respect.

MR FRED LI (in Cantonese): *Madam President, there is the Interdepartmental Working Group under the Secretary. But in my supplementary question, I wish to point out that huge quantities of litter and stagnant water are now found on many vacant government lands or slopes. Some of these places come under the Lands Department and others the Highways Department. But all these government departments do not have any resources for pest control. Has the Interdepartmental Working Group done anything to assist these government departments in carrying out thorough pest control? As government lands with stagnant water breeding mosquitoes are a big laughing stock, how can the problem be solved?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, this is precisely what the Interdepartmental Working Group and the Steering Committee are meant for. During the anti-mosquito campaign last year, the Steering Committee was established to oversee the massive anti-mosquito work undertaken by various Policy Bureaux and departments. As far as I can remember, mosquito control was carried out in all government lands last year, and it was a great success.

MR IP KWOK-HIM (in Cantonese): *Madam President, the Government has just launched publicity on television, and members of the public have also shown great concern. However, many people have complained that there are now more mosquitoes than before. I do not know whether the Secretary has received any similar complaints — complaints about the increasingly serious mosquito problem in works sites as referred to by Dr Raymond HO. In this connection, could the Secretary provide us with more information on whether or not there will be any concrete measures to deal with the problem of stagnant water in works sites? Are there any feasible administrative and legislative measures to tackle the problem? Can members of the public be given any assurance?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, there are objective guidelines. The monthly Ovitrap Indices which I have mentioned when answering previous supplementary questions, can provide objective data for measuring the effectiveness of our anti-mosquito work. A Monthly Ovitrap Index also provides an objective indication of the extensiveness of the distribution of mosquitoes in a particular area. The data given to Members just now can show that there have been improvements in anti-mosquito work. Circumstances in different areas do vary, of course. That is why since last year, we have been maintaining an Area Ovitrap Index for each area under surveillance. We will strengthen anti-mosquito work and measures in areas with higher Area Ovitrap Indices. The Director of Food and Environmental Hygiene will, as appropriate, adopt new measures or enhance existing ones in response to monthly data. We have classified possible scenarios into different levels. For example, when the Area Ovitrap Index of an area exceeds 20%, we will strengthen the relevant measures. We hope the Ovitrap Indices can be lowered over time.

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

MS CYD HO (in Cantonese): *Madam President, one of the infected cases in 2002 was caused by blood transfusion. May I ask the Secretary how we can prevent infection through blood transfusion? For instance, is the blood donor asked any questions which can make him think whether he should give blood? Or, after blood donation, are there any measures to differentiate the blood of the infected from that of those who are not?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, as far as I know, this is the first time that infection through blood transfusion even appears in medical records. This has never occurred before. Following the case in question, the blood donation centres of the Red Cross have been advising donors that they should not give blood if they are suffering from dengue fever. So, we have in fact acted in response to the case. But I would think that it will be difficult for us to inspect each and every bag of blood to find out whether it contains the dengue fever virus or not. The reason is that there are already many kinds of tests being done. And, if we are to

inspect each and every bag of blood just because of one single case, we will have to use a disproportionately large amount of resources. But the risk of infection through this channel is quite low. So, I think what is most important is that we should advise blood donors that if they are running a temperature or are feeling unwell, they should not give blood.

PRESIDENT (in Cantonese): Fifth question.

Requiring Motorists to Switch off Vehicle Engines While Waiting

5. **DR RAYMOND HO** (in Cantonese): *Madam President, in May 2000, the Legislative Council All Party Clean Air Alliance proposed that legislation be introduced to require motorists to switch off the engines of their vehicles while waiting, and that is, the so-called "No idling engines". The authorities did not accept the proposal, but indicated that they would adopt an advisory approach to encourage motorists to switch off the engines while waiting. In this connection, will the Government inform this Council:*

- (a) *of the measures taken in the past three years to advise motorists to switch off vehicle engines while waiting, and the effectiveness of such measures;*
- (b) *whether it has conducted studies on the extent to which the air quality will improve by implementing the requirement to switch off vehicle engines while waiting; if so, of the findings; and*
- (c) *whether it will reconsider introducing legislation to require motorists to switch off vehicle engines while waiting; if so, of the details; if not, the justifications for that?*

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

- (a) In the past three years, the Environmental Protection Department (EPD) and the Transport Department (TD) have organized a number of publicity functions to promote the message of switching off the

engine while waiting. Organizations supportive of environmental protection, such as the Environmental Campaign Committee, District Councils, schools and the transport trade, were either co-organizers or participants of most of these functions.

The functions that were of a larger scale include:

- the pledging ceremony of the "Wait Green — Engine Off" campaign held at the Tamar site in September 2001
- Environmental Protection Festivals 2001 and 2002
- Clean Air Exhibition held in March 2002
- World Environmental Day and Environmental Education Workshop held in June 2002

The other publicity and educational functions include:

- environmental awareness campaigns jointly organized with schools (involving school environmental protection ambassadors), housing estates and other organizations to promote switching off the engine while waiting
- distribution of "No idling engines" guidelines to vehicle owners and drivers through transport trade associations and the TD's licensing offices
- distribution in collaboration with the Hong Kong Automobile Association and the transport trade (such as franchised bus companies) of "No idling engines" guidelines to their members, issue by these organizations of similar internal guidelines to their staff, and conduct of training sessions by them to remind their staff to switch off the engine while waiting
- eco-driving seminars for fleet managers and employees in the transport trade
- publicity programmes through TV and radio stations

It is not easy to directly quantify the effectiveness of the publicity functions mentioned above. However, in dealing with complaints against idling engines of public transport, the TD will issue written warnings to the operator concerned and demand that improvements be made and the "No idling engines" guidelines be followed. According to the record, the majority of the routes against which a complaint had been filed did not attract further complaints. Moreover, in handling complaints against idling engines of private vehicles, the EPD staff will advise and the drivers will switch off their engines on the spot. These indicate the effectiveness of the publicity functions.

- (b) We have studied the extent to which air quality can be improved through switching off idling engines. We note that, generally speaking, there are two categories of vehicles with idling engines: those that need to keep their engines running for operational reasons, such as concrete mixers, trucks with an on-board freezer and crane trucks; and passenger vehicles that keep their engines running in order to keep the air-conditioning on. If we ban idling engines by law, the first category of vehicles, that is, vehicles that need to keep their engines running for operational reasons, should be exempt from the restriction. As regards the second category of vehicles, we believe many of their drivers will, in order to keep the air-conditioning on, choose to circulate on the road instead of stopping and switching off their engines. Since a moving vehicle emits more pollutants than one with its engine idling, banning idling engines by law could be counter-productive.
- (c) In considering whether to ban idling engines by law, we have made reference to the practices of other places. We have found out that only a small number of them have legislated against idling engines. As far as we could ascertain, the authorities concerned give out advice rather than taking out prosecutions. Another consideration is how to permit vehicles to keep their air conditioning on after coming to a stop when the weather is hot. In one of the places, the restriction is not enforced when the ambient temperature is above 27 degrees Celsius. If that is applied to Hong Kong, the restriction will not be enforced in the hot summer months when drivers are more prone to keep their engines running in order to keep the air-

conditioning on. Having considered the practices of other places and the situation described in Part 2 of the answer above, and after extensive consultations, we have decided to adopt an advisory approach and have issued "No idling engines" guidelines to all sectors of the transport trade. We have also launched a number of publicity functions to advise drivers to switch off the engine while waiting. We informed the Legislative Council Panels on Environmental Affairs and Transport of our advisory approach in February 2001.

DR RAYMOND HO (in Cantonese): *Madam President, over the past three years, it seems that the Government has made some publicity efforts to try its best to advise the public to switch off vehicle engines while waiting. However, very often, pictures taken by the media still show members of the public covering up their noses while crossing the roads or walking on the streets, this would create a negative impact on our publicity efforts on tourism. The Secretary said in part (b) of her main reply that drivers choose to circulate on the road if they are requested to switch off their engines while stopping. The fact that the Government has given this negative reason seems to imply that it is trying to find excuses for not making its best efforts in doing the job. Has the Government conducted any study, which shows that drivers would really choose to circulate on the road to avoid switching off their engines while stopping?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, while we promote the message of switching off the engine while waiting, we actually find that drivers of passengers vehicles choose to circulate on the road if they are asked to switch off their engines when they have to stay in their cars for a long time to wait for passengers. This is the actual situation and the Government is not trying to shirk its responsibility because it does not want to do its job.

MR NG LEUNG-SING (in Cantonese): *Madam President, the Secretary said in part (c) of her main reply that the Government has made references to the practice of other places, and after extensive consultations, it has decided to adopt an advisory and education publicity approach. May I ask the Secretary how extensive was the consultation and which industries were consulted? How long was the consultation period? Are there any statistics available?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, we have made references to the regulatory legislation of overseas countries like the United States, Australia, Canada, Japan, Singapore, the United Kingdom, Belgium and Finland on switching off vehicle engines while waiting. Most of these countries adopt an advisory approach. While the United Kingdom has launched proceedings against a very small number of cases and New York City of the United States has also initiated prosecution against a small number of cases, most of the other countries have only adopted an advisory approach.

As regards consultations, we have consulted the views of the District Council on this matter. During the period from July 2000 to January 2001, we have consulted the views of 18 District Councils and members of the transport industry. All of them expressed reservations about the introduction of regulatory legislation and their reasons include: firstly, as I have said earlier, drivers would choose to circulate on the road instead of stopping their vehicles, thus causing more pollution; secondly, it would be very difficult to enforce the law and that would lead to a lot of disputes because there is no way to ascertain whether drivers stop their vehicles to wait or just stop and then drive away immediately; thirdly, there are operational needs, for example, the concrete mixers I have talked about earlier cannot have their engines switched off while stopping. These are the views of the transport industry and the District Councils, but members of the Legislative Council Panel on Environmental Affairs and Legislative Council Panel on Transport have divergent views. Some Members strongly support the idea of encouraging vehicles to switch off their engines while waiting by issuing guidelines, but there are also Members who think that the Government should start by regulating private cars and a timetable should be drawn up in this relation.

MR NG LEUNG-SING (in Cantonese): *Madam President, the Secretary has not answered part of my supplementary question and that is, whether actual statistics are available or not. The Secretary has said earlier that there are both arguments for and against the issue, but has the Government got any statistics?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, such information can be found in the minutes of all meetings held during the consultation period that I have referred to earlier.

DR LUI MING-WAH (in Cantonese): *Madam President, the Secretary says in part (b) of the main reply that since a moving vehicle emits more pollutants than one with its engine idling, banning idling engines by law could be counter-productive. The Secretary certainly does have her reasons for saying so and I share her views. However, I would like to know whether any actual tests have been conducted by the Government, for example, to find out what is the difference in the amount of pollutants emitted by a bus travelling at a speed of 15 mph and one with an idle engine?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): *Madam President, we have already made such comparisons, and that is, comparing the amount of pollutants emitted by moving vehicles and those with idle engines. Assuming that a heavy vehicle is travelling at a speed of 25 km per hour and using air conditioning, nitrogen oxide emitted by such a moving vehicle is twice the amount of that emitted by a stationary vehicle, and that is, 4.92 mg, while that emitted by a vehicle with an idle engine is 2 mg; the amount of suspended particulate emitted is 13 times more than that emitted by a stationary vehicle; the amount of carbon monoxide emitted is twice that of a stationary vehicle and the amount of hydrocarbon emitted is quadruple the amount.*

MISS CHOY SO-YUK (in Cantonese): *Madam President, both leaving the engine idle and spitting on the streets will pollute our environment. However, people who spit on the streets will be subject to social pressure and those do so will find others staring at them, while there is no social pressure on those who leave their engines idle. In deploying its resources, will the Government consider promoting public awareness to apply pressure on those who do not switch off their engines so that these people will switch off their engines if they find other people staring at them? It may not be very effective to rely on a few enforcement officers to catch the culprits while it may be more effective if pressure is applied by the public.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): *Madam President, I think Miss CHOY has drawn a very good analogy. In fact, the Government has already legislated against spitting, but at the two relevant past meetings, Members learned that the effectiveness of*

enforcement is very low. That means the Government has deployed a lot of manpower and resources to enforce the legislation against spitting but it is not very effective. Therefore, I agree that education and publicity are more important and we have launched a series of education and publicity activities in the hope that members of the community would recognize the concept of switching off idle engines. And, no matter whether it is due to voluntary efforts or social pressure, I think it would be more effective. For example, many schools would instill this concept into the children, and that is, ask parents to switch off engines while waiting to pick up their children after school. Though many parents have said that it is very hot, they are still willing to switch off their engines since their children ask them to do so. Therefore, I agree that we should work towards this direction. We hope we can launch more publicity campaigns for the coming year.

PRESIDENT (in Cantonese): Last supplementary question.

DR RAYMOND HO (in Cantonese): *Madam President, in fact, there are still many drivers who stop their vehicles to enjoy air-conditioning or take naps. Will the Government consider asking drivers of government vehicles to switch off their engines while waiting so as to set an example?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, I am very glad that Dr HO has made such a suggestion. In fact, I have also promoted this practice within the Government. I have urged drivers not to stay inside the vehicles and take a rest at a cooler place elsewhere, for we should also care for the comfort of our staff. We would put this suggestion into practice.

PRESIDENT (in Cantonese): Sixth question.

Shortage and Poor Quality of Protective Gear for Health Care Personnel

6. **MS EMILY LAU** (in Cantonese): *Madam President, since the outbreak of the Severe Acute Respiratory Syndrome (SARS), there have been incessant cases*

of health care personnel of public hospitals being infected with the disease and their making telephone calls to radio programmes to complain about the shortage and poor quality of the protective gear (including clothing) the Hospital Authority (HA) has supplied to them. In this connection, will the executive authorities inform this Council whether:

- (a) they know the dates on which the HA placed orders for protective gear and the ordering details, the reasons for keeping a stock of protective gear for 14 days' consumption only, and whether the HA has assessed if the stock level is sufficient to cope with contingencies; if an assessment has been made, of the results;*
- (b) they know the difficulties the HA has encountered in ordering protective gear, the measures the HA has adopted to ensure that the goods supplied are up to standard, how it deals with the substandard goods; and the total quantity and value of the substandard goods; and*
- (c) they have conducted a review to see if there are problems in the HA's middle management and its mechanism for ordering materials, which have led to complaints by frontline staff about the inadequate supply of protective gear; if so, of the findings of the review; if not, whether and when such a review will be conducted?*

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

- (a) Currently, the HA has ample stock of protective gears, such as goggles, masks, jackets and trousers, gowns, disposable caps and gloves, to meet the needs of its front-line staff. Supply is steady, and the HA replenishes its stock of protective gears every week. The HA also monitors the stock kept by hospitals every day and adjusts the rolling stocks constantly in accordance with hospital demands. In view of the need for contingency planning, the HA keeps a stock of 14 days of protective gears. Having regard to the supply schedule of protective gears, such a stock level should provide the HA with sufficient buffer against unexpected surges in demand, particularly in the light of the recent trend of new SARS

cases. Through our day-to-day contact with the HA, the Bureau is being kept posted about the supply of standard items of protective gears, and understands that the HA is taking appropriate action to ensure adequate supply. The Health, Welfare and Food Bureau also has access to the dates and details of procurement of protective gears by the HA.

- (b) The HA has so far not encountered any particular difficulties in the procurement of recommended standard items of protective gears for different level of risks. There are however pressure areas in the procurement of certain protective gears (such as N95 masks) to address needs which go beyond the recommended standard of protection. The HA's current supplier of N95 masks has indicated that it would not be able to supply in the near future the quantity ordered by the HA in respect of N95 masks in the small size. The HA is actively exploring alternative suppliers for the supply of small-sized N95 masks to meet demand in excess of the recommended standards.

All protective gears supplied to the HA are subject to random sample checks to ensure compliance with order specifications and the quality of gears procured. Gears that fail to satisfy the HA's quality requirement or order specifications will be rejected. So far, the HA found 400 000 surgical masks worth \$250,000 from a supplier failed to comply with the order specifications. The HA has suspended all purchases from this supplier, and this case has been reported to the police for investigation. The HA will consider taking further action against the supplier in the light of the outcome of the investigation by the police.

- (c) The HA has set up a Working Group on Supplies and Environmental Control to strengthen its supplies management in the fight against SARS. The Working Group has reviewed the problems relating to the supply of protective gears for front-line staff. The Working Group identified, among others, that there is room for improvement in the communication between the middle management at the ward level in a few hospitals with both front-line staff and the Supplies Office in the HA's Head Office. To rectify the situation, the Hospital Chief Executives of these hospitals have already put in

place mechanisms to ensure effective communication among the parties concerned. The middle management of these hospitals will proactively communicate with front-line staff regarding their concern pertaining to the supply of necessary protective gears to ensure work safety, and report unresolved issues/problems to the attention of the senior management. The hospitals concerned have been advised to communicate closely with the Supplies Office in the HA's Head Office on their requirements for protective gears. The Working Group will monitor the effectiveness of the new mechanisms on a regular basis and suggest further improvements where necessary.

The HA has also set up a SARS 24-hour hotline to enhance communication with front-line staff. Feedback and suggestions from staff would be referred to relevant clusters and hospitals for immediate follow-up action.

MS EMILY LAU (in Cantonese): *Madam President, I asked explicitly in part (a) of the question about the dates on which the HA placed orders for protective gears and the ordering details, that is, when the orders were placed, the quantities ordered and the dates of delivery and so on, however, Madam President, as you can see, the Secretary has not given any reply to these at all. I hope the Secretary could provide the information to us, since more than 370 health care workers have been infected so far and 67 of them are still being hospitalized, with 10 of them in intensive care units. Many people are concerned about their well-being, moreover, two health care workers have already passed away. Could the Secretary tell us about the dates and details of the orders, so that health care workers and their family members can know if it is because the HA placed the orders too late that so many health care workers are infected?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, the main question has to do with whether the Government knows the dates and details of placing the orders, and the Government certainly does. Regarding the dates of the chits, there are in fact a great number of chits on the procurement of different protective gears by the HA each day and there are hundreds of them. We can get hold of all the chits so that Members can know the dates when the orders were placed. Do Members want us to set out

all the information on what kinds of goods were ordered for each day? If Members are interested, I can provide the relevant information in writing later. (Appendix II) However, the list will be very long because the HA buys many different types of protective gears every day and that is why I have not set out the information.

MS EMILY LAU (in Cantonese): *Madam President, of course we need the information. I have asked about the dates on which the orders were placed. Can the Secretary tell us now if the HA ordered the protective gears in time so that health care workers could be protected, or did it order the protective gears too late, so health care workers were infected and even died as a result?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I have indicated in the main reply that generally, the supply of protective gowns, jackets and masks according to the recommended standards is adequate. The HA will look into the needs of each hospital when it places its orders. As far as I know, the supply of these protective gears has always been adequate and there has been no shortage as a result of placing the orders belatedly. However, there is inadequate supply of individual items because the suppliers are not able to supply them. This is particularly the case for protective gears that go beyond the recommended standards of protection, such as small-sized N95 face masks. There is difficulty in supplying this type of face masks because the suppliers cannot provide them. However, as far as protective gears recommended according to the general standards are concerned, the message I have always got from the HA is that they are sufficient for front-line staff. The problem probably lies in some misunderstanding on the part of the middle management that the supply was inadequate, therefore, when they communicated with front-line staff, they conveyed the message that there were not enough protective gears.

PRESIDENT (in Cantonese): Honourable Members, nine Members are waiting to ask supplementary questions, so will Members please be as concise as possible in asking their supplementary question, so that more Members can ask questions.

MR ANDREW CHENG (in Cantonese): *Madam President, I wish to follow up part (c) of the main reply. The Secretary pointed out in this part that the*

Working Group identified that there is room for improvement in the communication of the middle management at the ward level in a few hospitals with both front-line staff and the Supplies Office in the HA's Head Office. May I know which hospitals are involved? The Secretary said time and again in the main reply that there is room for improvement in communication. We understand that communication is certainly important, but apart from communication, it is also necessary to take action as well. May I ask the Secretary in what area material improvements can be made to the process in which the items are obtained from the Supplies Office in the HA's Head Office, then passed on to the middle management and finally end up in the hands of front-line staff?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese):

Madam President, as I have mentioned in the main reply, the HA will monitor the stock kept by hospitals every day and adjust the rolling stocks constantly in accordance with hospital demands. The HA's Head Office will monitor the demand of each hospital every day and adjust the rolling stocks constantly. The difficulty is that after the protective gears are supplied to hospitals, some staff members of the middle management at the ward level do not know how much stock there is. Sometimes, since they are worried that the stock may be inadequate, they may request health care workers to be thrifty. Therefore, there is a problem in communication. However, generally speaking, according to the information provided by the HA, the basic protective gears have always been sufficient and the problem only lies in communication. The hospitals have made improvements, and if front-line staff say that there is no more stock but the senior management says there is, then the management has to see where the problem lies. I believe that after this mechanism is established, there will be less problems.

MR ANDREW CHENG (in Cantonese): *Madam President, the Secretary has not replied which hospitals are involved.*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese):

Madam President, I do not have a list of these hospitals on hand. I will give a reply in writing to Mr CHENG later. (Appendix III)

MR LAU PING-CHEUNG (in Cantonese): *Madam President, in order to ensure the quality and stability of supply of protective gears and that they are reasonably priced, has the HA considered placing orders directly with manufacturers rather than through suppliers, since this can save time as well as ensuring quality?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, the HA has in fact been looking for different suppliers by various means. The HA has been trying to look for suppliers that can provide the required protective gears to us in the international market rather than always relying on suppliers in Hong Kong. Of course, if overseas suppliers have entered into contracts with local suppliers, then it is necessary for the HA to procure the goods from local suppliers. Otherwise, the HA will look for suppliers worldwide.

MR KENNETH TING (in Cantonese): *Madam President, the Secretary said in part (b) of the main reply that the supply of small-sized N95 face masks is inadequate. May I ask the Secretary how great a risk will face masks of inappropriate sizes pose to health care workers? If the supply of this type of face masks will be inadequate in the near future, what remedy will the Government adopt to protect health care workers?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, the HA has experienced no particular difficulty in procuring protective gears that comply with the standards recommended for different levels of risks. However, some health care workers may become rather worried, for example, health care workers in general wards only have to wear surgical masks but some of them want to wear N95 face masks. In addition, the ways that masks should be used also vary. N95 masks can be re-used, rather than to be disposed of after being used only once. However, sometimes some health care workers discard the masks after using them only once. If the masks are used in this way, the supply of N95 masks will be inadequate. If the standard protective gears are used in compliance with the standard risk assessment, the supply should be adequate and there will be no shortage of N95 masks.

As to the reason for the inadequate supply of small-sized N95 masks, this is because the faces of Chinese are smaller and often small-sized face masks have to be used and medium-sized or large-sized ones are not that suitable. As Mr Kenneth TING has said, using a mask of an inappropriate size will not provide a tight seal and hence cannot provide adequate protection to health care workers. If the size of a mask is not suitable, one may as well not wear it.

In addition, Madam President, I wish to highlight one point concerning the measures on infection prevention. Protective gears are certainly important, but there are also many other factors leading to SARS infection. Initially, a lot of health care workers were infected. Apart from having to do with the protective gears, often that was also related to a heavy workload. In addition, sometimes a patient does not have any fever when admitted, so health care workers are not aware that the patient has been infected by SARS and they become aware of this only when the coronavirus causing SARS is spreading in the ward. Moreover, we have made a lot of efforts in respect of the hospital environment, since we understand that apart from protective gears, the spread of the virus is also related to the hospital environment. We have also trained health care workers on how to protect themselves. All the factors I have mentioned above will lead to the infection of health care workers. Therefore, the HA has reviewed the cases involving the infection of health care workers to see how similar incidents can be prevented. It is by doing so that health care workers can be protected.

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, Ms Emily LAU's main question raises the issue of the quality of medical equipment. As a matter of fact, many health care workers have made calls to radio programmes to discuss how the quality of medical equipment can be ensured and suggested that more tests be conducted as well as proposing test standards and guarantees. Since health care workers have been calling for the HA to conduct tests on medical equipment, may I know why the HA does not do so? Or has the HA carried out the tests but the information has not been provided to health care workers afterwards to let them know that all the equipment is up to standard?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I have mentioned in part (b) of the main reply that all protective gears supplied to the HA are subject to random sample checks to ensure compliance with order specifications and that their quality is excellent, so

the HA has been doing something. I believe often the problem has to do with communication. The HA is aware that there are a lot of problems in communication among its staff, therefore, two measures have been implemented. Firstly, as I have mentioned, the communication of the middle management with front-line staff and the HA Head Office will be enhanced; secondly, the HA has set up a 24-hour hotline to enable its staff members to lodge complaints to the HA directly and the Head Office will solve the problems. I believe these measures will be effective, since after setting up the hotline, employees have been calling to express their concerns and the Head Office has made extra efforts to understand the problems faced by front-line staff in order to address their concerns.

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung, has your supplementary question not been answered?

MR LEUNG YIU-CHUNG (in Cantonese): *No, Madam President. My supplementary question has to do with quality assurance, not simply about communication problems. The front-line staff want to have more proofs because they have asked why tests on compliance with international standards have not been conducted. If such tests have indeed been conducted, why is it that no explanation has been made to the staff and no proof has been provided? In fact, confidence is what counts most. As staff members have been complaining, why does the HA not conduct this kind of tests?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, please allow me to elaborate on what Mr LEUNG actually wants to know. Generally speaking, we will specify in an order what international standards the goods have to comply with. Usually we will specify the requirements on the quality of goods according to international standards, for example, the standards that face masks have to comply with. After ascertaining this, we know that by following these standards, health care workers will be protected. As far as I know, it should be the case that all protective gears comply with recognized international standards. We will specify in an order that the goods have to attain such standards and the suppliers will provide the kind of protective gear to us accordingly. We will conduct regular random sample checks afterwards to see if the quality of goods meets our requirements.

If Mr LEUNG could point out any special circumstances in which this has not been done, we will gladly follow up to see if there is anything that we can do better.

PRESIDENT (in Cantonese): The Council has spent more than 21 minutes on this question. Now the last supplementary question.

DR LO WING-LOK (in Cantonese): *Madam President, I am grateful to the Secretary for having frankly admitted in part (b) of the main reply that the supply of small-sized N95 face masks is very stretched, since even up to now, the HA is still evading this issue and has never given any direct reply. As a matter of fact, it is very important that the size of a face mask is appropriate. My supplementary question is, apart from looking for small-sized face masks, will the HA conduct tests for each of its staff members who have to wear face masks to see if a mask fits the user's face and provides a tight seal?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, as Dr LO has said, it is important that the sizes of the face masks worn by staff members are appropriate, for otherwise there is not much point in wearing a face mask. I believe apart from supplying face masks, it is also very important to provide training. We cannot just provide face masks to staff members without telling them how to handle their face masks. I believe the HA has given instructions to its front-line staff. However, I can follow this up with the HA to ensure that staff members know how to use the masks and that they should know the masks are right for their faces before using them.

DR LO WING-LOK (in Cantonese): *Madam President, my supplementary is on whether the HA will conduct tests for each of its staff members to see if a mask fits the user's face and provides a tight seal, that kind of test is known as a fit test in English.*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I believe it is a must to conduct a fit test. As regards how this should be implemented, I have to discuss further with the HA about how to ensure that at the hospital level, the face masks are appropriate for staff members.

PRESIDENT (in Cantonese): Oral question time ends here.

WRITTEN ANSWERS TO QUESTIONS

Planning Work for Projects on Cultural, Recreational and Sports Facilities

7. **MR TAM YIU-CHUNG** (in Chinese): *Madam President, with regard to expediting the planning work for projects on cultural, recreational and sports facilities, will the Government inform this Council:*

- (a) *whether it will expedite the planning work for the Project on Local Open Space (LOS) Areas 25, 25A, 25B, Tin Shui Wai, with a view to upgrading it to Category A of the Public Work Programme at an earlier date; if so, of the details; if not, the reasons for that;*
- (b) *of the measures to expedite the overall planning work for projects on cultural, recreational and sports facilities?*

SECRETARY FOR HOME AFFAIRS (in Chinese): Madam President, my replies to the Honourable Member's questions are as follows:

- (a) In April 2002, the Leisure and Cultural Services Department (LCSD) submitted to the Yuen Long District Council a five-year Accelerated Programme which planned to implement six projects in Yuen Long District for the provision of new facilities to the residents. Two of the projects, namely LOS in Area 15, Tin Shui Wai and LOS in Ping Shan, have already commenced construction in December 2002 and February 2003 respectively. The LCSD is also actively planning the proposed project of Indoor Recreation Centre in Area 17, Tin Shui Wai.

However, owing to the budgetary constraints, the LCSD, after making plan for the above major projects, has to review the priority, mode of delivery and implementation schedule of the remaining projects in consideration of the Government's long term financial capability. Apart from taking into full account the views of the DCs, the LCSD has also made reference to the following criteria and purposes during the review process:

- (i) To relieve the serious shortage of such facilities in new towns such as Tung Chung and Tseung Kwan O which have seen significant population growth in recent years;
- (ii) To ensure a fair and even distribution of these facilities throughout the territory;
- (iii) To increase the provision of facilities which are in heavy demand, such as indoor heated swimming pools and soccer pitches;
- (iv) To commence projects which are at an advanced planning stage where tendering or detailed design is already in progress; and
- (v) To ensure the LCSD has the financial capability to operate the facilities in the long term.

After reviewing all the projects, the LCSD has obtained provision in 2003-04 to implement 26 priority projects. Among them, four projects are in Yuen Long District, including the three major projects mentioned in the above and a new project of converting the secondary pool of Yuen Long Swimming Pool into an indoor heated pool.

Since the proposed project of LOS in Areas 25, 25A and 25B, Tin Shui Wai fails to meet the above criteria and purposes for the time being and the project of LOS in Area 15 in the vicinity has already commenced in December 2002, the project of LOS in Areas 25, 25A and 25B cannot be implemented as priority project and will not commence in mid-2003 as scheduled. However, the Government manages to use its limited resources to convert Areas 25 and 25B into temporary sitting-out areas, providing residents in good time with more sitting-out facilities. These sitting areas have been opened for public use.

- (b) To allow residents to enjoy more recreational and sports facilities in good time, the LCSD will, when financial condition permits, consider providing more recreational and sports facilities in Yuen

Long District through minor works project. These projects include District Square in Areas 33A and 29, Tin Shui Wai, temporary soccer pitch in Area 107, Tin Shui Wai, Hung Shui Kiu town square, basketball courts in Tung Tau Industrial Area Playground and Lo Uk Tsuen sitting-out area.

The Home Affairs Bureau, together with the LCSD, is also considering involving private sector to carry out the development and management of some of the projects. We hope that through private sector involvement, the implementation of projects involving recreational, sports and cultural facilities can be speeded up in a cost-effective manner. It is expected that involvement of private sector in project development can lower the cost of construction, future management and maintenance.

Installation of Multi-purpose Posts

8. **MISS CHOY SO-YUK** (in Chinese): *Madam President, it has been reported that the Government is examining the use of multi-purpose posts which incorporate the current features of traffic lights, street illumination and traffic signs, and is considering specifying building numbers on street name-plates to facilitate the public and tourists in locating their destinations. In this connection, will the Government inform this Council:*

- (a) *of the anticipated earliest possible time when the multi-purpose posts can be installed and whether they will first be installed in certain districts on a trial basis; and*
- (b) *of the estimated costs of installing the multi-purpose posts throughout the territory?*

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

- (a) The Highways Department is examining the possibility of using multi-purpose street poles incorporating current features such as traffic lights, street illumination and traffic signs. However, such

a proposal has road safety, legal, engineering and maintenance implications which are being considered carefully. Therefore, we do not have any definite plan for introducing multi-purpose posts at this stage.

As regards street name plates inscribed with building numbers, the Highways Department will introduce this on a trial basis in the context of a district revitalization scheme in Sheung Wan near the Western Market area. Work is scheduled to commence in mid-2003.

- (b) As the possibility of introducing multi-purpose posts is still being looked at, we do not have any cost estimates at this stage. As regards street name plates inscribed with building numbers described above, the cost estimate ranges from \$900 to \$1,850 per set of plates at one location, depending on the exact design to be adopted.

Anti-dumping Practices in Telecommunications Industry

9. **MR SIN CHUNG-KAI** (in Chinese): *Madam President, since the upward adjustment of the termination rate of Hong Kong - Philippines long distance calls on 1 February 2003, some external telecommunications services (ETS) operators have complained against an ETS operator for dumping its pre-paid stored value phonecard service for Hong Kong - Philippines long distance calls to customers at a price below the normal service costs which include termination rate, local access fees and universal service contribution fees. This practice has seriously affected competition in the Hong Kong - Philippines ETS market. Moreover, the affiliates of some ETS operators are fixed telecommunications network services (FTNS) operators which can lower their operating costs by off-setting the termination rate with telecommunications services operators in other territories. These ETS operators can thus enjoy a lower cost because they do not have to pay the termination rate, and the competition in the ETS market as a whole is affected. In this connection, will the Government inform this Council:*

- (a) *whether it has assessed if the dumping practice of providing customers with telecommunications services at a price lower than the normal service costs is an "anti-competitive practice" under*

section 7K of the Telecommunications Ordinance (Cap. 106); if it has, of the assessment results;

- (b) whether it plans to review and revise the existing policies on pro-competitive practices, such as adding provisions on "anti-dumping practices" in the legislation concerned; and*
- (c) of the policies or measures currently in place to regulate FTNS operators' disposal of the savings on operating costs generated from the off-setting of the termination rate with telecommunications services operators in other territories?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Chinese): Madam President:

- (a) Section 7K of the Telecommunications Ordinance prohibits licensees from engaging in conduct which, in the opinion of the Telecommunications Authority, has the purpose or effect of preventing or substantially restricting competition in a telecommunications market. Offering telecommunications services to customers at prices which are below cost can constitute anti-competitive behaviour, particularly when the operator concerned holds a dominant position in the relevant market. However, in a competitive market, it is not uncommon for market players to price below cost for a short period of time. Such a marketing strategy can be used to acquire market share, establish a brand or increase customer awareness of new products, and so on, and is not necessarily anti-competitive. It is necessary to analyse the circumstances of each individual case before deciding whether pricing below cost in the particular case is anti-competitive.

As regards the case mentioned in the question, the Office of the Telecommunications Authority is conducting investigation. It will publish the result of investigation in its website.

- (b) The existing section 7K of the Telecommunications Ordinance provides sufficient safeguards against anti-competitive practices.

As mentioned in (a), offering telecommunication services at below cost prices may constitute an anti-competitive practice covered under this section. There is therefore no need to add a specific reference to "anti-dumping practices" in the Ordinance.

- (c) FTNS operators are subject to regulation under the competition safeguards in the Telecommunications Ordinance. For example, section 7K of the Telecommunications Ordinance prohibits a licensee from giving undue preference to an associated person which would prevent or substantially restrict competition. Hence, if an FTNS operator offers more favourable prices and terms to its associated company because of the savings on operating costs generated from the off-setting of the termination rate with telecommunications operators in other territories, it must also offer them to non-associated ETS providers on a non-discriminatory basis to ensure fair competition in the market.

Utilization of Hong Kong Stadium

10. **DR RAYMOND HO** (in Chinese): *Madam President, it has been reported that the Government has rejected applications for hiring the Hong Kong Stadium for staging performances for fear that the emission of excessive noises would affect the residential neighbourhood; this is one of the reasons for the under-utilization of the Stadium. In this connection, will the Government inform this Council:*

- (a) *of the details of large-scale activities, other than ball games, staged at the Stadium in the past three years;*
- (b) *of the number of applications received in the past three years for holding concerts at the Stadium, the number of such applications rejected because of noise problem and the amount of hire charges foregone as a result; and*
- (c) *whether it has explored measures to reduce the noise emission level of activities staged at the Stadium; if so, of the results of the study?*

SECRETARY FOR HOME AFFAIRS (in Chinese): Madam President, my reply to the Honourable Member's question is as follows:

- (a) Apart from the ball games, other events held at the Hong Kong Stadium in the past three years were religious gatherings, charity walks, Scout drill, National Day Celebration Show and Sports Extravaganza of China Gold Medallists. The number of days for holding events other than ball games is as follow:

<i>Year</i>	<i>Number of days</i>
2000-01	7
2001-02	4
2002-03	10

- (b) Over the past three years, the Leisure and Cultural Services Department (LCSD) has not received any application for hiring the Stadium for holding concerts.
- (c) Having regard to the content of the programme, the LCSD will make noise mitigation proposals to the hirer including the orientation of the stage, the date and time of the event as well as the distribution of the loudspeakers so as to reduce the noise level. At present, if the Stadium is hired out for the holding of musical concerts or variety shows with musical performances, the LCSD will enter an agreement with the hirer, requiring that the hirer should employ professional noise monitoring personnel to set up three receiving points in the nearby residential area for monitoring the noise level. The hirers are also required to present reports after the events to ensure that the noise levels do not exceed the statutory limit. In the past three years, no event held at the Stadium has violated the law.

Loss-making Bus Routes Served by Green Minibuses

11. **MR LAU KONG-WAH** (in Chinese): *Madam President, the Administration indicated in October last year that it was studying with a franchised bus company whether some loss-making bus routes could be served by*

green minibuses (GMBs). In this connection, will the Government inform this Council:

- (a) of the progress of the study, including the routes being considered;*
- (b) whether the study covers a study on the effects on road usage, fares and passenger waiting time if the relevant routes are operated by GMBs; and*
- (c) whether the authorities will consult the residents of the affected districts before making a decision in this regard; if it will, how the consultation will be conducted?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): Madam President, in the context of the annual exercise to scrutinize the bus route development programmes of individual franchised bus operators, the Transport Department (TD) has studied in conjunction with the Kowloon Motor Bus Company (1933) Limited the feasibility and desirability of replacing a number of low demand and loss-making bus routes by GMB services. In carrying out the assessments, the TD has taken into account the following factors:

- (i) whether the routes are operationally suitable and financially viable for GMB operation, taking into account passenger demand, the carrying capacity of and the number of vehicles required for the replacement GMB routes;
- (ii) public acceptability of the service features of the proposed replacement GMB routes including frequency of services, journey time and fare level, and so on;
- (iii) impact on road traffic;
- (iv) availability of and the impact on the other existing public transport services; and
- (v) local views on the proposed replacement.

Based on the above considerations, the TD has put forward proposals for replacement of seven bus routes by GMB services for consultation with the relevant District Councils (DCs) in early 2003. Details of these seven bus routes are given in the Annex.

The relevant DCs objected to all the proposed changes. They expressed concerns about the ability of the proposed GMB services to meet passenger demand in particular during the peak periods, reliability of the services and possible fare implications. The TD is considering comments raised by the DCs and will work with the bus company and the relevant DCs on appropriate arrangements with a view to providing suitable and cost-efficient services to cater for passenger demand.

Annex

Bus routes proposed to be replaced by GMB routes

<i>Item</i>	<i>Route No.</i>	<i>Destinations</i>
1	34	Kwai Shing (Central) - Bayview Garden (Tsuen Wan)
2	73	Choi Yuen - Tai Po Industrial Estate
3	73K	Sheung Shui - Man Kam To (San Uk Leng)
4	78K	Sha Tau Kok - Sheung Shui
5	74K	Sam Mun Tsai - Tai Po KCR Station
6	79K	Sheung Shui - Ta Kwu Ling
7	278K	Luen Wo Hui - Fan Ling KCR Station (Circular)

Process Review Panel set up to Review Internal Operations of SFC

12. **MR HENRY WU** (in Chinese): *Madam President, in November 2000, the Government established a Process Review Panel (PRP) to review the Securities and Futures Commission's (SFC) internal operations, including its procedures for conducting investigations and disciplinary actions against intermediaries, with the objects of ensuring that the SFC acts fairly and consistently in all cases and enhancing the accountability and transparency of the SFC's work. In this connection, will the Government inform this Council of the work carried out and the number of meetings conducted by the PRP since its establishment, together with a table listing the details and results of the issues it has handled?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): Madam President, the PRP is an independent, non-statutory panel established by the Chief Executive in November 2000 to review the internal operational procedures of the SFC and to determine whether the SFC has followed its internal procedures.

Two working groups have been set up under the PRP. The Working Group on Licensing, Intermediaries Supervision and Investment Products focuses on cases involving application for registration, approval of investment products and inspection of intermediaries. The Working Group on Corporate Finance and Enforcement focuses on cases concerning investigation and disciplinary actions, takeovers and mergers transactions and prospectus-related matters.

The PRP is required to submit its reports to the Financial Secretary annually or otherwise on a need basis. The reports should be published subject to applicable statutory secrecy provisions and other confidentiality requirements. It published on 13 May 2002 its first Annual Report covering the period from 1 November 2000 to end 2001. The report covering the year of 2002 was published on 13 May 2003.

Between November 2000 and the end of 2002, the PRP had met on 11 occasions. The two working groups of the PRP had met on 16 occasions. It has reviewed a total of 91 completed cases on the work of the SFC, as well as the internal procedures of the SFC on handling of complaints from the public, public consultations and appointment of auditors under section 160 of the Securities and Futures Ordinance.

From the reviews conducted over the past two years, the PRP identified certain areas where the SFC had room for improvement. The SFC has been positive in adopting suggestions from the PRP and where the SFC could not adopt a recommendation, detailed explanations were given to the satisfaction of the PRP. The details and results of the issues the PRP has handled are set out comprehensively in the reports published by the PRP. The reports were forwarded to Members for reference. Members are invited to refer to these reports for details.

Focus Study on Aberdeen Harbour

13. **MISS CHOY SO-YUK** (in Chinese): *Madam President, the Planning Department (PD) commissioned consultants in 2001 to carry out the Focus Study on Aberdeen Harbour, with a view to establishing a coherent and robust planning framework for optimizing development potentials within the Aberdeen Harbour area. During the study period, the consultants had consulted various organizations and individuals, including the District Council(s) concerned. In this connection, will the Government inform this Council whether:*

- (a) it will expeditiously brief the relevant District Council(s) on the proposed planning framework formulated on the basis of the study results; and*
- (b) it has any plan to implement the proposed planning framework; if so, of the implementation timetable; if not, the reasons for that?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Chinese): Madam President, the consultant has completed the first stage of the Study and proposed a development framework and conceptual development option for the Aberdeen Harbour. The PD carried out a public consultation exercise last year and has been working out a proposed planning framework.

Nevertheless, given that a study on the long-term development of the Ocean Park is being conducted by the Government and the Ocean Park Corporation, and that the developments of Aberdeen Harbour and the Ocean Park are inseparably linked, the Government plans to help the Ocean Park to formulate a long-term development strategy before implementing the planning framework of Aberdeen Harbour. Once the study is finished, the Government would brief the Southern District Council on the proposal. A timetable would also be drawn up for its implementation.

In a briefing for the Southern District Council on the latest progress of the Focus Study on Aberdeen Harbour on 9 January 2003, the PD outlined the projects proposed by the Study and unaffected by the future development of the Ocean Park, which were supported by the District Council members. These projects include local improvement and landscaping works, some of which are under detailed design and are expected to commence in the short to medium term.

Introducing Straight-through Processing of Securities Transactions and Scriptless Securities Market

14. **MR HENRY WU** (in Chinese): *Madam President, in October 2000, the then Secretary for Financial Services advised the Panel on Financial Affairs of this Council that the Steering Committee on the Enhancement of Financial Infrastructure (SCEFI) would be convened with a view to implementing straight-through processing (STP) of securities transactions whereby investors can place and match orders directly, and introducing a scriptless securities market as soon as possible. He expected to implement these initiatives in three years. In this connection, will the Government inform this Council of the progress in implementing such initiatives and whether it has assessed if it is feasible to implement them in Hong Kong; if the assessment result is in the affirmative, of the details of the assessment and the timetable for implementation; if not, the reasons for that?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): Madam President, the Securities and Futures Commission (SFC) published in December 2002 a report setting out the strategy for implementing the various initiatives of the SCEFI in Hong Kong, including STP of securities transactions and scriptless securities market.

In relation to introducing a scriptless securities market, the SFC conducted a market-wide consultation on the proposed model in February 2002. Views were collected from various focus groups of listed companies, legal and regulatory profession and market participants. We are now drafting the enabling legislation to allow for scriptless trading. The draft legislation is targeted for public consultation in the third quarter of 2003 and introduction to the Legislative Council in the next Legislative Session. In parallel, the SFC is drawing up operational details of the scriptless model for public consultation.

With regard to the implementation of STP for securities transactions, STP for trading at the retail level has been made available since the Hong Kong Exchanges and Clearing Limited (HKEx) launched the Automatic Order Matching and Execution System/Third Generation (AMS/3) by phases from October 2000 to February 2001. The AMS/3 is equipped with new peripheral systems, including Multi-workstation System¹ (MWS), Broker Supplied System² (BSS) and Order Routing System³ (ORS). Investors can now enter orders

directly into their brokers' MWS or BSS through various electronic means (the Internet, mobile phones or Personal Digital Assistants (PDAs)) for execution on the AMS/3.

To enhance investor protection and settlement efficiency at the retail level of STP, the SFC has established a Task Force on Investor Participant (IP) Account Enhancement (the Task Force), with participation of the HKEx and the stockbroking industry. The objective of the Task Force is to look into ways to enhance the current IP Account structure to provide for full STP for retail investors (that is, enabling trading, securities and money settlement to be conducted by a single instruction). In this regard, we have asked the SFC and the HKEx to accord priority to the development of a user-friendly and cost-effective IP Account model. We note that this will help enhance the competitiveness of the small and medium-sized brokers. We have also encouraged the stockbroking industry to participate actively in the design and set up of the IP Account by offering their views to the Task Force. The HKEx plans to release the proposed detailed operational model for market consultation once it is finalized. The target implementation date is in the first half of 2004.

As for STP for clearing and settlement, both the SFC and the HKEx are making progress in eliminating paper/manual processing that will tie in with scriptless trading, further integrating the securities settlement and money payment systems, and adopting internationally acceptable communication standards.

- ¹ MWS is a network system provided by the HKEx for installation at Stock Exchange participants' office, which allows at most eight workstations per trading right to enter orders simultaneously into the AMS/3 for execution.
- ² BSS is a network system developed by brokers (or their software vendors) for order entry and risk management functions.
- ³ ORS is an Internet-based front-end order entry system developed and provided by the HKEx as an option for subscription by Stock Exchange participants to allow their clients to enter orders directly through the Internet, mobile phones or PDAs.

Inviting Overseas Medical Experts to Assist in Combating SARS

15. **MS EMILY LAU** (in Chinese): *Madam President, on the 10th of last month, the Chief Executive indicated that he was prepared to invite overseas medical experts to come to Hong Kong to assist in combating the disease of Severe Acute Respiratory Syndrome (SARS). In this connection, will the executive authorities inform this Council of:*

- (a) *the respective names and qualifications of the overseas experts, apart from those from the World Health Organization (WHO), who have been invited to visit Hong Kong, the countries they come from and the organizations they belong to, as well as the dates on which such invitations were issued;*
- (b) *the assistance and advice provided to the authorities by these experts; and*
- (c) *a breakdown of the expenditure involved?*

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

(a), (b) and (c)

On 26 April 2003, the Hospital Authority (HA) extended an invitation to two Chinese medicine experts, Prof LIN Lin and Prof YANG Zhi-min from the Guangdong Provincial Hospital of Chinese Medicine, to visit Hong Kong to exchange views with local clinicians on the management of SARS. The two experts have significant experience and expertise in treating SARS patients using an integrated Chinese and Western medicine approach. They arrived Hong Kong on 3 May. The total expenditure over three months is estimated to be within \$500,000, comprising consultancy fees, drug costs and miscellaneous expenses related to research and clinical activities.

Apart from the two Chinese medicine experts, we have also invited Dr Meirion EVANS of Department of Epidemiology, Statistics and Public Health of University of Wales College of Medicine, United Kingdom, who is also the Honorary Regional Epidemiologist of Public Health Laboratory Service Communicable Disease Surveillance Centre (Wales) to advise on the current control measures. He was also a member of the WHO Expert Team which performed an assessment of the SARS situation in the Guangdong Province in April. We have provided him with accommodation and transportation during his stay in Hong Kong on 1 to 4 May 2003 and the total expenses, including honorarium, amounted to \$42,000.

Moreover, world-class medical experts invited by the University of Hong Kong also provided advice on the research and public health front. These experts, all from the United States, include Dr David HO, Prof and Director of Aaron Diamond AIDS Research Center; Dr Jeffrey P. KOPLAN, Vice President for Academic Health Affairs of Emory University, and formerly Director of the Centres of Disease Control and Prevention of the United States; and Dr Robert G. WEBSTER of Department of Infectious Diseases of St. Jude Children's Research Hospital. Apart from advising the University on medical issues, they were invited to briefing sessions organized by the Health, Welfare and Food Bureau and the Department of Health, where they had given their expert advice on treatment of disease and infection control measures. No additional expenditure was incurred by the Government in relation to these activities.

Purchase of Electricity by MTRCL

16. **MR FRED LI** (in Chinese): *Madam President, according to the Operating Agreement signed between the Government and the MTR Corporation Limited (MTRCL), the latter "shall maintain more than one source of electric supply to all parts of the railway". In this connection, will the Government inform this Council whether it knows:*

- (a) *the ratio of electricity purchased from the two power companies;*
- (b) *the monthly average electricity tariff paid by the MTRCL; and*
- (c) *if the MTRCL has adopted measures to reduce electricity consumption so as to achieve savings?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): Madam President, in accordance with the Operating Agreement between the Government and the MTRCL, the Corporation shall make provision for and, as far as reasonably practicable, maintain more than one source of electric power supply to all parts of the railway so as to ensure the security of electric supplies for safe railway operations.

The MTRCL's electricity charges are based on published tariffs of the two power companies of Hong Kong. The Corporation has advised us that it would not be able to provide information on the ratio of electricity purchased from the two power companies and the monthly average electricity tariff paid since the detailed arrangements between it and the power companies are commercially sensitive.

The MTRCL continually explores measures to reduce energy consumption without reducing the level of security of power supply. Examples of energy-saving initiatives adopted by the Corporation include regulating the number of escalators operating in non-peak hours and installing platform screen doors to keep cool air in station platforms and concourses.

Government Purchase and Use of Locally Manufactured Products

17. **DR LUI MING-WAH** (in Chinese): *Madam President, regarding its purchase and use of locally manufactured products, will the Government inform this Council:*

- (a) *given its large fleet of approximately 7 000 vehicles which are managed and used by various government departments at present, whether the authorities have purchased and used the locally designed and manufactured global positioning systems in the management of the Government's fleet of vehicles; if so, of the effectiveness of these products; if not, the reasons for that; and*
- (b) *whether it will purchase and use more locally manufactured products with a view to supporting the local manufacturing industry and promoting the development of the local economy?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): Madam President, the reply to the question is as follows:

- (a) The Government Land Transport Agency (GLTA) has been closely monitoring the development of global positioning systems. It has also been in contact with manufacturers and suppliers to keep

abreast of the latest designs and functions of these products. At present, the functions of global positioning systems are confined primarily to tracking of vehicles, showing their locations, travelling routes and journey times. They do not provide data and information on the purpose of journeys and capacity utilization of the vehicles, which could help enhance the management of vehicle fleets and maximize the utilization of vehicles. In the light of this and after considering resource availability and overall cost-effectiveness, the GLTA has not procured global positioning systems for managing the government fleet. It will nevertheless continue to monitor developments and, when appropriate, consider introducing such systems for use.

- (b) The Government's procurement objective is to secure the best value for money through open and fair competition. All domestic and foreign products which meet the Government's requirements are afforded equal opportunities in the bidding process.

BILLS

First Reading of Bill

PRESIDENT (in Cantonese): Bill: First Reading.

BROADCASTING (AMENDMENT) BILL 2003

CLERK (in Cantonese): Broadcasting (Amendment) Bill 2003.

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 Bill

PRESIDENT (in Cantonese): Bill: Second Reading.

BROADCASTING (AMENDMENT) BILL 2003**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY:**

Madam President, I move the Second Reading of the Broadcasting (Amendment) Bill 2003.

The purpose of the Bill is to amend the Broadcasting Ordinance (Cap. 562) to tighten the control of unauthorized reception of licensed television programme services in Hong Kong.

At present, it is an offence under the law to import, export, manufacture, sell or let for hire unauthorized decoders in the course of trade or business. Offenders will be subject to a fine of \$1 million and to imprisonment for five years upon conviction on indictment. "Unauthorized decoder" means a decoder by means of which encrypted television programmes provided under a licence can be viewed in decoded form without payment of a subscription where a subscription is required to be paid.

We propose that the possession or use of unauthorized decoders for commercial purposes (for example, for the public display of the television programmes received without payment of a subscription in pubs) should be subject to a fine of \$1 million and to imprisonment for five years upon conviction on indictment. This provides for the same criminal liability against the manufacture, trading and supply of unauthorized decoders in the course of trade or business. In our view, this will be adequate for achieving a deterrent effect.

On the other hand, the civil remedy provided by the Bill will enable a licensee who sustains loss or damage from the use of unauthorized decoders by a domestic or a commercial user to bring an action for damages, an injunction or other appropriate remedy, order or relief against the user.

Pirated viewing of subscription television is improper. In reviewing certain provisions of the Copyright Ordinance in late 2001, the Government consulted the public on the proposals in the Bill. Public opinions were divided on whether criminal sanction should be imposed on the use of unauthorized decoders by domestic viewers. Regarding the conduct of the use of unauthorized decoders for commercial purposes, the majority of respondents supported that both criminal sanction and civil remedy should be introduced.

After taking into account the outcome of the public consultation in 2001, the adverse impact of pirated viewing on the pay television industry, the effectiveness of digitization as a means to contain the problem, the practical enforcement difficulties and privacy issues, we do not propose to impose criminal liability on domestic viewers. We consider it more appropriate to adopt a cautious approach to introduce civil remedy as the first step in controlling unauthorized reception by domestic viewers.

At the same time, we will closely monitor the effect of digitization on the prevention of pirated viewing. We will not rule out the option of imposing criminal liability on domestic viewers if pirated domestic viewing is still rampant after the completion of digitization.

We believe that the progressive approach of our proposal will be more acceptable to the community.

Madam President, I commend the Bill to Honourable Members. Thank you.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Broadcasting (Amendment) Bill 2003 be read the Second time.

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

Resumption of Second Reading Debate on Bill

PRESIDENT (in Cantonese): We will now resume the Second Reading debate on the Land (Miscellaneous Provisions) (Amendment) Bill 2002.

LAND (MISCELLANEOUS PROVISIONS) (AMENDMENT) BILL 2002

Resumption of debate on Second Reading which was moved on 24 April 2002

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

MR LAU PING-CHEUNG (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on the Lands (Miscellaneous Provisions) (Amendment) Bill 2002 (the Bills Committee), I now brief the Council on the main deliberations of the Bills Committee.

The main purpose of the Lands (Miscellaneous Provisions) (Amendment) Bill 2002 (the Bill) is to amend the Lands (Miscellaneous Provisions) Ordinance (Cap. 28) to improve the regulation of excavation in unleased land. In the course of its scrutiny, the Bills Committee notes that utility undertakers and the construction industry object strongly to the proposed charging and penalty system for street excavation works. Apart from the financial burden imposed on them, they consider that the charging and penalty system will also create unnecessary disputes and administrative work, and hence cost and time, to both Government and utility undertakers, which may eventually be borne by the public. The deputations also think that the Government should consider other means or measures such as one-stop shop excavation permit (EP) application, better road infrastructure design and planning, the development of common utility trench and the provision of an incentive scheme to encourage early completion of excavation works.

The Administration said that the proposed charging scheme would recover the full administrative costs incurred by government departments in processing and monitoring EPs based on the "user pays" principle. This arrangement would also provide incentive for utility undertakers and contractors to complete their excavation works without delay and reduce the number of street excavations. To provide further incentive, a charge based on the economic cost of traffic delay would be levied for excavation works if EP holders failed to complete the excavation works within the period of time specified in the EPs (initial permit period).

The Bills Committee has examined in detail the cost calculation basis for various proposed fees. The Bills Committee has also looked into how an EP (initial permit period) mechanism could be set up and put forward a number of proposals to improve the EP application procedure for excavation permits. The Administration accepted the views of the Bills Committee and would move a Committee stage amendment to further improve the mechanism designed under section 10L of the Bill so as to review certain decisions made by the Administration, to safeguard the rights and interests of EP holders.

The Bills Committee agrees with the views of members of the industry that government departments like their counterparts in the private sector should be subject to the same degree of control in carrying out excavations. If government departments have committed any criminal act or serious offence, they should be prosecuted. As utility undertakers and other road works promoters will be prosecuted for breach of EP conditions, it is not fair if government departments are exempted from prosecution.

As such, the Administration is of the opinion that under the current proposal, the same provisions should be applied to government departments carrying out excavation works and other private utility undertakers and road works promoters in respect of the issuance of EPs and charges. The only difference lies in the treatment in case of contraventions.

The Administration is of the view that the imposition of criminal liability on the Government or government departments would raise complex questions of procedure and efficacy. There is also no precedents in the Laws of Hong Kong which clearly and unequivocally renders Government or government departments liable to criminal prosecution. To enforce statutory requirements through the machinery of prosecution in courts would therefore be a departure from the usual practice. With the implementation of the proposed reporting mechanism under new section 2A, the Administration believed that there are effective means such as accountability to the Legislative Council, and monitoring of the alleged maladministration by The Ombudsman, the media and non-government organizations to ensure the Government's compliance with applicable statutory requirements.

The Bills Committee feels that, since in the course of studying matters relating to the imposition of criminal liabilities on the Government, questions of wider policy concerns may be involved and such issues are related to the criminal justice system as a whole, it may be more appropriate for Members to follow up this issue at other forums. The Bills Committee submitted a report to the House Committee on 4 October 2002 to seek its advice on how to deal with this matter. The House Committee was then of the opinion that this matter should be referred to the Panel on Administration of Justice and Legal Services.

To ensure that excavation conducted by government departments will be subject to appropriate regulation, the Bills Committee studied the reporting mechanism and the relevant outline procedures as stated in new section 2A.

Having considered the views of the Bills Committee, the Administration agreed to move a Committee stage amendment to amend new section 2A to make every contravention by public officers reportable to the Secretary for the Environment, Transport and Works, instead of only those cases that are not stopped on intervention by the authorities.

Under new section 10Q of the Bill, a permittee and nominated permittee of an EP have the responsibility to provide safety precautions to adjacent structures. The Bill provides that any failure to comply with this safety requirement is an offence and shall be liable on conviction to a fine at level 5 and imprisonment for six months.

The Bills Committee has examined the defence provision as well as its scope of application. The Bills Committee has also considered whether it is necessary for the Administration to issue codes of practices and guidelines or introduce new administrative measures to facilitate the trades to comply with the safety precaution requirements. As regards the level of penalty, having heard the views of the deputations, the Administration proposed to replace the imprisonment penalty by raising the original fine, out of consideration that imprisonment is not effective against corporate permittees. The fine will be raised from \$50,000 to \$200,000 to maintain the necessary deterrent effect.

In the course of its deliberations, the Bills Committee has made various suggestions to improve the monitoring of street excavations. Members also urge the Administration to improve the situation of unattended work sites. Where possible, excavation sites should be reopened to traffic and pedestrians at the earliest opportunity.

The Administration accepted the Bills Committee's recommendation to move a number of Committee stage amendments to improve the text of the Bill and the operation of the control system.

Madam President, the Bills Committee supports the resumption of the Second Reading debate on the Bill.

Madam President, I would now like to voice my personal opinion. As a member and Chairman of the Bills Committee, I support the overall spirit of this Bill and I also support the "user pays" principle under which the administrative costs could be recovered. However, as most of the views, in particular those

expressed by the industry, consider the remuneration and benefits of government officials to be on the high side, they are also of the opinion that the proposed fee may also be on the high side.

Though the Government accepted most of the Bills Committee and the industry's views to remove the imprisonment penalty as originally proposed, the Bill still tends to focus on penalties rather than providing incentives. This is indeed an imperfection.

Another point is that, the Government seeks to impose extra charges for site inspections and the majority of the industry members find this unreasonable because site inspections are actually the responsibility of the Government, thus no extra charges should be imposed. Though the Bill does not meet with the expectations of all sectors, I think it can bring the rights and obligations of all applicants and permit holders on the same par. In the past, there were discrepancies in the requirements for government and private street excavation applicants and permit holders. While contractors were held responsible for the former, professionals, and that is, the so-called Authorized Persons, were sometimes held responsible for the latter, and that is, private works. Now, if the Bill is passed, all responsibilities will be shouldered by the works promoters.

Furthermore, a defence provision is also included in the Bill and a review mechanism has been set up so that the applicants could make defences and avenues will be made available for appeals or even reverting judgements. In my opinion, though this Bill may not be able to solve immediately all traffic problems caused by street excavations in Hong Kong, at least, it could provide a feasible option for the street excavation problem that has been troubling Hong Kong for 10-odd to 20 years. On the whole, the Bill could provide an incentive to shorten the duration of street excavation works and balance the interests of all parties for the greatest benefit of members of the Hong Kong community as a whole. Thank you, Madam President.

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

DR RAYMOND HO (in Cantonese): Madam President, in Hong Kong, various facilities are installed underneath our roads. Given the rapid development in the past, excavation works were carried out frequently, giving people an impression that excavation works never end.

There is no denying that excavation works are often included in different types of works aiming to improve the living conditions and daily life of the people of Hong Kong, or for the development of infrastructure, including the building of flats, laying of cables, gas pipes, water pipes, sewage pipes and optical fibre, and road repair. However, these excavation works do at the same time cause inconvenience to us. For example, during the course of work, there are noise pollution, blocking of roads and traffic congestions, and commercial activities are sometimes affected. Once a trench is made, rainfall may accumulate and may become the breeding ground for insects and mosquitoes.

Frankly speaking, the implementation of the charging system of the Excavation Permit (EP) will certainly facilitate the future development of Hong Kong. Apart from improving the living standard of the people, this can also facilitate the promotion of the tourist industry. However, we have to pay attention to the point that under the proposed system, the Highways Department (HyD) will assume more than one role at the same time. The HyD, as one of the departments responsible for public works, has to carry out road works, and is thus a permit holder. Nevertheless, as the EP system is within the purview of the HyD, the HyD is concurrently undertaking the monitoring, licensing and enforcing work under the system. Though the Administration had explained that the above duties would be undertaken by different officers in the Department, this multiplicity of roles played by the HyD will somehow gives people an impression of being self-contradictory. I therefore urge the authorities to pay more attention to this issue to prevent any criticism which may arise from various sectors of society after the enactment of the Bill in future.

According to the Bill, excavation works promoters from the private sector are liable to a fine in contravention of the terms of the permits and safety requirements. However, this is not applicable to the Government. This arrangement aims at avoiding the use of government funds and minimizing unnecessary administrative costs. In order to be fair to the private sector, the Bill proposes to implement a reporting mechanism to monitor government officers. I hope the Government can enforce the mechanism rigorously and set relevant guidelines to prevent any unfairness.

During the consultation and scrutiny stages of the Bill, the Government has insisted that responsible persons from the private sector be liable to the penalty of imprisonment if any terms of EPs have been violated during the

excavation works. However, this is not the case with government departments, which undertake half of the total number of excavation works each year. Even if such departments have violated the terms of EP in the course of excavations, the directors of the departments concerned will not be liable to similar criminal liability, but will only be subject to internal disciplinary action. This arrangement has aroused strong opposition from many in the trade and Honourable colleagues of this Council at that time. Fortunately, at a later stage of the deliberations, the Government being responsive to the views expressed, has agreed to cancel the arrangement.

Though excavations are annoying and disturbing, it is a sign of prosperity and can help create job opportunities. Moreover, once the works are complete, people may enjoy a more comfortable and more convenient life. I hope the present amendment to the Ordinance will bring a positive impact to Hong Kong.

Madam President, I so submit.

DR TANG SIU-TONG (in Cantonese): Madam President, our society has been plagued by constant excavations and re-excavations, obstructions caused by road works, unattended work sites, delays in completion date for works, and so on. The public, commercial tenants and drivers are all fed up with these. Problems resulted from excavations are costly to our society, no matter it is in terms of time or money, or in respect of the environment or townscape.

I understand that the Bill alone is not the solution to all the problems. However, I believe, with the passage of the Bill, the situation related to excavations can be improved. Promoters of excavation works will at least try to shorten the lead-time for excavations and have the works completed on schedule. If not, they will have to pay the cost. Since the Bill proposes to introduce a system levy based on economic cost, I am in support of the Bill.

Madam President, another objective of the Bill is to provide a legal basis for the authorities to levy fees on Excavation Permit (EP) and site inspection. I do not oppose to the charging of such services by the Government. However, I consider that the Government, by charging the trade the full cost, should ensure that value for money is provided to its clients and that it has done its job. The Government should issue permits within a reasonable time and assist the trade to

complete the works on schedule smoothly. The Government must also exercise good management on excavation work sites to minimize the adverse impact caused by excavation works on our society. The Government should:

- (a) fulfil the pledge it has made to the Bills Committee and the trade; conduct further rationalization on EP application procedure to achieve the objective of providing one-stop shop statutory services to the trade; speed up the progress of excavation works and avoid administrative delay;
- (b) lay common trenches in newly developed districts and other areas wherever feasible to reduce the number of excavation works in future;
- (c) strengthen its liaison with the trade, invest sufficient resources to minimize the probability of repetitive excavations and it should manage underground utilities properly; and
- (d) manage and monitor excavation works properly.

Madam President, among the four points listed above, the last one is the most important. According to my personal experience, views from the public, as well as the report of a site visit by the Bills Committee, some of the works occupying major streets or busy areas for a long period of time are in fact government works. However, the management of such work sites is far from satisfactory. Work sites are left unattended after the land is dug, but the reasons for no workers working at the site are not provided. Though notice boards have been set up at the site, the information provided is insufficient, even the telephone numbers for lodging complaints are not included. All these problems have nothing to do with legislation; it is a matter of compliance, enforcement and regulation.

It is really regrettable that as works promoters, the Water Supplies Department, the Drainage Services Department and the HyD disregard and tolerate those irregularities on the part of contractors. The HyD, being the regulatory body, fail to prevent promptly the occurrence of those problems and make immediate remedies, is in dereliction of its duties and it is disappointing. I hope with the passage of the Bill, and upon the recovery of the full costs for the

issuance of permits and inspections, the situation may be improved. I hope this will not be regarded as another excuse for the Government to impose charges to eliminate its fiscal deficit, for the effect of this will only be minimal. Madam President, I so submit.

MR FRED LI (in Cantonese): Madam President, on behalf of the Democratic Party, I speak to support the Land (Miscellaneous Provisions) (Amendment) Bill 2002.

The issue on the levy of Excavation Permit (EP) fees for delays in excavation works has been discussed since 1987 and it has now been 15 or 16 years since. The Government has now submitted the Bill to the Legislative Council to seek to recover the administrative costs related to the EP system, and to levy the costs on the permittee for delays in the completion date of excavations in the absence of any reasonable cause. The Democratic Party considers this as necessary, because the passage of the Bill will not only encourage permittees and their contractors to shorten the lead time of road works, but can also strengthen the authorities' regulation of the parties concerned.

I know very well that excavations are posing a serious impact on the daily life of the public, on traffic conditions and the surroundings. For instance, various excavation works carried out recently in the Tsim Sha Tsui have already deterred tourists from visiting there, and the turnover of commercial tenants has also dropped. The business of many shops of the district has been greatly hampered; some are even forced to close down.

Therefore, we urge the Government to face squarely the problems caused by excavation works. After the enactment of the Bill, the Government should not only regulate permittees and their contractors, but also regulate government departments responsible for excavation works. The Government should treat all parties equal in order to be fair.

Apart from this, the enactment of the Bill will have a deterrent effect. However, in the long run, the Government should review the conventional methods adopted in excavations. At present, excavations often involve road-opening works which cause noise pollution and inconvenience in various aspects, while the debris of the works often obstructs the pavement. Therefore, the

Government may explore the possibility of introducing new methods for underground works that may minimize the nuisances caused to residents, reduce the scope of excavation works and mitigate the noise level.

I so submit.

MS EMILY LAU (in Cantonese): Madam President, I speak in support of the resumption of the Second Reading of the Land (Miscellaneous Provisions) (Amendment) Bill 2002.

Madam President, since I joined the Legislative Council in 1991, I have always been a member of the Public Accounts Committee (PAC) and am now its most senior member. The PAC held three hearings respectively in 1992, 1995 and 2001 in relation to this matter. As an Honourable colleague said earlier, this issue actually does not date back to the 1990s but it is rather an issue of the 1970s. This has actually beset Hong Kong for several decades and I have told Mr LAU Ping-cheung, the Chairman of the Bills Committee that if he could straighten out this matter, he would have rendered us a great service indeed.

Madam President, after 14 meetings and a site inspection with Ms Miriam LAU on 22 February, the matter was finally brought back to this Chamber. I would certainly give it my full support. I also thank members of the industry who attended our meetings in the process. Of course, this is because they have conflicting interests, but even if they had attended the meetings because they were concerned about their own interests, I do not think it is a bad thing after all.

I have to commend the officials of the bureaux and the departments for they have held discussions with members of the industry. I hope the authorities concerned could also adopt similar measures in respect of other bills because the affected parties will always be concerned. Thus, if the relevant department or bureau could meet with them on a regular basis and keep the relevant Committee informed of their views, their work could certainly progress more rapidly. Of course, what I would like to mention in particular certainly includes the enactment of laws under Article 23 of the Basic Law. Madam President, it would be best if we could spend 20 years to deal with this matter, for we most certainly have the time and we also hope that those affected would be given

adequate time and opportunity to express their views on the expected impact. Therefore, I am very much in support of the Second Reading of the Bill.

Earlier on, Honourable Members have expressed a lot of opinions on this issue, of which I most agree with Dr TANG Siu-tong that things are most unsatisfactory at the moment and the pace of our economic growth may have slowed down due to the outbreak of SARS. In February, we expressed our wish to conduct a site inspection (as Ms Miriam LAU said, some people thought our site inspection would be futile if we made public the motive of our inspection, but even if it were futile, we still have to do it). The Government also told us the same thing, but we were not "race fixing" and that was definitely not a "fixed race". We took a walk from Central to Wan Chai, Causeway Bay, North Point and Quarry Bay and perhaps the Government did not expect that we would walk so far. Madam President, as we continued our journey, the farther we were away from Central, the laxer we found supervision on the work sites and we also saw a number of unattended sites. We were then told by government officials that the work sites were not unattended and the workers were only working underground. So, we went underground but the workers were not to be found. I believe members of the public are familiar with the sight of road surfaces being dug up and left unattended and they would feel very angry because those excavated work sites obstruct the passage of vehicles and pedestrians.

So at a certain stage, the Bills Committee even considered it necessary to look into the financial loss of shop operators but subsequently this could not be done. However, I hope the Secretary understands that the public is very angry and I have to stress that the road surface conditions do not only cause inconveniences to vehicles that drive pass the sites, but pedestrians who walk pass the area will also find it very annoying. In Hong Kong, pedestrians often feel that they do not have any rights and are only being treated like garbage. It seems that the most important thing is to properly repair the whole section of the road for use by vehicles. Very often, the pavements are very narrow and are dug up so badly that pedestrians have to walk onto the carriageway and run the risk of being knocked over by vehicles. Therefore, I earnestly hope that after the passage of the Bill, it must be enforced once the provisions come into effect. I believe this point is very important. Secretary Dr Sarah LIAO herself said earlier that it was very difficult to take enforcement actions against spitting. In this regard, I believe Secretary Michael SUEN will instruct his staff to step up enforcement actions and though it may cause a great sensation and some people

may even be arrested, the law still has to be enforced. However, some members of the industry told us that if enforcement actions are really taken, government officials should be arrested and why is that so? Madam President, this is because most of the projects are government projects.

When Ms Miriam LAU and I inspected the work sites on 22 February, we did see many such work sites, and we found work on the Water Supplies Department's work sites particularly slackened. Upon seeing the state of the sites, the government official had called the relevant persons to check out the situation. Therefore, I agree with Dr TANG Siu-tong that the poor state of our present affairs is mostly attributable to poor law enforcement. Of course, if the law is to be enforced, some people will not be happy and some people will be punished, but this can not be helped. People may become very frustrated after seeing certain things, for example, littering, but this may not be within Secretary Dr Sarah LIAO's jurisdiction but I still hope the law will be enforced.

I do agree with members of the industry that some issues would make them very worried. As regards the one-stop shop service mentioned earlier, I hope there can really be such services, for members of the industry are business people and they have to take care of many other matters. Therefore, they will find it very annoying if they have to submit separate applications to each department. I understand that the Bills Committee has now promised that a mechanism or arrangement similar to a one-stop shop service will be made available. I hope this can really be done to save applicants from going to different places. I also hope that this can be regarded as one of the measures for improving the business environment to let the business sector and utility undertakers know that the Government is trying to offer them as much convenience as possible.

Furthermore, I would like to mention that, and as some Honourable Members said earlier, members of the industry are most unhappy that they would be penalized while the same does not apply to government officials and they are not held criminally liable. As regards this issue, some Members said earlier that this is a complex issue and should be referred to another Committee for further discussions. Madam President, in fact, the Bills Committee did hold a meeting in this connection and is now awaiting a reply from the Government. A lot of complex issues are actually involved. I told members of the industry not to be too optimistic. They should not think this would be all right for eventually this might not be the case. However, if this is really impossible, we

may be facing a scenario in which members of the industry are subject to severe punishments while government officials may get away by submitting a report to the Secretary. I believe such a system is really not feasible. For things to be done smoothly, the public has to be convinced. So, even if government officials are eventually not held criminally liable and if criminal proceedings are not launched against them, members of the industry should not be given to understand that they would be arrested and prosecuted if they commit an offence while government departments can get away simply by submitting a report if they commit the same offence and there would not even be a disciplinary hearing. I trust the public would not be convinced if things are handled in such a manner.

Furthermore, the Government also said at the Bills Committee meetings that fewer excavation works would be carried out as far as possible. In fact, since 1991, I have said that common utility trenches should be used for the installation of public utilities and such trenches may be used for many purposes, but so far, not many of those trenches can be found. Very often, there is a lack of co-ordination among the excavation works of different utility undertakers. One or two weeks after A finishes digging, B may dig up the road again to be followed by C. Therefore, there must be better co-ordination. If the option of common utility trenches is feasible, I hope they can be used more commonly and if all underground utilities can be laid down at the same time, there would be no need for repeated excavation works.

Madam President, one of the provisions in this Bill is supported by all members, and that is the review mechanism. This matter has already been resolved. At first, there were divergent views on this issue but the Department eventually introduced some amendments. A point I would like to stress particularly is the declaration of interests. The car purchase incident of the Financial Secretary may lead many Hong Kong people to believe that everyone does not care whether or not there is conflict of interests but our Bills Committee always attaches great importance to this issue. This morning, four members of the PAC were absent from its hearing to avoid suspicions. Therefore, even if this Bill is passed, I have to stress that the declaration of interests is very important and this is clearly stated in the Bill.

Furthermore, we have already asked what would happen if the relevant persons fail to disclose their interests while the legislation has not made any provisions for such incidents? The authorities concerned told us not to worry for any cover up would be in breach of the Theft Ordinance, and that is, the

person is suspected to have tried to obtain pecuniary interests by means of fraud or deception. So, we clearly indicated that under such circumstances, when the relevant persons are invited to act as members of the Review Board, they should be specifically informed of this and we should not assume that they have already known for some people may really not be aware of the need to declare their interests. They should be told that if they have covered up something and failed to declare their interests, they may have committed a criminal offence and it will lead to grave consequences.

We can see and also agree that if someone really forgets to declare his or her interest and this matter comes to light in the course of the review, the whole procedure should be suspended and start afresh. I hope this procedure can be strictly enforced. I also welcome the fact that the authorities concerned agree to clearly state that members of this Board shall not hold office for more than six consecutive years. Among these members, half of them are not public officers and the Government would naturally select people with the relevant expertise to be members. I think this is a good thing for the members of certain boards and committees may stay in office indefinitely and their terms of office would seem to be too long. I hope this practice could be extended to other committees.

Madam President, some Members mentioned earlier that members of the industry think that the Highways Department (HyD) plays a conflicting role in such excavation works for it has to enforce the law and prosecute members of the industry who contravene the law as well as taking part in the excavations. This is unavoidable. However, the Government now says that we do not have to worry for the excavation works and prosecutions are undertaken by different divisions in the HyD. But the fact is they come under the jurisdiction of the same Director and Secretary. I hope that when the Government conducts its business, it would try its best to let members of the industry see that government officials and government works would not be granted any preferential treatment, otherwise, the industry would feel that it is treated unfairly. I think this is very important.

Madam President, the matter that has dragged on for 10-odd to 20 years has finally come to a conclusion today but this is only a beginning. After the passage of this legislation and when it comes into effect, I hope the Secretary and Director could take rigorous enforcement actions. When the time comes, if I see any excavated and unattended work sites, violations or works which fails to

be completed on the specified date as listed on the road signs, I would report any findings to the Secretary and Director in the first instance. I would also urge all Hong Kong people to pay particular attention to such situations, for we all hope that such works can be completed as soon as possible and that the people and development of the Hong Kong economy would not be affected and other people would not be greatly inconvenienced.

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

MR IP KWOK-HIM (in Cantonese): Madam President, in recent days, a number of road excavations are being carried out on Connaught Road Central near the junction with Gilman Street. These works cause traffic congestion and vehicles are affected when they have only got to the Mandarin Oriental Hotel, and the traffic tails back as far as 1 km. I believe many Honourable Members in this Chamber have been affected by the excavations at that location. In fact, the effects of the works are only minor in comparison. We can see that at the junction of the Queen's Road West with Eastern Street, the road surface has been dug up for two years and most of the time there is nobody at work. In the Kowloon-Canton Railway Corporation's Tsim Sha Tsui station project, tall hoardings are erected in front of shops, barring shop owners from doing any business.

Many Honourable colleagues have pointed out that such problems have beset Hong Kong for a long time, and I very much agree with this. In the meetings of District Councils, members often expressed strong views on this. Therefore, I am glad that the Bill today will bring about some initial improvements in this regard.

The problems to traffic, pedestrian safety, shop owners and the environment caused by road excavations have become a part of life of the general public. Of the causes for delays in road excavation works, as many as 75% can be attributed to human factors that are avoidable. These factors include a lack of co-ordination among government departments, the complicated and time-consuming formalities in applying for an Excavation Permit (EP), poorly formulated traffic arrangements when the works are carried out, delays in the delivery of construction materials, and so on.

Concerning the lack of co-ordination among government departments and the complicated and time-consuming formalities in applying for an EP, the Government had in fact made some improvements in June 2002 prior to the scrutiny of the Bill by the Bills Committee by providing a one-stop shop service, which is fast and reasonable to promoters of projects. We welcome such a move. Section 10L of the Bill as tabled concerning the review of assessment provides that the Highway Department (HyD) has to serve the results of application and review within a specified period. This will effectively enhance the efficiency of the HyD in handling excavation works and we consider this to be an improvement.

During the scrutiny of the Bill by the Bills Committee, a number of meetings were held with utility companies for consultation them. These companies have submitted representations a number of times and most of them are opposed to the issue of EPs and the charges levied on the extension of EPs. The Democratic Alliance for Betterment of Hong Kong (DAB) believes that the charges proposed by the Government, that is, \$1,860 for the issue of an EP by the HyD, a daily charge of \$32 for the duration of the EP, a daily fine of \$18,000 for delays in works carried out on "strategic roads", are all acceptable. In fact, in order to solve the long-standing problems we have been facing, this is the only approach that can be adopted. Originally, we did not want to impose any burden on operators or utility companies, but the other side of the coin is that if the relevant arrangements are not implemented, the losses suffered by the public will even be greater. Therefore, we support the arrangements made under the Bill in this regard.

It was opined that the fine of \$200,000 provided by section 10Q(1) was excessive. However, the fine only targets at companies that fail to take proper safety precautions at their construction sites. In view of the risks in terms of the loss of life and injuries, \$200,000 is not excessive at all. The six months of imprisonment has been repealed in section 10Q(1), instead the fine is increased to \$200,000. Private companies can follow the existing practice of employing professionals such as engineers to carry out projects and keep records of the project as a defence. We believe that these requirements can protect the interests of the companies concerned effectively. The HyD has no intention of adding the offences in the Bill to the List of Recordable Offences, so company directors will not be barred from obtaining the Certificate of No Criminal Conviction due to offences relating to road excavations. We believe this arrangement can allay the concern of all parties.

As a matter of fact, we can see from the relevant figures that the number of EPs issued to private utility companies account for 37% of the total and the number of days of excavations works carried out by these companies account for 59% of the total. From these figures, it can be seen that on average, the duration that the road surface is occupied is longer for excavation works carried out by public utility companies. Therefore, the charges for and the regulation of road excavations have definitely followed to the principle of fairness. Of course, various government departments and public utility bodies are major undertakers of road excavations and we must strictly adhere to the principle of fairness. Subject to the circumstances of individual government departments, public officers are subjected to the regulation of section 2A. If public officers contravene this provision, the report mechanism will be activated and the Secretary will be alerted. I believe the deterrence of this measure is stronger than that of a fine. Of course, how all parties can be treated equitably will be the subject of continued examination by the relevant committees. The Bills Committee has also deliberated amply on the review mechanism and the Government has accepted the views of the Bills Committee and made major changes to the review mechanism and procedure. The DAB welcomes this move.

By making improvements in administrative procedures and regulation, this Bill aims to target delays to works as a result of human factors rather than weather conditions or the existence of complex underground facilities, so that improvements can be made to 75% of delays arising from human causes. In view of this, I urge the Government to implement the Bill as soon as possible. Of course, we also hope that the Government can examine the issue of economic losses incurred by the excavation of pavements and consider how corresponding control can be imposed, so as to improve the present situation and prevent the competition for road space between vehicles and pedestrians.

With these remarks, I support the Second Reading debate and Third Reading of the Land (Miscellaneous Provisions) (Amendment) Bill 2002 on behalf of the DAB.

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

(No Member responded)

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, the purpose of the introduction of the Land (Miscellaneous Provisions) (Amendment) Bill 2002 includes six aspects. First, to encourage promoters to complete their excavation works on streets on time. Second, to step up the supervision on excavation promoters and their contractors. Third, to recover the administrative cost on the issuance of Excavation Permit (EP) and the enforcement of the conditions stated in EPs based on the "user pays" principle. Fourth, to increase penalty level to maintain the necessary deterrent effect. Fifth, to promote the computerization of excavation works. Sixth, to make technical amendments to provisions on the supervision of excavations at places other than streets for the Lands Department.

Since the Bill is rather complex in nature, the Bills Committee has had 14 meetings to study the Bill in detail and has come up with many valuable suggestions. I would like to thank Mr LAU Ping-cheung, Chairman of the Bills Committee, and other members of the Committee. I also like to take this opportunity to thank the trade for the positive and proactive comments made to the Bills Committee during the scrutiny stage. I will move amendments to the Bill to amend certain provisions during the Committee stage.

Hong Kong is a crowded city with dense developments. Relatively speaking, road surfaces in Hong Kong are of much smaller area than many other international cities. Roads are fulfilling two different functions at the same time, one for traffic circulation and the other for the housing of public utilities facilities. Both road surfaces and underground pipelines need frequent repairs, renewals and expansion to keep them in proper function and to maintain the quality of services. We have to maintain the quality of service of public utilities facilities and to carry out road repairing works on the one hand, but on the other, we have to ensure the smooth circulation of traffic. These two tasks are basically contradictory, but are equally important. The only way to handle this is to co-ordinate, as far as possible, works carry out on the roads, with a view to minimizing the number of times of excavations and to avoid unnecessary delay.

In order to avoid unnecessary delay in excavation works, the Government has adopted different measures. These include the setting up of a consultation framework to facilitate communication and co-ordination between government departments and public utility companies. The Highways Department (HyD) has also assumed an active role in mediating the differences between public utility companies and other government departments. Moreover, the

Government has set the priorities in the excavation works of public utility companies, and has introduced computer-aided technology to enhance the efficiency of co-ordination and supervision. However, to achieve the target of constant improvement, we strongly believe that we must formulate appropriate measures to encourage road works promoters, including government departments and private organizations, to complete their excavation works on time. All these measures are not meant to penalize or single out any industry or sector.

I must point out that, during the past 10 years or so, the Legislative Council and the Public Accounts Committee have on numerous occasions put forth proposals to request the Government to recover the costs of EPs, and to impose penalties on the delay of excavation works.

In April last year, I introduce the Bill to the Legislative Council based on the findings of a consultation exercise held at the time. The content of the Bill is summarized below.

First of all, government lands under excavation control according to the existing Land (Miscellaneous Provisions) Ordinance are divided into two categories, namely streets maintained by the HyD and other unleased lands.

Some arrangements are applicable to both categories, which mainly include the following:

- (a) to step up the supervision on permittee and their contractors, and to clarify the targets the conditions of EP are applicable.
- (b) to impose charges on the issuance of EP which used to be free to recover the issuance and administrative costs for EPs, to make it in line with the "user pays" principle.
- (c) to increase the maximum fine provided in the relevant Ordinance from \$5,000 to \$50,000, and the amendment will raise the maximum fine of individual provisions related to public safety to \$200,000 to maintain the deterrent effect of such provisions.
- (d) to allow computer records kept by the relevant authorities to be used as evidence in proceedings.

As for some major new arrangements only applicable to streets maintained by the HyD, they include the following:

- (a) to levy charges on excavation delays, without reasonable cause, which will cause traffic delay for the economic losses so incurred according to the category of streets.
- (b) to make the provisions related to street excavations under the Bill binding on the Government. In other words, government departments have to apply for EPs for excavation works, and have to be bound by the conditions of EPs. They should also pay the prescribed fees and charges, including the economic costs caused by unreasonable delay of excavations. However, should government departments breach the conditions, the authorities have to report the case to the Secretary for the Environment, Transport and Works. It will be left to the Secretary to decide the measures to be taken to stop the contravention promptly and to prevent the reoccurrence of similar incidents.

The arrangement the Bill proposed to levy charges calculated on economic cost is the first of its kind. Most of the provisions are made in accordance with this arrangement. The Director of the HyD, based on the existing management framework of roads, classifies all the streets in the territory into three categories, namely, "strategic streets", "sensitive streets" and "remaining streets". We have worked out a calculation of economic costs based on the likely traffic congestion caused by an excavation in that category of streets. Names of streets will be gazetted. By then, promoters carrying out excavations on the carriageway will know what to follow.

To tie in with the implementation of this proposal, we have set up a mechanism for the assessment of the initial period. We have also set up a mechanism to review issues related to the charging of economic costs; participation of the trade will also be included to ensure that the mechanism is fair, impartial and highly transparent.

The Chairman of the Bills Committee, Mr LAU Ping-cheung, and its members, as well as the interested parties, have raised certain concerns. As for those concerns related to the amendments of the Bill, I will explain the case further when I move the amendments later.

Finally, I hope that the charging of economic costs and other complementary measures proposed in the Bill will introduce a new order to local excavation works, establish a new social contract for different road users, and to bring new opportunities to solve the supervision problems on excavations which have dragged on for years. The Bills Committee has already indicated its support to the resumption of Second Reading debate on the Bill, I hope Members will support the Bill.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Land (Miscellaneous Provisions) (Amendment) Bill 2002 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.

CLERK (in Cantonese): Land (Miscellaneous Provisions) (Amendment) Bill 2002.

Council went into Committee.

Committee Stage

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

LAND (MISCELLANEOUS PROVISIONS) (AMENDMENT) BILL 2002

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Land (Miscellaneous Provisions) (Amendment) Bill 2002.

CLERK (in Cantonese): Clauses 5, 8, 10, 12 and 13.

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 hand raised)

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

CLERK (in Cantonese): Clauses 1 to 4, 6, 7, 9, 11, 14, 15 and 16.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam Chairman, I move the amendments to the clauses read out just now, as set out in the paper circularized to Members. I will explain the rationale in proposing the amendments briefly.

The first extensive change is to remove the concept of "principal" and "secondary" excavation permits (EPs) and to directly authorize under new section 10 the contractor and subcontractor of a permittee to carry out the excavation works instead.

The Bills Committee considered it necessary to raise the awareness of public officers on any contravention against the Bill and to make the Secretary for the Environment, Transport and Works put a stop to any offence quickly. Therefore, the new section 2A has been revised as follows: regardless of whether an offence committed by a public officer has been terminated by the authority concerned, the authority concerned still has to make a report to the Secretary in order to conduct a review and the Secretary has to put an end immediately to any offence that has not been terminated. In addition, the term "inquiry" has been changed to "investigation" to streamline the procedure.

In order to reduce the number of EPs that are issued unnecessarily by the Lands Department, so as to reduce administrative costs, we have expanded the scope of exemption from applying for an EP under section 10 to include excavation works already regulated by other land documents. In addition, in the new section 10A, we will exempt some minor works carried out at places which are not roads and to establish criteria for this purpose.

In section 10D, we have extended the circumstances in which the issue of an EP can be refused, including unreasonable applications, or applications to carry out excavation on newly constructed streets, or applications that do not allow sufficient time for processing. A name list of newly constructed streets and the time required for processing applications will be published in the Gazette. In response to the request of the industry that under unforeseeable circumstances, it may be necessary for a permittee to apply for an extension of the validity period of the permit within a short period of time, the applicant can now pay the fees when applying for an extension. If the Highways Department (HyD) cannot issue a permit in time, the permit originally held by the applicant will be considered as having been extended, and the fees will be deducted from the amount already paid according to the actual number of days permitted and the balance will be refunded.

The industry and the Bills Committee requested the Government to consider implementing measures to encourage promoters of road excavations to complete the works before the expiry date of the permit. After discussions with the industry, apart from introducing a commendatory scheme of an administrative nature, we have also amended new section 10K in the Bill so that works completed ahead of schedule can have the daily fees refunded according to the number of days saved.

After discussion with the industry, we found that there was some ambiguity in the definition in the original new section 10L on the types of assessments on which appeals can be made to Administrative Appeals Board. In view of this, we have listed in the new section 10L the various types of assessments that will probably occur and defined the types of assessments on which applications for a review can be made to the Administrative Appeals Board.

Members also mentioned that if the relevant authority could not notify the review applicant of the review outcome within the time limit, the applicant would be at a loss as to what to do. In view of this, when amending the new section 10L, we have specified that if the permittee, in applying for a review, has provided an assessment he considers reasonable and if the relevant authority fails to give any notice within the specified period, then the applicant's assessment will be considered as the outcome of the review. If the applicant has not provided any assessment of his own, then the original assessment carried out by the relevant authority will be regarded as the outcome of the review.

The Bills Committee is very concerned about the issue of the conflicting roles assumed by the HyD. The Bills Committee considers that the Director of Highways is on the one hand the promoter of road excavations, on the other hand, according to the stipulations of the original Bill, the HyD will also assume the role of a final arbitrator in the Review Board. This is hardly credible. If there is a greater number of officials in the Review Board, there will be a tendency to uphold the original assessment and this may be unfair to the review applicant. Moreover, among the members of the review board, someone may have an interest in the appeal case. Furthermore, if someone is appointed on a long-term basis, this will go against the policy of limiting the period of office of most members in consultative committees to six years. After considering the suggestions of the Bills Committee, we have completely rewritten the original clauses 10M and 10N into the new sections 10M, 10N and 10NA. Under the new arrangements:

- (1) any public officer shall not be appointed to the Review Panel;
- (2) a member of the Review Panel shall not hold office for more than six years;

- (3) the applicant of a review will be notified of the names of the members that may be appointed to the Review Board in advance to allow the applicant to raise any objection on the ground that a member has an interest in the case reviewed, and members that may be appointed are also required to make a declaration of interest;
- (4) the Director of Highways can only act as the Chairman of the Review Board at its hearings but does not have any voting right; the majority of the persons constituting a Review Board, excluding the Chairman, shall be persons other than public officers;
- (5) if at any time during the review proceedings, it is discovered that any member of the Review Board has an interest in the review concerned, another member may be appointed;
- (6) all decisions of the Review Board will be made by voting and the Director of Highways shall inform the applicant according to the relevant stipulations; and
- (7) in case there is an equality of votes, the Review Board shall be discharged and another Review Board shall be appointed to hear the review concerned. In case there is again an equality of votes, the interest of the applicant shall prevail.

The industry and some Members were very concerned about the penalty of imprisonment attached to section 10Q of the Bill relating to safety precautions. The industry pointed out that company directors would be involved on account of section 101E of the Criminal Procedure Ordinance and subjected to imprisonment, however, they may not have any direct involvement in giving any instruction on the excavation works, and this was deemed unfair. We fully understand the concerns of the industry about the penalty of imprisonment, however, we have a duty to ensure that the safety precautions specified by the new section 10Q is strictly adhered to. We also understand that in most cases, the permittees are companies and the penalty of imprisonment will not achieve the desired effect. Therefore, we have revised the original penalty of six months of imprisonment to an increased fine of \$200,000. Members also pointed out that in the statutory defence provided for in the original new section 10Q, the scope of "reasonable steps" was not defined. In view of this, we have

set out in the Bill, for the reference of the industry, some factors which the Court may take into consideration, including the employment of professional or technical personnel with knowledge in excavation works or in the equipment involved and the establishment of an appropriate system of safety management.

The amendments I have mentioned are all major ones. We have also made other amendments to the wordings of the Bill or proposed some corresponding technical amendments. These amendments are set out in the paper issued to Members.

All amendments have been scrutinized by the Bills Committee and have the support of its members. I urge Members to support the amendments.

Thank you, Madam Chairman.

Proposed amendments

Clause 1 (see Annex)

Clause 2 (see Annex)

Clause 3 (see Annex)

Clause 4 (see Annex)

Clause 6 (see Annex)

Clause 7 (see Annex)

Clause 9 (see Annex)

Clause 11 (see Annex)

Clause 14 (see Annex)

Clause 15 (see Annex)

Clause 16 (see Annex)

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 the Environment, Transport and Works be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hand raised)

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

CLERK (in Cantonese): Clauses 1 to 4, 6, 7, 9, 11, 14, 15 and 16 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 hand 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.

LAND (MISCELLANEOUS PROVISIONS) (AMENDMENT) BILL 2002

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS
(in Cantonese): Madam President, the

Land (Miscellaneous Provisions) (Amendment) Bill 2002

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 Land (Miscellaneous Provisions) (Amendment) Bill 2002 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 hand 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): Land (Miscellaneous Provisions) (Amendment) Bill 2002.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Two motions with no legislative effect. I have accepted the recommendations of the House Committee: the movers of the motions will each have up to 15 minutes for their speeches including their replies; other Members will each have up to seven minutes for their speeches. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: Calling for the resignation of the Chief Executive, Mr TUNG Chee-hwa.

CALLING FOR THE RESIGNATION OF THE CHIEF EXECUTIVE, MR TUNG CHEE-HWA

MR ALBERT CHAN (in Cantonese): Madam President, I move that the motion as printed on the Agenda, which calls for the resignation of the Chief Executive, Mr TUNG Chee-hwa, be passed.

It is unfortunate for Mr TUNG Chee-hwa that such a motion has to be moved in the Legislative Council. It will be unfortunate for the Legislative Council if this motion demanding the resignation of Mr TUNG cannot be passed. It will be unfortunate for Hong Kong if Mr TUNG refuses to resign and serves four more years as the Chief Executive.

In moving this motion, I have the backing of and represent the calls from a variety of people, including those in possession of negative equity assets and those who are bankrupt, civil servants browbeaten by TUNG Chee-hwa, people fighting for the right of abode, the elderly who have their Comprehensive Social Security Assistance (CSSA) reduced, the unemployed, those objecting to the reinterpretation of the Basic Law, those oppose to the legislation to implement Article 23 of the Basic Law, victims under the rule of TUNG Chee-hwa, people affected by avian flu and atypical pneumonia and the souls of those who died from atypical pneumonia.

As early as June 1998, when I led people in possession of negative equity assets in staging a protest march, I was already calling for TUNG Chee-hwa to step down. Unfortunately, the call was not supported then and as a result, his

governance has wrought many disasters in Hong Kong. The past six years of rule by TUNG Chee-hwa has brought disappointment, suffering, deaths and disasters to Hong Kong. According to past statistics of the Government and the information of the Samaritan Befrienders Hong Kong, the situation is a cause for concern and is shocking.

In the past six years, bankruptcy cases soared from 600 cases in 1997 to 25 000 last year, a 42-fold increase. In the past six years, the total number of bankrupt persons is 52 600, the number of suicide cases rose from 597 cases in 1997 to nearly 1 000 in 2001, a rise of 67%. Although the latest figures have not yet been published, the rising trends are expected to continue. The unemployment rate rose sharply from an impressive 2.2% to 7.3% last year, a rise of 3.3 times.

Since TUNG Chee-hwa assumed the office of the Chief Executive in 1997, his overall performance can be described as high in aspirations but lacking in ability, aiming high but under-achieving, his administration was chaotic and he did not honour his words. I will use some examples to illustrate my comments.

In his policy address in 1997, TUNG Chee-hwa said he would increase the CSSA for the elderly by \$380, however, in the end, not only was there no increase, on the contrary, CSSA payments for general recipients and for the elderly and disabled were reduced by 11%. In the incident over the opinion polls conducted by the University of Hong Kong, he harboured Andrew LO. In the penny stocks incident, Secretary Frederick MA escaped punishment. The cargate incident involving Antony LEUNG, which is already well-publicized, is also a clear example of how he harbours misdeeds and of his cronyism. The whole accountability system can be described as non-existent.

After the financial turmoil, the persistently high unemployment rate has dogged Hong Kong for many years, yet TUNG Chee-hwa is still working at a slow pace, simply chanting "if China is doing well, Hong Kong will also be fine" over and again, yet the economy of Hong Kong is in decline, the unemployment rate remains perched on high and no specific measure is in sight to rectify this problem. Moreover, TUNG Chee-hwa is very fond of reforms and precisely in this we can see his style of high aspirations but low ability. He considers it necessary to carry out reforms on everything, whether it be education, health care services, the Civil Service or the political system, but whatever area he tinkers with, he makes a mess of it. There is no improvement in the education

system after so many years, the health care system is chaotic, leading to the atypical pneumonia outbreak, and this is apparent to all. The civil service reforms have led to instability among the ranks of civil servants and the fact that the 170 000 civil servants are dissatisfied with TUNG Chee-hwa is evident. He also said that he wanted to restructure the economy of Hong Kong, but obviously there is no way out in respect of new economic development, the unemployment rate is perched as high as ever, new investments are meagre and no substantive measure to bring Hong Kong out of the doldrums can be seen.

In addition, TUNG Chee-hwa never honours his words. On many occasions, he mentioned many large-scale infrastructural projects in his policy addresses, but the dates of their construction are distant and indefinite. He floated ideas such as an international Chinese medicine centre, a flower port, an Asian multimedia information and entertainment centre, a silicon port, a world fashion centre, and so on. All of them are infrastructural projects mentioned in his policy addresses but we could only hear the talking but cannot see any concrete measure to implement them.

The confusion in housing policy has caused property prices to fall by 70%, and this is also a clear example of the confusion of the TUNG administration. The "85 000" policy put forward by him no longer exists, however, not even the then Secretary for Housing, Mr Dominic WONG, was aware of this, yet property developers said they had known about this much earlier, so it can be seen how incompetent and confused is his administration.

TUNG Chee-hwa knows only to prey on the socially disadvantaged by cutting CSSA payments and public health care expenditure. By reducing the funding for universities, he has also reneged on his promise. He said on a number of occasions that he supported university education, that it was the cornerstone of Hong Kong, but having said so, he reduced the expenditure in this area, thus increasing the pressure borne by students.

As regards the atypical pneumonia problem, the Chief Executive failed to adopt any timely preventive measure, nor could he prevent the spread of the disease to the community, fully exposing his lack of a sense of crisis and poor ability in governance. Macao has, as early as March, conducted a comprehensive disinfection exercise in all its parks, sitting-out areas, squares, markets, at bus-stops, in all fixed-location and mobile toilets, telephone booths, on footbridges and railings, but our Government did this only at a very late stage.

Many royalist only know how to attack the democratic camp, waving their colours and cheering for TUNG Chee-hwa. They can be described as abetting a bad leader in propagating his wrongdoings. I hope that later, when they give their responses, they can give substantive responses on the unemployment and economic problems, the plights facing the public of Hong Kong and the bankruptcy problem, rather than merely saying high-sounding, grandiose but hollow words.

Many people think that the Chief Executive should not resign. I hope they can point out any meritorious measure that the Chief Executive has ever taken in all these years to show that he is competent in his position as the Chief Executive, rather than continuing to say hollow words. Hong Kong needs an enlightened and competent leader, not an incompetent and mediocre person. Many people say that the Chief Executive is a nice guy, but if we look back at Chinese history, since ancient times, many last kings of collapsing kingdoms were also nice guys, such as the king of the Southern Tang kingdom, LI Yu¹, who was also a last king, however, at least he left some good poems for posterity, such as "Yumeiren" (To the Tune of the Yu Beauty) and "Langtaosha" (To the Tune of Waves Washing the Sand). Even a great poet cannot escape the fate of a kingdom in collapse, not to mention a simple and incompetent nice guy.

The six years under the rule of the Chief Executive has only brought disappointment and suffering, and because of his administrative blunders, he has wrought many deaths, moreover, disasters came hard on the heels of one another. Under the rule of TUNG Chee-hwa, it is possible that disasters of an even greater magnitude are yet to come. Can Hong Kong withstand four more years?

Mr Albert CHAN moved the following motion: (Translation)

"That this Council calls for the resignation of the Chief Executive, Mr TUNG Chee-hwa."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Albert CHAN be passed.

1. LI Yu (937-978A.D.), the last king of the Southern Tang kingdom in the five dynasties period (907-960 A.D.).

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, on behalf of the Hong Kong Special Administrative Region (SAR) Government, I oppose the motion moved by Mr Albert CHAN calling for the resignation of the Chief Executive, Mr TUNG Chee-hwa.

For over a hundred years, Hong Kong has experienced many large and small turmoils and gone through all sorts of trials and tribulations. These adversities were tormenting but we pulled through all of them and were reborn time and again. However, the various challenges we have encountered in the past six years were unprecedented.

Of all the challenges that we have come up against, the greatest one is the implementation of the "one country, two systems" concept. The aim of our country's late leader, DENG Xiaoping, in putting forward this concept is to turn a colony into a SAR of the People's Republic of China and at the same time maintain the stability and prosperity of this "Pearl of the Orient". At that time, the whole world, including many people in Hong Kong, viewed this novel and bold concept with mistrust, while hoping that this concept could be turned into reality, they were also worried if this dream could ever come true.

We all know that since then, "one country, two systems" has become the hope of every member of the public in Hong Kong. If the "one country, two systems" concept cannot be implemented successfully, any bright prospect for Hong Kong will come to naught.

The person who is leading Hong Kong in materializing this concept is Mr TUNG Chee-hwa. Mr TUNG, in serving the first and second tenures of the office of the Chief Executive, is motivated by his commitment to his country, the call of his times and a sense of mission for the future of Hong Kong.

Six years afterwards, the concept of "one country, two systems" has been an unprecedented and globally recognized success and it has won the acclaim of the Central Government, Britain, the European Union, the United States as well as the United Nations.

Nowadays, the "one country, two systems" arrangement is part of the life in Hong Kong and as essential as the air we breathe. The transition has been

natural and smooth and there is hardly any change in the way of life and habits of the Hong Kong public. However, the success of the "one country, two systems" arrangement does not come naturally, nor should it be taken for granted. This is the result of Mr TUNG Chee-hwa's steadfast adherence to the principle of "one country, two systems", in addition to the endeavours of the SAR Government and members of various sectors.

In the past several years, we have striven relentlessly and preserved all the factors underpinning Hong Kong's success, so that the way of life of the Hong Kong public can remain unchanged, the confidence of foreign investors in Hong Kong is maintained, more foreign businesses have been attracted to invest here and more tourists are coming to visit Hong Kong.

I am pleased to inform Members that the four pillars of Hong Kong's success are still intact and as sturdy as ever. Hong Kong practises the common law, its judicial independence has been maintained, the Judiciary continues to operate impartially and openly and everyone is equal before the law; Hong Kong continues to provide a level playing field and equal treatment as well as a most liberal and fair business environment to all investors; Hong Kong is still served by a clean Government and Civil Service and its reputation in this regard is growing worldwide, Hong Kong also enjoys a high degree of freedom in the flow of information, which is essential not just to journalistic communication but also indispensable to Hong Kong as an international finance and business centre.

These four pillars are still the cornerstones of Hong Kong, and not only are they totally intact but also being constantly reinforced. It was on this basis that we were able to prevail in the face of the onslaughts of the Asian financial turmoil.

The onslaughts of the Asian financial turmoil made Hong Kong suffer sorely. However, we can proudly say that Hong Kong, in this financial crisis which profoundly affected the whole world, performed well, not only did we succeed in defending the Hong Kong dollar but also preserved the economy of Hong Kong. At the same time, Hong Kong turned the situation to its advantage and carried out a number of financial reforms which it used to have difficulty in implementing, including further liberalizing the banking system, abolishing the control on interest rate, regulating short-selling activities in the market, improving the system on monitoring capital flow, reinforcing the electronic

infrastructure of the financial market, and so on. This series of reforms enabled Hong Kong's financial framework and operation to achieve a world-class standard.

It is true that the financial turmoil has still left an aftermath that still makes life difficult for many Hong Kong people. However, the approach of the Hong Kong Government in handling the crisis then is widely recognized as resolute and wise, and its series of timely reforms is farsighted and highly effective. During this difficult period, the Government, in carrying out all these tasks, was led by Mr TUNG.

I wish to point out that, having the long-term interest of the Hong Kong public in mind, Mr TUNG and the SAR Government always deliberate all matters in detail and they keep the future sustained development of Hong Kong and the well-being of our future generations in view when formulating plans and adopting measures and they do so with utmost devotion.

We opened up the telecommunications market and avoided our economy's over-reliance on the property market, implemented the Mandatory Provident Fund schemes, formulated long-term strategies on the prevention of environmental pollution as well as a population policy. A transport system based mainly on railways and the underground is being developed, various infrastructural projects on roads, bridges and boundary control points are being implemented to speed up cargo and passenger flows between Hong Kong and the Mainland, the Hong Kong Disneyland is being constructed and the Cyberport and the Science Park are also being developed. We are now beginning to see the first fruits of some of these measures and planning, while others are being implemented with little fanfare to continually consolidate the foundation for our future development. All these policies, which have the widespread support of the public, are being implemented with Mr TUNG at the helm.

Madam President, Hong Kong is now a Special Administrative Region of the People's Republic of China and its relationship with the Mainland has undergone fundamental changes which are not confined to political ones. The last six years also happened to be a period of rapid developments for the world economy and in science and technology. New versions and generations of products, technology and knowledge come one after another, and a knowledge-based and global economy has become the dominant trend.

In this period, the economy of our country has also been on the ascent and our country has gained accession to the World Trade Organization. Hong Kong has always sought to develop in response to its changing relationships with the Mainland and the international community. The issue of how to adjust Hong Kong's strategic relationship with the Mainland, and with the Pearl River Delta (PRD) in particular, has become a very important issue for Hong Kong. Under Mr TUNG's leadership, Hong Kong made timely and smooth adjustments, skillfully putting them into the context of Hong Kong's economic restructuring. If it is said that not long after the reunification, quite a number of people had doubts about making these adjustments, these adjustments can now be described as reflective of the mainstream opinion in society.

Mr TUNG Chee-hwa outlined the blueprint for economic co-operation with the Mainland clearly in this year's policy address. The main goal is to fully utilize Hong Kong's superior geopolitical position to co-operate with the PRD, which is now known as the "workshop of the world", and carry out closer, corresponding and mutually beneficial developments. This blueprint will enable Hong Kong to put into full play its original advantages under the conditions of the new era. Our work now is to carry out these developments actively according to the blueprint. We will strive to complete the Shenzhen Western Corridor between Hong Kong and Shenzhen in the second half of 2005. The close economic ties between Hong Kong and the PRD have become a major trend.

In this essential process of restructuring, the communication with the governments of various provinces and cities on the Mainland and with the Central Government is of paramount importance. Mr TUNG Chee-hwa has done a lot of work in this regard. We can see that Mr TUNG and the SAR Government have always been trusted and supported by the Central Government and the national leaders. This is an indispensable factor in implementing the "one country, two systems" concept and in the stable development of the economy and society of Hong Kong.

Madam President, "Hong Kong people ruling Hong Kong" is a new system and it is necessary to constantly accumulate experience on how to govern effectively. We are always drawing on our experience with a view to making improvement to our administration quickly. On the one hand, the return of sovereignty was smooth, on the other hand, it was also a complicated matter,

giving rise to political contradictions and conflicts. The Government must, while improving the livelihood of the general public, also understand and respond to the needs of the general public in a more timely way. With the general public's increasing political awareness and their demands relating to politics and livelihood, Mr TUNG Chee-hwa has boldly carried out reforms on the political system in a progressive and responsible spirit and introduced the accountability system for principal officials to strengthen the professional and politically neutral role of the Civil Service. Through this new system, the Government is able to draw on the talents of various sectors in society and allow more aspiring individuals to serve the public and work for the Government.

It is often impossible to draw on past experience for many of the thorny problems that Hong Kong faced in recent years. We have to constantly explore, investigate and improve. We are endeavouring to act prudently and striving to do even better. I believe Members also understand that with the great challenges in various areas such as the economy and in politics, it is not possible to achieve perfection and win the praise of all members of the public in everything. However, we are indeed striving to do better and achieve the best results.

We believe that the goal of the Government and the general public is one and the same. As regards our economy, although it is necessary to wait for an improvement in the global setting, Hong Kong will certainly continue to make the greatest efforts and fortify itself in various areas. We can also see that Hong Kong is able to maintain its stability, its law and order are in a good shape and the human rights and freedoms cherished by the public are protected.

Madam President, I believe that in evaluating the merits and shortcomings of the past six years, everybody has to be objective and fair by doing some comprehensive and serious thinking rather than over-generalizing. Frankly speaking, we should be more fair to Mr TUNG Chee-hwa. The general public want us to tackle the various challenges facing Hong Kong with one mind and concerted efforts and to build a better tomorrow for Hong Kong.

Madam President, I wish to point out sincerely that the motion calling for the resignation of the Chief Executive, Mr TUNG Chee-hwa, totally lacks in factual support, nor does it tally with the objective situation in Hong Kong or serve the interests of Hong Kong. I sincerely urge Members to oppose the motion.

DR YEUNG SUM (in Cantonese): Madam President, it has been six years since the reunification of Hong Kong with the Mainland. Hong Kong is now confronting with the most severe challenge. At this difficult time, we do not only need a government which has the capability, the vision and the determination to lead us, but also a government which is supported and trusted by the people, and a Chief Executive who has the courage to shoulder responsibilities. Unfortunately, the people of Hong Kong have to suffer the external impact of the Asian financial turmoil, economic recession, atypical pneumonia and so forth, in addition to the incompetent leadership of the Chief Executive and his team and the mistakes they made repeatedly in the face of this difficult time, which have led to a record-low economic growth and a record-high unemployment rate. The mishandling of atypical pneumonia has also caused heavy fatalities and financial losses. The Democratic Party does not wish to put the blame for all problems entirely on the Chief Executive, but many problems are in fact the results of his ideological and policy blunders, which have led to his losing credibility with the people. His popularity plunges from a score of 70 at the beginning to an all-time low of 40. Almost 65% of the public consider that he is an inept Chief Executive, only less than 10% of the public supports his staying in office. It is indeed very difficult for a Chief Executive to continue his administration with a popularity rating as low as that. Just now the speech of the Chief Secretary for Administration seems to go completely against public opinions.

Madam President, the Democratic Party considers that the mistakes made by the Chief Executive TUNG Chee-hwa are not only the result of policy blunders, but also the result of his political thinking and conservative attitude, which have led to the retrogression of democracy, human rights and the rule of law. Moreover, he could arrogate all power to himself through practising nepotism, shielding shortcomings and launching the accountability system for principal officials in which he is the only person to be accountable to. Within a few years, we could see a considerable retrogression of democracy in Hong Kong.

First of all, within the first three years after the reunification, the Chief Executive single-handedly destroyed the avenues for public participation in politics, including the reinstatement of the appointment system of District Councils and the abolition of the two Municipal Councils. Even the Legislative

Council, which is supposed to represent public opinions, is fettered by the restrictions set down by the Basic Law since 1997 and is basically reduced to an arena for political parties to express their respective views, as it is unable to thwart government policies. Furthermore, the Chief Executive repeatedly ignores the Legislative Council and demonstrates his high-handed administration by requiring the Legislative Council to hastily pass legislation which is against public opinions. For instance, when we scrutinized the anti-terrorism legislation last year, the Government hastily tabled the problematic legislation for our endorsement before it could find ways to plug the loopholes little by little. Apparently, he just wants the legislature to play the role of a rubber stamp. Another example making sudden changes to established practice. The second SAR Government postpones the date of the delivery of the policy address from October 2002 to January 2003 without consulting the views of the Legislative Council and that is disrespectful to the Legislative Council.

Everybody knows that the Chief Executive does not like democracy. He ignores the public opinions represented by the pro-democracy camp within the Legislative Council, he is disrespectful of public opinions, he is simply against the people and he simply turns a blind eye to Members from the pro-democracy camp. How does he do it? Before delivering the Budget, he invited to meet Legislative Council Members from various parties in order to lobby them and listen to their views on the proposed new taxes, but none of the Members from the pro-democracy camp was invited. Moreover, when the Democratic Party requested to meet him and discuss the atypical pneumonia issue, he refused to meet Members of the Democratic Party. The Chief Executive is only willing to listen to opinions similar to his own. This attitude of heeding only one-sided views sends a very serious warning signal across this civilized society.

In order to ensure the smooth passage of government proposed policies in the Legislative Council, the Chief Executive appointed Mr James TIEN, the Chairman of the Liberal Party, and Mr Jasper TSANG, Chairman of the Democratic Alliance for Betterment of Hong Kong, to the Executive Council. From time to time, this move has paralyzed their abilities to tell right from wrong in the course of casting their votes, they do not care what public opinions are, they ignore the sufferings and hardships of the people, they just blindly support the Government. The political system established single-handedly by the Chief Executive is inefficient on the one hand, and it cannot fully reflect public views on the other. Eventually, the community is engulfed by the

feelings of indignation and frustration, and the relationship between the people and the Government becomes more alienated or even gets worse. Such circumstances are really unprecedented.

Article 23 of the Basic Law provides that the SAR Government should enact laws on its own to safeguard national security. However, the Chief Executive uses this as a pretext to damage "one country, two systems" with his own hands. He hands "high degree of autonomy" over on a silver platter and destroys the legal system of Hong Kong. The proposed sedition and handling seditious publication offences in the relevant bill cover a wide range of areas and their definitions are extremely broad, which would imperil the freedom of speech, academic freedom, freedom of religion and freedom of the press in Hong Kong. The way the Government promotes the bill is extremely poor and high-handed. The Government says on the one hand that it has to consult the public, but it refuses to issue a White Bill on the other. It has no sincerity at all. Despite 60 000 people took to the street to challenge the legislation, the Government forces Members of this Council to scrutinize the bill in a rush, though they have not adequately discussed and studied the contents of the bill, with a view to completing the scrutiny and passage of the bill before July. It turns a deaf ear to all voices of opposition. In the past, the people of Hong Kong thought that at least they could enjoy freedom even though there was no democracy. Very soon, I believe we would be deprived of our freedom. Foreign investors and the local banking sector also voiced their concern that the relevant bill might affect the circulation of information and it might ultimately hit the economy and business environment. I am afraid that it would be just like rubbing salt into the wound as far as the future economy is concerned.

Madam President, the accountability system introduced by the Chief Executive last July is a system only accountable to him, not the public. In less than a year's time, up to now, two incidents have taken place, these are the penny stocks incident and the purchase of a car by Mr Antony LEUNG before the raising of vehicles first registration tax, the Chief Executive has in fact lost credibility with the people and made a laughing stock of himself. What is more ridiculous is that even the Beijing leadership has sanctioned officials for mishandling the atypical pneumonia incident. The Chief Executive, on the contrary, retraces his steps and goes back to the road of personal rule and further arrogates all powers to himself. Has he actually reflected on the mistakes he made in the past six years? The people of Hong Kong are totally disappointed

with Mr TUNG. It would only be another mistake for Mr TUNG to force himself to stay in office for four more years. The best way to realize the spirit of the accountability system is to call for the resignation of Mr TUNG.

With these remarks, Madam President, the Democratic Party supports the motion of Mr Albert CHAN.

MR LEUNG YIU-CHUNG (in Cantonese): Madam President, recently, the rampant Severe Acute Respiratory Syndrome (SARS) awakens the people to the need to keep clean. Keep clean campaigns are held in everywhere in order to make a clean sweep of the virus which jeopardizes the health of the people. As legislators, we should do our cleaning jobs right in response to society's call for making a clean sweep of the political virus which jeopardizes the well-being of society. Today's motion is a timely response to this issue.

Madam President, as the ancient saying goes, "an oppressive government is fiercer than a tiger". The modern Hong Kong version of this saying applies to the damage caused by the impotence of the SAR Government, even though it is not as ferocious as the SARS virus, I believe it is as devastating. The only difference is that the damage caused by SARS is visible, that is, it takes the lives of more than 200 people and infects over 1 600 people; but the number of people damaged by this impotent government, though I cannot surmise the exact figure, I still believe that it is no less than the extent of damage caused by SARS. I just wish to cite several simple instances here. As many colleagues said just now, if the Government had acted more swiftly against SARS, perhaps less people would have been affected; or if the Government had taken more drastic measures to alleviate the hardship of the people, improve the economy and ease the unemployment problem, then the annual number of people committing suicide for financial reasons in the past few years would not have been as high as one or two hundred. Furthermore, policies of the SAR Government led by Mr TUNG are just the same as the SARS virus, they are mutating constantly. For example, perhaps he may practise nepotism and cover up the shortcomings of his subordinates today, he may damage the rule of law and suppress human rights tomorrow, and he may make offhanded reforms and destroy the stability the day after tomorrow. The worst thing is that it is hard to guard against every change and the damage caused is beyond conjecture. In the past few years, under this type of TUNG leadership, a number of heroes and many heroic acts that the

people of Hong Kong should be proud of have been created, such as the SARS fighters and fighters of the epidemic. But just as many health care workers said, the people did not want to be heroes, they just wanted to live a peaceful life. After all, it is not the ultimate aspiration of the people to have a leader who put themselves in disgrace.

In face of the TUNG Chee-hwa regime which cannot benefit the majority, we should absolutely not handle the issue just like the Government handles SARS by making sluggish moves. In contrast, we should establish a system of universal suffrage in order to allow the people to select the right person as they see fit to replace TUNG. Unfortunately, by the time the public calls for a replacement, there are always people who raise all sorts of paradoxical reasons to shield the shortcomings. They do not only oppose the implementation of a system of universal suffrage, but also connive at the spreading of political virus. Some people cast doubt on whether Mr TUNG should be held entirely responsible for the problems that Hong Kong is now facing, and they are of the view that we should not be as extreme as today's motion which urges the resignation of Mr TUNG. Undoubtedly, of course I consider that Mr TUNG should not be the only person held responsible, the Government should also bear some responsibilities. However, in his capacity as head of the Government, Mr TUNG ought to bear the ultimate responsibility for the decisions made by him and the mistakes made by the officials he appointed. This is the essence of every accountability system. This is the reason for Mr TUNG to step down.

Moreover, perhaps someone would question that even if Mr TUNG steps down, can the current problems be solved? Therefore, we should allow him to redeem himself by doing good deeds. However, the public will ask, how many chances should we give to Mr TUNG again? What is meant by redeeming himself by doing good deeds? Are the mistakes made by him in the past not enough? How many more mistakes should we bear before he could do anything good? In fact, the way to deal with an impotent government is the same as the way to exterminate the SARS virus, it is a battle of quick decision. We know that a patient cannot recover from the illness immediately after we have eliminated the virus, but at least we could contain the spreading of the virus. Likewise, although the stepping down of Mr TUNG may not solve all the problems sowed in the past, the person who takes over would draw the lesson from him and will not make similar mistake again.

Of course we understand that pinpointing the virus is only the first step to eradicate an epidemic, the permanent cure is to do a good cleaning job, not to allow a sewer where all filth finds a home, prevent the breeding of virus, and not to allow all sorts of snakes, worms, rodents and ants to take advantage of the opportunity to disseminate the virus. Likewise, the stepping down of Mr TUNG is only the first step. In order to eradicate the reappearance of one or more impotent leaders, we should carry out an institutional reform. For that reason, we have been urging in the past for a Chief Executive returned by universal suffrage, so as to allow the people to elect the person they see fit to lead Hong Kong.

Everybody knows that election for the Chief Executive in the SAR is even inferior to a small circle election, for the Central Government makes the appointment and then members of the Election Committee show their support by making their position known. This is utterly a political farce. It enables the Chief Executive to ignore public opinions, to go on promoting some policies he wishes to promote, despite the fact that they are not supported by public opinions. Such as the deprivation of the people's liberty in the course of promoting the proposed legislation to implement Article 23 of the Basic Law, or the continual covering up for his subordinates, or the transformation of the accountability system to a system which officials never have to be accountable and which they can shirk their responsibilities. All these are in blatant neglect of the interests of the people. Today, the Chief Executive only holds high the remarks in support of himself, which are made by central leaders and quoted by *Wen Wei Po*, instead of the opinion poll findings indicating the ongoing poor popularity of the SAR Government, in particular of the Chief Executive. In the past, the Chief Executive even dared not to face the reality by suppressing these polls. The fact that the Chief Executive could show contempt for public opinions is because that he is the product of an undemocratic system. We have to stop the spreading of political virus. The fundamental way is to change the current system which harbours all sorts of evildoers and evildoings.

Madam President, we understand that the chance of today's motion getting passed is zero, but we are accustomed to this kind of voting results under this undemocratic system. Even if we lose in the Council, we still believe the majority of the people of Hong Kong still want Mr TUNG to step down. This is not something we say to console ourselves, for we are glad to hear that, Mr James TIEN, who is a Member of the Executive Council, also told the press that if an opinion poll were conducted now, the majority of people in Hong Kong

would support this motion. Today's motion is only a starting point, we hope everybody will have this spirit of "1:99", that is, one person would mobilize 99 people to go on fighting for democracy and stamp out the political virus in Hong Kong.

Madam President, I so submit.

DR PHILIP WONG (in Cantonese): Madam President, if an ordinary citizen asks the Chief Executive to step down, I think that it may be because he does not understand the relevant provisions of the Basic Law, and that is pardonable. But if an Honourable Member calls for the resignation of the Chief Executive, he will inevitably be regarded as being disrespectful to and even wilfully trampling on the Basic Law. It is because explicit and rigorous provisions have been made in Sections 1 and 3 of Chapter IV, Annex I and Annex II to the Basic Law on the selection, term of office, powers and functions, conditions of resignation and procedures of impeachment of the Chief Executive as well as the formation, powers and functions, voting procedures, and so on, of the Legislative Council. The Basic Law embodies the new constitutional system of Hong Kong after the reunification and is the cornerstone of the rule of law in Hong Kong. Upon assumption of duty, Honourable Members have solemnly sworn to uphold the Basic Law and pledged their loyalty to the Hong Kong SAR of the People's Republic of China, and I believe they should be very familiar with the provisions of this new constitution of the SAR. Against this background and to our surprise, somebody has violated his oath and stirred up unnecessary disputes again for certain political ends. That is a great pity.

Hong Kong people and the international community should have objective and fair evaluations of the administration by the SAR Government over the years and the good intentions of the Chief Executive. I wish to point out that, our economy has been in the doldrums in recent years because of a host of internal and external factors and this epidemic of the century has dealt an unexpected blow to Hong Kong, some people are therefore dissatisfied with the SAR Government and have criticized the Chief Executive, and it is not difficult to understand that. It also illustrates that people enjoy sufficient freedoms of speech and thought after the reunification. Public opinion reflects that the SAR Government has not made big mistakes in the course of fighting the epidemic and the mainstream public opinion rejects exaggerated, unfounded, inciting and excessively agitating remarks. It is thus obvious that the irresponsible act of a

Legislative Council Member of the SAR in wantonly accusing the SAR Government and slandering the work done by various sectors at the critical moment when the SAR Government and the community exerted all efforts to help people tide over the disaster is only detrimental and would not help our economy at all.

If I have to point out the weaknesses or demerits of the administration by the Chief Executive, I have to say that he is too nice, too honest and too easily used by others to vent their discontent. For many years, the Chief Executive never scolded people who criticized him, and he never considered how to fight back when some politicians fiercely slashed at him. During the days when Hong Kong was under British rule, who dared put on a rival show in front of the British Hong Kong Administration? Did those who always have the prime task of opposing TUNG not have any dissatisfaction with the Administration during the British Hong Kong era? Why had they never said "No" to the colonial rulers? Actually, they were so meek and obedient before the governors dispatched from London and they tuned in by tacit agreement with the policies introduced by the British Hong Kong Administration, which made Hong Kong infest with structural problems. One of the important reasons was that the British Hong Kong Administration was good at using the carrot and stick approach to deal with different political camps, especially forces against the Government and teaching people a lesson every now and then.

This part of history still remains fresh in the memory of some people who were excluded or retaliated at that time for criticizing the Governor. It is hoped that the Chief Executive can learn from experience and draw a lesson, improve the standard of administration and responses to changes. While considering how to control the epidemic and rebuild our economy, he might as well consider how to use vigorous, moderate and reasonable political tactics and take suitable measures according to law against individuals who brazenly challenge the law, wilfully make trouble, start rumours and libel in order to defend the constitutional system and uphold social stability and prosperity. In all fairness, it seems that it is not enough for a good ruler to be kind and honest, and he should at least dare to surmount all difficulties and win victory. The political world is similar to the business world and there are well-tested rules of the games that the Government and the public have to observe. From this perspective, I think that those who want to topple TUNG should really examine themselves and conduct introspection as well as understand and be grateful to the Chief Executive for his tolerance and broadmindedness.

At present, officials and people in the SAR have spared no effort in fighting the epidemic and a new scene of cohesion has been presented. At this time when there are opportunities presented by the crisis, we need to concentrate on many pressing tasks and accomplish them in a down-to-earth manner. These include stepping up co-operation with our neighbours and various countries in the world in fighting the epidemic and promptly introducing plans for revitalizing the economy that take both internal and external factors into account. In my opinion, it is most necessary for there to be mutual understanding between the SAR Government and all strata of the community at present. For understanding can reduce violent emotions, eliminate obstruction, boost confidence and produce cohesion. Provided that mutual understanding, encouragement and support are enhanced, I believe we can certainly solve the problems, stabilize the situation and get out of the difficult situation.

Madam President, I so submit.

MISS MARGARET NG: Madam President, let me first remind the Honourable Member who last spoke that under Article 73 (6) of the Basic Law, this Council has the power and function to debate any issue concerning public interests. I hope that he is not implying that the Chief Executive's resignation or not is not a matter of public concern anymore.

It is perhaps unnecessary to say a great deal. I agree that Mr TUNG should resign, and I say this without malice or disrespect. I have no doubt that Mr TUNG sincerely believes that he is doing a good job as Chief Executive of the Hong Kong Special Administrative Region. He may well believe in all sincerity that he is the best person for the job and he owes it to those who have chosen him to soldier on, and that to bow out will be yielding to "The Enemy". I have no doubt that Mr TUNG truly believes he is holding on out of a sense of duty to serve the public and not for the love of power.

But, Madam President, anyone can be mistaken, particularly about oneself. This mistake is so common that we have a name for it. It is called "self-deception". Mr TUNG is but human. He can be mistaken in the assessment of himself. I suggest that he is indeed fundamentally mistaken in believing that his staying on is in Hong Kong's best interest.

Mr TUNG is prone to dismiss his critics. He does so most usually by reciting the praises of his supporters, as we have heard, and, where available, the support expressed by the leadership in Beijing. This is unscientific and no safeguard against self-deception. In fact, such a habit typically nourishes self-deception.

Although popularity polls are not everything, in the absence of a democratic election, they assume a special importance. It is undeniable that his popularity rating has been going down for a long time, most significantly when there appeared to be a question of a second term of office for him. The strong indication then of his unpopularity showed that the Hong Kong public were keen for him not to be given a second time. His present rating is the lowest of his entire career. The people have spoken repeatedly.

He has tried their patience. In the earlier days, many people, while dissatisfied with his competence, were nevertheless sympathetic and prepared to believe he is a "nice guy". Today, ordinary men and women renounce him bitterly. They have lost all faith in him and the Government under him, so that he can do nothing right in their eyes anymore. It is a dangerous situation which no conscientious leadership can ignore.

Can Mr TUNG maintain that everyone is mistaken except himself? That the overwhelming majority are wrong while he and his political dependants alone are right?

Various excuses have been produced: for example, that much of his unpopularity is due to the economic downturn, and this is not his fault. But the public is more reasonable than that. They do not blame everything on him. They do blame him for the failure to provide any leadership. By this, they do not mean that he does not give the right sound-bite to the media. They mean running the Government effectively to carry out appropriate policies to deal with the need of the times.

He has openly blamed the subversion of civil servants for the ineffectuality of his policies. This was, in fact, the reason he gave for the introduction of the accountability system last July. Ten months down the road, no one is impressed with the performance of the accountability system. Nothing has improved. New scandals came one after another. In the latest scandal of the Financial

Secretary, his decision of not requiring Mr LEUNG's resignation is seen at home and abroad as a serious lack of judgement for which he must face the consequence.

Indeed, his own letter conveying his decision implicates himself in the charge of covering up. Marked "Personal and Confidential", it was obviously meant for public consumption. Dated 15 March, it made no mention of Mr LEUNG's failure to declare his conflict of interest on the 5 March or any letter of resignation received on 12 March.

Madam President, Mr TUNG's decision to seek an "Interpretation" of the Standing Committee of the National People's Congress has dealt the rule of law a permanent blow. His housing policy has famously created a nightmare world of negative equity. His adamant refusal to consider democratization or even work with people who disagree with his stance politically crippled Hong Kong. His permanent and persistent attack on the Civil Service has undermined its morale. His failures are numerous and spectacular. Enough is enough. He has caused enough harm and really should go.

If he is not convinced by his critics and at least half of Hong Kong, then I suggest he seeks an independent assessment, and resigns if that assessment confirms that he is not doing Hong Kong any good.

His final refuge is that however bad he is, there is no better candidate, certainly not the Honourable Member, the former Chairman of the Democratic Party. This is a poor defence. Of course, changing the person alone is not good enough, but it is a pretty good start, and a necessary one. We must change the system. There is overwhelming public support for the election of the Chief Executive by universal suffrage. This shows that the public fully understands the problem and its cause. But once again, Mr TUNG is an obstacle to this change. He is thus not only the problem, but also the obstacle to its solution.

Hong Kong needs a different and better Chief Executive. Hong Kong people deserve one. They have worked so hard and have already suffered so much.

Madam President, I support the motion.

MR IP KWOK-HIM (in Cantonese): Madam President, atypical pneumonia has raged in Hong Kong for more than two months, although there has recently been a continuous fall in the number of new cases and medical and health care personnel have once achieved the target of zero infection, the news of the death of Dr TSE Yuen-man yesterday made us feel sorry. For another medical and health care personnel has sacrificed in fighting this epidemic. Though we have already met two requirements of the World Health Organization (WHO) for lifting the travel advisory, it does not mean that the epidemic has abated and we can definitely not slack off. While all Hong Kong people are making efforts to conquer the epidemic, Honourable colleagues are spending their precious time discussing this motion in this Chamber, I am really sad but I think we have no alternative. I oppose Mr Albert CHAN's motion on behalf of the Democratic Alliance for Betterment of Hong Kong.

Looking carefully at the so-called "19 sins" committed by the Chief Executive, Mr TUNG Chee-hwa, found by Mr CHAN with great efforts, it is not difficult for us to find that the fact that these 19 incidents which are considered as "sins" has confused right and wrong and misled the public. It is really hard for me as a responsible Member to understand why he has to mislead the public with the claptrap and create division and conflicts at a time when everybody is laden with anxieties. A casual analysis of the 19 incidents put forward by Mr CHAN explicitly shows us his prejudice. For instance, the Chief Executive has taken decisive actions to ward off international speculators with our reserve during the Asian financial turmoil; to strike a balance between national security and people's rights, he has introduced the National Security (Legislative Provisions) Bill on the basis of Article 23 of the Basic Law; and he has sought the interpretation of law by the National People's Congress to stop the influx of mainland people. Why have all these actions supported by Hong Kong people become sins? It is really hard to understand this.

Madam President, President John KENNEDY of the United States said, "ask not what your country can do for you — ask what you can do for your country." Should we first review ourselves before criticizing others? No one is perfect, do Members supporting this motion today dare say that they have never made mistakes when dealing with problems? Nobody in the world has a crystal ball that can see into the future, and none of us knows or can tell the future. What have Honourable colleagues done during this atypical pneumonia turmoil? What contributions have they made? Quite a number of them who have even not visited hospitals or patronized food establishments in Amoy

Gardens are now making criticisms and, once the epidemic situation has slightly stabilized, they cannot wait to step forward to denounce some people, ask for investigation and resignation and to hold somebody responsible. Will the epidemic instantly disappear once Mr TUNG has resigned? Will the travel advisory of the WHO be instantly lifted?

The epidemic is unprecedented and has happened all of a sudden. At the initial stage of dealing with the epidemic, even professionals from the Hospital Authority, the Health, Welfare and Food Bureau and the Department of Health might have made mistakes in judgement and they certainly failed to meet the public's expectations in terms of response to changes and the time taken to make decisions. In the face of the epidemic, quite a few people have suddenly lost their close relatives and experienced tremendous changes in their families. When people are facing the difficulties of being unemployed and in such a mood, the Government will inevitably arouse resentment no matter how good its performance is and that is fully understandable and comprehensible. Nevertheless, does it mean that the Government has not done anything? I believe public opinion will give us an answer.

Mr Albert CHAN has told the media that the motion today can certainly be passed if voting by secret ballot is adopted. I solemnly state that such an irresponsible conjecture by Mr CHAN is an insult to the wisdom and integrity of Honourable colleagues and I ask Mr CHAN not to make such irresponsible remarks.

Mr CHAN has proposed a motion today calling for the resignation of the Chief Executive whilst everybody is making painstaking efforts to contain atypical pneumonia and continuously looking for solutions, and it is but another means by which he gets exposure besides hurling abuses. I ask Mr CHAN and Members supporting this motion to think twice for their own sake and the sake of others as well as the well-being of Hong Kong.

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

MR CHEUNG MAN-KWONG (in Cantonese): Madam President, insofar as TUNG Chee-hwa is concerned, all the Hong Kong people can say about him is that the biggest grief is having a broken heart.

In saying that the biggest grief is having a broken heart, Hong Kong people no longer place any hope on TUNG Chee-hwa, and it is sad that they are extremely helpless. They even prefer having no Chief Executive to having TUNG Chee-hwa as the Chief Executive. Not only are the democrats grieved and heartbroken, even the royalists, the pro-Chinese faction, accountability officials and the Chief Secretary for Administration have a pretty good idea of that but they only find it hard to speak it out. Everybody is waiting for the end of the term of office of TUNG Chee-hwa, for Hong Kong would not have to carry this burden by then and it would be able to get out of this dark tunnel early.

A senior Legislative Council Member and I have drawn a comparison between Chris PATTEN and TUNG Chee-hwa and we have discovered an interesting phenomenon. He told me that when Chris PATTEN attended the Question and Answer Sessions of the Legislative Council and entered the Chamber, all officials were smiling and full of confidence and were waiting to watch a good show. But when TUNG Chee-hwa attended the Question and Answer Sessions, the officials were poker-faced and heavyhearted for they worried that the more the Chief Executive said, the more errors he would make. The facts in the past six years show that TUNG Chee-hwa has brought Hong Kong disasters after disasters. He totally lacks the ability to govern Hong Kong and he should offer his position to someone else.

The rating of TUNG Chee-hwa by Hong Kong people is already the lowest and it is lower than that of all accountability officials. However, Hong Kong people do not have any alternative. They do not have the right to vote and they cannot replace the Chief Executive or oust him, and they can only transmit on the Internet songs, cartoons, jokes and jingles that mock at the Chief Executive. Since the people have no power, they can only amuse themselves in misery and show contempt for and trample on the powers of the Chief Executive and resist the undemocratic system in the virtual world. This is a tragedy for the Chief Executive and the people.

Hong Kong people cannot replace TUNG Chee-hwa because the Central Authorities and JIANG Zemin support TUNG. JIANG Zemin has most wrongly chosen TUNG Chee-hwa by his decree, which allows him to rule Hong Kong for 10 years, bringing calamity to Hong Kong and the people. History will inexorably evaluate JIANG Zemin's choice and highlight the fact that the system for the election of the Chief Executive is ridiculous: there is no

democratic mechanism for Hong Kong to elect an able and virtuous person and replace the Chief Executive. Today, a motion has been proposed in this Council calling for the resignation of TUNG Chee-hwa. Resignation has become a myth and even if he has resigned, another selection by imperial decree will be made. If TUNG Chee-hwa is not there, there would be other puppet emperors selected by imperial decree and people would still live in an era of Chinese imperial politics, and their biggest grief would always be having a broken heart.

In respect of the politics of selection by imperial decree, the biggest grief actually lies with the royalists. When TUNG Chee-hwa was re-elected, he was overwhelmingly nominated by some 700 votes and was elected without any contention. Are his nominators remorseful? These 700-odd nominators are the royalists today. The royalists followed the highest instruction and propped up TUNG Chee-hwa but they have to endure the disasters brought by him. Let us consider these: How much wealth has evaporated from Hong Kong six years after the reunification? How much support of the people has the Government lost? The royalists and tycoons who jumped on the bandwagon and supported TUNG are also compelled to suffer in silence. They say that they support TUNG but curse him from the heart, they say one thing but mean another and have a split personality, have created such a foolish system and pushed Hong Kong into an abyss of disasters. Do they have any qualms when they have dreams at night and examine themselves?

Madam President, atypical pneumonia has taught Hong Kong people a profound lesson that they should ignore the Government and seek relief on their own. While the Government said that atypical pneumonia had not spread in the community, people were wearing masks for self-protection. While the Government asked students to continue to attend classes, schools had suspended classes of their own accord. While the Government refused to publicize a list of buildings with infected people, some people had already taken the initiative to disclose such a list on the Internet. While the Government had not yet provided the dependants of people who died of atypical pneumonia with assistance, the public had already initiated donations. Atypical pneumonia is a disaster in which people have supported one another and sought relief on their own, and they have ignored the Government. How can we say that TUNG Chee-hwa is not a political disaster? The people have already seen through the ignorance and incompetence of the Government and negated the governance by TUNG

Chee-hwa by means of their scathing irony and burning satire. The SAR Government has been reduced to a laughing stock of the people and it has nothing to do with the public except being the subject of a joke.

This is a warning of danger. The public and the Government are not of one heart and one mind and they are moving further and further apart. Superficially, the biggest grief is having a broken heart; actually, people are burning with anger verging on eruption. When Hong Kong people become more desperate as a result of the economic disaster brought by atypical pneumonia, and when they lose more freedoms as a result of the disaster related to Article 23 of the Basic Law, it is time their anger rages like a prairie fire. At that time, TUNG Chee-hwa and the royalists will have to pay a higher price and Hong Kong will have greater sufferings. If any person with a bit of political foresight fails to sense danger in the future on the basis of the scathing irony and burning satire today, he could not be more foolish and is clearly beyond cure.

Madam President, I so submit.

DR DAVID LI: Madam President, Hong Kong is facing its most severe crisis in living memory. Severe Acute Respiratory Syndrome (SARS) has brought much suffering to our community, and the economic fallout could bring yet more hardship.

We have learned an important lesson from this crisis: Victory over this disease requires a committed community-wide effort.

We take the temperature of our children before they go to school each day. We monitor our own health, and take precautions against infecting others if we are ill. We care about public hygiene. We have redoubled efforts to keep our homes clean.

We rely on our public hospitals and health care workers to care for the sick. We rely on our police to enforce quarantines. We rely on screening at entry and exit points to stop the spread of the disease.

Through this community-wide effort, we are gradually bringing down the number of new infections. We all know that one weak link could spell disaster.

The September 11 incident, the Yangtze River floods, the Kobe earthquake: These are remembered as great calamities, but also as times when individuals put aside their differences to rebuild their communities.

During times of crisis, societies rally against the common threat. Even the most vocal government critics stand up and say, "We are all in this together. Let us join hands to triumph over this tragedy." Yet, here in Hong Kong, during the most serious crisis to befall our community in decades, we in the Legislative Council react by debating a motion calling upon the Chief Executive to resign.

What is the point of this debate? What will it achieve? How will it contribute to a better future for all of us in Hong Kong?

The people of Hong Kong look to our Chief Executive for leadership. They also look to Members of this Council for leadership. As we debate this motion, are we in this Council providing the leadership that Hong Kong people are looking for, and that Hong Kong people demand?

Hong Kong is at the start of a long battle against SARS. Although we are making progress against the disease, Hong Kong itself is far from recovery. We must strive to regain our economic strength. We must strive to rebuild international confidence in Hong Kong. We must develop an open and co-operative relationship with Guangdong province to make the whole region SARS-free.

None of these tasks is easy. Each of them requires our full attention. If we fail, our economy will not rebound, companies will go bankrupt, workers will lose their jobs, tax revenues will decline, and government services will be cut. Yet, here we are, debating a motion that could create greater chaos, and divert attention from the crisis at hand.

This week, we debate the resignation of the Chief Executive. Next week, we debate suspending deliberation of legislation on Article 23 of the Basic Law (Article 23).

With one, we say: "We can handle both SARS and a constitutional crisis at the same time." With the other, we say: "The SARS crisis is too grave — we must delay work on Article 23 legislation." Where is the logic in this? If you

vote for removal of the Chief Executive now, how can you turn around next week and argue that Article 23 legislation should be put on the back burner?

I hope that those who oppose the Chief Executive will realize the folly of the present motion and put the interests of Hong Kong as a whole to the fore. All of us in this Council will send a powerful message of unity against SARS by either voting against or abstaining from this flawed motion.

But doing so, we will be voting against petty politics and for a strong and united Hong Kong. By doing so, we will give real meaning to the Article 23 vote next week. By doing so, we will help restore public faith in the Legislative Council, proving that this Council can work together for the good of the people of Hong Kong.

Thank you, Madam President.

MR NG LEUNG-SING (in Cantonese): Madam President, a few days ago, I read the newspapers and learnt that Mr Albert CHAN had cooked up 19 so-called sins committed by the Chief Executive with a view to substantiating the motion he moved today. However, of the 19 so-called sins, such as the proposed legislation to implement Article 23 of the Basic Law, abolition of the two Municipal Councils or the recent civil service reform, I consider that they are just matters of different viewpoints and stands, or differences in opinions in society. I consider that it is just a waste of time and it is worthless to keep on arguing these "sins" again and again. As to other allegations raised by Mr CHAN, they are just incomprehensible. For example, Mr CHAN did not only show his disgruntlement about the plunge of property prices, but also displeasure about the suspension of land sales, which was one of the measures to stabilize property prices. Lastly, he even got too far to the subject by mentioning the chaos of the commencement of the operation of the new Hong Kong International Airport. With regards to this point, I consider that he has totally ignored the thorough investigations conducted and the unequivocal conclusions reached by the Select Committee established by the first Legislative Council to inquire into the circumstances leading to the problems. I believe it is unnecessary for me to recapitulate the conclusions made by the Select Committee here.

As to other allegations mentioned above, my overall opinion is that to cook up these sins by drawing forced analogy, not to say 19 sins, even 90 additional

sins, could not boost the persuasiveness of today's motion. It is more like expressing so-called personal opinions or letting off subjective and arbitrary views in radio phone-in programmes than a substantial motion debate within a legislature. I feel that it is worthy for us to debate here whether today's legislative culture has turned into the same culture as found in some media, that some of us will not hesitate to play the gallery, to speak as blatant, fierce and acid as possible in order to gain popularity, or even make constant remarks of overthrowing or toppling people. If this is really the legislative culture of today, then it is possible that what Mr CHAN had told the press, that is, "evildoers abusing power, bringing disasters to Hong Kong", would unfortunately become true.

As to some of his other remarks, he even surmised the intentions of our state leaders by drawing on a phrase of two of them, with a view to increasing his bargaining chip to overthrow the Chief Executive. These remarks would profoundly undermine "one country, two systems", and they could be called the worst of all evildoings.

In almost six years after the founding of the SAR Government, we know that there are shortcomings in the work of the Government under the influence of external circumstances, such as the bursting of property market bubbles and the attack of the Asian financial turmoil, or even the recent outbreak of the epidemic of the century. But there are also constant changes, progress and improvement. I believe that no government in the world could say that its policies are impeccable. Another more important aspect relating to the political and economic development of the SAR is that we have already set foot on a systematized operational process in which everything is carried out according to law. Putting the blame on a single official for all of the shortcomings of government policies and operations would only make people feel that it is just a way of shirking responsibilities; placing the hope on the replacement of one single official would only make people think that it is just the mindset of personal rule; while putting the hope of economic recovery on the replacement of a single official is certainly a manifestation of ignorance about the regular pattern of economic development.

There are already express provisions in the Basic Law concerning the resignation of the Chief Executive under specific circumstances, there are also definitive provisions which specify the procedure for the Legislative Council to impeach the Chief Executive. But up to now, I cannot see there are sufficient

justifications to support the initiation of any one of these mechanisms. If the Basic Law is bypassed, then things are not performed according to law. At the end, attempting to force the Chief Executive to resign by way of moving this motion would not only undermine the political system which has been established over the years under the framework of the Basic Law and has been accepted by the international community, but also the position and image of Hong Kong as an international financial centre. This will only do harm and no good.

Madam President, I so submit.

MR ALBERT HO (in Cantonese): Madam President, six years after the reunification, Hong Kong has had trials and hardships, a blow has been dealt by the economic downturn and atypical pneumonia has wreaked havoc, the future is bleak and people are in a state of anxiety. When the Financial Secretary made a proposal for saving our economy to the tune of \$11.8 billion a few days ago, he said that he wished to propel our economy to set sail again. I thought at that time that, the most effective way for Hong Kong to get out of the pool of stagnant water and move far away from the abyss is for it to have a new helmsman — a new Chief Executive with new thinking, vitality and drive. The administration by Mr TUNG in the past six years was highly unsatisfactory and his blunders were too numerous to mention. I only wish to simply point out some causes of his failure.

First, he lacks shrewd judgement and fails to work effectively, as he is indecisive, there is deliberation but no resolution and he often misses good opportunities. In dealing with economic problems and the recent Severe Acute Respiratory Syndrome (SARS) crisis, we have seen that he lacks the ability to decisively respond to changes. It would not be necessary to go into his housing policies. It is also familiar to us that he is caught in a dilemma in respect of education policies. Second, he lacks the breath of mind and cohesive force that a leader should possess. He prefers trusted followers to talents. In regard to opinions, he listens only to one side and fails to listen to both sides; he is even hostile to and excludes those who hold different views. He suppresses some former senior officials and censures democrats, he also stays aloof from the masses and the community. Third, he lacks political wisdom and acumen. He has not treasured the most precious conventions and he has made policies that broke these conventions; the interpretation of the Basic Law has shaken the

foundation of the rule of law and the Cyberport has destroyed the principle of fair competition. Forcing the speedy passage of the National Security (Legislative Provisions) Bill at this time also poses a threat to the freedoms of speech and association. In fact, three of the four major pillars just mentioned by Mr Donald TSANG have already been shaken. Many policies have also promoted the regression of democracy, the disparity between the rich and the poor and social division, and various trades and industries will take to the streets at the end. A placid society like ours should not and does not wish to see that happen.

Facing the difficulties today, the Chief Executive has undoubtedly done his utmost to turn the tide. Although he works from 7 am to 11 pm, takes an interest in all issues and has the sincerity to consider himself as a farm cattle, he is still unable to give people an impression that he can lead Hong Kong out of the present difficult situation. Conversely, the public and investors have lost all confidence in Mr TUNG and they even think that Mr TUNG has already become the biggest stumbling block to economic recovery.

Madam President, opinion polls have shown time and again that the popularity of the Chief Executive has gone from bad to worse and the relevant ratings have hit new lows. Actually, this can reflect the views of all strata of the community. Through extensive contacts, we know that various sectors of the community, especially the industrial and commercial sectors which were more conservative in the past, many people at the management level and many professionals, and even some pro-China people, have complained in private and they even hope that the Chief Executive would retire of his own accord.

As Mr CHEUNG Man-kwong has just said, the motion may be passed today if voting by secret ballot is adopted but Mr IP Kwok-him has immediately questioned what Mr CHEUNG Man-kwong has said. Let me express his opinion from another angle. If we have a reliable lie-detector machine today, I believe many Members from the "royalist party" will certainly be confirmed as telling lies when they are speaking today. However, I also understand that under political pressure, many people can only say something in public and say something else in private, which is also a tragedy for Hong Kong.

Madam President, if we start the countdown now, there are four years and one and a half months to go before the Chief Executive completes his second

term of office. I have heard many people ask how they can stick it out. It was not as painful during the countdown to the reunification in 1997 and they are really at a loss as to what to do. Secretary Donald TSANG has just said that we should be fairer to the Chief Executive but I wish to ask Mr TSANG if the Chief Executive can be fairer to the public. He has failed to handle a lot of matters with high proficiency and he has already replaced many officials since the reunification. Yet, his policies still fail to get the desired effects so far. Does it mean that the 6 million people of Hong Kong should be replaced as well? Now that the public cannot be replaced, we can only replace the Chief Executive.

(THE PRESIDENT'S DEPUTY, MRS SELINA CHOW, took the Chair)

Madam Deputy, whenever I see the Chief Executive appear on television with his puffy eye bags, thin white hair, stiff posture and husky voice, I feel sorry for him and Hong Kong people. I really hope that I can tell him directly: "Mr TUNG, you already have six years to show your abilities, that is enough. Please give Hong Kong people a chance to gasp for breath in the remaining four years. Mr TUNG, if you are willing to offer your position to somebody else and resign of your own accord, it would be the greatest blessing for Hong Kong." I so submit.

DR RAYMOND HO (in Cantonese): Madam Deputy, before 1997, most people were concerned about whether Hong Kong could have a smooth transition and maintain the existing way of life after its return to the motherland. Facts have proven that there has been a smooth transition of sovereignty and the policy of "one country, two systems" can be implemented in Hong Kong. Although most people do not take exception to the smooth reunification now, much credit should definitely go to Mr TUNG Chee-hwa as the first- and second-term Chief Executive of Hong Kong.

Since he has assumed office, Mr TUNG has shown his determination to serve Hong Kong people and performed his duties with personal integrity and probity of the highest standard. Since he has served Hong Kong with all his heart and all his might, he is absolutely trusted by the Central Government, which facilitates the smooth implementation of "one country, two systems".

However, insofar as the administration of Hong Kong by Mr TUNG is concerned, there is also room for review and improvement. Firstly, despite the good intentions of the housing policy for producing 85 000 flats annually implemented during the initial period after he has assumed office, it has neglected the relevant market factors and changes, causing the substantial downward adjustment of the local property market and making quite a number of people, especially the middle class including professionals fall into a difficult situation of negative equity assets. Ever since he proposed the relevant policy in 1997, I have always had much reservation about the policy.

Secondly, in respect of the policies for revitalizing our economy, Mr TUNG fails to adopt decisive policies and suit the remedy to the case to reverse the situation of our weak economy. As Hong Kong is facing serious deflation, the Government should consider adopting expansionary fiscal policies such as increasing infrastructural investments and maintenance works to stimulate our economy and increase employment. Although the Government has given certain responses after continuous lobbying by colleagues of this Council and I for several years, it is disappointing that the progress of many works is still extremely slow.

In the shadow of a fiscal deficit in recent years, the Government has become more prudent in making infrastructural investments, which gives no cause for much criticism. Nevertheless, the Government should make adjustments to its policies to actively encourage the direct participation by the private sector in the relevant projects and vigorously implement private finance initiatives and so on. Such an arrangement can relieve the burden of the Government in respect of infrastructural investments or other projects and the participation by the private sector can pace up the progress of and enhance the cost effectiveness of the relevant projects. Besides, the private sector will have a way out once it has accumulated enormous resources to the tune of more than \$3,000 billion.

It is most difficult to understand why Mr TUNG has proposed that a fiscal balance should be achieved by the Government by the financial year 2006-07 before the completion of his second term of office without any consultation made and convincing reasons given. To achieve the objective, the Government has to adopt retrenching fiscal measures, dealing a further blow to our weak economy. Our economy has lately been affected by the atypical pneumonia epidemic

seriously, if the Government does not revise the said target on the basis of the actual economic situation, it will definitely be difficult for our economy to steer out of the doldrums.

Madam Deputy, in my opinion, Mr TUNG should not take too much pain to achieve a fiscal balance before he leaves office. On the contrary, he should actively consider issuing government bonds to enable the Government to pace up economic recovery through expansionary fiscal policies. After our economy has regained healthy growth, government revenues will increase and the fiscal deficit will be resolved readily. Actually, it is nothing alarming even if there is still an acceptable fiscal deficit when he leaves office.

Mr TUNG can consider making suitable adjustments to economic policies and enhancing public relations work. With regard to many important issues, Mr TUNG fails to effectively and directly convey his ideas to the general public without delay, giving rise to a lot of misunderstandings and even dissatisfaction. The relevant examples include the adjustments made in light of the economic environment after the implementation of the housing policy for producing 85 000 flats annually and the measures taken by the Government during the initial period of the recent outbreak of atypical pneumonia and so on.

Madam Deputy, as regards the administration of Hong Kong by Mr TUNG, there is room for improvement indeed but he has always served Hong Kong with all his heart and all his might and spared no efforts in performing his duties, hence, the public should have shown deeper understanding of and stronger support for him. With these remarks, I oppose the motion. Thank you.

MR LAU PING-CHEUNG (in Cantonese): Madam Deputy, first of all, I wish to state clearly that, just like other Members, as a Legislative Council Member, I am an ex-officio Member of the Election Committee and I nominated Mr TUNG Chee-hwa as a candidate for the second-term Chief Executive during the election concerned.

Mr Albert CHAN's motion is very simple and it comprises only one clause, that is, "calls for the resignation of the Chief Executive, Mr TUNG Chee-hwa". It is very unreasonable to take such a remark as the basis and call for the

resignation of the Chief Executive without any annotations or explanations given. This is also a motion proposed by Mr Albert CHAN but not a motion initiated jointly by 15 Legislative Council Members exercising their powers as such on the impeachment of the Chief Executive in accordance with Article 73(9) of the Basic Law.

As to whether it is necessary for the Chief Executive to resign, Article 52 of the Basic Law clearly specifies that "the Chief Executive of the Hong Kong Special Administrative Region must resign under any of the following circumstances:

- (1) when he or she loses the ability to discharge his or her duties as a result of serious illness or other reasons;
- (2) when, after the Legislative Council is resolved because he or she twice refuses to sign a bill passed by it, the new Legislative Council again passes by a two-thirds majority of all the members the original bill in dispute, but he or she still refuses to sign it;
- (3) when, after the Legislative Council is dissolved because it refuses to pass a budget or any other important bill, the new Legislative Council still refuses to pass the original bill in dispute."

As we have observed, the three circumstances specified in the Basic Law have not emerged. Therefore, it is unreasonable to call for the resignation of the Chief Executive.

Leaving aside other issues, some have recently blamed the Government of the Hong Kong Special Administrative Region (SAR) for failing to take decisive and effective measures to stop the spreading of the epidemic after the outbreak of the atypical pneumonia incident. I think that this is always an issue related to different points of view and there can be endless arguments about the responsibilities to be borne by each person.

I wish to give an example for discussion. Somebody criticized after the outbreak of the epidemic at Amoy Gardens that the Government was slow in becoming aware of the situation and some residents had therefore left before the rest did. According to the media reports, a resident of the Amoy Gardens who

left before others fell sick afterwards and sought medical attention at the Tuen Mun Hospital. Since this resident failed to report to medical and health care personnel that he lived in Amoy Gardens, the medical and health care personnel who treated him failed to take precautions and were infected, and some of them even died. If the reports are true, should this resident be responsible? When the Government arranged for the residents of Amoy Gardens to be moved to the holiday villages for isolation, some residents complained about the inadequate facilities there. Naturally, the government departments under pressure bustled about, making arrangements for food and facilities for external communication. Nevertheless, some governments in our neighbouring regions have not provided their residents with food or facilities for external communication at all, so has the SAR Government been too attentive as compared with these regions?

Would the freedom of an infected patient hospitalized for treatment and isolation be restricted? Media reports have shown that that is not the case. Therefore, even though there are repeated incidents of patients escaping from hospitals, there are no suitable legal grounds for law enforcement officers to stop them. Should government officials or medical and health care personnel bear the responsibilities if some patients have therefore brought the virus to the community? Should colleagues of this Council as legislators bear part of the responsibilities? There are similar arguments over the Government's publicizing a list of infected buildings, some think that it infringes upon the privacy of patients and their family members while some ask for further disclosure of information on the floors where the patients live. Should government officials be responsible for publicizing the infected buildings or for not disclosing the details?

Madam Deputy, perhaps the "accountability" idea has already changed into "who should be responsible". Let me cite the view expressed by a columnist. He said that people who did not participate in the atypical pneumonia incident but had always been looking on unconcerned and only criticized have the least right to talk about accountability. This columnist thinks that three questions must be raised if an independent committee of inquiry is established in future. First, what has each Legislative Council Member done during the SARS turmoil? What civic responsibilities has he fulfilled? Has he led the community in moving forward? Second, putting ourselves in someone's shoes, when this unprecedented and mysterious virus attacked all of a sudden, who dared guarantee that no mistakes would be made, the public would not panic

and the World Health Organization would lift the travel advisory within a short period of time? Third, an opinion poll should be conducted to find out: How Hong Kong people evaluate themselves? What civic responsibilities have they fulfilled in the incident?

With these remarks, I oppose the motion.

MR JAMES TIEN (in Cantonese): Madam Deputy, Hong Kong was truly confronted with a crisis as a result of the recent outbreak of SARS. To Hong Kong, the problems arisen from this crisis are comparable to those brought about by the September 11 incident occurred in the United States last year. However, did anyone immediately demand President BUSH to step down? Did anyone immediately ask the mayor of New York to step down? Were the mistakes they made even more serious? From the perspective of national defence or safeguarding a city, this should not be allowed to happen in such a country as the United States. Neither should terrorists be allowed to do anything like that. However, people in the United States did not make such a request. Instead, they remained united and decided to tackle the terrorist problem first.

We can see that the SARS situation has resulted in sharp falls in businesses for many businessmen as well as losses of jobs for many people. The Financial Secretary is still meeting with political parties to discuss ways to relaunch the economy. All people from the pro-democracy camp, in support of this move taken by the Financial Secretary, have also taken part in the discussions. Should we stop creating polarization today and is it not the most critical moment and so we must not throw ourselves into confusion? Should we try our best to support the Government to resolve this crisis and tackle the SARS situation? I would like to appeal to democrats to concentrate their energy today on dealing with this matter.

As for the problems concerning Mr TUNG, democrats have always been advocating "anti-TUNG" campaigns. There were such campaigns last year and the year before. Will there be any difference if the campaign is slightly postponed? A similar motion can be moved next year so that we can debate on the issue again. Madam Deputy, Mr Albert CHAN cited so-called 19 sins when speaking on the motion, and he was criticized by Mr NG Leung-sing, with whom I agree to a considerable extent. Perhaps owing to inadequate time, all the

19 sins cited by Mr CHAN are merely slogans of one sentence or two. Chanting slogans in this way is definitely appealing. The Chief Executive made a mistake when members of the public could not afford to buy a flat because of exceedingly high property prices. He must have made another mistake when sharp falls in property prices led to negative equity. The Government made yet another mistake now that the economic environment is so bad and still it fails to spend a large sum of money to create 108 000 posts to prevent the unemployment rates from rising further. Should tax be raised after spending such a large sum of money on creating so many job opportunities? Yet the Government will be considered making another mistake should it decide to raise tax. So what should the Government do? Can the Democratic Party do it better if it is allowed to do the same job?

Madam Deputy, Mr CHEUNG Man-kwong kept on sidetracking when citing a few items earlier. I think the focus of his speech was really on direct election and democracy. Mr CHEUNG raised this question: Why were government officials behaved so confidently and all in smile when Chris PATTEN attended the Question and Answer Session in this Council in his capacity as governor? It is all because government officials were not required to do anything at that time. Governor PATTEN cared about nothing but politics. When he answered questions — I believe Members agree with me too — he would first take us "strolling around the gardens" and bring us back after much rambling. Then an entire hour would be passed. In contrast, Mr TUNG, being a more pragmatic person, usually answers questions in a pragmatic manner. Government officials certainly realize that he is replying to the questions raised by giving real answers. As such, they must pay attention to what he says for they might need to sort things out should he answer incorrectly.

This is what happened. In my opinion, insofar as a politician is concerned — Members should realize that Governor PATTEN was a politician and he was very good at making a talk show. It is impossible to demand Mr TUNG to master the skill of making a talk show because he is simply not a politician. I will on the contrary concur with those people who criticize Mr TUNG for failing to do so. For unlike such a brilliant politician as Governor PATTEN, Mr TUNG is not good at making a talk show. Our choices really depend on whether we prefer a person who likes making a talk show or one who really wishes to get things done to lead the Government.

Madam Deputy, we absolutely agree that the Government can handle a number of tasks better while tackling the epidemic this time. However, can much of what we do today to reflect on this incident be described as merely an attempt of being wise in retrospect? Do we mean to accuse others of failing to do this and that at that time? We do have the experience of handling other situations such as the airport incident, substandard piling incident, and so on. We have handled a lot of matters before; at least we know how to handle them. However, not a single government official has the experience of tackling SARS. Notwithstanding this, the Liberal Party entirely concurs with criticisms concerning the ways the matter was dealt with initially, on work priority, things not done properly, and so on.

So, what is the objective of the democrats or the Democratic Party in proposing to set up an investigation team — not a select committee — to first examine the course of the incident? If its objective is to investigate into the matter so that the epidemic, touch wood, can be handled better should it mutate and stage a comeback in future, we will certainly give our full support. However, if it is made clear at the outset that it seeks merely to achieve such purposes as witch hunting, casting a vote of no confidence or demanding someone to resign, then the Liberal Party would prefer acting more slowly and considering the matter carefully before making a decision. We should first examine whether evidence is available to support such allegations as those we find in the substandard piling incident. A select committee should definitely be set up to investigate into the matter if there is truly evidence that shows that government officials have done something wrong. For instance, an official or a doctor was found giving assurances by telling nurses direct that everything would be fine, that it was unnecessary for them to wear any protective gear, and that he would be responsible for any cases of death and so on.

Today, we still consider it absolutely unnecessary for a select committee to be set up to investigate into the matter. Insofar as this point is concerned, I note that the United Kingdom adopts the same approach too. Though it will conduct investigations with respect to aviation accidents, it will make it clear that the purpose of the investigation is not witch hunting. If some people are found during the investigation to be negligent, they will naturally be forced to resign.

As such, I would like to appeal to democrats that we absolutely agree with the proposal of investigating into the matter to enable us to do better when facing

similar situations in future. I hope everyone who takes part in the investigation (including doctors and nurses) can tell us what had really happened and not to be afraid of victimizing anyone if they say something wrong. For instance, one should not fear that a nursing officer might be victimized because she might have failed to instruct her subordinates to perform a certain task or fear that a doctor might be victimized because he might have failed to mention something in the course of treating the disease. People will tell us what they know frankly only when they do not have to worry that someone might be victimized as a result of what they say. Only in so doing can we understand the matter in greater detail in the course of curbing SARS and cope with our work better in future.

Madam Deputy, the Liberal Party opposes this motion.

MS AUDREY EU (in Cantonese): Madam Deputy, the Chief Secretary for Administration said in his speech delivered earlier that the greatest achievement of the Chief Executive was to put the "one country, two systems" into implementation. Actually, the implementation of this concept is, to a large extent, dependent on the constraint exercised by the Chinese Government. In this respect, the public are well aware of this. We can indeed see from public opinion polls that there is growing public confidence and support for the Chinese Government. On the contrary, public confidence or support for the SAR Government continues to nosedive. A poll conducted by the University of Hong Kong (HKU) shows that people dissatisfied with the overall performance of the SAR Government rose from 50% early this year to 60% in April, whereas people finding it satisfactory dropped from 19.3% early this year to 11.6% in April. The biggest test of the successful implementation of the "one country, two systems" has really nothing to do with the ability of the Chief Executive, Mr TUNG Chee-hwa, to gain trust from the Central Authorities, but lies with his ability to uphold "one country, two systems" while preserving the system or values of Hong Kong. In this respect, people caring about Hong Kong realize and regret that Hong Kong is going backward.

In referring to the four major pillars of Hong Kong, the Chief Secretary for Administration said they were kept intact under the leadership of Mr TUNG. This I beg to differ. First, he talked about judicial independence. The move to seek an interpretation by the Standing Committee of the National People's Congress has brought damage to judicial independence beyond repair. Second, he talked about a level playing field. We can all see the crux of the problem

from the Cyberport incident. Third, he talked about a clean civil service team in Hong Kong. I believe many civil servants in Hong Kong probably dispute the Secretary's comment that the Civil Service has been kept intact. They share the view that, in handling the enactment of legislation to cut wages or carrying out civil service reforms, the Government has seriously undermined the civil service system and morale. Fourth, the Secretary talked about freedom of information. It is evident that many international organizations have tendered written submissions to express their concerns that the enactment of legislation under Article 23 of the Basic Law might jeopardize freedom of information.

A number of colleagues who spoke today in opposition to the motion unanimously said that the way we look at the matter was probably too subjective. Is the way they look at the matter not equally subjective? Perhaps looking at the public opinion poll is a more objective way to look at the matter. In this respect, I believe its findings or results are evident. The latest poll conducted by the HKU shows that the Chief Executive's popularity, having dropped to 41.2, came last among the three Secretaries of Departments and 11 Directors of Bureaux. It is actually needless to look at public opinion polls. By paying attention to everyday media reports and radio phone-in programmes or listening to the conversation of our relatives and friends, we will find that more and more people, including those used to show no interest in politics, are dissatisfied with Mr TUNG and his government. There is an atmosphere of pessimism engulfing the community. Knowing very well that it is pointless to harbour hopes for Mr TUNG to step down, they have no idea how they can survive the remaining four years.

However, it is even more interesting to find that many people in the pro-government camp have started to criticize Mr TUNG. In his speech delivered earlier, Dr David LI commented that the motion's demand for the resignation of the Chief Executive was not constructive. However, we can see that, when interviewed by newspapers lately, he attributed the faulty accountability system to the fact that the system was solely accountable to Mr TUNG. In addition, many pro-Mr TUNG political parties criticized the performance of Mr TUNG and his government in combating atypical pneumonia. It is reported in today's *South China Morning Post* that the Central Government pressurized all Hong Kong Deputies to the National People's Congress (NPC) by demanding them not to make any "topple TUNG" comments. Madam Deputy, I have at hand two commentaries written by a Hong Kong deputy to the NPC and in one of them it reads: "Since he (Mr TUNG) has been elected the Chief Executive, (we) should

put up with his (extremely careful) way of handling matters". Madam Deputy, I find such comments really remarkable. In another commentary it reads: "(Even if) TUNG Chee-hwa's performance is not good enough, he is undoubtedly working hard he is at most doing something wrong, not something bad". Madam Deputy, someone doing something bad has to be sent to jail, but someone doing something wrong is allowed to stay. Is our expectation for the Chief Executive so low as this?

Today's *Hong Kong Daily News* contains an article written by Timothy WONG. In his opinion, the biggest enemy of the Chief Executive comes from the "seemingly pro-TUNG" remarks made by his political allies, not the anti-TUNG camp. This reminds me of a commentary in *South China Morning Post*, which attracted considerable repercussions. It reads: "Mr TUNG has many strengths The problem, or at least part of it, is the job itself, which needs to be tailored to Mr TUNG's competencies". Let me quote a remark made by Prof Anthony CHEUNG Bing-leung of Department of Public and Social Administration of the City University of Hong Kong, Mr TUNG has accumulated too many policy blunders that it is impossible for him to stand up again. This is like a point made in *The Tipping Point*, a book recommended to us by the Secretary Antony LEUNG, that one can hardly stand up again once the tipping point is reached. At this point, whatever the Chief Executive does will be taken negatively. I was told by too many people that the Chief Executive was always repeating the following when appearing on television: first, "careful consideration"; second, "a series of initiatives"; and third, "absolutely confident". The result is they would switch to another channel. It is indeed extremely obvious that public opinion does not want Mr TUNG to continue his role as Chief Executive. Of course, getting a replacement does not guarantee things will get better. This is particular so when the Chief Executive is still not returned by universal suffrage. It is impossible to guarantee that the candidate will meet the expectation of the people. Nevertheless, against the backdrop of suffocating politics and economic stalemate, a new candidate, if possible, can at least bring the people of Hong Kong new hopes.

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

MR AMBROSE LAU (in Cantonese): Madam Deputy, the Hong Kong Progressive Alliance (HKPA) holds the view that the performance of the Chief Executive, Mr TUNG Chee-hwa, over the past six years should be evaluated

pragmatically. Even non-supporters of Mr TUNG should not try to frame him by listing his wrongdoings without any justifications.

During the tenure of Mr TUNG Chee-hwa as the first-term Chief Executive of the SAR, the biggest achievement he made was to, on the political front, successfully put the "one country, two systems" into implementation and, on the economic front, successfully stood up to the Asian financial turmoil. By virtue of these two achievements, the call for "the resignation of the Chief Executive, Mr TUNG Chee-hwa" is unjustified.

In affirming the two major achievements of the Chief Executive, we should certainly evaluate a wide range of problems and hardship confronting Hong Kong over the past six years in a pragmatic manner. The HKPA is of the view that the emergence of these problems and difficulties is attributed to numerous factors: the structural defects handed down from the past, changes in peripheral circumstances, lack of experience, sudden natural disasters and man-made interference. Anyone who question himself honestly (no need to use lie detectors or photoscopes) should realize that it is inappropriate to put all the blame on Mr TUNG Chee-hwa.

First, let me cite atypical pneumonia as an example. This is an unexpected natural disaster. As Hong Kong and even other parts of the world lack experience in preventing and treating this disease, coupled with the absence of a contingency mechanism to cope with an epidemic crisis of such a scale, the Government was trapped in a difficult situation never seen before when the disease suddenly broke out. The initial slow response and passiveness are therefore understandable. However, Mr TUNG and the Government have reacted swiftly by turning from a passive to an active role through taking a series of effective initiatives. Thanks to the joint efforts of the Government and the entire community, the epidemic has now become more stable. As such, critics should not, brushing aside all the efforts and achievements of Mr TUNG and the Government, merely focus on certain inadequacies identified during the initial period. Even the World Health Organization fully recognized the initiatives taken by the SAR Government in combating the epidemic. A recent major public opinion poll conducted in Hong Kong shows that 70% of the people in Hong Kong are satisfied with the series of initiatives launched by the Government over the past three weeks for the purpose of combating the disease and relieving the people's hardship. It is also felt that improvements have been made in taking various measures to cope with a wide range of thorny issues and in tackling them.

Second, the problems and difficulties confronting Hong Kong are mainly attributed to the long-standing structural problems, in addition to cyclical factors resulting from changes in peripheral circumstances. During the 10-odd years before the reunification, Hong Kong has failed to promote socio-economic improvements as well as improvements in the system of governance. At the same time, it has failed to cope with its structural transformation. In particular, the burst of the bubble economy, pent up well before the reunification, has resulted in deflation, tumbling property prices, shrinking wealth, and so on, over the past four-odd years. Therefore, it is unfair for us to blame all the difficulties arisen from the long-standing structural problems on Mr TUNG. In order to lead Hong Kong out of its economic difficulties, Mr TUNG and his second-term Government must, pinpoint the structural shortcomings handed down from the past, carry out adjustment and reforms, including the reform of the Civil Service, the education and medical sectors, and so on. As Members are all aware, all reforms, bound to touch on the vested interest framework and relations and will definitely lead to some dissatisfaction and opposition. Right and wrong will be completely reversed if all the reforms launched by Mr TUNG are regarded as sins.

Third, for the purpose of implementing the accountability system, the second-term Government has sought to enlist people from the community to join the accountability team. More time should be allowed for the accountability team to run in, explore, and sum up the experience and lessons they have drawn. If a "death sentence" is imposed whenever a problem occurs, it will do no good to encouraging more talents from the community to join the Government to serve the public.

Fourth, the so-called "opinion poll affair" and "topple TUNG" incidents are, to a very large extent, attributed to man-made interferences. In 2000, the "Robert CHUNG incident" was employed as a means to topple TUNG. This time, "anti-TUNG" rumours were spread and a motion "calling for the resignation of the Chief Executive, Mr TUNG Chee-hwa" was moved in this Council. It seems that some people are anxious to stir up trouble. In the face of the epidemic, Hong Kong is overflowing with love never seen before. While medical and health care workers dedicate to their work regardless of their own safety, various sectors of the community take an active role in fund-raising and vigorous donation campaigns. The unrivalled reason, solidarity and the spirit of humanity demonstrated by the people of Hong Kong in the face of the epidemic are converging into unity among members of the community. This,

coupled with the Hong Kong people's well-preserved, excellent tradition of resilience, persistence and courage of marching forward fearlessly, Hong Kong society will surely emerge healthier, more mature and progressive in the course of rebirth in the aftermath of the epidemic. At a time when the community is regaining solidarity and enhancing it further, we should all the more cherish what we have and avoid the possibilities of creating division, causing disputes, intensifying hostility and undermining public confidence. People from all walks of life should come up with constructive proposals to enable government administration to be further improved. The HKPA can simply not concur with those people who seek to ignore and deny all the efforts and achievements made by Mr TUNG and the SAR Government over the past six years, and those who keep on making accusations and even call for the resignation of the Chief Executive and government officials without giving any serious consideration.

With these remarks, Madam Deputy, I oppose the motion.

MR YEUNG YIU-CHUNG (in Cantonese): Madam Deputy, people trying to act against China and stir up troubles in Hong Kong are always determined to topple Mr TUNG. The "anti-TUNG" show, began soon after Mr TUNG assumed office on 1 July 1997, will surely go on because they never believe, nor do they wish to see, the success of "one country, two systems". Regarding the Chief Executive as their most hated person, they always have the "TUNG Chee-hwa clique" on their lips and try every possible means to ridicule and attack Mr TUNG in order to oust him for their own pleasure. At this crucial moment when the lives and physical well-being of the public are under serious threats, when Hong Kong is facing an unprecedented disaster, and when people all over the territory get united to fight against atypical pneumonia, those people trying to act against China and stir up troubles in Hong Kong use the epidemic as a pretext to topple Mr TUNG. Brushing aside the safety of Hong Kong people and the overall interest of the community, they are making a vigorous attempt to divide the community in a bid to avenge a personal wrong in the name of public interest that is going to result in mere destruction. Such an irrational and immoral attempt to seize on an incident to exaggerate the matter is doomed to failure because it is against the will of the people. Mr Albert CHAN asked the "pro-TUNG faction" not to engage in false, big and empty talks. Having listened to the views expressed by people of the "anti-TUNG faction", who impressed me as downright stereotyped opponents of Mr TUNG, I find their indiscriminate attempts to frame Mr TUNG simply regrettable.

Article 52 of the Basic Law has specifically provided for the resignation of the Chief Executive. Though realizing it is wrong for him to do so, Mr Albert CHAN tried to use the epidemic as a pretext to launch an attack and demand the Chief Executive, Mr TUNG Chee-hwa, to resign. This is not only contrary to the truth, but also in contravention of the Basic Law. He is actually trying to put on a show by launching an attack aimed entirely at currying people's favour without any justifiable cause.

In an attempt to topple TUNG, people trying to act against China and stir up troubles in Hong Kong can be described as using every possible means to provoke disputes in hope of souring relations and distort the facts. They even go so far as to fabricate news in order to stir up troubles. First, a woman columnist spread the rumour that the Central Government was holding a liberal and open attitude towards the resignation of TUNG Chee-hwa before the expiry of his tenure in 2007. Then the *Next Magazine* reported vividly that TUNG Chee-hwa was scolded by HU Jintao. The dirty tricks employed to make false accusations show that some people will stop at nothing and resort to extreme measures for their own ends. After returning to Hong Kong from his duty visit to Beijing, Mr ZOU Zhekai, Deputy Director of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region, singled out the *Next Magazine* and criticized it for spreading rumours. In addition, the report concerning the scolding of Mr TUNG by President HU was described as intolerable and the magazine was criticized for failing to comply with the minimum moral standard expected of a journalist. Earlier on in the debate, Ms Audrey EU referred to an instruction cited in a news coverage in today's *South China Morning Post* that deputies of the NPC were asked to give full support to Mr TUNG. This is also pure fabrication. The exposure of the outrageous lies told by some media once again enables the public to see clearly their political plots and ulterior motives.

Madam Deputy, the Government of the Hong Kong SAR was set up nearly six years ago. The importance attached by the Chief Executive to education and his commitment to it are outstanding and evident. I would like to response to Mr Albert CHAN's blind opposition to Mr TUNG from the angle of education reforms. Since the reunification, the SAR Government has invested substantially in education. As a result, expenditure on education has risen 61% in six years in response to the aspirations of the education sector over the years. At the same time, concrete measures were taken to accomplish many of the tasks the British Hong Kong Government was expected to do or tasks having been

done too slowly or poorly. For instance, 60% of primary schools have switched to full-day education as a result of speeding up the pace of introducing full-day schooling to primary schools; the objective of having 35% of degree-holder primary teachers has been fulfilled as scheduled as a result of substantially increasing the number of teaching posts for degree-holder primary teachers; the strong demand made by both the education and social work sectors for having one social worker for one school has been met following the reunification; school improvement works have progressed in a satisfactory manner; large sums of resources have been injected for the implementation of the Expatriate English Language Teachers Scheme due to the importance attached to biliteracy and trilingualism; English teaching is strengthened in primary and secondary schools; five-year strategies for IT education have been formulated by equipping all public primary and secondary schools with adequate computer facilities, providing IT co-ordinators, offering IT training programmes to teachers and vigorously promoting the application of IT to teaching. In particular, the setting up of the \$5 billion Quality Education Fund has helped encourage schools and teachers to constantly reform, innovate, add value, pursue excellency, and to introduce a new culture and atmosphere of healthy competition to the education sector. At the same time, an education reform focused on "enjoy learning, communicate effectively, has a sense of commitment and be creative" is promoted to replace the abolished Academic Aptitude Test. In a bid to enhance education opportunities for students of senior secondary level and above, the ratio of having people in the relevant age group to receive tertiary education will be doubled from 30% to 60% in a decade to cope with the needs arising from economic restructuring, and so on. In conclusion, the SAR has demonstrated its ambition and efforts in investing in education and has made remarkable achievement in this area. The Chief Executive's success must be recognized and he really deserves our affirmation and applause.

It was said that Mr TUNG had responded too slowly and performed too poorly in dealing with crises, and his handling of SARS was cited as an example. It is undeniable that, during the initial period, the SAR Government was not vigilant enough and determined enough in taking necessary measures to combat the disease, and improvements can be made in these areas. Yet on the whole, the SAR Government has performed considerably well in combating SARS. For now, the number of new cases has gradually dropped, and a single-digit figure has been maintained for a number of days. Treatment has been remarkable with more than 60% of SARS-patients recovered and discharged. The WHO has also fully recognized the preventive measures taken by the SAR

Government. Medical and health authorities and experts from many countries, including the United States, recognized and praised the SAR Government for its preventive measures and its transparency in making public the SARS situation. All this clearly demonstrates the achievement made by the SAR Government in combating SARS. This is in sharp contrast to the chaotic situation pictured by people trying to act against China and stir up troubles in Hong Kong. They should indeed be condemned for making the most ear-piercing and disgusting noises amid the chorus sung by the SAR Government and the people of Hong Kong in a call for mutual assistance, solidarity and harmony in fighting the epidemic and weathering the hard times.

Madam Deputy, what we need most at the moment is to get united to fight against atypical pneumonia in order to win this battle to revive and relaunch the economy. As not all gold glitters and to err is human. Mr TUNG sure has shortcomings. However, his resignation is out of the question. We hope the SAR Government can, under the leadership of Mr TUNG, brush aside all interferences, sense the urgency of the people, reinforce the leadership, improve its *modus operandi*, and not to disappoint public expectations.

(THE PRESIDENT resumed the Chair)

With these remarks, I oppose Mr Albert CHAN's motion.

MR HUI CHEUNG-CHING (in Cantonese): Madam President, since the formation of the Government of Hong Kong SAR in 1997, Hong Kong could be described as facing difficulties one after another — unemployment, negative equity, deflation, uncertain economic outlook, deepened grievances and wavering public confidence. Taking advantage of such opportunities, people who love to stir up public sentiments by displaying their political gesture direct attack at the Chief Executive and demanded him to tender resignation at a time when Hong Kong is facing a difficult situation. In my personal opinion, attempts to "topple TUNG" are not only unfair to Mr TUNG, but also unhelpful to leading Hong Kong out of its difficulties.

Over the past few years, Hong Kong was confronted with such unprecedented crises as the Asian financial turmoil, sharp falls in property prices,

avian flu, and so on. The emergence of these crises was fundamentally triggered by external factors beyond the control of the Hong Kong Government, though certain human factors were involved. More importantly, when facing these crises, the SAR Government could only move forward with the most meticulous care, though it eventually managed to weather the crises unharmed. Before the outbreak of the atypical pneumonia, Hong Kong saw its foreign trade grow for 10 consecutive months, a record rise of 20.7% in the number of inbound travellers last year over the preceding year, and its unemployment rate gradually come down from the all-time high of 7.8%. All these demonstrate that the Government and the public are capable of starting afresh and rising up to their feet again.

Compared with previous crises, the blow dealt to Hong Kong by atypical pneumonia this time can be said to be much deeper and more severe. As atypical pneumonia is highly contagious and fatal, a number of governments in other parts of the world can only react in a passive manner. Sometimes, they even resort to drastic acts hardly understood and resented by the people of Hong Kong. In comparison, the preventive work carried out by the SAR Government is more sensible and highly professional. With the SARS situation being contained over the past few days, the people have seen their lives gradually return to normal. It can be said that the joint efforts of Mr TUNG, government officials, medical and health care personnel and the general public have finally borne fruit. The crisis brought about by the epidemic has also demonstrated numerous unique features of Hong Kong as an cosmopolitan city. These features include freedoms of speech and information, respect for human rights, a highly transparent government, a highly professional medical and health care team, a caring and tolerant society, and so on. While these features might appear to Hong Kong people as natural and right, this is not necessarily so in other places. These unfortunate events, though reflecting there is still much room for improvement, have all the more underlined the high quality of the general public and the enjoyment of human rights and freedoms under the Basic Law by the SAR under the leadership of Mr TUNG.

Undeniably, the Hong Kong economy has become worse than before after being hit by these crises one after another. People love reminiscing the good old times enjoyed by Hong Kong during the pre-1997 period are again trying to take advantage of this opportunity to put all the blame for the economic downturn on Mr TUNG. In retrospect, in the last years before the end of colonial rule, the United Kingdom was even prepared to sacrifice Hong Kong's long-term

interest, often just for the sake of presenting a false impression of peace and prosperity. A lot of nice-looking achievements, particularly the bubbling property market and the generally bloated and low cost-effective institutional framework civil service and public bodies, are actually thorny problems in disguise. After 1997, these problems have, eventually becoming a burden for the Government, made it difficult to manoeuvre. At the same time, labour force in the Mainland has become highly competitive and productive subsequent to the efforts of the Mainland to reform and open up itself in the '80s and the rapid economic growth it enjoyed in the late '90s. As the workshop of the world, China has also become a major rival for Hong Kong and other Asian countries such as Singapore and Japan, and even for the Western world. As a result, there is the emergence of the "China threat theory". Given that Hong Kong is being attacked on all sides and faced with worsened crises, can people demanding the resignation of Mr TUNG ask themselves frankly whether they are capable of reversing the poor situation facing Hong Kong at the moment?

In order to enhance Hong Kong's competitive edge, Mr TUNG has, since taking up his office, repeatedly stressed the importance of developing high value-added economies and exploring mainland markets. While these roads are long and difficult, they are nevertheless good medicines, though they taste bitterly. There is no other alternative for Hong Kong. To gain success, we must all demonstrate our determination, patience and wisdom. We must refrain from venting our dissatisfaction on Mr TUNG once we suffer losses or fail to see results within a short period of time.

We must admit that there is a vast difference between the current and future economic situations and the one before 1997. In the past when the Mainland has not yet been opened up to the world, Hong Kong could naturally maintain its dominance and superior status. Having joined the World Trade Organization, the Mainland is now making active preparations to open up itself in all areas in a matter of a few years. Coupled with the fact that countries formerly practising a planned economy have mostly switched to market economy and competition among global light industry products have become extremely fierce, Hong Kong is now faced with a stringent test. All these revolutionary changes have really had nothing to do with who is holding the office of Chief Executive. Faced with crises and challenges one after another, as pointed out by Premier WEN Jiabao, what Hong Kong people need most is solidarity and mutual understanding. While the world keeps changing and the Mainland keeps changing, Hong Kong must get united to make self-improvement

and re-establish its position and value amid changes to prevent itself from being eliminated in this great age. The motion seeking to "topple TUNG" will only create more division and complaints and thereby throw Hong Kong into more intense domestic struggles and lead to more wastage of time and resources. This is not helpful to saving Hong Kong at all.

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

MR CHAN KAM-LAM (in Cantonese): Madam President, although SARS has become increasingly rampant in Hong Kong, it is still unable to beat the resolute and persistent people of Hong Kong. On the contrary, they have become even more determined. Despite the advanced developments in medical technology today, the medical sector has yet to identify treatments and medicines that can completely cure the disease. We cannot blame anyone for the fluctuating SARS situation for this is to be expected.

I have recently conducted a public opinion poll in an attempt to understand the psychological pressure exerted on the public affected by SARS. It is found that the people attach more importance to their health and harmonious family lives and that they cherish the happy lives they are leading more than before.

The emergence of incessant disputes in the community is not a healthy sign the people need. Mr Albert CHAN is obviously wrong in believing that he can put all the blame on the Chief Executive, Mr TUNG Chee-hwa, by using SARS and the loss of lives and property as an excuse. On the contrary, his move has exposed his long-standing political position of "acting against China and stirring up troubles in Hong Kong" as well as his despicable behaviour of winning media coverage by making extremist comments.

It is ridiculous that Mr Albert CHAN cited a total of 19 social events occurred after the reunification and blamed them all on the Chief Executive. As the saying goes, give a dog an evil name and hang him. Is it reasonable to hold the Chief Executive accountable for such incidents as the Asian financial turmoil, avian flu, substandard piling, SARS, and so on? What are the justifications for making such moves as making nothing but sweeping generalizations indiscriminately without investigating the causes, forcibly demanding someone to step down, and squabbling endlessly over trivialities?

Madam President, today we should feel extremely glad that Hong Kong's social order has not been thrown into confusion since the reunification because of the downward economic adjustments. The people of Hong Kong are mature. We enjoy immense freedom of speech — we are free to topple Mr TUNG, Antony LEUNG, Prof LI, Dr YEOH, Mrs IP and whatever. Some people have even described these acts as a means of defying the powerful and the influential. Actually, all this points to the fact that the Government of the Hong Kong SAR today is still adhering to its administrative notion of democracy and freedom. Strictly speaking, today's SAR Government is in a weak position, albeit having power. The Chief Executive and government officials have not done anything to abuse their powers or bully the people. On the contrary, some despicable politicians, using public opinion as an excuse, behave like a tyrant in expressing their views and making rude remarks indiscriminately to divide the community and mislead the public. In monitoring the Government, the media should at the same time castigate and sanction the unreasonable and extremist comments made by these despicable politicians rather than inciting and encouraging them to do so.

A front-line woman doctor, TSE Yuen-man, who devoted her life to fighting heroically against SARS, unfortunately passed away yesterday. One of her colleagues made this meaningful remark: "We have sadly lost someone who has sacrificed herself to rescue the sick and the injured regardless of her own safety. Now we should learn better how to thank and appreciate those warriors who are still fighting at the moment". Should we reflect on whether we, living in the community today, have failed to appreciate what happiness really means? Should we review and examine whether we have analysed the causes of the problems arisen in the community today in a rational manner? Can we blame all the problems on Mr TUNG Chee-hwa, as what Mr Albert CHAN has done? The financial turmoil began to sweep through Asia and rip through various countries the day following the reunification of Hong Kong. In August 1998, the SAR Government decided to take resolute measures to fight back the financial "predators" and won applause from the public. Only the pro-democracy camp that sought to act against China and stir up troubles in Hong Kong raised opposition at that time.

Mr Albert HO blamed Mr TUNG Chee-hwa for having failed to act decisively in implementing housing policies. I would like to invite Members of the Democratic Party to refer back to their political platform — they strongly demanded the Chief Executive to implement the "85 000" housing policy.

Today, the Democratic Party again blame the bursting of the real estate bubble on the Chief Executive. How can they talk about political ethics? Like me, Mr CHEUNG Man-kwong delivered his speech in an especially high-pitched manner. (*Laughter*) However, having listened to what he said, I find that he was just chanting the stereotyped propagation to "topple TUNG", as he usually did. I would like to say a few words by quoting one of his remarks: Over the past six years following the reunification of Hong Kong, the pro-democracy camp has done nothing but "rejected whatever is put forward by the Chinese Government or Mr TUNG". What have they done for Hong Kong? The fact that the pro-democracy camp can do nothing but criticize and achieve nothing has caused widespread despair among the public. When waking up in the middle of the night, have people striving to act against China and stir up troubles in Hong Kong ever asked themselves whether they have let the people of Hong Kong down? Today, we are faced with atypical pneumonia. At the same time, we are faced with an atypical and despicable "political show". As such, we have to continue to work hard and fight back till the end. Thank you, Madam President.

MR HENRY WU (in Cantonese): Madam President, the motion topic which calls for the resignation of the Chief Executive is by its very nature a waste of time and not constructive at all. Therefore, I will be very brief in my speech.

Honourable Members will know that ever since the Chief Executive Mr TUNG Chee-hwa has assumed office, Hong Kong has been hit by a series of natural and unexpected calamities and these have presented increasingly thorny problems to Mr TUNG. Fortunately, the people of Hong Kong have managed to weather each of these calamities under the leadership of Mr TUNG and ride out the storm safe and sound.

Not long after the reunification in 1997, Hong Kong came under the attack of the Asian financial turmoil. Barely had the turmoil abated then the avian flu broke out. At the beginning of 2000, the global burst of the technology-based stocks triggered off the meltdown of property market in Hong Kong and the problems of negative equity assets, economic slowdown and a high unemployment rate came in. When the SAR Government was busily launching a package of economic revival measures, there came the September 11 tragedy in 2001, that flared up the tension in the Middle East and led to the United States-Iraq war at the beginning of this year. Volatile conditions in the global political

and economic scenes impair the pace of economic recovery and that deals a further blow to our economy and makes our society unstable. Last summer there was a minor outbreak of dengue fever and when the threat has not completely dispelled, this year comes a major outbreak of the deadly atypical pneumonia epidemic. World economy is now overshadowed by the gathering clouds of war and epidemic and the global financial system may come tumbling down at any moment. The overall economic outlook for Hong Kong is not rosy at all.

Madam President, the string of calamities are all matters beyond our control and for those major international events, as an international city and having an "outward-oriented economy", Hong Kong cannot be immune from these global events. Since there is no way to avoid these events, the only way left for Hong Kong is to face, tackle and overcome them. It is fortunate that the people of Hong Kong are persevering and dauntless in face of adversities, they are able to unite as one and with the care and support from our Motherland, we can tide over the difficulties one after another. So I believe that we can overcome the atypical pneumonia problem with the same perseverance and unity that we have shown in the past. Soon we will be able to win this battle and we can take off our face mask and take a breath of fresh air again.

For the past five years or so, Mr TUNG has really impressed us with his full commitment and selfless sacrifice. That is something which all the people of Hong Kong witness. Such cannot be refuted simply by a few remarks made so recklessly by some people whose aim is to topple the Chief Executive. We can never permit some people to make use of these natural calamities to incite hatred and pass on moral judgements which are not rational at all.

Madam President, the financial services sector is one of the four major pillars of Hong Kong and over the past couple of years, the industry has witnessed major changes. So apart from the adverse impact made by external events, the industry has to face the conflicts and repercussions of some inappropriate major changes launched by the Government, such as the abolition of minimum commission rates, the harsh Securities and Futures Ordinance and the unfair business environment that it results in and so on. The "penny stocks" incident, the report of the panel of experts and the tripartite working group report and so on have caused conflicts and they have led to serious adverse impact on the business conditions for the industry as well. When added to the raging of the SARS epidemic, the industry is placed in a position of yet greater difficulties.

Had the Government paid more attention to the professional advice given by the industry and avoided launching non-essential major reforms at such an unstable time, the predicament which the industry has run into would have been averted. If any major reform is to be made, it should meet the following three main principles: first, it must be absolutely necessary; second, there is no other option available; third, the social conditions are stable. Launching a major reform is like undergoing a major operation. If the patient has only minor and preliminary symptoms and that his life is not at stake, working a major operation on him would be almost like taking his life. Once this is done, the patient's health would be seriously harmed.

Madam President, the root of the cause of hardship experienced by the sector is due to the lack of communication between the accountable officials and the Chief Executive. These accountable officials are obliged to make a detailed analysis of the difficulties which the sector is facing and report to the Chief Executive. Then they should address the problems and try to solve them. Communication is very important under the accountability system and the accountable officials should ensure that communication channel to the top would not be blocked and that the professional advice given by the respective sectors can really reach the top quickly and directly. With a free and unhampered communication, the plight of the financial services sector can hopefully come to an end.

I hope very much that the SAR Government under the leadership of the Chief Executive Mr TUNG Chee-hwa can forge closer links between various Policy Bureaux. In particular when a calamity like SARS strikes suddenly, the Government should consolidate its position and when the right time comes, make the improvements as necessary and launch the economic revival measures.

I would like to end my speech by a line modelled on a famous remark by President KENNEDY: Ask not what your government can do for you, but what you can do for your government. For those who raise their objections to every issue, they should focus their attention more on making more contributions to the Government.

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

MISS CHOY SO-YUK (in Cantonese): Madam President, as a Hong Kong person I understand very well that our economy is beset with a host of problems, the outlook for future is uncertain and when coupled with the raging of the SARS epidemic, the jobless rate shows no sign of easing off and the deficits scale new heights. Grievances do exist and in a bid to vent the pent up feelings, people are putting all the blame on the Chief Executive. I would like to ask, "Are we going to let our emotions rule over our sense and accuse the Chief Executive of not doing enough and that he is to be held responsible for all the problems and that he should step down?"

My colleagues from the DAB will speak later on different policy areas while I will focus my speech on the performance made by the Chief Executive in the area of environmental protection. I hope Honourable Members would all discuss this issue of great importance ruled by reason and a peace of mind.

Before the reunification, environmental protection in Hong Kong was heavily flawed in both policies and direction. The manpower, resources and money put into environmental protection all vanished into the thin air. The most well-known example of this is the Strategic Sewage Disposal Scheme which was a cause of our concern for more than a decade and where more than \$10 billion of public money was senselessly spent. After the reunification, had Mr TUNG not made a decision to carry out a fresh and full-scale review of the project again, this white elephant project would not have made a drastic turn to meet the practical needs and this nightmare left from the colonial times would still harass the Hong Kong people.

Another example showing the spendthrift nature of the former government and a lack of sincerity in improving the environment is the building of landfill areas. Any government of a developed place knows very well that the focus of environmental efforts would be placed on waste reduction at the source, then on recycling, and finally on disposing the waste in the landfills. The former government inverted the order and used a lot of public money on building landfills. It is the people who have to bear the consequences when these landfills become overflowed with waste. But the Chief Executive decided to rectify the wrong direction of past efforts and proceed with the waste reduction scheme, this is a vital step made in the direction of environmental protection.

As early as a few years ago, the Chief Executive announced that a Council for Sustainable Development would be set up. The Council was set up last

month. It is charged with the responsibility of promoting this vital concept of sustainable development within various decision-making levels in the Government and in the different social strata. This will enable a change from the previous focus on economic benefits to a more balanced and comprehensive perspective on the social development project in question. This will also prevent the occurrence of mistaken concepts of governance which will lead to disasters.

Notwithstanding the importance with the SAR Government attaches on environmental protection and sustainable development, the pile of problems caused by the environmental protection policy as practised by the former government is making the rectification efforts very difficult. After the Chief Executive has assumed office, he has changed the passive stand of the former government and he has been determined to promote environmental protection by improving air and water quality as well as waste recycling. This is something to be commended. In the policy address and policy agenda released this year, positive responses are made on many important issues in environmental protection. There is no waste of efforts put on some grand plans with some ill-defined targets and instead some measures with clear objectives are proposed, such as the introduction of a pilot emissions trading scheme among power plants in Hong Kong and Guangdong as part of the programme with the Guangdong Provincial Government to improve air quality in the Pearl River Delta Region; the introduction of a pilot scheme to test out the economic benefits of wet-and-dry garbage sorting and its matching arrangements; promulgation of a comprehensive nature conservation policy in 2003, setting up a benchmarking system for nature conservation, implementation of the Total Water Management programme, promoting savings on water and water conservation and so on. All these are issues with a great sense of urgency.

It should be noted that despite the current financial stringency, the Chief Executive has not neglected work in environmental protection and he must be commended for the recommendations made in the policy agenda in this area.

Madam President, I am afraid that owing to constraints in time I will not be able to make a run-down of the achievements in environmental issues which the Chief Executive has made during the six years he has been in office. The above examples are given in the hope that when the performance of the Chief Executive is discussed, Honourable Members should not just be led by the headlines in the newspapers, but they should also consider the performance of

the Chief Executive in certain areas which may not be so noticeable, but are nevertheless very important to the long-term development of Hong Kong.

It remains of course, that for any work there is bound to be some room for improvement, if Honourable colleagues do think that there is anything in the governance which can be improved, they are welcome to make suggestions. When a consensus is reached among Members, we should work hard to improve what is thought to be inadequate. This is the solution to the root of the problem and that is what a responsible Member of this Council should do. Constant attempts at fault-finding and witch-hunting simply will not help things.

It is unfortunate that not only can the motion not help arrive at a sensible discussion of the governance of the Chief Executive, it can only serve to vent feelings and will not help change our present predicament. Moreover, it will only dissipate the little energy that remains in the community with the result that it will sink further down the abyss of despair.

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

MRS SELINA CHOW (in Cantonese): Madam President, we have just heard a version on the performance of the Chief Executive given by the Chief Secretary for Administration while the democratic faction also gives another which is exactly the opposite. Then where does the truth lie? I would think that both versions do carry some truths. However, after listening to the speeches made by Mr Albert CHAN and the pro-democracy camp, I am convinced that they are making the Chief Executive accountable for a lot of things which are outside the scope of his responsibilities. Over the past few years, Hong Kong has faced numerous challenges, but should the Chief Executive be blamed for every one of them? People who make comments with their hindsight can do so easily, but when they are actually in the soup, they will find it hard to make a proper response. I still vaguely remember that before the Chief Executive ran for his second term, he made a review of his past performance, and he admitted honestly that there were some things that he could have done better. I recall the public was quite receptive to his objective analysis of his work and his frank admission to his inadequacies. That had certainly helped in his approval rates at that time.

When Mr James TIEN spoke earlier, he said that the efforts made at toppling TUNG had been there all the time and so it would be no surprise to us if

a motion on that was proposed. It has become a fad these days to ask people to resign. For myself, I am speaking this remark for the third time this month. It has become a fad these days when someone has done something that people would not approve of or find pleasing, or when he has done something not up to the expectation of others, the person will be asked to resign even though he may have tried his best. So it is not surprising at all that we have a motion like this today.

However, if we call on the Chief Executive Mr TUNG Chee-hwa to resign today, it would not be an appropriate time at all. I think that the people of Hong Kong know very well that the whole community should stand up and fight this battle against atypical pneumonia united. We also need to be understanding and tolerant. Therefore, I agree very much with Premier WEN Jiabao when he made the point that we should be united. I am sure many people in Hong Kong would do the same. We are like a house, and if the house is divided, it will certainly fall.

I have said in the past that for no apparent reason, the views of Hong Kong people on Hong Kong are always less favourable than those of foreigners on Hong Kong. Take for example the atypical pneumonia epidemic, many comments made by foreigners are that Hong Kong has done quite a good job in containing the epidemic, for they are aware that we are facing a new virus and we are just groping for a way to deal with it. So many of the things that have happened are really things beyond our control. I think Honourable Members will recall that many officials, especially those in charge of our battle against the epidemic, do feel bad because the things they do may not be in line with their expectations. If we take their position, can we be sure that certain things can be avoided? We can hear some words of praise from the United States and other countries, but for Hong Kong, we hear not just compliments but quite a number of curses.

When we look back at the work done by the Chief Executive, we always find that he is very dedicated. If we are to make an objective analysis, we cannot help but ask, "Since the Chief Executive has done so many things with such dedication and commitment, why does he give the people such a negative impression? Why are so many doubts cast on his way of doing things and to the extent that he is queried for his sincerity in doing things on the Hong Kong people?" All these doubts and queries are used by those who aim at toppling TUNG, they accuse him of not standing on the side of the Hong Kong people.

We have heard of the saying that lies told a thousand times would be taken as truth, so if people make such remarks so frequently, in the end more and more people would believe in their truthfulness.

I think for many things there are not just a black and white side to them. In many cases we see that the Chief Executive or the SAR Government has really wanted to do things well, but the result is not what they want to see. Therefore, I think the Government should also think why have things become what they are. Instead of grumbling, feeling bad about things — I am sure many officials would do — they should think why are the results of opinion polls like these? If the officials think that they have done their best for Hong Kong, why is it that they earn the praises of foreign people but they are scolded by the people of Hong Kong? I would believe that there do exist some problems. In my opinion, the crux of the problem is that something has gone wrong in the relationship between the Government and the various classes and sectors in society as well as those who hold different political views. So very often, some good things may turn out exactly the opposite. Certain matters could have been tolerated, but they have not been so, for some people would view the matters from a negative perspective. Therefore, I think the Government must find a mode of doing things on the basis of co-operation and consensus.

PRESIDENT (in Cantonese): Mrs Selina CHOW, your time is up. Please sit down.

DR LUI MING-WAH (in Cantonese): Madam President, for the past couple of months or so Hong Kong has been under the attack of the atypical pneumonia epidemic, business for all sectors have been sluggish and the people are just scared. However, the people from all sectors manage to face this adversity with unity and determination, they have put aside their interests and pitch in to fight the epidemic. The situation gradually improves and the World Health Organization is satisfied with our efforts and we have won acclaim from the world.

At a time when the community is engaging in an all-out effort to fight the battle against the epidemic and work hard to revive the economy in its aftermath, the Legislative Council is having debates on two motions which cannot be said to be ordinary. After the motion of no confidence on the Financial Secretary Mr

Antony LEUNG moved by Miss Margaret NG was voted down last week, today Mr Albert CHAN directs the attack onto the Chief Executive Mr TUNG Chee-hwa by moving a motion calling for his resignation. As a representative of the Industrial Functional Constituency, I would like to present my views on the issue for Honourable Members to consider.

The Basic Law has expressly provided for the grounds and procedures for the resignation of the Chief Executive in the following: "If a motion initiated jointly by one-fourth of all the members of the Legislative Council charges the Chief Executive with serious breach of law or dereliction of duty and if he or she refuses to resign, the Council may, after passing a motion for investigation, give a mandate to the Chief Justice of the Court of Final Appeal to form and chair an independent investigation committee." After an investigation is made by that investigation committee, the findings shall be reported to the Legislative Council. If the committee considers the evidence sufficient to substantiate such charges, the Council may pass a motion of impeachment by two-thirds majority of all its Members and report it to the Central People's Government for decision.

The wording of Mr Albert CHAN's motion is: "That this Council calls for the resignation of the Chief Executive Mr TUNG Chee-hwa." No explanation is given on the grounds and reasons behind such a call for the resignation of Mr TUNG. It was reported that when Mr CHAN had successfully drawn the lot to get permission to move this motion, he said that the Chief Executive had been acting deplorably in handling the SARS incident and as the Central Government had dismissed the mayor of Beijing who was found to have handled the SARS incident unsatisfactorily, so the Chief Executive should also be asked to resign. I would like to point out that while a Member of this Council is free to express his or her personal views in this Council on the appointment or dismissal of the Chief Executive, he or she should act very prudently if his or her views are tabled before this Council on its Agenda. For the costs to a debate in this Council are very high. A three-hour meeting would need work of about 23 working days, when this is needed by the attendance of the three Secretaries of Departments and the 11 Directors of Bureaux and the supporting services of the Council, the costs would be more than \$200,000. If a meeting cannot meet its aims and achieve the effects that it sets out to be, then that is a big waste of the taxpayers' money.

In addition, at this time when the economy is still sluggish and when the epidemic is still around, our first and foremost task is to be united and focus our

attention on overcoming the adversity. The motion moved by Mr CHAN which calls for the resignation of the Chief Executive only serves to cause political controversies and incite political disputes which are unnecessary. It will only make our community more divisive, confuse the people and put their welfare at risk. It will not do Hong Kong any good at all.

Furthermore, experience has shown that with a booming economy and full employment, there will be more harmony and less disputes. After the reunification, Hong Kong has experienced a persistent economic downturn and high unemployment, these are vastly different from the situation before the reunification. And so there are grumbles. It is unfair that some people put all the blame on the Chief Executive and calls for him to resign. As a matter of fact, luck was simply not on his side when Mr TUNG assumed office as the Chief Executive, for within such a short span of time as five years, Hong Kong was hit by the Asian financial turmoil and the impact of the September 11 terrorist attack on New York, and now it is ravished by atypical pneumonia. There has not been a chance for the Hong Kong economy to recover. Admittedly, the fundamental reason for this sluggish economy is the imbalance in industrial structure caused by the relocation of industries. The changes in external conditions and the attack of the epidemic are all beyond the control of Mr TUNG. As for the relocation of the manufacturing industries, we all know that this has begun before the reunification and since it is affected by objective factors, so Mr TUNG should not be held accountable.

The atypical pneumonia epidemic makes its attack on Hong Kong all of a sudden and its deadly nature is posing a great threat to the life and health of the people of Hong Kong. It is also a test on the governance of the Government. At the initial stage of the outbreak, the Government was unable to get hold of sufficient information about the virus and so it was criticized for not responding fast enough and not acting decisively enough. However, after gaining much information about the virus and the overall picture of the epidemic, the Government is able to do its best and use all the available ways to combat the epidemic. These include the adoption of the separation policy and the boundary quarantine measures, the setting up of a reporting system with the mainland health authorities and the World Health Organization, seeking assistance from mainland and international experts, mobilizing the people to improve the environmental hygiene and formulating economic revival measures and so on. After more than two months of hard work, the efforts to battle the epidemic are becoming effective and the number of infection cases is falling. As the

epidemic is abating, the economy is beginning to turn for the better. All these show that the Government has been improving its administration during the battle against the epidemic and that is something we can all see.

Now that Hong Kong is in a critical moment and we should work for unity and harmony. We should also lend our full support to the Government so that we can win this battle against the epidemic, in the hope that peace can be restored to our society and that our economy can pick up again.

DR LAW CHI-KWONG (in Cantonese): Madam President, it is a very common phenomenon for the approval ratings for a leader to rise and fall. Let me take President George BUSH of the United States as an example, his approval rating was only 53% when he was elected but it rose to 89% after the September 11 incident. His approval rating dropped to 54% and his disapproval rating rose to 38% before the attack of Iraq this year. However, putting it simply, the approval rating for Mr BUSH is 53% at the lowest and 89% at the highest. Similarly, the degree to which the British are satisfied with Prime Minister Tony BLAIR also rises and falls, and it is 31% at the lowest and 67% at the highest, which is not very high. As to Taiwan which is closer by, the degree to which the Taiwanese are satisfied with CHEN Shui-bian is 38% at the lowest and 82% at the highest. The degree to which the Japanese are satisfied with Prime Minister Junichiro KOIZUMI is 49% at the lowest and 90% at the highest.

In July 1997 before Mr TUNG Chee-hwa started working, the degree to which people were satisfied with him was 35.6%, which was the highest and it dropped to 15.2% in July the following year. The rating then rose and fell afterwards and it was 23.7% at the highest but 8% at the lowest as recorded last month. Simply speaking, the situation was better before Mr TUNG Chee-hwa started working and it deteriorated after he had started working. Somebody has said that there are some elements opposing China and causing trouble in Hong Kong, and some people will be against Mr TUNG after all regardless of his performance. It is not entirely wrong to say so. For 12% of people already found his work unsatisfactory before Mr TUNG Chee-hwa had started working. He had not yet started working but 12% of people already found his work unsatisfactory. The figure increased to 59.4% last month. Excluding the 12% of people who are dissatisfied with all the things which Mr TUNG does, among the remaining 88% of people, as at last month, 53.9% of them still found his work unsatisfactory and only 9.1% found his work satisfactory.

People have no alternative and they know perfectly well that this motion of a vote of no confidence will not be passed. Many people have said that Hong Kong really depends upon what Mr TUNG will do this time. Can he give us a way out and resign automatically? After the former Japanese Prime Minister Yoshiro MORI indicated his intention to resign after his approval rating fell below 10% in March 2001, many people were very gratified and the Liberal Democratic Party immediately decided that Mr Junichiro KOIZUMI should succeed him as Prime Minister. Does Mr TUNG have the same breath of mind?

Thank you, Madam President.

MR SIN CHUNG-KAI (in Cantonese): Madam President, ever since the most ancient of times, a leader has to have the support of the masses. This applies to political leaders, business tycoons as well as village chiefs and country squires in a rustic community, even the leader in a group of children playing. It is unfortunate to see that in the six years when Mr TUNG Chee-hwa has become the leader of Hong Kong, he only succeeds in making the people grumble more, while support for him sinks rock bottom.

Recently, I received e-mails and websites from members of the public and friends. The contents of these are directed against the Government and many of those are in words and pictures. Some of these are a rewriting of the lyrics to popular songs, some are very imaginative jokes, and some are parodies of ancient classical texts found in secondary school textbooks. Today I would like to share these pieces of folk wisdom with Honourable Members here. I wish Mr TUNG and the senior officials would know what the people are really thinking. Some people may say that this is an attempt made by the democratic faction to besmear Mr TUNG, I would say that this can be said to be an attempt made by the people to besmear him, for all these are not written by me but they are all sent to me.

Madam President, as the language used in these pieces of "folk wisdom" may not be that elegant, so I would just want to declare here that I do not harbour any disrespect for the Legislative Council, what I am doing here is just to present the views of the public.

The first one is a parody on the "Ballad of Mu Lan":

Failures, failures and again failures,
Yet the inept ascend to the seats of power.
You don't hear the people's praises,
You only hear the people's sighs.
They ask Tung, what's in your heart?
They ask Tung, what's in your mind?
Nothing is in his heart, and
Nothing is in his men's mind.
Last night I heard from the news
That SARS was drawing near and close.
Tung's men are caught unprepared,
Armour and swords have they few.
To the battlefield medics and nurses ride
For days and nights they toil,
Before long many tumble and fall.
In grief the people moan and cry,
Things remain muddled and fuddled,
As those in power make baffling changes,
Like a dying man they try everything,
How can we tell if Tung is sane?

Then I would like to read out a parody of the Secondary Five set text "Treatise on the Six Nations" which exposes our political situation in a vivid and undisguised manner.

This is entitled "The New Treatise on Six Nations":

We ponder how the people of Hong Kong have set up the system and educated the talents, thus made possible the past glories. But Tung does not treasure these and he put them in disuse and throws them away in disdain. Today he ardently defends Antony Leung; tomorrow he enacts the evil laws. As our eyes rove, there come the imminent foe SARS. With limited resources, the deficits are there to stay. With heavy taxes, the economy could only worsen. It is like a war defeated without ever fought and recession is a matter of course. The people sigh, "With Tung around, it is like trying to put out a fire with wood. There can never be any good days when he is around." Alas, this is true.

Now I wish to switch to English, for it is an English poem which I have received. It reads like this:

"Congratulations, Mr Tung Chee-hwa,
What a year you've had so far
Things have certainly been bizarre
Starting with Antony Leung's new car
And now we even have a disease named after the HKSAR.

Oh, Mr Tung, please bring back our glorious past
When property and stocks would rise far and fast
And everyone was having such a blast
Now we're just wondering if you're up to the task
And asking when can we take off this stupid mask."

Lastly, I would like to read out a piece written in the form of a Cantonese *pak lam* jingle. It is an incisive look into the hearts of the Hong Kong people. The original is very long and I have made an extract of it:

Tung, Leung, Tsang, what a great mess
Is stirred by these devils three
Eighty-five thousand and MPF
They are to blame for all our woes
Imported workers and low wages
Jobs lost and men kill themselves
Cyberport and Chinese medicine
All are talks of downright nonsense
Mother tongue and direct subsidy
All are phony and nothing else
Grand projects and down go trees
Now fresh air so dearly costs
Lands reclaimed from the sea
Nothing's in the harbour to see
Truly in the Sally Aw case
The long arm of the law's come amiss
With the ministers muddled system
He heaps power on himself alone
And article twenty-three is a step
made surely backward, not forward

Madam President, one day I was dining in the Legislative Council with a number of my Honourable colleagues, we talked about our Premier WEN Jiabao. It so happened on one day Premier WEN said when he was being interviewed that he could not sleep at night and he shed his tears over the SARS incident. My colleagues praised Premier WEN for he was like the ancient Chinese politician and man of letters FAN Zhongyan. FAN wrote a much quoted line and it was: "One should be sensitive enough to worry before the world's problems have appeared, yet patient enough to share the world's joy after everyone has had a taste of it." I would think that the greatest mistake which Mr TUNG makes is that he worries after the world's problems have appeared and he has a taste of the world's joy before everyone else.

I so submit.

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

MS EMILY LAU (in Cantonese): Madam President, I speak in support of Mr Albert CHAN's motion.

The Chief Secretary for Administration has spoken before the debate starts and that I would think is a good practice. I think this is a good idea for Secretaries of Departments or Directors of Bureaux to speak before a debate commences, for this would give us more points to argue. Now the practice is usually that the principal officials will speak after we have spoken, but by then the President would not allow us to rise up and speak again.

The Chief Secretary says that the Chief Executive has done a lot of things and that the "one country, two systems" is an unparalleled success. As a matter of fact, the Chief Secretary should not have just said "one country, two systems", he should also have said "one country, two systems", "a high degree of autonomy", "Hong Kong people ruling Hong Kong" all these in a row. That the Chief Secretary says that "one country, two systems" is successful, I think many countries will agree to this. For the Chinese communists have not sent people to sit in the government headquarters, nor have they sent many people there. The Government is still run by Hong Kong people and Hong Kong is still practising the British system of law. Recently, I went to a few countries in Europe and no one there talked about "Hong Kong people ruling Hong Kong" or

"a high degree of autonomy" and things like that. Most of the people said to me that it was a pity that we could not return our own government. They did not understand why was it that despite our great grievances, those who took to the streets did not number more than 1 million and that the government was not overthrown. The Chief Secretary has been saying half of the truth for with respect to "one country, two systems", it is true that the Chinese communists have not sent their people there, but their people are already here. They are all Hong Kong people. That does not mean that the ideas of "a high degree of autonomy" and "Hong Kong people ruling Hong Kong" are put into practice here.

The Chief Secretary mentions the four pillars of success and many Honourable colleagues have talked about these as well. However, I would also like to talk about these, for when he mentions these, it gives people an impression that he is saying that these are the accomplishments of TUNG Chee-hwa. First, on the system of law. When I visited many countries in Europe, many people kept on asking me about the right of abode issue, the Sally AW case and so on. When I was being interviewed on the television, and the programme is about to be aired soon, they asked me why these things were allowed to undermine the system of law in Hong Kong. They also asked me whether or not the NPC would reinterpret the law again and whether or not our courts were that independent. When the Chief Secretary talks about these, we cannot help but ask if the hallmark of the SAR is really the independence of the judicial system. Many people are scared and they often ask if the Government can guarantee that there will be no more reinterpretations of the law, but the Government refuses to give such a guarantee. And such things are not forgotten, for even people from far-off places in Scandinavia still remember.

As for the level playing field idea, many Hong Kong and overseas people know very well that the trend is for increasing monopoly by a few big families. These people are what is called the "sons of the noble houses" and these are related to the TUNG family. Hong Kong is monopolized by these so-called elites. When I mention this point with many people in the business sector, they say that things would be difficult if they are not included in this inner circle. So that is the kind of level playing field which the Chief Secretary is talking about.

Another point is about clean and corruption-free civil servants. In the previous debate I mentioned the story that a person who was very much

acquainted with government affairs told me that the Chief Executive would have a word with the people at the ICAC on investigating the Financial Secretary. I am glad to hear that the Chief Secretary for Administration deny that such things would happen. Now the situation is like this: Someone who is well-acquainted with government affairs has told me that such things would happen, while another denies that this would happen. I really hope that it would not. I hope that people in the Government who know that such things have happened and even when the Chief Secretary may not know of these, they should come out and say what has happened, even though this would mean putting themselves at great risk. Having said that, I do not think the Chief Secretary will tell a lie deliberately.

Civil servants used to be apolitical, but I find a lot of civil servants are getting more and more political nowadays. I am referring to district affairs. I find many civil servants tend to support those political parties which are on the side of the Government. They may be forced to do so, or they may do so voluntarily. Many other parties are also doing much work in the districts, if they have the support from the Government, then they will also be provided with more resources and they would find it more convenient to work in the districts. But is the present state of affairs very political and will people have an impression that things are clean and fair? Some people may not be allowed to go to the Mainland for they are being discriminated against, but why does discrimination occur in the districts? Why do civil servants favour some people? I think if we open our eyes wide we should be able to see these things, are these what a clean, fair and impartial civil service will do?

Another thing is about the freedom of information. We know that we are presently discussing legislating for Article 23 of the Basic Law and we are very worried when it comes to dealing with seditious publications. We have not yet started discussing the amendments to the Official Secrets Ordinance, but from the paper submitted by Prof Johannes M.M. CHAN we see that he thinks that the provisions have deviated widely from serving the needs of Article 23. It can therefore be seen that the Government is making use of this opportunity to clamp down on things.

Madam President, I could go on talking about these. I hope the Chief Secretary would not be so self-righteous. Many of the things that he has done are open to queries and these cannot be said to be related to the so-called four major pillars.

Madam President, many Honourable Members have mentioned Premier WEN Jiabao earlier. Recently, he has said something which gives people the feeling that things are getting bad as the Central Government no longer lends its support to TUNG Chee-hwa. So what should he do? I cannot believe my eyes and ears, for he reads out something from the newspaper *Wen Wei Po* in a press conference. He says that even the *Wen Wei Po* reports that the SAR Government under the leadership of TUNG Chee-hwa has done a good job. Some people say that only *Wen Wei Po* would have such a kind of exclusive coverage, for there is no one in this world who will say such a thing as "under the leadership of TUNG Chee-hwa". Why does the Chief Executive try to prop himself up by reading something from the *Wen Wei Po* in a press conference?

Madam President, many Honourable Members have cracked jokes on TUNG Chee-hwa earlier. In fact, they may be doing so right in this minute. When I was upstairs, I heard many of these jokes on the Chief Executive. I did not know many of these people, I only overheard what they said. Madam President, I would like to share one of these jokes with you because often times you do not go upstairs and have meals there. The joke is about buying brains for transplant. It says that there are three brains for sale, one is that of BUSH, that costs \$500; another is that of CLINTON, and it costs \$1,000; and the other is that of TUNG Chee-hwa and it costs \$5,000. Why is the brain of TUNG Chee-hwa so expensive? It is because his brain is brand new and he has never used it.

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

MR LEUNG FU-WAH (in Cantonese): Madam President, the prime objective of Mr Albert CHAN's motion today is actually to attack the Basic Law and to attack the method for the selection of the Chief Executive of the Hong Kong SAR. Although Members present here know only too well whether this motion can be passed by the Legislative Council, I think Mr Albert CHAN has already benefited from it in the first place. With the detailed coverage by the media, he has already obtained practical gains by being in the limelight. I think any Member moving this motion in the Legislative Council actually seeks to create for the Legislative Council of the SAR a world record in parliamentary assemblies. That is, a world record in terms of calls for the stepping down of someone, calls for resignation, and repetition of the same contents in speeches.

Hastily moving this motion to the detriments of the overall interest of Hong Kong, having no regard for the territory's overall interest and image, this is indeed an attempt to seek personal gains at the expense of society. I will vote against the motion in the vote to be taken later.

Last week, Miss Margaret NG moved a motion of no confidence in the Financial Secretary for debate in the Legislative Council. I asked her at the outset whether she had seriously thought about the impact of her motion on the overall interest of Hong Kong before she moved the motion. Miss Margaret NG did not answer my question on that day. Now, I would like to ask Mr Albert CHAN the same question. Had he, before he moved this motion, seriously and sensibly consider the possible impact of this motion on Hong Kong as a whole? I think even if he did answer this question, he would only be giving an irrelevant answer.

In his speech Mr Albert CHAN only talked about the phenomena but not their causes; he only talked about subjective views but not the objective environment. He made no mention of the Asian financial turmoil. Nor did he mention the fact that the Severe Acute Respiratory Syndrome virus is unprecedented and beyond present-day human knowledge and medical technology. He made no mention of the high land premium, high costs, and property prices beyond public affordability as left behind by the British Hong Kong Government. He made no mention of the bubble economy which might have eaten into the commercial viability of businesses. He made no mention of how the bloated, inflexible bureaucratic structure and procedures left behind by the British Hong Kong Government have eroded Hong Kong's competitiveness. Is Mr Albert CHAN visually handicapped or is he naive?

In fact, is the opposition camp not also suffering in silence? In this Chamber, apart from always trying to please the public by claptrap, stepping out of line in their remarks, shouting abuses at others, and asking people to resign day in day out, I believe they have also considered talking about some other things and doing some other things. But what else do these people who are at their wit's end know other than giving themselves airs and doing things to frighten and deceive people? Their bag of tricks has been exhausted. The opposition camp should not be blamed too much though, because they really do not know how to do on thing constructive. Instead of overthrowing this person and that person, it would be better if the opposition camp can be more down to

earth at this stage and do something that will truly benefit Hong Kong. They must not drive a wedge in society and put the public on tenterhooks at a time when all sectors of the community must stand united.

Madam President, Mr Albert CHAN said yesterday that Mr TUNG Chee-hwa had committed 19 sins. How many of them are trumped-up charges, how many are gross frame-ups, and for how many of them that Mr TUNG should not be blamed? I wish to cite an example. According to a report in today's newspaper, regarding the incident of the Hong Kong authorities arranging for a chartered flight to bring home a Hong Kong tour group from Taiwan on 29 April, it was said at first that their return was attributed to some personal efforts of the Chief Executive, but there were also press reports saying that it was not true and that it was the Chief Executive's idea that the little girl be allowed to board the plane only if she was confirmed to be not infected. Now, if we look back on this incident, it appeared that some of the reports aimed to discredit the Chief Executive. For this reason, the tour leader, Miss KOON, had recorded this incident in detail in her diary. She said, "Commissioner CHAN of Taiwan's Mainland Affairs Council said in the afternoon on that day that they had to arrange for a chartered flight if they wanted to leave, for they were not allowed to board an ordinary flight and that the little girl had to stay behind. But other members of the tour insisted to leave together with the little girl. Later, Mrs Margaret CHAN, the Director of Health, telephoned and said that the Taiwan authorities did not permit the departure of the little girl and asked whether tour members would mind if they would return to Hong Kong on the same flight with the little girl, and all tour members said that they would not mind. It was only after the Hong Kong Government had subsequently liaised with Taiwan that the Taiwan authorities agreed to let the little girl go with other tour members. This shows that it was Taiwan that refused to give in due to their concerns about the health of the little girl. Then at 9.30 pm on that night when the little girl was about to board the aeroplane, the doctor who examined the little girl said that as her chest X-ray was not available at that time, so another chest X-ray had to be taken from the little girl at the National Taiwan University Hospital. Finally, the plane could take off only at 11.15 pm." From this, it shows that the Chief Executive had actually done his best. Why were Members so ludicrous in their speeches? It is because in some cases, when a lie has been told for a hundred times and when discrediting remarks have been made a hundred times, there would be people who believe in them.

Apart from the atypical pneumonia incident, Mr Albert CHAN had mentioned 19 sins. I think it is impossible for me to respond to them one by one. I just wish to respond to one of these sins and that is, the policy to produce "85 000 housing flats" which is a cardinal sin. Recently, Mr Timothy WONG Ka-ying wrote an article in newspaper titled "The Chief Executive is made the scapegoat for the '85 000 units' blunder". I wish to quote from this article: "..... the housing scheme of building '85 000 units' was not initiated by the Chief Executive. Rather, it was a policy inherited by the Chief Executive from the former British Hong Kong Government in the Long-term Housing Strategy published in 1987, the British Hong Kong Government pointed out that 96 000 new housing units were planned to be built by 2001, with the public and private sectors building 40 000 and 30 000 units respectively each year". In the Long Term Housing Strategy Review consultative document published in January 1997, the Government also pointed out that the housing demand adopted by the Government was based on a computerized model, and that figure was arrived at from calculations made by the former Government. But he did not understand why the Chief Executive has never put up a defence. Nor do I understand why.

This is a question that we must examine and reconsider in depth. If these reports are true facts, then we must ask ourselves whether we have obtained an in-depth and comprehensive understanding of the matter before we make a judgement on it. The opposition camp must not be allowed to wilfully tamper with the truth and disseminate wrong messages to the public. It seems that one cannot remove a label off himself if the label has been put on him for a thousand times, and a lie that has been told for a thousand times will become the truth! Members of the public cannot blindly echo the views of others. After hearing those allegations against the Chief Executive by the opposition camp or reading reports that are far from the truth, they must not come to think that the Chief Executive must be wrong. As the saying goes, "one can always give a dog a bad name and hang it".

Madam President, confronting the Government and discrediting the Chief Executive as such are actually meant to conceal the incompetence of the opposition camp, because apart from always trying to saddle the blame on others, they

PRESIDENT (in Cantonese): Mr LEUNG, your time is up. Please sit down.

MR LEUNG FU-WAH (in Cantonese): Madam President, I oppose the motion.

MR JASPER TSANG (in Cantonese): Madam President, the convenor of my party caucus has instructed me to speak only after Mr Martin LEE has spoken. *(Laughter)* But still, I was afraid that I might miss this opportunity to speak. It is because when Mr Albert CHAN told the media that he would sponsor a motion debate calling for the stepping down of TUNG Chee-hwa, the "atypical Member" of the Hong Kong Progressive Alliance, Dr David CHU, came into the Ante-Chamber. I was there at the time, and did not expect to hear him say with a kind of look as if he was taking pleasure in others misfortunes, "Jasper TSANG, you are finished. Albert CHAN is asking TUNG to step down, and you must say something." *(Laughter)*

I am more than happy to rise to speak against Mr Albert CHAN's motion. Madam President, had this motion been moved by a Member who all along has expectations of and has long been committed to "one country, two systems", it might be a little more convincing. But if it is proposed by Mr Albert CHAN under the auspices of Members of the Democratic Party, then it is indeed far from convincing.

Mr Albert CHAN said earlier that he began to take to the street asking TUNG to step down in 1998. But this is not the only reason why his motion is unconvincing. Madam President, it is more because they should honestly think back as to how they had told people everywhere before the reunification about what Hong Kong would become after reunification. Would they please clearly make a comparison between the picture of post-unification Hong Kong as depicted by them at that time and the present-day Hong Kong? What did they say back then? Mr Martin LEE said that he was prepared to go to jail. Mr SZETO Wah said in tears to his friends overseas, "I cannot come to see you any more after the reunification". But now, they are still sitting comfortably here in this Chamber. They can topple TUNG every day, and they can make anti-government remarks and hurl criticisms at the Government every day. Why would they say that they were worried about being sent to jail? During holidays, they are still at liberty to go everywhere for vacation and leisure. If they are here to say that the TUNG Chee-hwa administration has performed badly in the implementation of "one country, two systems" over the past six years — some Members did say this earlier — is it not that their argument is entirely unconvincing, or are their past predictions entirely wrong?

Indeed, Mr Albert CHAN had made such comments. Mr Albert HO had also got something wrong earlier, but that is of little significance. Mr Albert CHAN said that he would win if the vote would be taken by secret ballot today, because many people who said that they supported TUNG did not really mean it. I must tell Mr Albert CHAN that this is not true. If the vote is taken by way of secret ballot, even Members of the Democratic Party will not support you. *(Laughter)* Well, this is from newspaper reports. Why? It is because a number of Members in the Democratic Party fare far better than Mr Albert CHAN does in terms of their "志" (meaning aspirations). I am referring to that "志" as mentioned by Mr Albert CHAN in "志大才疏" (which means having high aspirations but little talent). I bet he wrote this deliberately, for he is unlikely to write the wrong character. It might have even been checked by Mr SZETO Wah.

Some Members of the Democratic Party have higher aspirations than those of Mr Albert CHAN, for they notice that supporting this motion may in turn lose public support. Such being the case, if they can vote anonymously, they may not necessarily support Mr Albert CHAN. But now, they could do nothing, for they are forced to be singled out. Once they are singled out as the opposition camp, they must side with the anti-TUNG camp. All this is also from newspaper reports. Now that Mr Albert CHAN has proposed this motion. How can they not support it? A while ago, some people had wanted to propose an amendment, but they were stopped from doing so.

Indeed, it is Mr CHEUNG Man-kwong who said one thing but meant another, because he understands that one must pay a price in toppling TUNG. So, while Mr CHEUNG Man-kwong said earlier that other people had said one thing but meant another, he is actually the one who said one thing but meant another. Mr Albert HO said that if a lie detector was used, the detector would sound once we, the so-called TUNG's supporters, speak. If there is really a lie detector here, the detector certainly would not sound when Mr Albert CHAN and Members of the Democratic Party speak, because they are already used to confusing the right from wrong, making slanderous accusations, seizing every opportunity to put over their ideas, and shouting abuses. They could do so without turning a hair. So, how could a lie detector detect that they are telling lies? This is their basic instinct. They have been doing these all the time. So, as pointed out by Mr LEUNG Fu-wah in his speech earlier, the public has been hearing this all the time and having heard this for so many times, they would even think this way.

Mr Albert CHAN said that he wanted no grand, big but hollow proposal, and that everything had to be supported by justifications. While some of our colleagues have already expressed their views, I must still take all the trouble to speak on the policy to build "85 000 flats" again. Mr Albert CHAN ranked the policy of building "85 000 flats" as the first of the 19 sins. I wish to ask Mr Albert CHAN a question and I hope he can respond later to clearly explain to the public, particularly to owners of negative equity assets for whom he had taken up the cudgel what exactly does he oppose when he said that he opposed the "85 000 flats" of TUNG Chee-hwa? Is he against the proposal of building "85 000 flats" by TUNG Chee-hwa or is he against his abandoning the policy of building "85 000 flats"? Mr Albert CHAN said earlier that he began to lead owners of negative equity assets to take to the street to oppose TUNG Chee-hwa and to topple TUNG Chee-hwa in June 1998. What happened in June 1998? That was when the election of the first Legislative Council just ended. During the first Legislative Council election, the platform of the Democratic Party called on the SAR Government to meet the target of building "85 000 housing units" each year. This was clearly written in their election platform. That was before Mr Albert CHAN left the Democratic Party due to his distrust in the new leaders of the Democratic Party, and he was still a member of the Democratic Party at that time. So, would he please clearly explain what this is all about? The Democratic Party had once been resolute in opposing the abolition of the policy of building "85 000 flats" by the Government but since then, it has not stated this position any more.

I must admit that the Democratic Alliance for Betterment of Hong Kong (DAB) is in the same situation. Our judgement is also the same as that of the Democratic Party. I wish to point out that the housing target was proposed in the light of the conditions of housing in Hong Kong in 1997. After the target was proposed, it was supported by some members of the community, including the DAB and the Democratic Party. Later, when the financial turmoil came, there were great changes and there were changes in society and the economy in many aspects. For some time great controversies appeared in society. The Government was indeed caught in a dilemma at that time in respect of the adjustments in housing policies. Should the blame be also put on Mr TUNG, saying that it is due to his incompetent leadership and his having high aspirations but little talent?

MR LEE CHEUK-YAN (in Cantonese): Madam President, first of all, I wish to point out that there is one more sin in addition to the 19 sins mentioned by Mr Albert CHAN. It is a sin which I consider most infuriating, that is, the abolition of labour laws. The laws on collective bargaining and discrimination against trade unions were frozen two weeks after the reunification in 1997, and were scrapped four months later. Mr CHAN has omitted this. He should discuss with me before he talks about them again in future. So, I think there should be one more sin, making it a total of 20.

However, I do not wish to give a full account of all the so-called sins of or charges against Mr TUNG today, for the public knows only well the sins committed by him. Today, I wish to look back on the speeches made by many Members earlier in the debate to support TUNG or to protect the Government. I do feel aggrieved for Mr TUNG asked for having asked them to back him up. I think they are simply not doing enough to support Mr TUNG.

The first person not doing enough to support Mr TUNG is the Chief Secretary for Administration. According to what he has said, Mr TUNG has only one merit and that is, the implementation of "one country, two systems". That is all. He has made no achievement in other areas and so, there is no merit on his part to speak of. I found that the ploys used by other Members to support TUNG can be summed up as "four pillars". The Chief Secretary for Administration has discussed the four pillars of Hong Kong earlier. These Members have also leaned on these four pillars.

What are the four pillars that Members lean on to support TUNG? The first is atypical pneumonia. That is, they argue again on the ground of atypical pneumonia and try to get away with it. This is the first major pillar. Looking back, almost all Members in support of TUNG have mentioned this pillar, saying that as pneumonia was rampant and as a formidable enemy was before us, we must face this challenge and stand united. So, the first pillar is atypical pneumonia.

The second pillar has digressed farther from the question at issue, explaining everything away as natural disasters and misfortunes. Mr Henry WU did say so. Many other people have also said so. Anyhow, it is said that everything faced by Hong Kong people now is attributed to their bad luck. All are just natural disasters and misfortunes and so, we should not put the blame on anyone and it has nothing to do with Mr TUNG either. This is the second pillar.

For the third pillar, I learned of it from a local deputy to the National People's Congress, who is also a member of the Democratic Alliance for Betterment of Hong Kong (DAB). He said that Mr TUNG had at the most done something wrong, but not something bad. This made me think of the words and deeds of Gary CHENG of the DAB. So, the third pillar is to argue that Mr TUNG has not done anything bad.

The fourth pillar is to say that nobody is perfect and that no government is perfect either, and so, we should not be asking for too much.

As we can see, the first two pillars seek to shift the blame onto the external economy, natural disasters and misfortunes, the financial turmoil, and so on, whereas the other two seek to lower the standard by suggesting that things would be fine as long as we do not ask for too much and set standards on too high a level. They carry the meaning that Hong Kong people must not expect too much from the Government, and must not expect too much from the Chief Executive. In that case, everyone would be happy, because the people would have no expectation. Mr CHEUNG Man-kwong said that the greatest grief is having a broken heart. That is why they have come up with this idea to tell the people not to have hopes and not to ask for anything, so that everyone would be happy and nothing would have anything to do with Mr TUNG.

These are the four major pillars, and all the arguments being put forward are more or less the same. So, I do think that they are not doing enough to support TUNG. Yet, I should not blame them, because what Mr TUNG has done really provides no merits for them to speak of and such being the case, how could they play their part effectively? They have come to a state where it is impossible to support TUNG any further. So, they really should not be blamed for not doing enough to support TUNG.

Indeed, many Members have also tried to argue on the ground of the SARS virus. Members must appreciate that Hong Kong is actually faced with two kinds of SARS virus. We must not pay attention only to one kind of virus but ignore the other. The atypical pneumonia that Members have always referred to is just one kind of virus. Certainly, we must deal with this kind of virus. But there is another kind of SARS virus and that is, the Special Administrative Region Syndrome.

The scientific name of this syndrome is "Tung virus". People who are affected by this virus will have three symptoms. The first symptom is blindness, in that they will blindly support TUNG and the Central Authorities. The second symptom is deafness, in that they will hear no public opinion and pay no heed to public opinion. They will hear nothing of it and completely turn a deaf ear to it. The third symptom is to say one thing but mean another. While Mr Jasper TSANG looked immensely proud earlier in saying that the Democratic Party has said one thing but mean another, I would like him to give some thoughts to the matter. The fact is that those who are infected with the "Tung virus" say one thing but mean another. As for the mode of transmission, do Members know how it spread? It spread from the day of the handshake with JIANG Zemin (*laughter*). That is, the virus began to spread right from that handshake. The person being most seriously infected is the first person who shook hand with him, that is, our Chief Executive, Mr TUNG Chee-hwa. TUNG Chee-hwa has been infected most seriously. Apart from showing the three symptoms, namely, blindness, deafness and saying one thing but meaning another, he also suffers from an even more serious disease and that is, incompetence in governance.

He is not the only person infected with the virus. I really should not blame him alone. In fact, apart from him, many of us here have also been infected. I mean the 700 people who nominated TUNG Chee-hwa. Those 700 people are also infected with the virus, and they are all carriers of it. So, Members can think about what treatment should they be given? In fact, it is simple. All we need to do is to take quarantine measures. (*Laughter*) Just quarantine those 700 people and forbid them to play no more small coterie election in the voting circle. In that case, the "Tung virus" will not be able to spread. However, I think the problem will not be resolved only by dealing with this virus. After they are quarantined, it is most important to develop a democratic antibody. If a democratic antibody is found in all the 6.5 million people in Hong Kong and if we can elect the new Chief Executive by one person one vote, this virus will ultimately be eradicated completely.

I think those who support TUNG today should think about this. They do not know the sentiments of the people at all. The people are now boiling with anger. If I throw down the gauntlet to them and ask: Can a referendum be held now? What in their views would be the result? The worst thing with Hong Kong now is that the existing constitutional system is all but a deadlock. In this Legislative Council, people with "Tung virus" are the majority, but people like

us who are not infected are the minority. How can those who are infected too seriously be handled? The only way out is to rely on the people. I now call on the people, as we must ultimately rely on the 6 million-odd people of Hong Kong, to say this when seeing each other on the street: "Good day, democracy. Goodbye, Mr TUNG."

Thank you, Madam President.

MR MICHAEL MAK (in Cantonese): Madam President, I have thought for a long time about whether I should make an impromptu speech or to speak from the script. I finally chose to speak from the script, for I fear that I might have omitted something. But first of all, I wish to respond to Mr Jasper TSANG who, without mentioning my name though, said that I had been pressurized to refrain from moving an amendment to the motion. In fact, I absolutely have not been pressurized. I only think that in the fight against SARS, Mr TUNG does not deserve to be ousted. But I still think that he must resign for the very serious problems in other aspects.

Perhaps let me now read from the script.

Madam President, I take part in this motion debate with a grief-stricken heart. It is because a total of three medical workers, including Nurse LAU Wing-kai, Dr TSE Yuen-man and Dr James LAU Tai-kwan, have died after contracting SARS. The medical profession has lost three distinguished persons. Here, I wish to pay my highest tribute to these three fellow health care workers who had worked with dedication regardless of their own safety and sacrificed their own lives to save others.

Since Mr TUNG Chee-hwa took office as the Chief Executive in 1997, he has repeatedly made mistakes in his policies. Today, I received from a voter some petition materials, and he told me that TUNG Chee-hwa had dropped a "85 000" bomb onto Hong Kong as soon as he assumed office, turning the properties of countless people into negative equity assets. Then he pronounced his desire to turn Hong Kong into a Cyberport, a centre of Chinese medicine and a floral port. But so far, all these have remained to be empty promises. Most unfortunate is that Hong Kong has recently become a port of SARS.

In the incidents of Sally AW, short piling works and penny stocks, Mr TUNG had only taken on his cronies; he had connived at and shielded the mistakes of his subordinates, and confused right and wrong. On such issues as the opinion poll scandal and the enactment of legislation to implement Article 23 of the Basic Law, he had suppressed public opinions and clamped down on freedoms, turning the clock back in the development of a democratic constitutional system. President HU Jintao has said that powers should be exercised for the people; feelings should side with the people; and benefits should be obtained for the people. But the Chief Executive has sought by all means to consolidate his own rule, completely forgetting that the Government should serve the people. So, the accountability system for principal officials pledges loyalty only to the Chief Executive and exists only in name.

Luck comes but once and troubles never come singly. Under the governance of an "atypical" government, Hong Kong is already fraught with problems. With an atypical epidemic plus the "atypical" reaction of the Government, the precious lives of 227 people have been sacrificed. I do not wish to see one more life being sacrificed for this reason. Also being sacrificed are the economy of Hong Kong and its image. The SAR Government under the leadership of Mr TUNG Chee-hwa cannot shirk its responsibility indeed!

The Chief Executive has only attached importance to the economic exchange and integration with the Pearl River Delta (PRD), but neglected the problems concerning health and contagious diseases that follow. In early February, there was already a massive outbreak of atypical pneumonia in Guangdong Province. The Government did not actively ask for details from the Guangdong authorities and had treated health issues lightly. Subsequently, the Government had even put economic benefits and reputation above people's lives and health. At first, Secretary Dr YEOH Eng-kiong said categorically that the virus had not spread to the community, and in order to be politically correct, he refused to disclose the source of the virus and as a result, nothing was done to tackle the problem at its roots. Secretary Dr YEOH Eng-kiong who led the battle against SARS had handled the epidemic in a most conceited manner and had over and over again missed the chance to contain the spread of the virus.

When the Chief Executive visited the Prince of Wales Hospital on 15 March, he said that he was aware of the seriousness of the problem. But he did not immediately take resolute measures to curb the spread of the disease!

This reaction indicative of senile dementia has led to the infection of 375 health care workers in my profession, among which three have heroically given their lives and 10 are struggling on the verge of death, and families of many people are shattered.

The Chief Executive has stressed time and again the need to achieve zero infection among medical and health care workers. But regrettably, their personal protection gear is still inadequate. One by one, they shed blood in the SARS battlefield. On the advice of his family doctor, the Chief Executive had refrained from going to the SARS battlefield and adopted the strategy of watching the battle on the other side of the shore. It is, therefore, impossible for him to understand the perils to which the front-line health care workers are exposed. On the day before yesterday, that is, on 12 May, the Chief Executive spared time from his very busy schedule to attend the activities held by the Hospital Authority for the International Nurse Day, in an effort to boost morale. I was deeply touched, but unfortunately, these are belated efforts that will not be of any help! The Chief Executive is incompetent in leading us to fight the disease. As a result, Hong Kong has suffered severe losses in the battle against SARS. Let me conclude the reaction of the SAR Government in the SARS incident by the following doggerel:

Officials were so slow in action
Playing down the threat of SARS
And not taking enough precaution
So the Amoy disaster struck at last

Homes of people were all shattered
Grievances among medics were many
As the virus grew and scattered
Who is to blame for deaths so plenty

None but Tung and his men so inept

Madam President, today, I will vote by my conscience on this motion of calling for the resignation of the Chief Executive, Mr TUNG Chee-hwa. I will vote by my conscience, but I think this motion is not going to be passed. So, I very much hope that the SAR Government can effectively follow up the SARS incident and set up a disease control centre.

PRESIDENT (in Cantonese): Mr TAM Yiu-chung, do you have a point of order?

MR TAM YIU-CHUNG (in Cantonese): Madam President, just now Mr Michael MAK has displayed a cardboard for many times. I do not know what it is. But it appears that you, Madam President, have not reacted to this. It seems that Members are not allowed to do so under the Rules of Procedure.

PRESIDENT (in Cantonese): Mr TAM Yiu-chung, you are correct. Members are not allowed to display any sign in the course of their speech for no reason. However, the sign held by Mr Michael MAK when he spoke was related to the contents of his speech. This is the reason why I have not reacted.

Mr Michael MAK, please go on.

MR MICHAEL MAK (in Cantonese): Thank you, Madam President. I hope that the SAR Government will be fully committed to promoting primary health education, restructuring the operation of public medical institutions, setting up funds for compassion purposes, as well as for research and training, respecting the rights of medical and health care workers and providing them with sufficient rest days, as well as allocating more resources.

Thank you, Madam President, for allowing me to show a display board which my voters give me. In fact, with regard to this I have much support

PRESIDENT (in Cantonese): Sorry, Mr Michael MAK, I wish to remind you that you should not mention the word "display" for you are making a speech and the contents of your speech are directly related to the sign you are holding in your hands.

MR MICHAEL MAK (in Cantonese): Thank you, Madam President. In fact, my voting intention is supported by many people in my profession. One of my colleagues says to me, "Dear Michael, please ask him, TUNG, to go to hell." Another one says, "Dear Michael, if Mr TUNG were a United States President,

he would be requested to step down, and would be out in a short time." Thank you, Madam President.

PRESIDENT (in Cantonese): Mr Martin LEE, are you raising a point of order?

MR MARTIN LEE (in Cantonese): No.

PRESIDENT (in Cantonese): Are you just waiting for your turn to speak?

MR MARTIN LEE (in Cantonese): Yes.

MR ANDREW CHENG (in Cantonese): Madam President, Chief Secretary TSANG said earlier that the four pillars of Hong Kong are still maintained and that "one country, two systems" had achieved unprecedented success. But this does not mean that Mr TUNG Chee-hwa has made no mistake at all or there must be nothing wrong with Mr TUNG. Mr TUNG lacks tolerance and generosity, and he lacks the decisiveness, courage and vision as generally expected of any leader. I dare say that if Hong Kong is led by someone who is more farsighted, more decisive and more courageous than Mr TUNG, the success of Hong Kong might be even more spectacular!

I feel sad for this debate today. First, I feel sad for the Bureau Directors who sit here in rows to support their boss. Apart from having to wear a smile on their face, so as not to invite comments from Mr CHEUNG Man-kwong that they are laden with anxieties, they must still keep on supporting Mr TUNG when the Government is weak and led by Mr TUNG who is considered incompetent by the public.

I feel sad for the royalists today, because they are all saying one thing but meaning another. Every one of them is only licking the boots of the Central leaders. Instead of saying that they support TUNG, it is more appropriate to say that they support JIANG and HU, completely neglecting the sentiments and wish of the 6 million-odd Hong Kong people.

I feel even sadder for Mr TUNG. Despite criticisms from all sides, he still thinks that he is doing a very good job. He thinks that he has already worked from seven in the morning till eleven at night and he has been working tirelessly with no complaints and so, he must not be blamed; only those remaining evil elements of the British Hong Kong rule and the reactionaries should be held responsible for all the mistakes. Such a mediocre and incompetent leader, together with dozens of royalist followers, have wrecked the future of the SAR.

In his speech earlier, Mr IP Kwok-him said that it was saddening to see that some people, as the atypical pneumonia problem prevailed, had never gone to hospitals and restaurants, knowing only to topple TUNG. I wish to remind Mr IP Kwok-him and some royalist Members that to fight atypical pneumonia, the duty of Members is not only to go to hospitals and restaurants. It is also our duty to make proposals to the Government in this Council. The meeting of the Panel on Health Services this morning is an example. At 8.30 am on every Wednesday in the past few weeks, discussions were held at the Panel of Health Services on SARS cases and the related issues. But in most of the discussions, I have seen no participation from Members of the DAB. In spite of this, I will not rashly criticize Members of the DAB for doing nothing to fight atypical pneumonia. Everyone will make an effort to fight atypical pneumonia, and everyone will be doing this unreservedly. But when it comes to asking Mr TUNG to step down, only the democratic camp dares to challenge the Central Authorities, honestly tells what is right and what is wrong, and speaks the mind of Hong Kong people and will take up the job. If we do not take up this job, could it be that the royalists who will do it?

Madam President, Mr TUNG Chee-hwa has always said that the team of accountable officials handpicked by himself is the best, and has laid stress on their accountability. What is the truth? What people have seen in the penny stocks incident and the Financial Secretary's car purchase cannot be clearer. Someone who has abused powers to seek personal gains and whose integrity is in question does not have to step down, and the problem is settled only by a few criticisms from Mr TUNG. Regarding such an accountability system, so to speak, which kind of accountability system is this? Mr TUNG Chee-hwa's acts to shield the mistakes of his subordinates have truly made us understand that his so-called accountability system actually means a system which requires his team of officials to pledge allegiance to their boss. We cannot see that the officials

are in any way accountable to the people. Nor can we see that Mr TUNG is accountable to the people!

After Mr TUNG has assumed office, he first scrapped the Municipal Councils and then reintroduced the appointment system in District Councils. In the Legislative Council, the division system as stipulated in the Basic Law has deprived the Legislative Council of the true power to monitor the Government. The culture of parliamentary assemblies in Hong Kong is on the verge of extinction. This has dampened the interest of Hong Kong people in politics, let alone their interest in taking part in politics to make contributions.

In respect of the accountability system for principal officials, as I said earlier, the Chief Executive has time and again made people feel that this system is one which merely accounts for but not accountable for mistakes. The Bureau Directors under the accountability system have brought the Government's popularity to another record low. This culture will only deter talents who wish to contribute to society from joining the Government. The culture of parliamentary assemblies is dying out. The Government's accountability system is rendered virtually nonexistent. This is a serious institutional crisis of Hong Kong. If things go on like this, the people will only keep on shouting loudly outside the establishment. The Government only turns a deaf ear to their shouting and this will ultimately make the people take to the streets, and that will certainly deal a blow to social stability.

Madam President, an advanced society will strive for democracy and will be responsible to the people. In order to implement a true accountability system and to set a precedent for the implementation of a democratic accountability system so as to open a page in the history of Hong Kong and the Motherland, we urge Mr TUNG to resign and step down on his own initiative early in order to be responsible to the people for his policy blunders. This is perhaps the only way for him to truly make some contributions in the interest of Hong Kong.

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

MR MARTIN LEE (in Cantonese): Madam President, what the Chief Secretary for Administration said in fact was not correct, because the passage reads as follows: "Six years later, the 'one country, two systems' concept has to date

reaped unprecedented and universally acknowledged success; from the Central Government to the British and European Parliaments, the United States to the United Nations, they unanimously give their praises." It has not included praises by each and every Hong Kong person. Why is it that only the Hong Kong people give no praises? Our problem now is Mr TUNG Chee-hwa is not the President of the United States but the Chief Executive of the Hong Kong SAR. The fact that the people of Hong Kong do not support him makes it a big problem. Can we say that he is successful in serving his term? He is of course still some way from being successful! First, there is neither a democratic election in place to select the Chief Executive, nor is there a democratic election in place to select all Members of the Legislative Council. How can we say this is successful? Second, if we are really going to legislate in this way for Article 23 of the Basic Law (Article 23), restricting the freedoms of the people, how can we say this is successful? Third, if The Liaison Office of the Central People's Government disturbs our government officials so often, how can we say that this is successful?

Madam President, Mr Jasper TSANG reminded me not to forget what I had said before the reunification. I had not said before the reunification that I would definitely be put to prison. Before the reunification, the reporters and some people asked me if I would be imprisoned on 1 July. I replied that I would not. The chance for me to be sent to prison on 1 July was very very slim but I would not rule out the possibility. Why would I not rule out the possibility? It is because at that time, the Central Government had not asked the SAR to legislate immediately to implement Article 23. Now, six years have passed and the legislation for the implementation of Article 23 is upcoming. Therefore, if you ask me now if I will be imprisoned, I will reply that the chance is still not big but again, I cannot rule out this possibility. As the legislation for the implementation of Article 23 is upcoming, I will at this moment reply in this way.

Madam President, right now in this Chamber, we are like living in two worlds: on one side, Members are saying that Mr TUNG has been doing a good job and is worth their support; on the other side, Members are saying that he has been performing badly. In fact, the so-called 19 sins or 20 sins suggested by the Democratic Party do not mean that he has sinned and has been brought to court. Everyone knows that this should be interpreted as he has committed 19 or 20 big mistakes.

We all like soccer games. If we want to watch one, we can set the alarm clock before we go to bed tonight and get up on time to watch. If there was a soccer team (I would like to liken the Government to a soccer team), made up of one Mr TUNG, three Secretaries of Departments, 11 Directors of Bureaux, that is 11 players for the games, three reserves and one manager, and if this team lost in the 19 or 20 games it played, will there be a need to replace the manager?

However, please listen carefully, I am not asking the Central Government to replace the manager because the Democratic Party is only asking him to resign voluntarily. Nor do we want to invoke Article 52 of the Basic Law (Article 52), because a lot of Members (they actually do not know what they have said) mentioned this Article. Article 52 states that the Chief Executive must resign under three circumstances. We are not demanding that the Chief Executive must resign, we are only asking him to resign voluntarily. One of the circumstances is when the Chief Executive "loses the ability to discharge his or her duties". At the moment, we are not saying that he "loses his ability" to discharge his duties. Instead, we are saying that he is "incapable" of discharging his duties. Therefore, we are asking him to resign voluntarily.

Then, some Members asked the Democratic Party to ask ourselves what we have done for the Government. Taking President KENNEDY of the United States as a reference, he in fact had not asked what the people had done for the government but for the country. It is very difficult for the Democratic Party to do things for the country now because apart from being here in Hong Kong, I cannot go to the Mainland. However, we can at least do our utmost in Hong Kong, fight for democracy, freedom, rule of law, human rights for the 1.3 billion people of our country. We have tried our best to vindicate the 4 June incident, making it possible for the 1.3 billion people to enjoy the rights they deserve. These are the things we have tried very hard to do, and we will continue to try and work in this direction. We are not like the "royalists". We believe that we will improve, and very much, at least bring a democratic parliament to Hong Kong, at least let the Chinese leaders see that the situation in Hong Kong has become a good example for others to know that this is feasible. We just hope that we can take the lead and China can follow suit, thus moving ahead together. Nevertheless, what these Members are now doing is to prevent the earth from revolving, so to speak.

Mr James TIEN said we should all support Mr TUNG now, refrain from dividing our society and might as well wait till next year to discuss this motion.

Rather, I would say that this is a very appropriate suggestion if applied to the legislating for Article 23. In order not to divide our society, why should we not postpone the matter to the next Session? However, Mr TIEN made no mention of this. He even said that Mr CHEUNG Man-kwong made a comparison between Mr TUNG's performance and that of Mr PATTEN in the Question and Answer Session. What he said was in fact true. Neither of them could answer the questions, that is they failed to reply. The difference is that after making a reply, most of the people felt that Mr PATTEN had answered even though he had not; but for Mr TUNG, after making a reply, everyone knew that he had not answered, he himself inclusive.

Dr David LI however questioned what good it would do to Hong Kong if we had such a debate then. In fact, this is really doing Hong Kong good. If Mr TUNG really resigns, I believe the Hang Seng Index will go up at least 1 000 points. This is good to Hong Kong as this will make everybody happy. Some Members praised the medical staff for their hardwork and their willingness to sacrifice, and also praised the people of Hong Kong for coming out voluntarily to raise funds. In fact, they did not do so for Mr TUNG, and they were not in support of Mr TUNG. Rather, it is because they felt that Mr TUNG was "incapable". They would rather do it themselves — move ahead and work hard together. In this incident, what kind of leadership has the Government assumed? Everyone says that the Government is slow in action. Some people ask (maybe let me ask you one question, and that is): What is wrong with the SAR Government with TUNG Chee-hwa as its head? The answer is: It is wrong to have TUNG Chee-hwa as its head. Despite this, there are still people who appreciate this.

Madam President, finally, I would like to say this to Mr TUNG: Mr TUNG, you are the laughing stock of Hong Kong, please continue to be transparent! Thank you, Madam President.

MR SZETO WAH (in Cantonese): Madam President, the task given to me by the Democratic Party is to respond to the speech of Mr Jasper TSANG. I said at the time that I would respond if there was substance in his speech. Otherwise, I would save my breath. So, after he had spoken, I did not press the button to request for a chance to speak. But then, a note was passed onto me on which it is written, "You must speak". So, I must still speak although there is no substance in his speech.

Mr TSANG said earlier that Mr Martin LEE had said before the reunification that he was afraid of being jailed and that I had said that I was afraid of not being able to return to Hong Kong. He said that after the reunification, both of us were sitting here comfortably toppling TUNG day in day out. In fact, have all our worries already gone by? Not necessarily. Let us keep our eyes peeled, particularly after the enactment of the legislation to implement Article 23 of the Basic Law. But what about Mr Jasper TSANG himself? Before the reunification, he applied for emigration and his family has already emigrated. He is also sitting here comfortably. Just that he did not say what was in his mind at that time. We are honest, and we do not tell lies. If Members do not believe, we will be happy to be tested by a lie detector. But he did not say what he thought in his mind at that time. He said earlier that I might have checked the motion for Mr Albert CHAN to see if there was any wrongly-written character. He is well-informed indeed, and he must have an informer among us. *(Laughter)* In fact, I did not correct any wrong character for him. After reading his motion, I only said that the words "as soon as possible" were superfluous. If he wanted the Chief Executive to resign, he should ask for his resignation point-blank. Why does it need to be "as soon as possible"? Where should the line be drawn between fast and slow? He took on board my view and crossed out the words.

Mr Jasper TSANG also said that some in our party were a lot wiser and they did not support this motion. I do not know who he was referring to. Everyone says that I have good political wisdom, but I do not admit this. I think my political morals are higher than my political wisdom. I strongly advise that support be given to Mr Albert CHAN. We do not have to state the reasons, for a great majority of our Members are directly elected. Mr LEUNG Fu-wah said a moment ago that Mr Albert CHAN, in moving this motion, would be the first to gain benefits. Why would he benefit from it? It is because he has reflected public opinions. This is the way through which he obtains votes, and I think this is also the way to gauge the trend of public opinions. Our party's caucus had voted on Mr Albert CHAN's motion, and the result of the vote showed unanimous support for the motion. I said just now that we could be tested by a lie detector. Indeed, a lie detector would be unnecessary, because there are things written in black and white. To prepare for the impending debate on the 4 June Incident, I went over again the newspaper headlines of a month or two back in 1989 as well as those people who had put up political advertisements then. I have asked my staff to check for me who among incumbent Members of the Legislative Council had put up an political advertisement. I asked them to conduct a thorough check and finally, it is found

that an overwhelming majority of Members had put up an advertisement. They supported the students' movement in Beijing and condemned the bloody crackdown. I would not go into that now, I would leave the details to the debate on the 28th.

Some people said that this motion is in violation of Article 52 of the Basic Law. They simply do not comprehend the provision. Article 52 is about circumstances under which the Chief Executive "must resign". But Mr Albert CHAN's motion now does not contain the words "must resign". I would cross these words out if they were found in the motion. This motion is not binding. Even though this motion is passed, the Chief Executive can still refuse to resign and remain in office shamelessly.

Seldom do I watch television. One day, I saw on television Mr TUNG Chee-hwa reading from a report in *Wen Wei Po*. I was greatly saddened. I was saddened to see that a person had to make himself read out such a report which seemed to be carried not in any other newspaper, except in *Wen Wei Po*. Why does anyone have to come to this state? I do feel sad for him. Mr TUNG has mentioned honourable acts. I do hope that he will act in a honourable manner too. I urge him to give a glimmer of hope to Hong Kong people and give Hong Kong a way out.

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

MR FRED LI (in Cantonese): Madam President, I seldom take part in discussions on political subjects, but I would like to say something about my feelings on cardinal issues of absolute right and wrong. I would not point out 19 sins or 18 sins, I will only state my views on certain incidents.

Just now, Mr LEUNG Fu-wah said Mr Albert CHAN's aim in proposing this motion was to be in the limelight, to be "outstanding", hoping to get more coverage. As an elected Member, there is nothing strange for wanting to be in the limelight and wanting to get more coverage, this is our job. However, the problem lies with whether he has done a good job, whether this show is a good one, and whether he can face his conscience or is he "forcing" on it.

In fact, Mr LEUNG Fu-wah can also move a motion to lend full support Mr TUNG Chee-hwa. He would equally receive wide coverage, not only on

the *Wen Wei Pao* and *Ta Kung Pao*, but also on all the newspapers. The result will be the same. If Mr LEUNG Fu-wah does so, I would not criticize him for proposing such a motion in the hope of making appearances on the media. I think as Members are political figures, there is a need for us to be in the limelight, put on a show and be known. I hope that he would not use this to attack our colleagues.

Mr LEUNG Fu-wah expressed his wish a while ago that suggestions made by the opposition could be constructive. Not that we do not want to be constructive. You will remember that in the Question and Answer Session attended by Mr TUNG earlier, the Democratic Party in fact presented various proposals on the policy address, the Budget and matters on sustained development. Mr TUNG said he only had a glance of them, without reading them seriously. In fact, we have put in efforts..... (*thunder*) I have not said anything bad, I do not think I will be hit by thunder. (*Laughter*) No matter how much efforts we put in to write a proposal, Mr TUNG simply would not read it, or would just give it a glance. How can we not be let down? Why are we putting in all those efforts?

After the outbreak of atypical pneumonia, the Democratic Party has done a lot of work, for example raising funds on the streets. I have also been to Amoy Gardens to do a lot of things. I would not say that the others have done nothing, but I would ask them not to say that we have done nothing.

Moreover, as the new Chairman of the Democratic Party, Dr YEUNG Sum has, on behalf of the Democratic Party, written to ask for a meeting with Mr TUNG, to discuss ways to solve the problem of atypical pneumonia, see how the Democratic Party can help and express our views on the economy. So what? How did Mr TUNG reply? The Chief Executive's Office replied by saying that was very difficult, very difficult. What does this mean? This is to say he is not seeing us. We asked for a dialogue, and we did not say at that time that we wanted to topple Mr TUNG. We just wanted to discuss constructive matters. However, the Chief Executive still did not receive us. What can we do?

This year, before the announcement of the Budget, Mr TUNG has specially arranged for a meeting with Members of the Hong Kong Progressive Alliance, the Breakfast Group, the Democratic Alliance for Betterment of Hong Kong (DAB) and the Hong Kong Federation of Trade Unions on Friday and Saturday, with the exception of any Member from the pro-democracy camp.

Why is this so? I guess there is only one reason for it, and that is this is the last term for Mr TUNG, and he knows that he can only be the Chief Executive for four years. No matter how hard he stages his show, it is impossible for him to be the Chief Executive for the third time. Therefore, he can expressly say what he does not like, whom he does not like to see, and what he does not like to listen. He is this kind of person. He does not like the Democratic Party and the democrats in the Legislative Council. No matter what constructive words the democrats say, or even if they ask for a meeting, they are doing those to no avail because the Chief Executive will neither pay attention to our request nor see us.

We do not want to come to a situation like this. The point is, is Mr TUNG himself responsible for this? May I ask all those who are in support of Mr TUNG, do they think there is some reason to what I said? Should the democrats take all the blame and Mr TUNG all the merits? Would they please ask their own conscience?

I am only saying what is in my heart. In fact, I have talked with many former and incumbent officials in private. They said there is another name for the Chief Executive's Office on the fifth floor of the Government Secretariat, and that is the "black hole". Do you know what black hole is? It is in the space and if one falls into it, it is not known when he can get out as no one knows how deep it is. The reason why the Office is also known as "black hole" is that when files and documents are sent to the fifth floor, no one knows when they will be sent out. It is not necessary for the Directors of Bureaux to give me any response. This is what their colleagues in the Civil Service told me. The Directors of Bureaux may know very well in their hearts what the situation is like. After being sent to the Chief Executive's Office on the fifth floor, a lot of documents are unlikely to be sent out after a month. What about one and a half month? I do not know. You may be in a hurry but he will just hold things off. This is the problem of leadership and capability as we know. I am directing against the issue and not the person. I do not have any personal prejudice against Mr TUNG; I have been giving him chances and am very much in favour of communicating with him. I hope that with Dr YEUNG Sum being the Chairman now, we can have the chance to communicate with Mr TUNG. Nevertheless, although we have left our door open, Mr TUNG closes his. What then can we say?

I have been serving as a Member for many years. All along, I have tried my best to get chances to communicate with Mr TUNG, but unfortunately, most

of the times, this is not something we can do unilaterally. I hope that Mr TUNG's supporters know that we, the Democratic Party, unanimously support this motion. The Democratic Party, me inclusive and together with all our brothers — we do not have any sisters, only brothers — has no differing opinion. We are of one mind because no matter what the motive for proposing this motion is, we only hope to reflect the views of the public.

Finally, after the issuance of Mr TUNG's policy address, I attended the residents' meetings in my district and heard the grievances of the people. I do not understand why the DAB people fail to hear those grievances when they carry out their work in the districts. Maybe they have not gone to the districts to listen. I am only telling the truth. In fact, there is no need for me to say much because a lot of people have already spoken out. They are asking Mr TUNG to consider the interests of all and not to be the Chief Executive any more. I so submit.

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

MR ABRAHAM SHEK: Madam President, I was debating whether I should be speaking tonight or not. After a few drinks upstairs, I decided that I am going to speak. And so I have just penned down my thoughts during the last five minutes.

Today's motion is a testimony of Hong Kong's freedoms: freedom of expression, freedom of speech, freedom of belief, and freedom of criticism without imprisonment. Which place in the world can you find these except in Hong Kong? We must be thankful to Mr TUNG for giving us this opportunity, for without him, there is no forum for freedom. Democracy comes in many forms and shapes. And tonight, we are practising what democracy is. Our democrats are all honourable men, for they speak according to their conscience and belief. And I am sure that everyone of them speaks according to their conscience which I have no doubt. Our "pro-TUNG" legislators are also honourable men, as they speak according to their conviction. So they are all honourable men, and they are all practising what freedoms give them. Tonight is not a night of the long knives where oppositions are being eliminated. In reality, tonight is a night for celebration. That is why I went upstairs for a few drinks of whisky. (*Laughter*)

Tonight is a night that we can speak according to our minds, according to our beliefs, according to our conscience. Mr Albert CHAN talked about Mr TUNG's 19 original sins, with one more added by Mr LEE Cheuk-yan. The Democratic Alliance for Betterment of Hong Kong (DAB) talked about the 19 beatitudes of Mr TUNG. Be they sins or beatitudes? That "Should Mr TUNG resign?" is the question. What is democracy? Let us show what democracy is. Let us show our hands tonight in yea or nay. This is what democracy is.

Dr David LI said that tonight is not the time for us to discuss such an important issue as asking "Mr TUNG to resign", we still have problems on our hands, we are facing Severe Acute Respiratory Syndrome (SARS). But I beg to differ. I think tonight is the night that we should talk about issues that concern Hong Kong, apart from SARS. Let us talk about our conscience. And tonight is the night that we should talk about the problems of Hong Kong. I think it is very important that when the Chief Secretary for Administration answers this, he should take note of what the democrats have spoken, because they have representation and they do speak for certain sections of Hong Kong people. He should also take note of what the DAB and others have spoken, because they also represent a different section of people. And that is what democracy and freedom is.

MR ABRAHAM SHEK (in Cantonese): Tonight, many Members criticized Mr TUNG, this is the right of the democrats. On the other hand, being "pro-TUNG" is the right of the Members belonging to the National People's Congress, the Chinese People's Political Consultative Conference, the DAB and the Liberal Party. Just as the other leaders, it is impossible for Mr TUNG to be liked by all. However, Mr TUNG was selected in an election, under the Basic Law. We have to accept this fact. Not only do we have to accept it but also the whole world. Some Members criticized Mr TUNG, I think this is their right. However, have they asked if Mr TUNG had not taken up the post of the Chief Executive, who would have taken it up? As for the difficulties we face, will another Chief Executive resolve them? If Mr TUNG had not taken it up, nobody might have done so. In the last election, no one was willing to come out to compete with Mr TUNG, and he was the only candidate. He has his value of existence. Since Mr TUNG has his value of existence, why then do we have to ask him to resign tonight? We do not have the right to ask him to resign, only the 6.5 million people of Hong Kong have that right. Moreover, the Basic Law has laid down the procedures for handling his resignation. We have to do things in pursuance of the Basic Law, and this is the spirit of law which we have to follow.

Today, I wish Members will vote on this motion according to their conscience. On behalf of the sector I represent, I vote against Mr Albert CHAN's motion. Thank you, Madam President.

MR ERIC LI (in Cantonese): Madam President, no Member has passed me any note asking me to speak. However, I saw Mr Abraham SHEK raise his hand to indicate his wish to speak, and I knew he had had a few drinks upstairs, I was a bit worried. Therefore, I pressed the "Request to Speak" button. Nevertheless, after listening to his speech, I agree with him very much and think that he has a lot of sense.

Since I have raised my hand to indicate that I want to speak, I would like to say a few words here. Many colleagues have quoted the Basic Law, and Mr Martin LEE has responded. However, I am the first one to quote the Basic Law, Mr Albert CHAN may still remember that. After he has proposed this motion, I responded the next day and said that as a Member of the Legislative Council, not working under Article 73 and 52 of the Basic Law seemed to have deviated from the proper channels. At that time, I said he had resorted to "going through the backdoor". I agree with what Mr Martin LEE has said that this motion is absolutely not in contravention of the Basic Law because even if I do not believe in Mr Martin LEE, I have to believe in the President. The President will definitely not allow a motion which is against the Basic Law to be moved in this Chamber. I just want to say that as a Member, abandoning the proper procedures and channels and resorting to a debate to discuss the matter is not appropriate. Mr Martin LEE said in response he was not saying that the Chief Executive had been in dereliction of duty, or incapable of discharging his duty, and so on. This proves that the remaining reasons are mainly judgements which are more subjective, and are directed against the administration of Mr TUNG.

What Mr Abraham SHEK said was right. The Chief Executive was elected by the Election Committee, and the Basic Law, like the constitution of other countries, serves to guarantee stability for the elected administration, not to let it fall from power so easily. If we are doing this on the basis of subjective judgement, would that be appropriate? Mr Abraham SHEK mentioned that the Chief Executive was elected. Please do not forget that all Members sitting here are members of the Election Committee, including Mr Albert CHAN. He has also participated in the election of the Chief Executive.

From the political angle, Members expressed that Mr TUNG should resign. On the level of extensive policy discussions, it is difficult to attach an objective standard to a motion of no confidence. In respect of achievements, we should leave it to history to pass the judgement. Whether Mr TUNG is good or bad, the people will have their conclusion, there is no need for us to tell. Every year, Members have a chance to debate on the policy address, there is no need to go back on it a few years later. Today, many officials are attending this meeting. My views are a bit different from those of Mr Abraham SHEK. I do not think that we need whatever party or camp to support Mr TUNG or oppose Mr TUNG because there are lots of people to speak for Mr TUNG, and we need not do this. I just know that if we want to comment on Mr TUNG's administration, we should do so then and there. Only by doing so is it fair to him. Right now, we are having a global economic recession and the epidemic is raging. If we go back on it and be wise at this stage when everyone is not in a good mood and the economy is poor, I do not think this is anything commendable.

I believe Mr Albert CHAN will say that his motion is based on public opinion. I believe, understand and realize that many people may have harboured discontent at this moment, but does it mean that this Council has to be reduced to tool for them to vent their emotions? Is this what you call responsible if Members do so?

Mr Martin LEE referred to the famous remark of President KENNEDY of the United States, and that is before making one's demands to the country, one should ask oneself what he has done for the country. He thought that was something for the United States but I think otherwise. I would like to cite another example. Mr James SOONG of Taiwan, the political party leader not in office, has said something which impressed me very much. He has issued a 10 000-word letter to the people of Taiwan, I do not know if our colleagues of the democratic camp have read it or not. In the first paragraph, he said people in general like to criticize others, but let us not forget that when we point at others, three fingers are still pointing at ourselves, and another finger is pointing at our conscience. Having said these, he used over 1 000 words to criticize himself, without criticizing President CHEN Shui-bian. He said it was not that he had done anything or gone through any crooked paths. He just said that he had not been able to do something within the establishment. He based the standard for criticizing and commenting on himself on his achievements and the things and work he accomplished. Why can Hong Kong not have an opposition camp capable of reflecting on itself?

To abolish a system is easy, but to take part in it is very difficult. I think in discussing this matter, this Council should lay the emphasis on making suggestions at this stage. I also agree with many colleagues who said that this is a very good time to talk about our fight against the epidemic. Last weekend was the International Nurses Day. Today, there is wide coverage in the newspapers that a brave doctor has sacrificed herself for Hong Kong. Everyone is now giving the health care workers an applause, praising them for what they have done.

If this motion today is only to mock the Chief Executive, and we Members are only interested in fingerpointing at each other, is this the power which we Members can wield? Is this something that the people expect from us?

Therefore, in face of this motion of no confidence, I still think that we have abandoned the proper channels. Criticism is something which we value, but it has no practical effect. So, how can we support this motion?

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

MR TAM YIU-CHUNG (in Cantonese): Madam President, the speech made by Mr Jasper TSANG a while ago brought a series of counterattacks. This may be because he raised his hand too early to indicate his wish to speak. I may also be a bit early but that does not matter. In fact, I do not know how to scold people, nor am I interested in this. In the Hong Kong society nowadays, scolding people is a common phenomenon. It can give people a chance to vent their anger and act out of line, the one who scolds can even make his appearance in the media and on the newspapers. Despite this, I think this will not do any good to the overall development of society. Just now, I have listened to speeches made by many colleagues and I feel that if I do not respond, I may not be able to have a good sleep tonight. For example, some colleagues have attacked us with venomous words. Not only do they attack the Chief Executive, but also members of the whole Election Committee. I do not think that they have to do this. Sometimes if you use words which are too venomous, people will have the feeling that they do not match their status as Members.

I heard Mr Martin LEE said that if the Chief Executive stepped down, the Hang Seng Index would jump 1 000 points, I think he was just making irresponsible remarks. If I say he was joking, it does not seem to be the case. I think it is meaningless to make those remarks.

I have also heard Mr SZETO Wah's response to Mr Jasper TSANG. He even mentioned Mr Jasper TSANG's wife. I think we sometimes have to respect the family members of others. Before 1997, Mr SZETO Wah predicted that after 1997, there would be no hope for Hong Kong. Hong Kong would "come to an end" and become a hopeless society, but it turned out not to be the case. This clearly demonstrates the success of the concept of "one country, two systems". At present, the Hong Kong Alliance in Support of Patriotic Democratic Movements of China still exists. Even after the enactment of laws on Article 23 of the Basic Law (Article 23), the Hong Kong Alliance in Support of Patriotic Democratic Movements of China will continue to exist. Mr SZETO Wah can continue to organize the marches and candlelight vigils which he likes, there is no problem about this. Even if we continue to hurl abuses at the Central Government or oppose Mr TUNG, those will be allowed. All these illustrate clearly the success of the concept of "one country, two systems". If the concept of "one country, two systems" is not successful, how can these situations exist? Of course, they will not rule out the possibility of having to go to prison after the enactment of laws on Article 23, but we have had numerous discussions on the Bill and know that the present Bill is more lenient than the Crimes Ordinance (Cap. 200), and a lot of definitions have been narrowed. If we are to bring about prosecutions in future, I think it will be more difficult than before. Therefore, so long as we do not make acts of secession, treason, sedition, subversion against the Central People's Government or theft of state secrets, there is nothing to fear. Besides, these definitions are all very clear. The so-called fear is only a way to deceive other people.

I have worked with the Chief Executive for a few years, especially during the transition period, up till I served as a Member of the Executive Council later. Of course, it is not proper for me to reveal anything regarding the Executive Council, but personally, the several encounters I had with the Chief Executive were all very impressive. He is particularly concerned about the grassroots and workers. Around 1998, the Chief Executive and I had a few discussions on the impact on the workers of Hong Kong as a result of the economic restructuring. I particularly pointed out that those who were older, possessed no special skills and had little education would bring serious problems to the Government of the Hong Kong Special Administrative Region (SAR). We needed to think up a solution. I suggested to the Chief Executive that the Government might have to provide more training. Apart from showing his consent, he asked in detail how training should be done, what prospects there would be after training, and how the SAR Government could do more. We can see afterwards that the Government has proceeded in this direction, for example, organizing courses to

upgrade skills, putting more resources in training and employment, and establishing funds for lifelong education. All these demonstrate that the Chief Executive attaches great importance to this problem and he has, at a very early stage, said that economic restructuring may bring about a relatively marked and high unemployment rate. Later, the Chief Executive accepted the proposals of the Hong Kong Federation of Trade Unions and instructed all departments to give priority to employment in mapping out economic development strategies. Therefore, I think the Chief Executive has foresight in the economic and many other issues. He is capable of analysing a lot of matters and implementing them gradually later on.

Mr TUNG also has something which others do not have, and that is the strong confidence of the Central Government. His acquaintances all know that he is a highly responsible and sincere man. It is not easy for the Central People's Government to have so much faith in him. If he makes suggestions, the Central People's Government will try its best to help as soon as possible. For example, he said that tourism in Hong Kong was in a slump and hoped that the Central People's Government could lend its support. Therefore, the Central People's Government has brought forward the date to allow more people to come to visit Hong Kong, resulting in a drastic increase in the number of tourists. Another example is the Closer Economic Partnership Arrangement. This also has the support of the Central People's Government and the arrangement may be concluded by June. There are many more examples of this kind but because of time constraints, I cannot mention them one by one.

Furthermore, the Chief Executive also has international prestige. He can contact the presidents of various multinational companies and conglomerates, and ask them to come to Hong Kong to sit on his think tank, thereby helping promote the economic development of Hong Kong. He has succeeded in asking over 100 countries to recognize the SAR passport and grant us visa-free treatment. Having international prestige and the confidence of the Central People's Government are all very important. Therefore, we support the Chief Executive and hope that under his leadership, Hong Kong can continue to develop and overcome all kinds of difficulties. We support him and give him numerous ideas and suggestions so as to help him promote the Hong Kong economy. This in fact is in line with the name of the DAB in English — "For Betterment of Hong Kong". We hope to build a better Hong Kong because we love Hong Kong. When we say "we are pro-government", we mean to make it possible for Hong Kong to have a better development. Thank you, Madam President.

MR FREDERICK FUNG (in Cantonese): Madam President, I am not very good at discussing political topics, or arguing over some political issues. Very often, I would not deliver any speech. I just voted to indicate a direction and a stand. However, today, I feel that I have to say something.

What I want to say is how I look at the issue of whether Mr TUNG Chee-hwa should resign. I had pursued studies in political science at the University of Hong Kong, The Chinese University of Hong Kong and in the United Kingdom. I know that, whether a person should step down or resign, it is often very difficult to decide whether it is caused by the combination of many events or by a single event. In fact, both situations do exist. If there are many events all contributing to show that a certain person is incompetent, then he has to step down. But under certain circumstances, one single event could be sufficient to force a person to step down. So, to resign or not to resign does not depend on the number of contributing events. It depends on whether the event or the events is/are serious enough to make that person lose his support from the people.

To be a politician or a person holding the reins of political power, from my personal experience in participating in political affairs (I do not know how other people would see it), I think all those who participate in politics or all those who take part in political affairs, in fact they all want to be in power some day. This is because people participating in politics all have an ideal in their minds, a direction of the overall development of a society. So when they are in power, they will promote the development along this direction. I believe Mr TUNG also has an ideal in his mind. But his ideal is different from those held by many of us who are present in this Chamber, and in particular, different from those held by Hong Kong Association for Democracy and People's Livelihood (ADPL). This is because, in aspects such as housing, social welfare, medical and health services, education and so on, we often have conflicts with Mr TUNG. However, I surely would not ask for his resignation just because I support or oppose something. I will not ask him to resign just because I support something while Mr TUNG opposes it, or Mr TUNG supports something while I oppose it, and then I feel these are his sins. I certainly will not think in this way. All I have to blame is the fact that I am not in power. The person in power is from the business sector. Of course, he would adopt the values of the business sector. If the ADPL has the chance to govern, we may adopt another set of values that is close to the one adopted by the Labour Party. This is the difference in values.

I think it is very difficult for us to ask other people to step down or to resign just because of the difference in values.

Of the 19 sins listed by Mr Albert CHAN, the ADPL has a part to play in two of them. The first one is the "85 000 flats". Members may recall that the figure of 85 000 was arrived at (it was before 1997) after we had held a two-year discussion with the then Secretary for Housing at the Panel on Housing between 1995 and end 1996. At that time, we were talking about 81 000 flats, not 85 000 flats, that is, we requested for the production of 810 000 flats in 10 years. But Mr TUNG added 4 000 to the figure to make it 85 000 flats. Was it a great sin for having added 4 000 flats? I do not think so. In fact, I had spent five days to explain the origin of the "85 000 flats" in my column in 1998, to illustrate that it was in fact the joint decision made by both the former Legislative Council and the Secretary for Housing at that time. Maybe Members did not read my articles at that time. We were in fact supportive of the "85 000 flats". Even now, I still support the idea that we should have a production of 850 000 flats in 10 years. I feel that under the present poor economic situation, we should build less Home Ownership Scheme flats and private flats. After the economy has recovered, we may build more to make up for the lost ground. So in 10 years, we may still be able to meet the average production target of 85 000 flats per year.

The ADPL also had a part to play in the abolition of the Municipal Councils because we supported the idea that there was no need for the establishment of three-tier councils. We think that in a small place like Hong Kong, two-tier councils are already sufficient. However, we think that the second-tier council, that is the District Councils today, should be conferred with actual authority. Yet the Government only accepted the values of the two-tier councils, but did not confer the District Councils with the actual authority.

If we judge whether someone should step down on the strength of these 19 sins as suggested by Mr Albert CHAN, does it mean that the ADPL has to step down as well? Does Frederick FUNG have to step down? I do not agree that we should demand for the stepping down of the Chief Executive just because we have different values with him.

However, does it mean that one needs not step down after opinions are expressed? I feel that, after the expression of opinions, it still depends on how such opinions are implemented. For example, after having implemented the

two-tier councils framework, has it achieved a better result than that of the three-tier councils? If the result is better, the decision is a correct one; if the result is worse, then the decision is a mistake. If it is a mistake, then the one who made the decision should be held responsible. If, according to the adopted values, the two-tier structure should be better than that of a three-tier one, but it turns out that the actual result is otherwise, then the decision-maker has to bear the political responsibility of having made the decision of changing the three-tier structure to the two-tier structure. Of course, a heated debate could arise in the process of assessing whether a two-tier structure or a three-tier structure is better. Yet, there is still no final conclusion on this issue. However, I still believe that the two-tiers structure is more desirable.

What is the most important thing for people in power? Up till now, I still think that it is the support of the people. So, how can a person garner the support of the people? There are a lot of methods. You may do it by way of improving the livelihood of the people, or by political means or by good public relations. But no matter how you do it, you have to win the support of the people. If you cannot win the support of the people, you are a political failure. I have thought about what I should say on the motion of today. We have conducted a lengthy discussion on this. My colleagues have provided 10 major sins of Mr TUNG and asked me to read them out one by one. I thought about it, but I did not agree to reading out these 10 events because even if I have put forward these 10 events, it still does not follow that Mr TUNG should resign.

I still remember before 1997, I had a discussion with Mr LU Ping, the then Director of Hong Kong and Macao Affairs Office. In our discussion, I told him that recovering Hong Kong did not just involve the recovery of the territory, but the recovery of the support of the six million people in Hong Kong. If China could not recover the support of the people after the recovery of the territory of Hong Kong, then Hong Kong still could not be regarded as belonging to China. This is like someone having got married, but the heart of his wife is still with someone else. Then his wife still does not belong to him. Before Mr TUNG delivered his policy address last year, he had invited me to a meeting (I believe every party was invited), I told him right from the beginning that, five years had lapsed, and this was the second term of his office as the Chief Executive, and I hoped that his most important task was to win the support of the people. As long as he could win the support of the people, it did not matter whether he won the support by doing well in political affairs, or by his policies on the livelihood of the people, such as his policies on housing, medical and health services,

education, social welfare and labour and so on. If he could not win the support of the people, then it would be his failure. At that time, I had asked Mr TUNG whether it was possible for him to issue a note of apology at the beginning of his policy address. This was because during the past five years, there were many people feeling unhappy. As this was the ultimate result of his governance, he should take up the responsibility, regardless of whether he had done well, or whether the fault was his, that of the society or even the world.

I feel that it is very difficult to determine whether Mr TUNG has to resign on the strength of a single event or the combination of many events. The only things on which I base my judgement are two figures. My teacher Prof LAU Siu-kai is now in this Chamber. I hope he can prove this in future — not that I was wrong. I hope he could prove that the two figures quoted by me now are wrong. These two figures are the proportion of supporters and dissenters as revealed in surveys conducted by the University of Hong Kong and The Chinese University of Hong Kong. According to the latest surveys, the findings of these two surveys conducted by the two universities show only a difference of 2%. Both surveys pointed out that, only slightly in excess of 10% of the people was in support of the TUNG Chee-hwa administration, whereas over 40% were the dissenters. The proportion was 1:3. If someone in power does not have the support of the people, he fails. I support the motion on the basis of this reason. I hope my teacher Prof LAU Siu-kai could undertake an objective study and conduct a joint survey with the two universities. If he can prove that the findings of the two above surveys are wrong, I will apologize for my voting decision.

Thank you, Madam President.

PRESIDENT (in Cantonese): Mr FUNG, your time is up. Please sit down.

DR DAVID CHU (in Cantonese): Madam President, when I heard Mr Albert CHAN say that he was going to move the motion of today, I told Mr Jasper TSANG that he would have a chance to deliver a good speech. When Mr Jasper TSANG delivered his speech, it happened that I was not in the Chamber as I was eating upstairs. So I do not know how his presentation fared. After I returned to the Chamber, I heard Mr SEZTO Wah making a ferocious response. So I know Mr Jasper TSANG's presentation must have been very successful.

After listening to the speeches of Members who support this motion, I come to this "atypical" enlightenment, that is, Members in support of the motion should thank Mr TUNG because Hong Kong today is much better than the expectation of these Members. If there is anyone who should request Mr TUNG to step down, the person could possibly be me. This is because before the reunification, among those who predicted how good Hong Kong would become in future, I believe I must be one of them who did so the most. Before the reunification, I believe I must be among those who had the greatest confidence in Hong Kong. Why do I not call for the Chief Executive to resign? This is because I believe that the success of Hong Kong does not rely on a single Governor or a single Chief Executive. Therefore, be the Chief Executive TUNG Chee-hwa, Edmund HO Hau-wah or SZETO Wah, the success of Hong Kong still hinges on the effort of every Hong Kong citizen who works faithfully in his or her respective post. If we do not do well in our own posts and work faithfully in such posts, everything will be in vain.

Thank you, Madam President.

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

MR JAMES TO (in Cantonese): Madam President, the strongest feeling I have after listening to the speech delivered by Dr David CHU is, the success of Hong Kong does not rely on any single person; instead, it is attributable to the many systems here and the hard work of the people of Hong Kong. However, under the present circumstances, the Hong Kong people are really leading a miserable life. I cannot say that this is solely attributable to Mr TUNG. But as Mr TUNG is still holding the post of the Chief Executive, this fact makes the Hong Kong people downcast and lose all their confidence.

However, there have been some changes now. As the leadership of Mr TUNG is so poor, we all think that we should not rely on him, nor should we rely on the Government. So if there is anything that we can do on our own, it is better for us to proceed with it ourselves. There are a lot of self-help ideas on the Internet. There are more such ideas contributed by the people than in the past. People from different walks of life have taken the initiative to come to me and offer some suggestions to see what can be done by the people. There are

really several times as much such ideas as in the past. Many people are of the opinion that we should proceed with our business on our own.

Of course, many such comments are made merely for the sake of airing grievances. As said by Mr SIN Chung-kai, many jokes are being circulated on the internet. Mr TUNG has become a joke, a laughing stock. Not just people like us who participate in political activities would think in this way, even radio programmes called "Crazy Talks on Article 23" also think in similar terms. Besides, for the disc jockeys of some radio programmes (be they from the Commercial Radio, Radio Television Hong Kong or Metro Radio) with the young people as the target listeners, though they are not too enthusiastic with politics, they have some overall impression on Mr TUNG. The same situation also happens in the show business circle. When people in the show business talk about Mr TUNG, many of them would feel that Mr TUNG is a joke, someone to be made fun of. It is harmless, it can let us air our grievances, making us feel better.

I have thought about this. I feel that if the situation has developed to this stage, is there still any chance to revert the trend? Such a thought would come to my mind especially when the priest whom I know very well told me that the Bible taught us to pray for people in power and those above us. However, if it has developed to such an irreversible stage, that his low popularity cannot be improved, then he has no chance of becoming popular again. If Mr TUNG continues to stay in his office, it will make the Hong Kong people feel disappointed and desperate and it will have a polarizing effect on the solidarity of the Hong Kong people. I feel that if it has really developed to such a stage, I do have some internal struggle myself. Should I pray for Mr TUNG to go on being wise (as Bishop Joseph ZEN said), or should I pray for the occurrence of a miracle which could really move Mr TUNG into tendering his resignation?

Of course, someone would say that according to the Basic Law, Hong Kong should implement "one country, two systems", and we cannot ask the Central Government to do certain things. But in fact, we know the political reality is such that, if the Central Government says Mr TUNG is to have an illness, then Mr TUNG will naturally suffer from some kind of political illness. Next, he will say that he feels unwell and he can then resign. This is very easy. Should we work along this direction? Or what actually should we do? The implications behind the political reality may not be very good, but what else can we do? As said by Mr CHEUNG Man-kwong, after the resignation of Mr

TUNG, it will be the start of another "imperial decree". In fact, what we really want — it should be, the Hong Kong people would like to let the Central Government know that (I believe it is not necessary for us to make the SAR Government know now) Hong Kong people really want to have democracy. I know recently a so-called "political godfather", that is, a famous veteran politician, also starts to have a new thinking on elections, acceptability or whether there should be more elections and so on.

I strongly agree with Mr LEE Cheuk-yan in saying that the pro-TUNG speech delivered by the Chief Secretary Mr Donald TSANG is feeble and unconvincing. The only thought that could come to the mind of the Chief Secretary is that Mr TUNG has implemented "one country, two systems". But I must point out that, in saying that Mr TUNG had led Hong Kong to implement the concept of "one country, two systems", Mr TSANG has exaggerated it. I understand that even in our daily casual chats, Mr TSANG had sincerely told us for many times that we had to rely on Mr TUNG in resisting those pressure. But what is the actual effect? I know in the macro political environment, the Central Government has already formed a conception of how to implement "one country, two systems". The Central Government has formulated a lot of rules and checks-and-balance mechanisms to prevent mainland officials, provincial, municipal and party officials from interfering with the businesses of Hong Kong. The present situation is: no one from the Mainland wishes to intervene in Hong Kong affairs and it is not right to say that Mr TUNG is the person who resists such pressure.

The only event that makes me have some slight suspicion, or slightly believe in what Mr TSANG had said is the Falun Gong issue. Would it be like that? However, ultimately I still think that there is insufficient legal provisions or mechanism to handle it. Otherwise, the present situation will not be like that. I absolutely do not believe that Mr TUNG would have any slight departure from his loyalty to the Central Government. If he really has to take care of the situation and if he really has to exercise his authority to arrest those people, he will certainly arrest them. If he really has to exercise the authority to seal off any place, he would certainly do it. He will not act against the Central Government. This is his loyalty which wins him the trust of the Central Government.

Besides, I even want to challenge the four pillars of Hong Kong as claimed by the Chief Secretary for Administration. I just want to ask, if according to

the Chief Secretary, the Judiciary of Hong Kong is independent, then why should we seek an interpretation by the Standing Committee of the National People's Congress? He said we had a level playing field, then how should we regard the Cyberport or any other monopolistic situations which are still in existence? On our clean government, why do we not pursue the incident in which the Financial Secretary purchased a vehicle before the introduction of a new tax? As for the high degree of free flow of information, what will happen after the enactment of laws regarding Article 23 of the Basic Law?

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

(No Member responded)

SECRETARY FOR JUSTICE: Madam President, some Honourable Members have spoken on the rule of law and lamented that it has deteriorated since the handover. This is not justified and should not go unanswered.

Let us look at some of the comments that other jurisdictions have on the rule of law situation of Hong Kong:

- (a) In the United States Hong Kong Policy Act Report of 1 April 2003, it is stated that: "There is strong respect for the rule of law and civil liberties The rule of law and an independent judiciary remained pillars of Hong Kong's free and open society The Hong Kong press remained free and continued to comment critically on issues, including the proposed Article 23-related legislation, China and its leaders, and the Hong Kong government, despite critics' assertions of media self-censorship. There were numerous demonstrations for and against government positions. Mainland Chinese companies in Hong Kong remained subject to the same laws and regulatory supervision as all other enterprises"
- (b) The Six Monthly Report on Hong Kong to the United Kingdom Parliament of February 2003 said: "We have the utmost respect for the Hong Kong judiciary, and the Lord Chancellor continues to send three judges from the House of Lords to sit on Hong Kong's Court of Final Appeal"

The agreement to send two more Judges to sit on Hong Kong's Court of Final Appeal as announced recently was a further vote of confidence in the legal system of Hong Kong.

- (c) The Report from the Commission to the Council and the European Parliament of August 2002 said in the concluding remarks: "Five years on from the hand-over, Hong Kong remains a free and open society, underpinned by the rule of law. It retains a lively press and a vibrant political culture. Its international ties remain strong."

It is unfortunate that some legislators do not appreciate our robust maintenance of the rule of law, whilst this is acclaimed internationally.

I have spoken at length in this Chamber on the rule of law and human rights situation in Hong Kong on 7 November 2001, 17 January 2003, and on numerous other occasions. I do not wish to repeat what I have said then. Views do differ from time to time on matters such as the right of abode issue, prosecution decisions, and the implementation of Article 23 of the Basic Law. But those disagreements do not mean that the Government or the Chief Executive is undermining the rule of law in any way. The rule of law is entrenched constitutionally and human rights are protected under the Basic Law. We have a well established legal system and a robust and independent Judiciary. These underpin and control the good governance of Hong Kong, and guarantee that Hong Kong's freedoms will remain. Thank you.

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, in the speeches made by Mr Albert CHAN and a few other Members tonight, references to the accountability system for principal officials have been made. I would like to take this opportunity to make a few points in response.

In the year 2000, we concluded the experiences gained during the three years after the reunification, and decided to introduce the accountability system. The system came into force in 2002.

The establishment of the accountability system has introduced the accountability culture into the ruling circle in the Government; it also enables the

Chief Executive to identify suitable candidates from both inside and outside the Government to join his "cabinet".

On the one hand, the team of principal officials, being political appointees, led by the Chief Executive, will collectively serve our society, implement the philosophy of governance of the Hong Kong Special Administrative Region (SAR), and meet the public aspirations.

On the other hand, they have to undertake political responsibilities to bear the consequence of the success of their own policies or otherwise. The penny stocks incident and the car purchase incident are typical examples reflecting this spirit of accountability.

For the penny stocks incident, under the three-tiered regulatory structure of the securities and futures sector of Hong Kong, the Government is only responsible for the formulation of the overall policies. Regulatory work is put under the scope of an independent organization, the Securities and Futures Commission (SFC). The Hong Kong Exchanges and Clearing Limited (HKEx) is responsible for overseeing the operation of the market to ensure the market is operating in a healthy, fair and orderly manner.

In July last year, the HKEx released a consultation paper on listing rules. It was then followed by a fluctuation in the stock market. The Secretary for Financial Services and the Treasury at once took proactive action to discuss with the trade, the HKEx and the SFC on how the incident should be handled. As a result, the HKEx decided to withdraw from the consultation paper the part related to the arrangement for penny stocks. The stability of stock market was then restored.

A panel of inquiry into the penny stocks incident comprising of independent persons was appointed. According to the report submitted by the panel, the panel considered there was no dereliction of duties on the part of the Secretary for Financial Services and the Treasury.

Though the Secretary had not made any mistakes in discharging his duties, Secretary Frederick MA, taken into account that the incident occurred within his policy area, was willing to bear the respective political consequence and he apologized to the public. This is a realization of the spirit of accountability.

As for the car purchase incident, the Chief Executive criticized the Financial Secretary openly in accordance to the Code for Principal Officials under the Accountability System (the Code), and the Financial Secretary apologized to the public.

Madam President, in fact, we must recognize the constitutional obligation and authority of the Chief Executive to rule Hong Kong under the Basic Law. The Chief Executive, being the head of the SAR, is authorized to make political judgement, based on the Code and taking into account the political situation.

Though the Chief Executive decided to persuade the Financial Secretary to stay, he had made open criticism on the Financial Secretary. This is a decision which the Chief Executive made after careful consideration.

After the Chief Executive had made the decision, all principal officials expressed their support to his decision and were willing to work with the Financial Secretary at this critical moment to continue to serve Hong Kong and to tackle the economic problem and the fiscal deficit.

Madam President, the accountability system has been implemented for more than 10 months. The above two incidents have certainly given a blow to the new system, but there are positive sides indeed. The three points listed below are very important:

Firstly, the Secretaries involved in the two incidents are willing to shoulder the political responsibility by apologizing to the public. This is a realization of the spirit of accountability.

Secondly, the penny stocks incident indicated that after the implementation of the accountability system, principal officials have to bear the political responsibility, and senior civil servants are no longer subject to social accountability and political pressure. Therefore, under the accountability system, the permanence, professionalism and political neutrality of the Civil Service can be maintained.

Thirdly, in the car purchase incident, we have had in-depth debates and discussions with Dr YEUNG Sum and other Members to study which section of the Code has the Financial Secretary contravened? Would it be Section 1.2(6), 1.2(7), 5.1 or 5.4? We have different views on this, however, the basis of our

discussion was very clear, it was the Code. The Code has now become a clear basis for our society and the Legislative Council to monitor the conduct and performance of principal officials.

I strongly believe that, with the passage of time, the accountability system will grow healthily and become mature.

Madam President, several Members have also mentioned the issue of elections, including the abolition of the two Municipal Councils. Though this issue has not been brought up quite frequently in recent days, I would like to say a few words in response.

I believe Mr Albert CHAN and other Members in fact should have noticed that the proposal to abolish the Municipal Councils had received considerable support from the public at that time. It was only after thorough discussions and debates by the Legislative Council that the relevant bill was enacted into law, and the proposal to abolish the Municipal Councils was implemented.

Mr Albert CHAN should accept this decision made by the Legislative Council after voting and debate. This is a decision reflecting the direction of public opinion.

Time moves on, constitutional development does not remain as it was in 1999 when we abolished the Municipal Councils.

Since then, the number of seats returned by direct election in the Legislative Council was increased to 24 in 2000, and will be increased to 30 in 2004. For councils at another level, that is, the District Councils, the number of seats to be returned by direct election will be increased to 400 this year. All these arrangements provide more opportunities for the public to have direct participation in direct election.

As for the long-term constitutional development of Hong Kong, we will certainly conduct the relevant review in accordance with the Basic Law.

Madam President, in respect of the accountability system, in October 2000, when the Chief Executive proposed the implementation of the system in his policy address, the public in general considered the proposal as one made in response to the demands and aspirations at the time.

On the accountability system, many people will naturally comment on the performance of the SAR Government. Every Member of this Council, including Mr Albert CHAN, can certainly criticize the SAR Government for its performance and say that it is not satisfactory. Criticisms are always welcomed.

However, the accountability system, which has only been in place for 10 months, has been regarded as existing in name but not in deed. It is premature to make such a lopsided, oversimplified and arbitrary conclusion.

I believe that 10 years from now when we look back, we will see that the implementation of the accountability system is an epoch-making change. 1 July 2002 was indeed a watershed.

We have already taken the first step. Every Chief Executive thereafter will form a team politically accountable to our society and the public.

From now on, the Chief Executive and principal officials will always stand at the forefront of the political arena to receive and face the queries raised from the public, the Legislative Council and the media, and to be accountable to them. They have to work together to shoulder the political responsibility in governing the SAR.

Madam President, I have had debates with Mr Albert CHAN on several occasions in this Chamber. All along, I have been respectful in dealing with our difference. However, Madam President, as I have observed, since Mr Albert CHAN has withdrawn from the political party, he seems to have to be working harder to "seek limelight" to maintain his popularity and to pave the way for future elections. Today's motion is moved with the same thing in mind. Politicians are indeed politicians. Their ulterior motives are conspicuous to everyone. Unfortunately, today, Mr Albert CHAN is doomed to failure. It is not the fault of other people. It is his fault to move this motion, a motion which is not carefully thought out and is not comprehensive at all.

Madam President, I firmly believe that Members have sharp eyes. I urge Members to vote against this motion today.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, at the beginning of the debate, I have already explained clearly to Members the efforts the Government of the Hong Kong Special Administrative Region (SAR) has made under the leadership of the Chief Executive, Mr TUNG Chee-hwa, in the past six years in implementing "one country, two systems" and promoting the prosperity and stability of Hong Kong. The achievement of Hong Kong in this respect is obvious, and Hong Kong has won the general recognition of its people as well as the applause of the Central Government.

I have listened carefully to the remarks made by Members earlier. I note that some Members have totally denied the achievements the SAR Government has made in the past six years. Even more so, they have attributed the blame to the leadership of the Chief Executive for all the formidable challenges which Hong Kong society has encountered since the reunification.

Madam President, the Legislative Council is a solemn and respectful legislature of the SAR, and it is an assembly where public opinions meet. In the past few years, some Members have relentlessly moved motions directed against the SAR Government, in particular the Chief Executive. These motions include the motion to express no confidence in the Secretary for Justice, the motion to object to the Standing Committee of the National People's Congress to interpret the Basic Law, the motion to urge the Chief Executive to terminate the appointment of his Senior Special Assistant, the motion to oppose the enacting of laws to implement Article 23 of the Basic Law, and the motion to express no confidence in the Financial Secretary. All these motions have been extensively debated on in the Chamber of this Council. I have no intention to refute the arguments of these motions one by one here. But the Hansard of the Legislative Council speaks for everything: these motions have all been voted down by this Council. This suffices to prove that the attacks directed against the SAR Government and the Chief Executive have not gained wide support.

Madam President, more than once I have responded on behalf of the SAR Government to sensational arguments some Members expressed on these motions that are not objective and rational. Hong Kong is now facing a great challenge unprecedented in the modern times. At this critical moment, seeing motions of this kind being tabled and debated in the Chamber of the Legislative Council arouse mixed feelings in me. At this very moment, every citizen in Hong Kong, be he an expert, a professor, a health care worker, a principal official, a civil servant or an ordinary citizen, is committed to fighting against the

disease. However, the Legislative Council is now squabbling over some futile arguments. What good will it do to the overall interest of the Hong Kong community?

As we all know, the sudden attack of atypical pneumonia has taken away the valuable lives of more than 200 people in Hong Kong. Many have lost their family members and dearest friends. The economy of Hong Kong, showing the initial signs of recovery, has also suffered a heavy blow. Under the gloom of atypical pneumonia, people live in terror and uncertainty. The desolate scene out there remains vivid in our mind. We should root out our bias. We should display our spirit of unity and co-operation. We should pull together in times of trouble and fight against the epidemic with concerted effort. Only through this can we win the recognition of the public. Obviously, today's motion is futile in helping the community overcome the present challenge. I urge Members to try to forsake these meaningless political moves and join hands with the Hong Kong people at large to do something.

Under the leadership of the Chief Executive, all public officers and I myself have been committed to our positions and doing our best to fight atypical pneumonia. When the public at large were gravely anxious about atypical pneumonia, the SAR Government had swiftly introduced a series of effective measures to check the spread of atypical pneumonia. Not long ago, a tour group from Hong Kong was detained in Taiwan for mandatory isolation. Mr TUNG made the necessary arrangement swiftly to have the group flown back to Hong Kong in a chartered flight at once. Moreover, even now, some overseas exhibitions, education institutions and governments do at times impose unreasonable or even discriminating restrictions on Hong Kong businessmen, travellers and students studying abroad. The SAR Government has been acting as a mediator to strive actively for reasonable treatment given to Hong Kong people.

The work the SAR Government has done in fighting the epidemic has also been highly praised by the World Health Organization (WHO). On 6 May, Dr HEYMANN, head of the WHO Communicable Disease Unit, expressed his appreciation for the government officials of the SAR in a video conference. He said, "All of us have nothing but admiration of you and your team". There is no doubt that Hong Kong is a cosmopolitan city having the courage to face atypical pneumonia openly. Early in May, a university in Hong Kong was commissioned by the Central Policy Unit to conduct an opinion survey. Among

the some thousand respondents, more than half of them agreed that the performance of the SAR Government in handling the atypical pneumonia incident was better than that of our neighbouring countries. Our health care workers toiled day in and day out without any rest. All the people of Hong Kong came together as one to join hands with the SAR Government to fight against this epidemic which is the most serious one since the start of the century. This has won us the applause from the international community and it is greatly touched.

The efforts of the SAR Government taken against the disease are beginning to take effect. As at this moment, the number of new cases of infection has reduced to single digit. The Chief Executive has appointed me and the Financial Secretary to lead the Team Clean and the Economic Relaunch Strategy Group respectively, to put our society under a united front to undertake the rebuilding work in the wake of atypical pneumonia.

Moreover, the SAR Government will continue to implement the policy blueprint which the Chief Executive has mapped out in his policy address 2003, to promote economic restructuring, establish closer economic co-operation with the Mainland, take decisive action to eliminate the fiscal deficit and work for the long-term development of Hong Kong.

Madam President, the SAR Government has a Chief Executive who has all the trust and support of the Central Government. Under his leadership, Hong Kong has successfully put the principle of "one country, two systems" into practice, laying a solid foundation for the stable development in future. Unfortunately, some Members have made groundless accusation against the Chief Executive which do not suit the objective needs of Hong Kong and will even hamper the overall interest of Hong Kong at present.

Being the legislature of Hong Kong, the Legislative Council has the responsibility to co-operate closely with the Chief Executive and the SAR Government to build a brighter future for Hong Kong. The outbreak of atypical pneumonia make us alert to the fact that Hong Kong is not only facing high unemployment, sustained deflation and grave fiscal deficit, we also have to be well-prepared to stand up against any sudden natural disaster. In addition to the four pillars underpinning the success of Hong Kong, we should establish one more pillar and that is "unity". We should set aside our differences, unite and

work as one to rise up to all kinds of new challenges ahead with concerted efforts.

I urge Members to vote against Mr Albert CHAN's motion.

PRESIDENT (in Cantonese): Members, it is now one minute past ten. I am of the opinion that the remaining items on the Agenda can be finished by midnight today, so I decide the meeting to be continued.

Mr Albert CHAN, you may now reply and you have seven minutes 15 seconds.

MR ALBERT CHAN (in Cantonese): Madam President, the strong responses evoked by today's motion debate make me feel flattered. I am not a highly educated person, with no authority and no influence, just a bit "stout". (*Laughter*) I move this motion just because I read from the press that the Central People's Government of China had dismissed the Mayor of Beijing and the Minister of Health more than a week ago. This has brought about a new phenomenon.

During the past six years, Hong Kong has been engulfed by gloom and despair. The whole atmosphere has been so depressing that it is almost intolerable to everyone. I also hope that Hong Kong can follow the example of our country by bringing about a new phenomenon, that is, by way of replacing the Chief Executive, we can bring about a new phenomenon. However, after I have moved the motion, it is really unbelievable that the motion does not have the effect of opposing TUNG; instead, it has the effect of garnering support for Mr TUNG. This is because, after this motion was moved, leaders of the Central People's Government had held numerous meetings with the Chief Executive and openly pledged their support for him on many occasions. The Central People's Government even made a special move — a special delegate had been sent to Hong Kong, possibly with the mission of co-ordinating the "pro-TUNG" activities.

Today, in this Chamber, I feel flattered once again that the three Secretaries of Departments and 11 Directors of Bureaux, together with the Head

of the Central Policy Unit, are all present in this Chamber in order to respond to the motion. The leftist organizations have even mobilized crowds of people to stand outside the Legislative Council Building to show their support for TUNG. Altogether 40 speakers have delivered their speeches, including both the Honourable Members as well as the Secretaries. Among these 40 speakers, 37 of them are Members. I would like to thank them for their concern for this subject. It does not matter at all if they support my motion or not. Hong Kong is a democratic place in which we can enjoy the freedom of speech. This is a healthy debate. I believe it will bring about truth, and the truth will become all the more evident after repeated debates are held.

The "pro-TUNG" camp has mobilized a lot of people, and the line-up is spectacular. This reflects that the call for the resignation of the Chief Executive has become very strong, and the "anti-TUNG" trend is becoming a powerful political force that cannot be ignored. Even the Central People's Government and the SAR Government have not ignored the motion moved by a lowly person like me.

The fact that Mr TUNG Chee-hwa does not attend this debate in person once again illustrates his lack of self-confidence, his incompetence and his weakness. He always has to rely on others to handle many problems on his behalf. He hides behind the awe of the Central People's Government, and for many years, he has never had the courage to face the people or anything.

The Chief Secretary, Mr TSANG is someone I have respected for many years, and up till now, I still respect him very much. I agree with him in saying that we should unite together and put aside our differences of opinions. However, why should we have different opinions? Why should we have such differences? The main reason is the poor leadership of the Government, in particular, that of the Chief Executive. As the Chief Executive cannot unite the different political forces together, nor can he incorporate such different opinions into the Administration under his leadership, so actually it is Mr TUNG Chee-hwa who has created and produced such differences, disparities and social problems. Therefore, the resignation of Mr TUNG Chee-hwa is the only solution to end the predicament.

For many years, I have always held high opinions of the outspoken character of Mr Stephen LAM. Among the three Secretaries of Departments and 11 Directors of Bureaux, he is the most outspoken and most "outstanding"

official. He is even more "outstanding" than me. He has just said that he had an observation, saying that I was a "outstanding" politician. After he has made this remark, I also have a new observation. In the Council meeting last Wednesday, I had criticized the eunuchs who usually abused power in the last days of a dynasty. My new observation is: an eunuch is essentially an eunuch, and a slave is always a slave. We have said goodbye to an eunuch named LO, but now we have another by the name of LAM.

Our request for the resignation of Mr TUNG Chee-hwa is just a core issue. Based on his performance over the past six years, we ask him to resign. It is because he is incompetent, so we ask him to resign. This is the common aspiration of the people. I am not trying to boast of my foresight. Six years ago, as Mr Jasper TSANG knows all too well, I requested Mr TUNG to step down in 1998. This is because, as early as in 1998, I could already tell that he did not possess the abilities to handle any crisis. His responses are slow, he is stubborn and has an inclination to selective listening — he likes to and selects to listen to words from people he favours. During the past six years, Mr TUNG has shown himself to be incompetent in leading Hong Kong, thereby aggravating the seriousness of the problems in Hong Kong. So ordinary problems became tough problems, tough problems became disasters and disasters would even lead to deaths. Very often, it is because he has been slow in dealing with the problems. He also displays a lack of vision in handling problems.

Many Members speak against my motion in their speeches. In my responses, in my speeches and on many public occasions, I have been criticizing Mr TUNG Chee-hwa of bringing disasters to Hong Kong during the past six years on issues such as the negative equity assets, bankruptcies and the prevalent trend of suicides and so on. I do not know why, Members criticizing me have never commented on such phenomena which I mentioned. I do not know whether they agree with my comments on these issues or not.

Members from the DAB often like to label others. Mr TAM Yiu-chung said he did not like to use venomous expressions in debates. If he meant really venomous expressions, he needs to refer to those employed by his colleagues. The expressions used by them are 10 times as venomous as those used by the pro-democracy camp. I would not repeat such expressions because although I am "stout", I have a kind heart. (*Laughter*) DAB Members accuse me of opposing China and creating chaos in Hong Kong. Do they know that most of

the Hong Kong people also want to replace the Chief Executive? If a request for the replacement of the Chief Executive is tantamount to opposing China and creating chaos in Hong Kong, then most of the Hong Kong people are also opposing China and creating chaos in Hong Kong. If DAB Members could make it clear that, for those who oppose Mr TUNG Chee-hwa and request him not to assume the office for a second term, such people should not vote for them in subsequent election activities, then they can be regarded as men of their own words.

Former Premier Mr ZHU Rongji had also criticized Mr TUNG Chee-hwa of holding discussions without reaching decisions and making decisions without putting them into practice. Even Chinese leaders also hold such a view. From this, we can see that, criticizing the incompetence of Mr TUNG Chee-hwa is no longer the privilege of the Hong Kong people or the pro-democracy camp alone. Even the former Premier, a leader of the Central People's Government, has made such comments.

The resignation of Mr TUNG Chee-hwa is the only hope of the Hong Kong people. I hope Members could understand this political reality.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Albert CHAN 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 Albert CHAN rose to claim a division.

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

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:

Miss Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr LAW Chi-kwong and Mr Michael MAK voted for the motion.

Mr Kenneth TING, Mr James TIEN, Dr Raymond HO, Mr Eric LI, Dr David LI, Dr LUI Ming-wah, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr Bernard CHAN, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted against the motion.

Geographical Constituencies and Election Committee:

Ms Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Ms Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG and Ms Audrey EU voted for the motion.

Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr TANG Siu-tong, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Mr MA Fung-kuok voted against the motion.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 29 were present, five were in favour of the motion and 24 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 26 were present, 14 were in favour of the motion and 11 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 motion was negatived.

PRESIDENT (in Cantonese): Second motion: Exploring new areas of co-operation between Hong Kong and Guangdong.

EXPLORING NEW AREAS OF CO-OPERATION BETWEEN HONG KONG AND GUANGDONG

MR AMBROSE LAU (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed. The Chief Executive has stated in this year's policy address that Hong Kong and Guangdong should, with the common goal of achieving a major modernized economic region, raise and speed up co-operation in exploring new areas of common interests where there is room for enhanced co-operation. Although this is the goal and strategy of co-operation between Hong Kong and Guangdong before the outbreak of atypical pneumonia, it is apparent that they are of greater urgency and importance in the course of rebuilding our economy in the aftermath of atypical pneumonia.

The Pearl River Delta (PRD) has become the most competitive and vibrant manufacturing centre in Asia as well as the world. The dominant position of the PRD actually lies in the basis of a comprehensive industrial chain, a tight collaborative enterprise cluster, and a strong globalized processing capacity. Hong Kong, on the other hand, is the financial, trading, shipping and information hub in the region. Exploring new areas of co-operation between Hong Kong and Guangdong could help to build a regional platform for business and trade, transport and logistics, finance, all sorts of financial intermediary services and offices of foreign companies and their regional headquarters. Hong Kong and Guangdong could use their respective strengths to complement each other in the progress of economic development of the Asia, since the Hong Kong/Guangdong economy already have the edge of becoming a regional economic entity with the good timing, geographical convenience and popular support readily available.

Madam President, in order to explore new areas of co-operation between Hong Kong and Guangdong, we should first establish a more effective communication and co-ordination mechanism between Hong Kong and Guangdong. I raised this question in the Council meeting on 19 March. The Chief Secretary for Administration replied that the existing communication mechanisms for Hong Kong/Guangdong co-operation comprised three levels: at the highest level of communication, views were exchanged directly between the Chief Executive and leaders of both the Central Government and Guangdong Provincial Government on issues of mutual concern; the second level of communication, conducted between the principal officials of both sides, provided a forum for Hong Kong officials to discuss and exchange views with their counterparts in the Central Government and Guangdong Provincial Government on various policies and related issues; the third level of communication, which involved middle-rank and front-line staff, encompassed a broad spectrum of issues, including the communication mechanisms at bureau and department levels. The Chief Secretary for Administration considered that this multi-level communication network a well-established one.

However, as to the communication and co-ordination between Hong Kong and Guangdong, there are significant disparities between the actual situation and the demand in reality. With regards to the mechanism at the second level, meetings usually take place at longer intervals, therefore the co-operation between both sides lags behind the development of the situation. As to the communication at the third level, it lacks planning and co-ordination, and a mechanism for promotion and implementation is not in place, such as the recent prevention and control of atypical pneumonia, the handling of the daily passenger and cargo clearance between Hong Kong and Guangdong, preparations for the Mainland's "golden-week" holidays, the follow-up on common concerns of Hong Kong businessmen who set up manufacturing bases in Guangdong, the communication and co-operation between the two sides lag far behind the development of the situation. Co-operation between Hong Kong and Guangdong involves complicated issues. Besides the two places, that is, Hong Kong and Guangdong, the relationship between the Central Government and Hong Kong are involved, as well as the relationship between other regions on the Mainland and Hong Kong, thus a strong mechanism for communication and co-ordination is needed. That mechanism has to be empowered to discuss all-dimensional collaborations in the areas of infrastructural construction, industrial development, policies and other areas, and to lay down both long-term and short-term goals and schemes for implementation.

Madam President, on the premise of establishing a more effective mechanism for communication and co-ordination between Hong Kong and Guangdong, the exploration of new areas of co-operation between Hong Kong and Guangdong may include the following:

Firstly, in conjunction with the rising passenger flow between Hong Kong and Guangdong, the risk of the spreading of contagious diseases in the two places will increase. We should bring home a painful experience long before it reaches our doorstep and draw a lesson from the recent outbreak of atypical pneumonia in the two places by establishing a standing co-operation mechanism between Hong Kong and Guangdong in public health and disease control, with a view to allowing the participation of health care experts who know the two places well. A reporting mechanism should be set up between the two places to exchange the statistics of infectious diseases and clinical information and to prevent the disastrous outbreak of any disease similar to the outbreak of atypical pneumonia in the two places. Hong Kong and Guangdong should strengthen the co-operation in the implementation of a joint quarantine system, the exchange of information between doctors on both sides and discussions on the proposed treatment and environmental protection measures. The establishment of a standing co-operation mechanism between Hong Kong and Guangdong in public health and disease control may also bring about a number of business opportunities, such as the promotion of the development of trades and industries in relation to medicare and medicine, Chinese herbal medicine and environmental hygiene of the two places.

Secondly, the report of the 16th National People's Congress pointed out that the service domain should be opened up gradually with a view to vigorously bringing in overseas professionals and talents. Discussions on the Mainland/Hong Kong Closer Economic Partnership Arrangement will be completed by June. Hong Kong should seize the opportunity after the accession of China to the World Trade Organization (WTO) by taking hold of the precious time of the transitional period of the accession to WTO before it ends by 2005 to explore new areas of co-operation in the service sector between Hong Kong and Guangdong. Hong Kong has a large number of professionals, such as accountants, auditors, lawyers, surveyors, designers and management experts. In recent years, Hong Kong has been providing services to the entire PRD and South China with professional services such as financing, legal advice, arbitration, marketing, logistics and advertising design. The Gross Domestic Product of Hong Kong is \$1,279 billion, of which 86% is generated by the

service sector. In the meantime, the PRD's total export value of RMB 745 billion yuan in last year accounted for one third of the national export value, which had given prominence to its position as the manufacturing base of China as well as the whole world. Apparently, the integration of Hong Kong's service sector and Guangdong's manufacturing industry could give an impetus to the structural adjustment of the economy on both sides and bring into being the competitive edge of a regional economy. The two sides should speed up discussions with Guangdong Province, straighten out the market access requirements for the service sector, sort out and evaluate the existing market access requirements and approval procedures, with a view to reducing all unnecessary links; streamline the pre-approval process and reduce excessive charges. In so doing, the threshold for the entrance of Hong Kong's service sector could be lowered, so to speak.

Thirdly, proper steps should be taken and plans should be drawn up to lower the threshold for the entrance of Hong Kong's banking, accounting and legal professions. For example, the authorities may selectively approve the entrance of certain small and medium banks from Hong Kong with the asset size less than the required US\$20 billion but good credibility to set up offices or companies in Guangdong Province. With regards to the accounting sector, the authorities may lower the access condition from an annual turnover not less than US\$20 million and the number of auditing professionals not less than 200, to an annual turnover not less than US\$2 million and the number of auditing professionals not less than 50, so as to enable some medium-sized accounting firms of Hong Kong of good reputation and professional skills to explore business in Guangdong Province. As to the legal sector, the authorities may consider allowing the introduction of Hong Kong law firms, so that they could enhance their co-operations with their counterparts in Guangdong; allowing Hong Kong people to invest in the service industries in Guangdong, including commercial wholesale, real estate, intermediary and management consultancy, construction, transport, foreign trade, tourism and so on, and allowing Hong Kong people to apply for the business licences in these areas, thereby changing the currently unregulated market condition under which a licence appears to be registered with the identity card of a mainland resident, but the business is actually financed and run by Hong Kong people.

Fourthly, to coincide with the lowering of the threshold for the entrance of Hong Kong's service sector, Hong Kong should encourage private enterprises of Guangdong to make investment in Hong Kong and facilitate their entrance.

There are presently 240 000 private enterprises in Guangdong Province. If one tenth of them come to open business in Hong Kong, then Hong Kong will have 24 000 more companies, which is a big help to increase the size of the economy of Hong Kong and create job opportunities. Hong Kong has an extensive international business network and a long-term trade relationship with the Mainland. Professional services are highly developed in Hong Kong, information of various sectors converge on Hong Kong, and Hong Kong has a perfect command of the most up-to-date pulse of the global market. To mainland enterprises, Hong Kong is the base of financing. Currently, over 100 mainland companies are listed on the Stock Exchange of Hong Kong. Around 2 000 enterprises with mainland connections are operating in Hong Kong, and 19 mainland banks have opened licensed branches in Hong Kong. For that reason, if private enterprises on the Mainland come to invest in Hong Kong, both sides should be able to forge extensive co-operations.

Fifthly, the Chief Executive mentioned in this year's policy address that "The region to the west of the Pearl River estuary will be important to Hong Kong's future economic development. A bridge linking Hong Kong to Macao and the western part of the PRD will be of strategic importance to the development of the whole region". The building of the bridge will strengthen the economic integration of Hong Kong, Macao, Shenzhen and the PRD and form a four-in-one economic entity, and the enormous strength of the manufacturing, technological, financial, logistics and professional service sector it encompasses would facilitate Hong Kong to become the major economic and trading centre of the Asia-Pacific. The building of the bridge will give a boost to the development of western PRD and will further promote the development and exploration of underdeveloped regions in the western part of Guangdong Province, it may also enable them to establish economic and trade contact with the greater Southwestern China. This is not only beneficial to the development of the western part of Guangdong Province and western China, it will also alleviate the imbalanced development between Guangdong Province as well as other regions in China. Besides, it will help Hong Kong explore a bigger economic hinterland and expand the scope for its development.

Sixthly, Hong Kong is the aviation and shipping hub with global connections, it possesses a sound platform for logistics network, its position as an international financial centre facilitates capital financing activities. It also possesses copious professional knowledge and experience in international transport and logistics. The logistics industry in Guangdong Province has just

made a start; it needs funds, management and technological supports from Hong Kong. The co-operation between Hong Kong and Guangdong in the logistics industry has an apparent advantage. According to the relevant regulations of the WTO, China should open its logistics industry to the outside world after three years by allowing foreign-owned enterprises to engage in the business. For that reason, Hong Kong and Guangdong should adopt the joint-venture mode for now with a view to enhancing the co-operation in logistics industry. If money and technology from Hong Kong integrate well with the foundation and network of the mainland logistics industry, it will bring forth a satisfying win-win situation. With regards to the co-operation between Hong Kong and Guangdong in the logistics industry, both sides should co-ordinate their development in ports, terminals and airport facilities in order to avoid an overlapping of facilities and malignant competitions. Governments on both sides should strengthen their co-operation in the joint construction of customs clearance and infrastructural facilities to promote the two-way free flow of people, vehicles, cargoes and capital. They should also promote the co-operation between Hong Kong and Guangdong in the logistics industry.

Madam President, I so submit.

Mr Ambrose LAU moved the following motion: (Translation)

"That, as the Chief Executive has stated in this year's policy address that Hong Kong and Guangdong should, with the common goal of achieving a major modernized economic region, raise and speed up the level of co-operation in exploring new areas of common interests where there is room for enhanced co-operation, this Council urges the Government to actively consult various industrial, commercial and professional sectors on the relevant subjects and expeditiously put forward feasible proposals and implementation timetables."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Ambrose LAU be passed.

DR RAYMOND HO (in Cantonese): Madam President, Hong Kong is a small place without any natural resources. Once a small fishing village, Hong Kong has now risen to the status of an international city. Such an achievement has astounded our admirers, apart from winning us words of praise. It is an

undeniable fact that the economy of Hong Kong had once prospered and was among the best ones in Asia; it is even described as the head of the four small dragons of Asia. However, with rapid changes that have taken place in the world, especially in the Asian region, the economy of Hong Kong is no longer as prosperous as before. Although we have the sizeable financial reserve and Exchange Fund and we do not have any external debts, we still have to face the critical financial deficit, the ever-rising unemployment rate and the deflation which has persisted for a long period of time. It seems that these problems have made the people lose confidence in the Government for the time being. In recent months, the heavy blow dealt by Severe Acute Respiratory Syndrome (SARS) has stimulated a strong cohesion among the people of Hong Kong. Although the Government has actively promoted the local community economy in order to improve the economy, Hong Kong is still a small market. If we want to speed up the pace of our economic recovery, we must proceed with our external development. The Mainland is a very huge market, the rich potentials of which has been the major attraction to many countries and territories in the world. As a part of China, Hong Kong should grasp the opportunity to launch our northward development. The Guangdong Province and Hong Kong are close neighbours. In terms of the languages and the culture, Guangdong is closer to us than any other areas of the Mainland. Therefore, if we need to develop our businesses northwards, the first move we should take is to expand our business to Guangdong and to strengthen the ties between the two places so as to create business opportunities with joint efforts.

In the policy address of the year, the Chief Executive has mentioned about exploring new areas of co-operation between Hong Kong and Guangdong. With respect to this, I am strongly supportive. In fact, we have been discussing the subject of the co-operation between Hong Kong and Guangdong for a long time. Now, it is the right time to formulate more specific areas and objectives as well as for holding discussions with the Guangdong authorities on the concrete details.

In fact, the earlier the co-operation between Hong Kong and Guangdong starts, the more beneficial it will be for Hong Kong. The labour market of Hong Kong shrinks gradually, the grievances of the people towards the Government have become very prevalent. On the contrary, with the development of the country, Guangdong has a strong demand for high-quality talents. If Hong Kong and Guangdong could make joint efforts to launch their development, it will provide a lot of job opportunities for the people of Hong Kong.

Besides, the co-operation between the two places will also help stimulate the revival or promote the development of many industries of Hong Kong, such as the tourist industry, the retail industry, the transport industry and the logistics industry. The Guangdong Province has a large population. As they share a common language with us, a large number of people travel to Hong Kong on sightseeing tours each year. This has brought about great revenue for the hotel and retail industries. As for the transport and logistics industries, they will be benefited by the increase in the flow of passengers and goods.

In order to facilitate the co-operation between Hong Kong and Guangdong, the Hong Kong Government must proceed with the work from many different aspects, such as exchanging opinions with the Guangdong Provincial Government on a regular basis, formulating a co-ordination mechanism, speeding up the flow of information and so on. I would like to see that the Government could put plans in the policy address into practice by starting the liaison with Guangdong as soon as possible and holding discussions with the various trades and industries of Hong Kong so as to specify the objectives and to formulate the relevant measures and policies. These would of course include the construction project of the bridge linking up Hong Kong, Macao and Zhuhai, so that we would not miss a major development opportunity.

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

DR DAVID CHU (in Cantonese): Madam President, the economic development of mainland China in recent years, no matter which perspective one chooses to view it, is very successful. The foreign exchange reserve of China ranks second in the world, and its Gross Domestic Product shows an annual growth of 7% to 8% on the average. Its total export value last year was in excess of US\$325 billion, just second to Japan in Asia. Although the economy of China will be affected by SARS this year, the momentum of its rising economy will not be changed. There is a stark contrast between the success of mainland China and the economic downturn of Hong Kong in the past few years.

However, there is no need for us to feel upset. As a common Chinese saying goes, "Proximity is an overwhelming advantage." Being in close proximity to China, Hong Kong has always played the role of a bridge between mainland China and the international world. Our unique advantage has always

been the envy of other places. Therefore, as long as Hong Kong can make good use of its advantage and make full use of the edges afforded by the "one country, two systems" as well as the wisdom of the Hong Kong people, we can surely find our way back to the upsurge path. Of course, the Government must adopt the right policies in order to accommodate this upward trend, so as to enable Hong Kong to grasp effectively the enormous business opportunities in the Mainland. I think there is no need for me to dwell on the significance of the economic relations between Hong Kong, the Pearl River Delta (PRD) and even the entire Guangdong Province. In order to promote the further integration of Hong Kong and Guangdong, it is ultimately necessary for us to make the flows of passengers and goods even smoother and that the flows could be conducted in a more unrestrained manner. I think during the past few years, the Government of the Hong Kong Special Administrative Region (SAR) has shown itself to be more proactive than in the past in promoting the co-operation between Hong Kong and Guangdong, and such efforts have brought about some achievement. However, some work still has to be done by Hong Kong.

First of all, as pointed out by many professionals and organizations, Hong Kong still faces a lot of difficulties when efforts are made to launch professional services in the mainland market. Although our country has joined the World Trade Organization as a member, and its professional fields will be open up to the outside world gradually, there are still a lot of hurdles to go through before the professionals can get a formal licence, set up a company and finally establish an office on the Mainland. In this connection, the SAR Government should continue to fight for the rights of the professionals, and eventually minimizing the obstacles in this regard. Meanwhile, the SAR Government should consider setting up a special department charged with the responsibility of promoting the professional services to the Mainland, such as legal, accounting, financial, insurance, engineering, construction, surveying and planning services. As there is a close tie between the Guangdong Province and Hong Kong, the prospects of the integration of the professional services of the two places must be very promising. I hope the Closer Economic Partnership Arrangement between Hong Kong and the Mainland, which is to be announced soon, can bring us some good news.

Of course, the integration has to be two-way. Hong Kong also has to provide the convenience for mainlanders to travel to Hong Kong for both sightseeing and business purposes. Although the mainland authorities have

already relaxed the conditions for issuing business visas and at the same time simplified the application procedure, mainland businessmen or professionals still find the formalities required for their travels to Hong Kong complicated, the time for vetting and approving their applications too long or even unpredictable. Therefore, the SAR Government should study on how to remove such obstacles.

Madam President, on the aspects of logistics and transport, Hong Kong and PRD have even greater needs of co-operation. It is common knowledge that, the existing cross-boundary infrastructures have already been overloaded, resulting in great loss in time and money for economic activities. Therefore, the Government should accord high priority to investing in cross-boundary infrastructure projects with significant economic value, such as roads and railways. Although multi-level communication and co-operation mechanisms in infrastructures and logistics are already in place between Hong Kong and Guangdong, in order to be really mutually beneficial, it is necessary for Hong Kong to change its past approach of merely taking care of its own development. From now on, Hong Kong and Guangdong should start to have some co-ordination as early as the planning stage, so as to avoid unnecessary competitions between the two places.

Madam President, finally, I hope the Government can continue to do its best to work out plans in conjunction with the mainland authorities for the overall integration and division of labour between the two places as well as an implementation timetable. With these remarks, I support the motion.

MR HOWARD YOUNG (in Cantonese): Madam President, the Chief Executive pointed out in this year's policy address that Hong Kong has the advantage of being a world-class international centre of business and logistics and the relevant hardware and software required, such as our keen business acumen, a well-developed infrastructure, a reliable financial system, a broad global vision, and so on. Subsequent to China's accession to the World Trade Organization (WTO), its rapid economic development and further opening up a good chance is available for Hong Kong to bring the above mentioned advantages into full play and break away from the predicament and revitalize the economy. In other words, it is not necessary for us to seek afar, as the opportunity is right beside us, and that is the Pearl River Delta (PRD) we know so well.

In recent months, despite the rampant SARS in Hong Kong and China which has significantly disrupted our contacts with the Mainland, in my opinion, considering the efforts made by the Governments on both sides to fight SARS, the epidemic would come to an end someday and the order of our daily lives and the economic activities will resume and go on. We should not throw ourselves into confusion because of momentary disruptions caused by the SARS epidemic.

If we are to further strengthen the role of Hong Kong as the regional hub, we should enhance our co-ordination and collaboration in major infrastructure projects with major cities in Guangdong Province. For projects such as the Regional Express Line, which is already put on the agenda by the SAR Government; the bridge linking Hong Kong, Macao and Zhuhai, which is pending for a formal and final decision; as well as the construction of the Shenzhen Western Corridor and its related projects. We anticipate that we could hear the news of a go decision or completion of these projects soon. Once these infrastructure projects are completed one after another, they will help promote the contact between Hong Kong and Guangdong and they will significantly strengthen the position of Hong Kong as the regional air, land and sea logistics hub.

In fact, the construction of cross-boundary infrastructural facilities will not only help the development of the logistics industry, it will also benefit Hong Kong businessmen who are engaging in manufacturing industries on the Mainland. According to the latest on the PRD which is conducted by a research team of The Chinese University of Hong Kong, after the construction of the bridge linking Hong Kong, Zhuhai and Macao is completed, the travel time from places like Jiangmen, Zhongshan and Zhuhai to Hong Kong would be cut from 14% to 81% and freight cost could be reduced by a maximum of 53%. This is believed to further improve the development of western PRD and enhance the competitiveness of goods manufactured by Hong Kong-invested enterprises for export.

Such cost reductions will also help bring about a new business mode; that is, it would attract more foreign investment to enter the PRD. It would also help mainland enterprises develop their global business via Hong Kong, and strengthen the position of Hong Kong as the intermediary. In this way, the demand for services from dominant sectors of Hong Kong, such as the financial sector and the professional services sector, would increase accordingly.

In addition, in the wake of the improvement of the living standard of the residents within Guangdong Province, they will visit Hong Kong and do some sightseeing. For that reason, the Liberal Party supports the measure which allows residents within Guangdong Province to visit Hong Kong in their personal capacity. It is believed that as long as the epidemic on both sides is brought under further control and the policy to deregulate the restrictions on individual travellers from Guangdong Province is launched subsequently, the hotel and tourism sector, which is hard hit by the SARS outbreak, would be saved. We should discuss the prompt implementation of this scheme with Guangdong Province and the Central Government immediately and we should not wait until the SARS outbreak is over before making any effort, so that the sector could be benefited as soon as possible.

Madam President, in order to ensure the unimpeded flow of passengers and cargoes between Hong Kong and Guangdong, it is necessary for us to speed up the construction of boundary customs clearance facilities. For example, Huanggang/Lok Ma Chau boundary crossing has been operating round-the-clock for three months with satisfactory results; we should further study the demand and feasibility of extending such measure to other cross-boundary checkpoints. However, we are somewhat disappointed that the co-location arrangement at Huanggang/Lok Ma Chau boundary crossing cannot be implemented within this year as it has originally been planned. We hope that the Government will keep on discussing the issue with the Shenzhen Municipal People's Government for an early implementation, as only this will alleviate the pressure on customs clearance work caused by increasing passenger and cargo flows.

Hong Kong and Guangdong officials have met many times to discuss issues in many areas, but as the meetings are not conducted on a regular basis, contacts between senior officials are therefore quite limited. For that reason, our relationship with our neighbours after the reunification is still not as close as it should be, and that is unfavourable to the development of further co-operations. We therefore hope the SAR Government, the Chief Executive Mr TUNG Chee-hwa and principal officials at Secretaries of Departments and Directors of Bureaux ranks, would raise the level and frequency of communication with Guangdong officials at provincial and municipal level. Certainly, we have learnt a lesson from the SARS epidemic, that is, if Hong Kong and Guangdong are to enjoy further development, a standing epidemic prevention and reporting mechanism should be established as soon as possible to exchange the information on the epidemic situation, infection cases and treatment experience.

I believe that as long as we adhere to a spirit of mutual dependence and close collaboration, Hong Kong and Guangdong would enjoy the maximum benefit.

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

MISS CHOY SO-YUK (in Cantonese): Madam President, since the outbreak of SARS, the people of Hong Kong and the PRD and even all the people living in Guangdong Province, know clearly that as far as the Hong Kong/Guangdong relationship is concerned, no matter from the aspect of epidemic control or economic development, we have been mutually dependent for a long time and none of us can just mind our own business. Through this incident, the concept of two in one co-operation can further take root into the hearts of the people, which is indeed helpful in achieving the overall targets proposed by the Chief Executive in his policy address, namely, forging closer co-operation with the Mainland, expediting economic integration with the PRD and elevating the competitiveness of the region.

With these favourable factors, it is necessary for the SAR Government to seize this opportunity to strengthen the communication mechanism with the mainland Government as soon as the epidemic is brought under control. Furthermore, under the framework of "one country, two systems", the SAR Government should speed up all forms of co-operations with a view to turning crisis into opportunities, developing a regional economy and jointly rebuilding the image of the PRD by complementing each other with their respective advantages.

There are numerous areas for both sides to co-operate, and the levels involved are quite extensive. Today, I only wish to focus my speech on cross-boundary co-operation in the environmental aspect.

Actually, the Government has made a lot of efforts in this area, which includes the co-operation with the Guangdong Provincial Government to reduce the level of major air pollutants in the PRD Region to the greatest extent which helps Hong Kong to achieve the current target of air quality index. Furthermore, it also includes the introduction of pilot plans in emission trading in power plants in Hong Kong and Guangdong Province. However, the Government has not faced up to the issues of co-operations in exploring renewable energy resources and the promotion of environmental industry.

I wish to cite an example here. Owing to the restriction of the Basel Convention, under normal circumstances, wastes of one place by and large will not cross the border and exported to another country. I support this principle, because it can prevent developed countries from not performing their own responsibilities and simply dump the wastes to developing countries which do not have comprehensive environmental protection laws. However, if we ignore the reality and execute this principle in a rigid and across-the-board way, we would just outsmart ourselves by strangling some green industries which may help improve the environment.

Just like other metropolises all over the world, wastes in Hong Kong are actually treasures. Each year, the total value of recyclable materials is as high as \$3 billion. There are ways to recycle any kind of the so-called wastes in Hong Kong and turn them into raw materials for export or domestic sale. The only problem is that the processing cost of some of the materials is too high, so it is not cost effective at all. From the business point of view, these materials of value would be dumped in landfills, which will increase the impact on our environment. This is not only running counter to the government efforts in promoting waste reduction and increasing recyclable wastes, but also one of the major reasons why Hong Kong is unable to establish the recycling industry and use the market forces to solve the long-standing problem of wastes.

Without a change in policy, there is no once-and-for-all solution for these long-standing problems. One of the more practicable ways is that the SAR Government may take the initiative to discuss the issue with other cities within Guangdong Province, and try to make use of the less expensive land and labour costs of the Mainland by transporting materials of lesser cost-effectiveness to the Mainland for recycling. This will not only help raise the rate of recovery of domestic wastes significantly and prolong the life of landfills, but also help the development of relevant industries on the Mainland. It is really a win-win situation for both sides which will benefit both places.

Certainly, in order to prevent the abuse of this policy, the Government should along with promoting this policy, plug all loopholes to ensure cross-boundary wastes are for the sole purpose of recycling. It should not allow anyone to badly ruin the international image of Hong Kong by using the "cry up wine and sell vinegar" tactics, with the actual purpose of dumping wastes to other people's backyard on the pretext of recycling.

Madam President, I wish to add one more point. If the PRD is constantly under the threat of infectious diseases, no matter how hard regional governments are trying to enhance their co-operations with the environmental protection industry and that in business and trade, we will only achieve very little with the efforts made. For that reason, we should first establish a mechanism which is able to handle the unexpected outbreak of infectious diseases and which may control, monitor and exterminate such diseases effectively. As to this mechanism, we must co-operate with Southern China in the establishment of a regional centre for disease control and prevention, in order to prevent a major outbreak in the region again and avoid the no-win prospect.

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

MR LAU PING-CHEUNG (in Cantonese): Madam President, I speak in support of Mr Ambrose LAU's motion.

The Chief Executive once again stated in this year's policy address that Hong Kong is positioned as "backed by the Mainland and engaged globally" with the four major industries of finance, logistics, tourism and producer services being identified as the key industries. This direction is correct.

However, due to historical and geographical factors, the development of economic and trade co-operation between Hong Kong and various mainland provinces and cities has not been conducted at the same pace. The Chief Executive indicated in his policy address that the Central Government has agreed to speed up discussions on the Hong Kong and Mainland Closer Economic Partnership Arrangement. It is expected that an arrangement in relation to the major issues could be reached by next month, that is, June. I believe this will be a comprehensive agreement. As regards the detailed arrangements, it may vary from province to province and city to city. For the co-operation to be more comprehensive and smoother, the SAR Government, chambers of commerce, and professional bodies still need to negotiate with their mainland counterparts through various channels.

As regards co-operation between Hong Kong and Guangdong, since the two territories are adjoining and many Hong Kong people came from Guangdong, close ties have already been established between the two territories. For

example, the manufacturers of Hong Kong have directly and indirectly employed several million people in Guangdong Province and Guangdong Province is also the main target of Hong Kong's re-export trade. In order to tie in with such developments, our infrastructures have been developed with Guangdong Province in mind. For example, at the beginning of this year, we have implemented 24-hour border crossing at the Lok Ma Chau/Huanggang border control point to expedite passenger and goods flow between the two territories. Furthermore, the construction works of the Shenzhen Western Corridor will also speed up so that it can be opened up for traffic in the latter half of the year 2005. Moreover, the issue of the bridge linking Hong Kong to the western part of the Pearl River Delta (PRD) has also been brought up again for discussion. I hope Hong Kong, Zhuhai and Macao could soon reach an agreement on the site of the bridge so that construction works can commence as soon as possible.

Madam President, the above mentioned infrastructure projects are all tangible and can be easily identified. However, I would like to talk about certain professional service co-operations, and that is, the producer services mentioned by the Chief Executive and they are intangible. In the past, since Hong Kong is the hub of the PRD, Hong Kong and mainland businessmen alike would seek different professional services such as legal, accounting and banking services in Hong Kong. With China's accession to the World Trade Organization and the gradual opening up of its market, the professional sectors of Hong Kong should no longer be complacent about our *status quo* because we are facing challenges from more multinational professional companies. It is necessary for us to further explore the market of the PRD and enter the PRD to participate in various economic and development activities.

The Hong Kong Coalition of Professional Services (HKCPS) to which I belong has always worked hard to fight for the right of Hong Kong professionals to practise on the Mainland through mutual recognition of qualifications with mainland cities. As I said earlier, due to historical and geographical factors, different progress has been made in different provinces and cities and different progress has also been made by various professional bodies. For example, earlier on, the HKCPS has conducted negotiations with its counterpart in Shanghai and the construction-related professions are being chosen as a testing point. It is hoped that through temporary mutual recognition of qualifications, experiences can be gained and the practice may be further extended to other professions.

As regards Guangdong Province, with the support of the Chief Executive and under his arrangement, Mr LEUNG Chun-ying, the president of the HKCPS and I visited the leading officials of Guangdong Province in Guangzhou at the end of April to explore the possibilities of co-operation between the professionals of the two territories. We were received by Mr HUANG Huahua, the Governor of Guangdong Province. The officials of Guangdong Province said the professional sectors of the two territories could learn more about each other, understand each other better and come to an understanding through exchanges of visits. We also proposed that apart from technical exchanges, both parties could look into the possibility of co-operation in business operations and explore mainland and overseas markets together through their offices in both territories.

Madam President, the Chief Executive greatly supports the Hong Kong professional sectors in exploring the mainland market and has relayed this wish to the Central Government and mainland provincial and municipal officials on different occasions. However, as the specific conditions of different provinces and cities vary, we must obtain greater support from the SAR Government in persuading mainland provincial and municipal governments through various channels so that the desired result can be achieved with the least efforts made. Therefore, I support the motion to urge the Government to actively consult the industrial, commercial and professional sectors in studying and exploring further areas for co-operation between Hong Kong and Guangdong.

MR HUI CHEUNG-CHING (in Cantonese): Madam President, Guangdong and Hong Kong were both subject to the outbreak of atypical pneumonia one after another in the past six months. This has not only struck a blow to the rapidly emerging Greater Pearl River Delta (PRD) economy, but also brought inestimable implications to the international image of the PRD. However, I think that the outbreak has actually further emphasized the close-knit relationship between the two territories. It has also laid down a stronger foundation for further economic integration between the two territories, and verified what the Chief Executive has stated in this year's policy address that the two territories should raise and speed up the level of co-operation in exploring new areas of common interests where there is room for enhanced co-operation.

The Hong Kong Progressive Alliance (HKPA) has always been striving to promote enhanced economic and trade integration between Hong Kong and

Guangdong; our various proposals such as set up Hong Kong offices in Beijing and Guangdong and establish closer economic partnership arrangement with the Mainland have all been accepted by the Chief Executive. During the recent outbreak of atypical pneumonia, the HKPA invited Chinese herbalist LIN Lin, the Associate Professor of the Guangdong Chinese Medicine University to attend the "Seminar on the Combined Use of Chinese Traditional Medicine and Western Medicine To Fight Against Atypical Pneumonia" held on 17 April. Prof LIN Lin was also recently invited by the Hong Kong Government to visit Hong Kong to assist in the prevention and treatment of the disease. The integration of the Hong Kong and Guangdong economies is part of the main course of development and Mr Ambrose LAU and I have stated the reason for its importance many times. Of course, since there are a lot of differences between Hong Kong and Guangdong in terms of their political, economic and social systems, it is by no means an easy task for the two territories to have perfect co-operation. So, it is necessary for both parties to raise the level in exploring new areas for co-operation since this cannot be achieved by market forces alone. What is equally important is, Hong Kong officials should overcome their estranged feelings towards the Mainland. In collaboration with the Guangdong authorities, they should positively and expeditiously build up a strong and common framework for the formulation and implementation of policies, so as to remove obstacles to economic integration more effectively.

In reply to Mr Ambrose LAU's question at an earlier Council meeting, the Chief Secretary for Administration said the existing communication mechanism for co-operation between Hong Kong and Guangdong could be described as "holistic". At the topmost level, the Chief Executive communicates directly with the leaders of the Central Authorities and Guangdong Province to exchange views on matters of mutual concern to the two territories. At the second level, principal officers could frequently exchange views with their counterparts of the Central Authorities and Guangdong Province on various policies and related issues so as to reach an agreement and co-ordination on their implementation. At the third level, the middle-ranking and front-line personnel can work hand in hand with the mainland personnel in promoting cross-boundary policy measures. This three-tier communication framework is basically on the right track but the problem is, the actual communication between the two territories has not yet been institutionalized, thus failing to create an enormous top-to-bottom force for the integration.

I think it is necessary for the SAR to hold discussions with the Guangdong authorities over the possibility of institutionalizing the three-tier communication system. The leading officials of both sides as well as representatives of all ranks of government officials should meet at least monthly on a regular basis to enhance mutual understanding and exchange views on the latest information and development plans and this naturally helps open up business opportunities. The promotion of more frequent regular contacts through existing channels such as the "Hong Kong/Guangdong Co-operation Joint Conference" and the "Mainland/SAR Conference on Coordination of Major Infrastructure Projects" and finding ways to enhance the functions of the Hong Kong Office in Guangdong presently located at Guangzhou, will be beneficial to finalizing tasks that have been pending for years. For example, the implementation of a co-location arrangement at all border control points, speeding up mutual recognition of the qualifications and accreditation of professionals in both territories, the establishment of a mechanism to facilitate free movement of talents, as well as the bridge to link up Hong Kong West with Zhuhai and Macao, which is a project of great concern to the industrial and business sectors, and the establishment of standing channels to enhance the reporting and prevention systems for infectious diseases as well as co-ordination and co-operation over sewage, exhaust gas emission and other ecology issues. It is also equally important to establish regular and institutionalized negotiations and exchanges so that both sides could take early joint actions to nip problems in the bud before certain cross-boundary issues deteriorate and turn into crisis.

Furthermore, co-operation between Hong Kong and Guangdong is actually not restricted to the PRD, for the whole Guangdong Province is so vast in size. Though the PRD is closest to Hong Kong and it is easier for Hong Kong people to invest in the PRD, other places like Zhanjiang, Yangjiang, Qingyuan, Zhaoguan, Meizhou and Chaoshan also have great potentials in terms of their geographical locations and manpower resources. Moreover, most of the investment conditions offered by the government of these places are more favourable than those offered in the PRD. Therefore, Hong Kong and Guangdong should look into the grouping of the existing communication channels. These channels should be enhanced through the participation of the leading officials of Hong Kong and Guangdong and the relevant departments and committees of the Central Authorities and by inviting the participation of representatives from the industrial, business and academic sectors of both territories to map out a blueprint for co-operation between Hong Kong and Guangdong in respect of their economic and social developments and cross-

boundary infrastructures. Regular working meetings should also be conducted to supervise the co-operation plans of both parties. In the long run, I hope all relevant organizations can actively work on main issues in relation to the integration of Hong Kong and Guangdong, so that in addition to their long-standing natural bondage, through the rational co-ordination of both governments, they can establish long-term co-operations and explore new business opportunities and areas under the principle of mutually benefiting and complementing one another.

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

MR NG LEUNG-SING (in Cantonese): Madam President, Hong Kong-Guangdong co-operation is of very great importance, whether to the long-term development of the entire South China Region, or to the consolidation of Hong Kong's status as a world city in Asia. It is also a task which both the Government and the community have long wished to find out how it can be performed better. The recent epidemic outbreak, in a way, has provided us with a fresh perspective in the course of such exploration.

Economic development must depend on social stability. One very important element of social stability is in public health and hygiene. Owing to the close economic and social ties between the two places, and also because of the frequent flows of people between Guangdong and the rest of the Mainland, geographical boundaries can do nothing to stop the spread of infectious diseases; no one single place can remain immune. And, even if the recent outbreak of Severe Acute Respiratory Syndrome can be brought under control, the virus may still hit us again after a period of incubation. For the sake of prevention, the co-operation of the two places in terms of mutual notifications and prevention must be founded on a more specific and regular basis. Their exchanges of information should at least be more direct, faster and efficient than those under the co-ordination of the World Health Organization. Their internal and boundary checkpoint disease surveillance systems should be more standardized and stringent. They should co-operate much more closely in terms of infectious disease treatment and research. Only by doing so can they protect their own investments, promote the economic development of the region and create a safe and hygienic environment. Besides, the two places also need to co-operate much more closely with respect to food safety and the control of air and water pollution, because the economic prosperity of the region is after all dependent on sustainable development.

Economically, there has always been huge room for co-operation between the two places, some examples being the enhancement of co-ordination in large-scale infrastructure and the fostering of passenger and goods flows. I am very pleased that when the Government replied to my question last Thursday, it disclosed that the negotiations on allowing Guangdong residents to visit Hong Kong in their personal capacity had entered the stage of final arrangements. Although the epidemic may have hindered the work concerned, I still hope that the details can be finalized and announced as soon as possible, so that our tourism-related industries can make early preparations. This will help increase the confidence of our various trades and industries in overcoming the current difficulties. As for the closer economic partnership arrangement under the overall co-ordination of the Central Government, it will also play an even greater role in fostering the future economic co-operation of Hong Kong and Guangdong; it will enable the local financial, legal and accounting sectors to expand into the mainland market earlier than others, thus further upgrading Hong Kong's status as a services and financing centre.

The exploration of new areas of co-operation should be a mutually beneficial and interactive process. For this reason, if we are to make the co-operation more effective, apart from understanding the needs and aspirations of the local industrial and commercial sectors and the professionals, we must also communicate with the Guangdong government and the industrial and commercial sectors there to find out their needs and the roles they wish to play. If the governments of both places and their industrial, commercial and professional representatives can have the opportunity to communicate with one another, the co-operation of the two places will be greatly fostered.

Madam President, I so submit.

DR TANG SIU-TONG (in Cantonese): Madam President, in this year's policy address, the Chief Executive stated that the PRD, including Macao, would be developed into a major modernized economic region with multi-advantages and functions. He proposed that in addition to maintaining the tried and tested joint ventures in infrastructure, manufacturing industry and environmental protection, new areas of common interests where there is room for enhanced co-operation should be also explored. I greatly support these proposals and the Government should have started its work in these areas much earlier. In fact, the current

atypical pneumonia catastrophe clearly shows us that the integration and intensification of the Hong Kong and Guangdong economies will increase the need for co-operation in other non-economic areas. Economic and social areas are actually one entity with two fronts and it is virtually impossible for us to only focus at economic co-operation while ignoring the need for co-operation in other areas. However, apart from co-operation on combating cross-boundary crimes, the SAR Government has always tend to ignore co-operation in other social areas and I hope this situation can be soon rectified in future. Today, everyone would agree that the medical and health area is one where enhanced co-operation must be introduced as soon as possible. Once an epidemic breaks out on one side, it may soon spread to the other side and it is not possible for both Hong Kong and Guangdong to just mind their own business.

As regards the epidemic reporting system of Hong Kong and Guangdong, quite substantial achievements have been made under the efforts of the Central Government, the Guangdong Provincial Government and the SAR Government. Hong Kong and Guangdong would further perfect this epidemic reporting mechanism, regularly inform each other of the most update information on the epidemic and establish a point-to-point exchange mechanism between the relevant departments of Hong Kong and Guangdong. Furthermore, Hong Kong and Guangdong would also expand the scope of epidemic information exchanges in relation to other infectious diseases such as cholera, dengue fever, malaria and influenza, so as to join hands in preventing and controlling infectious diseases. I hope the officials of Hong Kong and Guangdong can make use of such mechanisms to further mutual understanding and enhance co-operation so that the work on medical and health issues that involve the interests of both Hong Kong and Guangdong may achieve concrete results.

The Chief Executive has already decided to set up a disease prevention centre in Hong Kong, the Mainland formally set up the Chinese Disease Prevention Centre in January last year and Guangdong Province also established a disease prevention centre at the local level. I hope the relevant centres of Hong Kong and the Mainland can establish a close working partnership to enhance protection of the health of the people in the two territories. Though Hong Kong has many very outstanding medical and health care and research personnel, the number of experts on communicable diseases is somewhat inadequate. It is necessary for us to invite more experts from other places, including the Mainland, to come for exchanges in Hong Kong.

Madam President, disease prevention has also revealed new opportunities in co-operation between Hong Kong and the Mainland on medical and related industries, and if we could make proper use of the opportunities, business opportunities could also be created. In the course of our fight against atypical pneumonia, both the Mainland's Chinese and Western medicine combined treatment method and Hong Kong's efforts in tracing and studying the virus have achieved considerable results and won acclaims from the World Health Organization. In comparison with the medical services of China, the Western medical services of Hong Kong do have certain advantages. From the fact that patients suspected of atypical pneumonia from other territories have tried to seek treatment in Hong Kong, the superiority of the Hong Kong medical and health profession can clearly be seen. Therefore, if Hong Kong and Guangdong could learn from each other's strong points and complement each other's shortcomings and enhance co-ordination on studies in treatment methods, hospital operations and personnel exchanges, it would help establish our position as the regional medical centre of the Greater PRD and is beneficial to developing markets within and outside the Mainland, especially when the business of local private medical practitioners and hospitals has not been so good in recent years. The SAR Government should help them open up more mainland and overseas markets. I think the medical organizations and professional bodies of Hong Kong and Guangdong should further enhance exchanges and work together to formulate a long-term co-operation plan after the epidemic is abated.

Apart from this, a relatively more conventional issue on integration is "boundary-crossing". This is also an important subject on integration. The congestion problem at border control points has always been criticized by members of the community. Fairly speaking, under the efforts of the SAR and mainland Government, the current situation has already been improved to a certain extent. I believe upon the completion of the improvement works to the Lo Wu Control Point and other cross-boundary infrastructures, for example, the completion of the Shenzhen Western Corridor and the co-location facilities, the efficiency of passenger and goods clearance at border control points will be substantially enhanced. However, though the Government has been striving to promote integration of the Hong Kong and Guangdong economies through the provision of both hardware and software, it is undeniable that the SAR's introduction of the Boundary Facilities Improvement Tax will have certain psychological or even substantial impact on the integration of the two territories. I conducted an opinion poll in April and though only 26% of the respondents were against the introduction of a Boundary Facilities Improvement Tax, 40% of

those in favour thought that the charge should be less than \$10. Furthermore, as a result of the atypical pneumonia incident, members of the public also have less incentive to visit the Mainland. Therefore, in introducing the tax, the Government should be more realistic as to take note of the actual circumstances and try to charge a lower tax as far as possible to avoid obstructing exchanges between Hong Kong and Guangdong.

Madam President, the integration of Hong Kong and Guangdong is certainly the way forward for the future development of Hong Kong and Guangdong. The attitude and measures adopted by the SAR Government are certainly more positive and enterprising as compared to those in past years and this should be commended. However, there is still much room for intensification in relation to various co-operative mechanisms and items. A more profound issue is, not only should the cohesive forces of the Hong Kong community itself be enhanced, but the cohesive forces of Hong Kong and Guangdong as well as that of the Greater PRD should also be enhanced. It is only by doing so that everyone can work together whole-heartedly and ride out the storm together. With these remarks, Madam President, I support the motion.

MR SIN CHUNG-KAI (in Cantonese): Madam President, as early as when we debated on the policy address in January, the Democratic Party has already been greatly supportive of the idea of co-operating with the PRD. For Hong Kong and Guangdong to seek further development after more than 20 years of integration, apart from enhancing its own business conditions, the PRD should also give full play to the advantages of Hong Kong such as our excellent business laws, sound market information network, fair judicial system, our position as an international finance centre and our geographical advantage as a logistics centre, this will enable the PRD to gain access to the international market. On the other hand, Hong Kong should try to seek closer co-ordination and enhance interaction with the mainland Government in respect of capital, passenger flow, goods flow, transport and infrastructures. This helps improve the current difficult financial situation of Hong Kong and prepare China for the full opening up of its market in the future so that the integration of the two territories may eventually reach a stage of "co-operation, complementary strengths and mutual benefits".

Therefore, the Democratic Party agrees that the SAR Government should expeditiously establish a co-operative mechanism and draw up a timetable with

the Guangdong Provincial Government so as to implement a closer and higher level of co-operation as soon as possible. However, meanwhile, the Governments of the two territories should definitely not ignore subjects like the prevention of infectious disease and resolving business and civil disputes of the people of the two territories. The Governments of the two territories should launch immediate discussions and carry out an overall and comprehensive study. The Democratic Party is of the view that the Hong Kong Government should set itself a target for the above tasks and oversee the work and progress of the officials-in-charge.

Finance, logistics, tourism and producer services industries, being the four pillar industries mentioned in this year's policy address, may be treated as a starting point. As regards the finance industry, apart from fighting for more qualified mainland organizations to come and invest in Hong Kong, the Government must also fight on behalf of the local industry to set up more branches on the Mainland. Furthermore, as regards the local securities industry that Mr Henry WU has often fought for its interests, the Government should help the industry gain access to the mainland market for competitions are getting keener each day. The introduction of QFII and QDII is also an urgent task at the moment. The Government may design some innovative plans to help the industry develop on the Mainland, for example, to fight on behalf of the securities industry for commercial foothold on the Mainland, so as to sell Hong Kong or overseas financial products, including stocks, bonds, mutual funds and so on and to develop an e-commerce or securities trading system that is linked with the Mainland. Furthermore, subjects like financial regulatory statutes, market interface and corporate governance should also be discussed as soon as possible. A sound information platform for the dissemination of financial information to the enterprises of Hong Kong and Guangdong should be established to encourage the enterprises of the two territories to set up branches in Hong Kong and Guangdong to attract foreign capital.

As regards the logistics industry, the Government should look into how transport, infrastructure and information technology facilities of the two places can be connected and how we can fight to include Hong Kong under the coverage of the mainland traffic infrastructure network, so that the logistics industry may make use of the road traffic network of the two territories, link up cargo transportation there through information technology, develop an interconnecting electronic custom clearance information platform for the two territories and enhance the competitiveness and cargo flow efficiency of the logistics industry there at the same time.

As regards the tourism industry, apart from the general work, for example, enhancing the custom clearance facilities at border control points, urging for the relaxation of restrictions on sightseeing tours of Guangdong residents to Hong Kong, the Government may also help the tourism industry set up branch offices on the Mainland, so that they can directly organize Hong Kong tours for mainland tourists and meet them at mainland departure points. To put it simply, why is it that Hong Kong travel agencies cannot set up branch offices in Beijing to organize direct tours to Hong Kong and must wait for mainland travel agencies to bring the tour members to Hong Kong and then pass the work of reception over to local travel agencies? If Hong Kong travel agencies are allowed to receive tourists directly from the Mainland so that they can travel abroad via Hong Kong, then the local tourism industry can have more room for development. Some other options are to make use of the local tourism industry's high quality service and its professional management knowledge in receiving overseas tourists for mainland tours and to make investments on tourist facilities and vacation centres in the western part of China.

As regards the producer services, the Government should on one hand, remove restrictions on Hong Kong professionals to practice independently on the Mainland and on the other hand, offer resources to help all members of the sectors learn about the mainland market in as little time as possible. Under the guiding principle of maintaining the existing standard of local professional services, the system of mutual recognition of professional qualifications should be promoted. In fact, the Mainland is now actively promoting the economy and has great demands for the varied producer services in Hong Kong that are up to the international standard. Such services include assets management, commercial laws, marketing, corporate governance, medical services, and so on. The Democratic Party proposes that the Government can launch consultation exercises in respect of various professional service areas, so as to have a comprehensive understanding of the kind of support that various sectors need in gaining access to the mainland market and develop a series of strategies for gaining such access.

In fact, the Government may refer to the experiences of overseas countries. Overseas governments often take the initiative to help various sectors of their countries open up the doors of foreign markets. Sometimes, they even help individual companies set up branch offices in overseas countries on a cost-recovery basis to resolve problems arising from the lack of understanding in overseas markets. Take the mainland provincial and municipal governments as

an example, their leading officials have often negotiate for concessionary or exemption policies with the Central Government so that their enterprises may have more room for improvement. The Democratic Party understands that since Hong Kong is also a member of the World Trade Organization, we cannot follow the practice of the mainland provincial and municipal governments. Therefore, the Democratic Party thinks that commerce and trade officers under the leadership of Secretary Henry TANG should work harder to explore other measures in helping the enterprises. These include the Hong Kong and Mainland Closer Economic Partnership Arrangement to be announced in June and the Greater China Free Trade Area proposed by the Democratic Party to help or support enterprises that are planning to or have already gained access to the mainland market.

Apart from economic co-operation, the two territories should also increase co-operation in the areas of medical care and disease control. The authorities planned to establish a disease control centre that is similar to the CDC (Centers for Disease Control and Prevention) of the United States and we support this idea.

However, the integration of the two territories must take into account all related civil, commercial and criminal cases. Facts have proved that it is necessary for the Government to enhance co-operation with Guangdong Province as well as other provinces and cities.

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

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

MR HENRY WU (in Cantonese): Madam President, tonight is an appropriate time for Mr Ambrose LAU to propose the motion on exploring new areas of co-operation between Hong Kong and Guangdong. I support this motion very much.

The financial services sector which I represent has all along hoped to look for opportunities to develop business on the Mainland, and I myself have visited the mainland departments or organizations concerned many times, with the hope of finding a basis for co-operation. Nevertheless, among the operations on the

Mainland, the financial services sector is still a comparatively new area of business, therefore many conditions still cannot be liberalized for the time being. We are trying our best to look for a feasible option. I also have to thank Mr SIN Chung-kai for saying what I want to say, and that is how to do more as soon as possible for the securities industry to develop on the Mainland.

Here, I would like to thank Mr Ambrose LAU again for proposing this motion. In this respect, I also hope that the mainland departments and organizations concerned can provide some opportunities as soon as possible for the industry to develop on the Mainland. Thank you, Madam President.

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

(No Member responded)

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, I wish to thank Mr Ambrose LAU for moving the motion today. I also wish to thank Members for their concern about the enhancement of Hong Kong-Guangdong co-operation and for the valuable proposals they have advanced.

As pointed out in the policy address of the Chief Executive this year, "given our geographical location and cultural ties, we have a special relationship with the Guangdong Province, particularly the Pearl River Delta. After some 20 years, the area is now a highly developed and closely-knit region. Today, much of the global competition is a contest of integrated strengths among different economic regions. A city is simply not strong enough to compete on its own. To advance its competitive edge, Hong Kong must pool its strengths with other cities in the region." For this reason, the focus of the future economic policies of the two places will be on how best they can jointly upgrade the competitiveness of the entire region by pooling Hong Kong's strength in the services industries to tie in with the development of Guangdong in the manufacturing industries.

Having listened to the remarks of various Members this evening, I wish to focus my reply on several points. First, the success of Hong Kong-Guangdong co-operation has to depend on the joint efforts of the Government, the

commercial sector and the people. The Government must know its role clearly. We in the Government have to assume the responsibility of fostering policy reforms involving the Governments of Hong Kong and Guangdong, such as a greater quota for Hong Kong Group Tours and allowing residents from Guangdong to visit Hong Kong in their personal capacity; we also have to take charge of co-operation projects which must require government leadership, such as the construction of cross-boundary infrastructure facilities. As pointed out by Prof Michael ENRIGHT of the University of Hong Kong in "Hong Kong and the Pearl River Delta: The Economic Interaction", a research report he has written for the 2022 Foundation, given the different political systems in Hong Kong and Guangdong, the roles played by the Governments of the two places are also different. We must realize what the SAR Government can and cannot do. In Hong Kong, both the Government and the commercial sector know their respective roles very clearly; there is a sound partnership between the two. Although the Government does not directly take part in commercial investments, it always does its very best to provide policy support so that the commercial sector can expand into the Mainland. With respect to infrastructure investment, the Government and the commercial sector have been adopting a variety of modes of co-operation. Pending the completion of initial planning and feasibility studies, the roles of the two sides can be defined more clearly.

Second, I wish to point out that the economic co-operation of Hong Kong and Guangdong is an interactive process which started as early as some two decades ago, and which is still constantly evolving. The motion today touches on "exploring new areas of co-operation". I support this idea. In recent years, we have been launching many co-operation projects which cover boundary crossings, infrastructure, tourism, logistics, environmental protection and financial services. Our primary task now is to intensify the existing efforts and bring the projects already underway to successful completion. This is the only pragmatic approach to adopt. We will periodically review the existing basis of co-operation, with a view to identifying new areas of co-operation.

Third, I wish to say a few words on the impacts of atypical pneumonia on Hong Kong-Guangdong co-operation. I am sure Members will agree that the most pressing task now should be to bring the epidemic under control. The work in some areas may be held up in the interim, but the negotiations on some routine matters, such as boundary liaison, boundary clearance co-operation, infrastructure planning and the "Closer Economic Partnership Arrangement", will not be affected by the epidemic. We are confident that when the epidemic

is over, the co-operation of the two sides will certainly continue to move forward. The outbreak of Severe Acute Respiratory Syndrome (SARS) has indeed brought home to us the need to think more deeply about the relationship between Hong Kong and the Mainland. The experience this time around has delivered a very important message to us all — there must be a satisfactory notification mechanism on infectious diseases between Hong Kong and Guangdong. Besides, a full-scale co-ordination mechanism should be established between Hong Kong and the Mainland. The recent battle fought jointly by both sides against SARS has made us further realize the interdependence of Hong Kong and the Mainland. This will produce far-reaching effects on Hong Kong's long-term development and its future co-operation with the Mainland.

The level of Hong Kong-Guangdong co-operation has all the time been upgrading, involving an increasingly wide range of fields. Both sides share a clear consensus: The Greater Pearl River Delta (PRD) Region which also covers Hong Kong and Macao is a regional economic zone with a total worth of more than US\$270 billion. Economic co-operation will strengthen our competitive edge and enhance our overall economic strength. To achieve this objective, government leaders of both sides all see the need to further strengthen co-operation.

When the Chief Executive met with Guangdong Governor Mr HUANG Huahua in March this year, both sides exchanged views on the economic development of the two territories and on the prospects of their co-operation. With the rapid progress of Hong Kong-Guangdong co-operation in recent years, both the industrial and commercial sectors and the people are now expecting more from the co-operation of the two sides. To enhance co-operation, we will explore how best to raise the levels of the mechanisms for communications and co-operation between the places, so that we can plan the strategic co-operation between Hong Kong and Guangdong at a higher level. Both the Chief Executive and the Governor of Guangdong are of the view that the next stage of Hong Kong-Guangdong co-operation should aim at upgrading the international status of the Greater PRD. They believe that there is huge room for co-operation in this respect.

Regarding Mr Ambrose LAU's motion, I would like to refer to the policy address this year, which mentions the need to explore new areas of common interest, such as enhancing our co-ordination in regional infrastructure projects, strengthening our world-class logistics services, developing the western part of

the PRD, fully expanding our services industries, exploring new areas of co-operation in the financial sector, improving market regulation, as well as co-operation in strategic studies and the prevention of infectious diseases. I shall now give a brief account of the latest progress of all these areas.

On enhancing the co-ordination in regional infrastructure projects, we will make every effort to bring Hong Kong closer to the major cities in the PRD, with a view to realizing the idea of a "Three-hour Living Zone". At present, Hong Kong and Guangdong are actively making preparations for a number of important infrastructure projects, including the Shenzhen Western Corridor, the Guangzhou-Shenzhen-Hong Kong Express Rail Link and the Hong Kong-Macao-Zhuhai Bridge Link.

To begin with, the Shenzhen Western Corridor project has been progressing smoothly, and the preparation work is in full swing. Funding approval by the Finance Committee of the Legislative Council was obtained in February this year to upgrade the project to Category A. The project will be launched in August this year, in the hope that it can be completed in 2005. As for the "co-location of passenger and customs clearance" at the Shenzhen Western Corridor, we already reported to the Panel on Security and the Panel on Transport on the progress last week.

In addition, the first phase feasibility report on the Guangzhou-Shenzhen-Hong Kong Express Rail Link was completed in August last year, confirming the significance of the project. This express rail link will shorten the travel time from Hong Kong to Guangzhou from 100 minutes at present to less than one hour, and will also connect Hong Kong efficiently to national express rail networks and those in the PRD. The studies on the project have entered the second phase, which will cover issues such as railway technologies, boundary crossing points, financial arrangements and economic benefits. We are currently holding discussions with the Mainland on the date of the third meeting of the expert group.

Furthermore, the joint preliminary studies by Hong Kong and the Mainland on the construction of a bridge link connecting Hong Kong, Macao and the western part of the PRD are expected to be completed in the middle of this year. The State Development and Reform Commission and the SAR Government have been conducting joint studies since January this year on a number of related issues covering the existing transport links connecting Hong

Kong, Macao and the western bank of the Pearl River, projected trends of passenger and cargo volumes, and the economic benefits of various construction projects. Researchers of the Institute of Comprehensive Transportation under the State Development and Reform Commission visited Hong Kong in late February and early March this year on a survey and research trip. Local officials briefed them on the development of Hong Kong in the fields of tourism, logistics, transportation and so on. They were assisted in collecting the information they needed, and site visits and discussion sessions were also arranged for them. The researchers later went to Macao and Zhuhai on site visits, and they will submit their research report to the State Development and Reform Commission and the SAR Government in the middle of this year. I hope that with the joint efforts of Guangdong, Hong Kong and Macao, the bridge link project can be launched as soon as possible.

On strengthening our world-class logistics services, I must say that Hong Kong does possess a tremendous edge in its development as a regional logistics hub, largely due to the support of the highly productive PRD Region, its sound infrastructure facilities and well-developed transportation networks. In order to consolidate our status as the preferred transportation and logistics hub in Asia, the SAR Government has made great efforts to enhance its connections and co-operation with Guangdong Province, especially in terms of the joint development of multimodal transportation links which can promote our logistics development and create a win-win situation.

Since its accession to the World Trade Organization, our country has seen a continuous increase in foreign trade volume. We must grasp this opportunity by serving as a logistics hub serving Guangdong, Hong Kong and Macao. For this reason, we are now conducting joint studies with the State Development and Reform Commission on the feasibility of two specific concepts, namely, "logistics pipelines" and "inland freight villages".

Furthermore, we have also made great efforts to enhance Hong Kong's ability to provide "one-stop" integrated logistics services. Active site selection and follow-up actions have been launched on North Lantau, with a view to enabling private-sector organizations to establish a Value Added Logistics Park to provide a designated facility for handling high value and time critical cargoes. We will also develop a Digital Trade and Transportation Network System to provide a neutral e-platform for the exchange of information and data among participants in the supply chain, thereby enhancing speed and reliability.

To ensure the smooth flow of cargoes, we have also set down the target of enabling cross-boundary lorries to complete the clearance formalities of the two sides within one hour, so that the Greater PRD can give full play to its advantage as the manufacturing and export powerhouse of the world.

In regard to the western PRD, we are currently promoting its development in several different aspects. The preliminary studies on the construction of a bridge link connecting Hong Kong, Macao and the western PRD which I have just mentioned are one example of infrastructure co-ordination. Under our strategy of further enhancing the interactive development of Hong Kong and the western PRD, we have made special efforts to improve the Hong Kong International Airport (HKIA)'s connectivity to the ports in the PRD.

The Hong Kong Airport Authority (AA) now plans to introduce sea routes connecting the HKIA to PRD ports for the exclusive use by passengers interchanging at the HKIA. The PRD ports proposed to be covered are Fuyong in Shenzhen, Shekou, Dongguan, Zhongshan, Zhuhai and Guangzhou. The SAR Government and the mainland authorities are making satisfactory progress in the introduction of these passenger sea routes. The relevant authorities of the two sides have almost completed the studies on the operational modes and immigration/customs clearance formalities related to the proposed sea routes, and ferry passengers are to be exempt from undergoing immigration/customs clearance when going through the HKIA in transit. The subsidiary legislation on airport restricted areas was amended by the Legislative Council in January 2003 to exempt ferry passengers going through the HKIA from immigration/customs clearance. The AA will step up its preparations for the introduction of these ferry routes.

I now wish to say a few words on what we have been doing to fully expand our services industries, explore new areas of co-operation in the financial sector and improve market regulation. Since last year, the Governments of Guangdong and Hong Kong have been vigorously promoting the concept of the Greater PRD. Publicity on the combined strengths of Hong Kong as an international commercial centre and the PRD as a diversified manufacturing powerhouse has been conducted to attract overseas investors. Special efforts have also been made to publicize the market potentials of the two places, in an attempt to induce investors to set up regional headquarters or offices in Hong Kong. Over the past months, government and quasi-government bodies of the SAR have joined hands with the local governments or trade promotion bodies in

the PRD Region to conduct a series of overseas publicity functions on the promotion of the Greater PRD strategy. Some examples of these functions are the large-scale promotion activities jointly organized by the Trade Development Council, Invest Hong Kong and the People's Government of Dongguan City in Seoul and Suwon of South Korea to publicize the advantages of Hong Kong and Dongguan. The "Hong Kong-Shenzhen Investment Environment Seminar" was jointly organized in San Francisco by Invest Hong Kong and the Shenzhen Bureau of Foreign Trade and Economic Cooperation. The Trade Development Council and Macao also signed the "Agreement on Guangdong-Hong Kong-Macao Trade Promotion Bodies Co-operative Conference" with their opposite numbers in Guangdong Province and the municipalities of Guangdong. This has been well-received, thus further promoting the partnership between Hong Kong and the PRD. In the course of organizing all these activities, the relevant organizations have been maintaining frequent and close contacts with the business sector, and there have also been frequent communications with the Hong Kong businessmen in Guangdong Province.

As Members also know, during the negotiations on the "Closer Economic Partnership Arrangement", the SAR Government invited the industrial and commercial sectors to take part in the relevant studies at various stages, and it also consulted the sectors concerned on the related issues. The negotiations on the "Closer Economic Partnership Arrangement" are expected to bear fruit at the end of June. This will provide added impetus to Hong Kong-Guangdong co-operation.

In regard to the financial sector, the co-operation of Hong Kong and Guangdong has started to bear fruit as well. The Guangdong/Hong Kong Two-way Joint Clearing Facility for HK Dollar Cheques, the HK Dollar Real-time Gross Settlement System between Hong Kong and Shenzhen and the use of charge cards in Hong Kong and Shenzhen are some recent examples. Furthermore, in order to assist quality enterprises of Guangdong in getting listed in Hong Kong for financing, the Hong Kong Exchanges and Clearing Limited (HKEx) organized a total of seven promotion functions and seminars in Guangdong Province last year, and the HKEx also approached almost 1 000 companies in the Province to publicize the information related to getting listed in Hong Kong. These breakthroughs have all been worked out and implemented with the support of the local banking industry and financial sector. The Financial Services and the Treasury Bureau is now actively exploring new areas of Hong Kong-Guangdong co-operation in the financial sector. The relevant

studies cover four main areas: the strategy of Hong Kong-Guangdong co-operation in the financial sector, the mechanism for co-operation, consultation with the industry and specific proposals.

Besides, the joint efforts of the Government and the professional sectors to open up the professional services market of the Mainland have also yield some success. For example, with the joint efforts of the Secretary for Justice and the local legal sector, an agreement was signed between Hong Kong and the Beijing Lawyers' Association in October last year, laying the groundwork for exchanges, training and other kinds of co-operation between the legal professionals of the two places.

The Hong Kong Coalition of Professional Services championed by Mr LAU Ping-cheung among others has also achieved excellent results. I am sure that he will be able to make great achievements in helping Hong Kong professional services expand into the mainland market.

The Government has also established the Professional Services Development Assistance Scheme which provides funding support for development projects of the professional sectors, with a view to enhancing their competitiveness and quality of services in the markets outside Hong Kong (including the mainland market). Since the inception of the Scheme in the beginning of last year, funding for 37 projects has been approved, six of which covered promotion activities and exchanges related to the PRD. The total funding approved for these six projects amounted to more than \$2.3 million, and the professional services involved included engineering, law, medical care and dentistry.

In regard to policy studies, we have been keeping abreast of the latest developments in Guangdong Province with the help of the reports regularly compiled by the Central Policy Unit. For instance, we know that a couple of months ago, Guangdong Province issued a set of "Action Guidelines" based on the transitional requirements to be fulfilled by the country following its entry into the World Trade Organization. These guidelines cover studies on establishing a new regional economic co-operation mechanism for Guangdong, Hong Kong and Macao, the joint efforts of the three places to build a world-class base for manufacturing and services industries, the strengthening of infrastructure co-ordination in the region and the creation of a Guangdong-Hong Kong-Macao tourism zone. The Government will certainly provide its active back-up.

The Central Policy Unit has also built up connections with research institutes in Guangdong, with a view to conducting exchanges on issues of common interest. The Central Policy Unit has also resorted to other channels to collect opinions, one example being the establishment of a PRD panel comprising academics, experts and members of the relevant industries. Through various channels, we have been trying actively to gauge the views of the commercial sector, professionals and people from various social strata on Hong Kong-Guangdong co-operation. All this will provide the necessary research back-up for the SAR Government's relevant policies and measures.

The recent SARS outbreak in Hong Kong and Guangdong has shown fully the importance of the co-operation between the two places in terms of infectious diseases prevention. In early April, discussions were held with the public health authorities of Guangdong Province on enhancing the co-operation in respect of SARS prevention and the exchange of experience. Experts of the two places held their first meeting in the middle of April at Guangzhou. Both sides agreed that the existing reporting mechanism should be further improved by introducing regular mutual notifications on the latest epidemic situation covering statistics, clinical treatment information, epidemiological research data and the progress of studies on causative agents. Both sides also agreed to set up a point-to-point mechanism for exchanges between counterpart units in the two places, so as to enhance their communications on epidemic prevention.

In addition, both sides also agreed to build on the existing basis and expand the scope of exchanges on cholera, dengue fever, malaria, influenza and tuberculosis, so that joint efforts can be made to prevent and control infectious diseases. During the meeting, the experts of the two places held extensive and in-depth discussions on the clinic treatment of SARS patients, epidemiology and pathology as well as technological co-operation. The experts from Hong Kong also visited local health care institutions and conducted direct exchanges with the experts and health care staff there. They were thus able to gain a deeper understanding of the work of SARS prevention in Guangdong.

In order to explore the curative effects of Chinese medicine on SARS patients, and to examine the possibility of combining Chinese medicine and Western medicine in the clinical treatment of SARS, two experts from the Guangdong Provincial Hospital of Chinese Medicine have come to Hong Kong for exchanges. I think Members are also aware of this.

Finally, I wish to say that Miss CHOY So-yuk have expressed some very meaningful views on the joint development of environmental protection

industries in the PRD. We will follow up the proposals in the relevant panels of the Legislative Council.

Madam President, in brief, the Chief Executive has already set down a direction and clear objectives in respect of speeding up our economic co-operation with the PRD. The SAR Government will join hands with the business sector and academic institutions and negotiate positively with the Mainland on how best to promote Hong Kong-Guangdong co-operation. After the SARS epidemic has been brought under control, the work in this respect will play a vital role. We will work with the relevant authorities of Guangdong Province and map out our future course of actions. The motion moved by Mr LAU Ping-cheung serves as reminder for us that promoting Hong Kong-Guangdong Co-operation is of vital importance. All in the Government will do their very best to thoroughly implement the projects already underway. We will also continue to study new projects of co-operation, with a view to enhancing Hong Kong-Guangdong co-operation.

Let me thank Mr Ambrose LAU once again for his proposals on enhancing Hong Kong-Guangdong co-operation and for his support and enthusiasm in this respect. Thank you, Madam President.

PRESIDENT (in Cantonese): Mr Ambrose LAU, you have up to two minutes 16 seconds to give your reply.

MR AMBROSE LAU (in Cantonese): Madam President, I would like to thank Honourable Members who have spoken and are in support of my motion. Members have offered a lot of valuable opinions and suggestions, and this fully demonstrates the benefit of drawing on collective wisdom.

Hong Kong is now faced with the dual duties of fighting against the epidemic and rebuilding the economy. Exploring new areas of co-operation between Hong Kong and Guangdong, as well as rebuilding the Hong Kong economy in the wake of the epidemic are very important tasks. It is known that the Central People's Government is going to use "three moves" to help save the Hong Kong economy. The emphasis will be on strengthening the economic partnership and infrastructural co-operation of Hong Kong and Guangdong, and making it more convenient for tourists from Guangdong to come to visit Hong Kong. These three moves all involve positive co-operation between Hong Kong and Guangdong.

I also hope that the SAR Government can fulfil as soon as possible the undertaking made by the Chief Secretary for Administration with regard to co-operation between Hong Kong and Guangdong. It should make all attempts to positively and effectively raise and develop Hong Kong-Guangdong co-operation in all new areas, so as to promote the rebuilding and transformation of our economy in the wake of the epidemic. I hope that my motion as well as the speeches by the Members can push the SAR Government to improve its work in respect of Hong Kong-Guangdong co-operation with new thinking, new measures and a new way of doing things. Madam President, I so submit.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Ambrose LAU be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 3.00 pm tomorrow.

Adjourned accordingly at twenty minutes to Midnight.

LAND (MISCELLANEOUS PROVISIONS) (AMENDMENT) BILL 2002

COMMITTEE STAGEAmendments to be moved by the Secretary for the Environment,
Transport and Works

<u>Clause</u>	<u>Amendment Proposed</u>
1(2)	By adding "the Environment, Transport and" before "Works".
2	<p>(a) In paragraph (a), by deleting the proposed definition of "excavation permit" and substituting -</p> <p style="padding-left: 40px;">""excavation permit" (挖掘准許證) means an excavation permit issued under section 10A;"</p> <p>(b) In paragraph (b) -</p> <p>(i) in the proposed definition of "contractor", by deleting "a principal excavation permit or principal" and substituting "an excavation permit or";</p> <p>(ii) by deleting the proposed definition of "emergency excavation permit" and substituting -</p> <p style="padding-left: 40px;">""emergency excavation permit (緊急挖掘准許證) means an emergency excavation permit issued under section 10B;"</p> <p>(iii) in the proposed definition of "permittee", by deleting "a principal excavation permit or principal" and substituting "an excavation permit or";</p>

ClauseAmendment Proposed

- (iv) by deleting the proposed definitions of "principal emergency excavation permit", "principal excavation permit", "secondary emergency excavation permit" and "secondary excavation permit";
- (v) in the proposed definition of "Review Board", by deleting "established under section 10M" and substituting "constituted under section 10N".

3 By deleting the proposed section 2A(3) and (4) and substituting -

"(3) If the Authority considers that a public officer, in carrying out his duties in the service of the Government, has done an act or made an omission in contravention of Part III, the Authority shall -

- (a) report the matter to the Secretary for the Environment, Transport and Works; and
- (b) in the report, advise him, that the act or omission has, as the case may be -
 - (i) been terminated to the Authority's satisfaction; or
 - (ii) not been terminated to the Authority's satisfaction.

(4) On receiving a report under subsection (3) where paragraph (b)(ii) of that subsection is applicable, the Secretary for the Environment, Transport and Works shall investigate the matter to which the report relates and ascertain if the public officer concerned is continuing to contravene Part III or has stopped the contravention.

ClauseAmendment Proposed

(5) If an investigation under subsection (4) shows that the public officer concerned is continuing to contravene Part III, the Secretary for the Environment, Transport and Works shall ensure that the best practicable steps are taken to -

- (a) stop the contravention; and
- (b) avoid the recurrence of any like contravention if he considers that the public officer concerned or any other public officer, is likely to commit the like contravention.

(6) If -

- (a) either -
 - (i) a report under subsection (3) is received where paragraph (b)(i) of that subsection is applicable; or
 - (ii) an investigation under subsection (4) shows that the public officer concerned has stopped the contravention; but
- (b) the Secretary for the Environment, Transport and Works considers that the public officer concerned or any other public officer, is likely to commit a like contravention,

then the Secretary for the Environment, Transport and Works shall ensure that the best practicable steps are taken to avoid the recurrence of the like contravention."

ClauseAmendment Proposed

4

- (a) In the proposed section 8(1), by adding -

"Secretary" (局長) means the Secretary for the Environment, Transport and Works;"

- (b) By deleting the proposed section 9 and substituting -

"9. Application of certain provisions

(1) Sections 10B, 10C, 10D(1A), 10E, 10K, 10L, 10M, 10N, 10NA, 10R, 18B and 18C only apply in the case of an excavation in a street.

(2) Sections 10AA and 10OA only apply in the case of an excavation in unleased land, other than streets."

- (c) In the proposed section 10 -

- (i) by deleting subsections (1) and (2) and substituting -

"(1) Except under and in accordance with a prospecting licence, mining licence or sand removal permit, or a lease, licence, deed of appropriation, memorandum of appropriation or engineering conditions for land allocation, issued by the Director of Lands, a person shall not make or maintain any excavation in unleased land unless -

- (a) either -

- (i) he is the holder of an excavation permit or emergency excavation permit; or

ClauseAmendment Proposed

(ii) he is the contractor of the holder of an excavation permit or emergency excavation permit; and

(b) he so makes or maintains the excavation under and in accordance with the permit.

(2) Subject to subsection (6), a person who contravenes subsection (1) by making or maintaining an excavation in unleased land without being -

(a) the holder of an excavation permit or emergency excavation permit; or

(b) the contractor of the holder of an excavation permit or emergency excavation permit,

shall be guilty of an offence and shall be liable on conviction to a fine at level 5 and to imprisonment for 6 months.";

(ii) in subsection (3), by deleting "issued to him";

(iii) in subsection (4)(a), by deleting "a principal excavation permit or principal" and substituting "an excavation permit or";

ClauseAmendment Proposed

- (iv) in subsection (5)(a), by deleting "a principal excavation permit or principal" and substituting "an excavation permit or";
- (v) in subsection (7), by deleting "a principal excavation permit or principal" and substituting "an excavation permit or".
- (d) In the proposed section 10A -
 - (i) in the heading, by deleting "**principal**";
 - (ii) in subsection (1), by deleting "a permit, to be known as the principal" and substituting "an";
 - (iii) in subsection (2), by deleting "A principal" and substituting "An";
 - (iv) in subsection (3), by deleting "a principal" and substituting "an";
 - (v) in subsection (4) -
 - (A) in paragraph (a), by deleting "a principal" and substituting "an";
 - (B) by deleting paragraph (b) and substituting -
 - "(b) the permittee of the permit is unable to have access to -
 - (i) a reasonably substantial portion of the street concerned for the purpose of making or maintaining the excavation, after the commencement of the

ClauseAmendment Proposed

period for which the permit is valid but before the commencement of the excavation, for reason other than the fault of the permittee, the contractor for the excavation or their employees; or

- (ii) a reasonably substantial portion of the land concerned, other than a street, for the purpose of making or maintaining the excavation, after the commencement of the period for which the permit is valid, for reason other than the fault of the permittee, the contractor for the excavation or their employees,";

- (vi) in subsection (5), by deleting "Any" and substituting "Subject to section 10K, any".

- (e) By adding -

"10AA. Exemption

(1) Any person who intends to make and maintain an excavation in unleased land may apply to the Authority in writing to exempt the excavation from complying with all or any provision of this Part and shall set out the reasons for the application.

ClauseAmendment Proposed

(2) On receipt of an application made under subsection (1), the Authority may by notice in writing exempt the excavation referred to in the application from all or any provision of this Part if the Authority is of the opinion that the excavation -

- (a) is minor;
 - (b) will not involve or is unlikely to involve lateral support or substantial work in terms of the extent, duration and size of the excavation and the area that will be or is likely to be affected by the excavation;
 - (c) will not cause or is unlikely to cause any inconvenience or danger to the public;
 - (d) will not cause or is unlikely to cause any delay to traffic; and
 - (e) will not pose or is unlikely to pose a danger to any underground apparatus or properties."
- (f) In the proposed section 10B -
- (i) in the heading, by deleting "**principal**";
 - (ii) in subsection (1), by deleting "a permit, to be known as the principal" and substituting "an";

ClauseAmendment Proposed

- (iii) in subsection (2), by deleting "A principal" and substituting "An";
- (iv) in subsection (3), by deleting "a principal" and substituting "an";
- (v) in subsection (6), by deleting "Any" and substituting "Subject to section 10K, any";
- (vi) in subsection (7) -
 - (A) in paragraph (a), by deleting "a principal" and substituting "an";
 - (B) by deleting paragraph (b) and substituting -
 - "(b) the permittee of the permit is unable to have access to a reasonably substantial portion of the land concerned for the purpose of making or maintaining the excavation, after the date of the report of the emergency incident concerned to the Authority under subsection (3) but before the commencement of the excavation, for reason other than the fault of the permittee, the contractor for the excavation or their employees,".
- (g) In the proposed section 10C -
 - (i) in subsection (1), by deleting "a principal" where it twice appears and substituting "an";

ClauseAmendment Proposed

- (ii) in subsection (2) -
 - (A) by deleting "a principal" and substituting "an";
 - (B) by deleting "the principal" wherever it appears and substituting "an";
- (iii) in subsection (3), by deleting "a principal" and substituting "an";
- (iv) in subsection (4), by deleting "a principal" and substituting "an";
- (v) in subsection (5), by deleting "a principal" and substituting "an".
- (h) In the proposed section 10D -
 - (i) by deleting subsection (1) and substituting -
 - "(1) The Authority may refuse to issue an excavation permit or emergency excavation permit if -
 - (a) he reasonably believes that the person making the application for the issue of the permit -
 - (i) is not a fit and proper person to make or maintain any excavation in unleased land;
 - (ii) cannot comply with the

ClauseAmendment Proposed

conditions
imposed under the
permit; or

(iii) does not have
sufficient financial
resources to make
or maintain an
excavation to
which the permit
relates;

(b) in the opinion of the
Authority, the
application to which the
permit relates is
unreasonable; or

(c) having regard to the
circumstances of the
case, the issue of the
permit is, in the opinion
of the Authority,
inappropriate in such
circumstances.

(1A) In addition to the grounds
specified in subsection (1), the Authority may,
on reasonable grounds -

(a) refuse to issue an
excavation permit or
emergency excavation
permit if -

(i) the person who
makes the

ClauseAmendment Proposed

- application for the issue of the permit fails to submit the application within the time limit specified by the Authority under section 18C; or
- (ii) the street to which the permit relates is a newly constructed street specified by the Authority under section 18C;
- (b) refuse to extend the period for which an excavation permit is valid if the person who makes the application for the extension fails to submit the application within the time limit specified by the Authority under section 18C.";
- (ii) in subsection (2), by adding "or extend the period for which a permit is valid" after "permit".
- (i) By deleting the proposed section 10E and substituting -
- "10E. Late application for extension of excavation permit**

ClauseAmendment Proposed

(1) Without prejudice to section 10D(1A), where -

- (a) a permittee applies for an extension of the validity period of an excavation permit beyond the time limit specified for such excavation under section 18C but before the expiry date of the permit;
- (b) the application is accompanied by the appropriate prescribed fee based on the duration of the period applied for by the permittee; and
- (c) the Authority has not made his decision on the application on or before the expiry date of the permit,

the permit shall, unless sooner terminated under this Ordinance and subject to subsection (2), be deemed to be extended up to the expiry of the period applied for by the permittee.

(2) The Authority shall determine the period for which an excavation permit deemed to be extended under subsection (1) shall be valid and may revise the expiry date of the permit to a date which is earlier than the expiry date in subsection (1).

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(3) The Authority shall serve a notice of his determination under subsection (2) on the permittee concerned.

(4) If the period determined by the Authority under subsection (2) is shorter than the period applied for by the permittee concerned, he shall refund any extra prescribed fee to the permittee without interest."

- (j) In the proposed section 10F, by deleting "a principal excavation permit or principal" and substituting "an excavation permit or".
- (k) In the proposed section 10G -
 - (i) in subsection (1), by deleting "a principal excavation permit or principal" and substituting "an excavation permit or";
 - (ii) in subsection (2), by deleting "a principal excavation permit or principal" and substituting "an excavation permit or".
- (l) In the proposed section 10H -
 - (i) in subsection (1), by deleting "a principal excavation permit or principal" and substituting "an excavation permit or";
 - (ii) in subsection (2), by deleting "a principal excavation permit or principal" and substituting "an excavation permit or".
- (m) In the proposed section 10I(2), by deleting "a principal excavation permit or principal" and substituting "an excavation permit or".

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- (n) In the proposed section 10J -
 - (i) in subsection (1), by deleting "a principal excavation permit or principal" and substituting "an excavation permit or";
 - (ii) in subsection (2), by deleting "A principal excavation permit or principal" and substituting "An excavation permit or";
 - (iii) by deleting subsection (3);
 - (iv) in subsection (4), by deleting "a principal excavation permit or principal" and substituting "an excavation permit or";
 - (v) in subsection (5), by deleting "a principal excavation permit or principal" and substituting "an excavation permit or".
- (o) In the proposed section 10K -
 - (i) in the heading, by deleting "**principal**";
 - (ii) in subsection (1) -
 - (A) by deleting "a principal" and substituting "an";
 - (B) in paragraph (a)(i), by deleting "principal";
 - (iii) in subsection (2) -
 - (A) by deleting paragraph (a) and substituting -
 - "(a) the permittee of an excavation permit completes an excavation to which the permit relates before

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the expiry date of the permit or the extended period of the permit;"

(B) by adding "(if any)" after "economic costs";

(C) by deleting "extended period." and substituting "permit or the extended period of the permit, as the case may be."

(p) In the proposed section 10L -

(i) in subsection (1) -

(A) by adding "or a public officer of equivalent rank with engineering qualifications relevant to the excavation concerned" after "Senior Engineer";

(B) in paragraph (a), by deleting "a principal" and substituting "an";

(C) by deleting paragraphs (c) and (d) and substituting -

"(c) the duration of an extended period of an excavation permit extended under section 10A(3) if he exercises the Director of Highways' power under that section;

(d) the duration of an extended period of an excavation permit extended under section 10A(4) if he exercises the Director of Highways' power under that section;

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- (e) the duration of an extended period of an excavation permit extended under section 10C(4) if he exercises the Director of Highways' power under that section;
 - (f) the duration of an extended period of an excavation permit extended under section 10E(2) if he exercises the Director of Highways' power under that section;
 - (g) whether an extension is caused by reasons mentioned in section 10K(1)(b) if he exercises the Director of Highways' power under section 10K(1);
 - (h) whether the reasons mentioned in section 10K(1)(b) hindered the progress of an excavation to which the excavation permit relates if he exercises the Director of Highways' power under section 10K(1);
 - (i) whether a permittee has satisfied the matters in section 10K(2)(a), (b) and (c) if he exercises the Director of Highways' power under section 10K(2).";
- (ii) by deleting subsection (2) and substituting -

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"(1A) The Engineer who made an assessment under subsection (1) shall serve a notice of the result of his assessment on the permittee concerned.

(2) A permittee who is aggrieved by an assessment made in respect of him under subsection (1) may -

- (a) within 28 days from the date of service of the notice under subsection (1A), apply in writing to a public officer of the rank of Chief Engineer or Government Engineer or a public officer of equivalent rank with engineering qualifications relevant to the excavation concerned (collectively referred to as "the Chief Engineer") in the Highways Department for a review of the Engineer's assessment;
- (b) set out the result of his own assessment in an application

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made under
paragraph (a).";

(iii) in subsection (3), by deleting "notify the permittee concerned of the result of his review" and substituting "serve a notice of the result of his review on the permittee concerned";

(iv) by deleting subsections (5) and (6) and substituting -

"(5) After receipt of an application under subsection (2), if the Chief Engineer fails to serve a notice of the result of his review on the permittee concerned within the time specified in subsection (3), then -

(a) where subsection (2)(b) is applicable, the result of the permittee's assessment shall be taken to be the result of the Chief Engineer's review; or

(b) in any other case, the assessment made by the Engineer under subsection (1) on the subject matter of the application shall be taken to be the result of the Chief Engineer's review,

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and the Chief Engineer may, in accordance with the result of the review, exercise any of the powers conferred on him under subsection (4).

(5A) A permittee who is aggrieved by a decision made in respect of him under subsection (4) may -

- (a) within 28 days from the date of service of the notice under subsection (3), apply in writing to the Director of Highways for a review of the Chief Engineer's decision;
- (b) set out the result of his own assessment in an application made under paragraph (a).

(6) On receipt of an application under subsection (5A), the Director of Highways shall notify the Secretary who will set up a Review Board in accordance with section 10N.";

- (v) in subsection (7), by deleting "(5)" and substituting "(5A)";
- (vi) by deleting subsection (9);

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(vii) by deleting subsection (10) and substituting -

"(10) The Director of Highways shall serve a notice of the Review Board's decision on the permittee concerned within 14 days from the date of the decision of the Review Board.";

(viii) in subsection (12) -

(A) by deleting "Director of Highways" and substituting "Review Board";

(B) in paragraph (b), by deleting "(5)" and substituting "(5A)";

(ix) by adding -

"(12A) After receipt of an application under subsection (5A), if the Director of Highways fails to serve a notice of the Review Board's decision on the applicant within the time specified in subsection (10), then -

(a) where subsection (5A)(b) is applicable, the result of the permittee's assessment shall be taken to be the decision of the Review Board; or

(b) in any other case, the decision made by the Chief Engineer under

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subsection (4) on the subject matter of the application shall be taken to be the decision of the Review Board,

and the Review Board may, in accordance with the decision, exercise any of the powers conferred on it under subsection (12).";

(x) by deleting subsection (13) and substituting -

"(13) Except a decision relating to an assessment made under subsection (1)(d), (g), (h) or (i), the following decision shall be final -

(a) any decision made under subsection (12); or

(b) any decision taken to be the decision of the Review Board under subsection (12A)."

(q) By deleting the proposed sections 10M and 10N and substituting -

"10M. Review Panel

(1) The Secretary may appoint a panel of not more than 20 persons ("the Review Panel") whom he considers suitable to sit as members of a Review Board to review the Chief Engineer's decision under section 10L(4).

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(2) The Secretary shall not appoint any public officer to the Review Panel.

(3) A person appointed under subsection (1) shall hold office for a period of 3 years and may -

- (a) be reappointed;
- (b) resign by notice in writing served on the Secretary.

(4) A person appointed under subsection (1) shall not hold office for more than 6 consecutive years.

10N. Review Board

(1) On receipt of a notification under section 10L(6), the Secretary shall -

- (a) compile a list of the names of members whom he intends to appoint to constitute the Review Board to review the Chief Engineer's decision under section 10L(4);
- (b) serve a notice on the members mentioned in paragraph (a) requiring them to make a declaration as to whether they have or do not have any direct or indirect interest in the

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review concerned within 7 days from the date of service of the notice; and

- (c) serve a notice on the permittee concerned notifying him the names of the members mentioned in paragraph (a) and his right to raise any objection on the appointment of any member on the ground that the member has direct or indirect interest in the review within 7 days from the date of service of the notice.

(2) The objection in subsection (1)(c) shall be in writing and shall be accompanied by all written statements and other documentary evidence relied upon by the permittee concerned in support of the objection.

(3) After the expiry of the period allowed for the declaration of interest and the raising of objection under subsection (1)(b) and (c), the Secretary shall, subject to subsections (5) and (6), finalize the composition of the Review Board by appointing 3 or 5 persons (excluding the Chairman) from the list compiled under subsection (1) to constitute the Review Board after taking into consideration the declaration of interest of the members and the objection raised by the permittee concerned.

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(4) The Director of Highways shall be the Chairman of the Review Board.

(5) For the purpose of subsection (3), the Secretary shall appoint -

- (a) at least one public officer of the rank of Government Engineer or above or a public officer of equivalent rank with engineering qualifications relevant to the excavation concerned from the Highways Department;
- (b) at least one member from the Review Panel; and
- (c) 1 or 3 other persons as he thinks fit.

(6) The majority of the persons constituting a Review Board, excluding the Chairman, shall be persons other than public officers.

(7) If at any time during the review proceedings, it is discovered that any member of the Review Board has a direct or indirect interest in the review concerned, the Chairman may adjourn the proceedings and inform the Secretary.

(8) The Secretary shall terminate the appointment of the member and appoint another member by applying the procedures in subsections (1), (2) and (3) with necessary modification as he thinks fit.

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(9) After the appointment of a new member under subsection (8), the Review Board may rehear the application wholly or in part if it is satisfied that it is just to do so.

10NA. Proceedings of Review Board

(1) The Review Board shall not proceed to hear an application for a review of the Chief Engineer's decision under section 10L(4) at a hearing other than to adjourn unless all the members appointed under section 10N(3) are present.

(2) All the matters for determination at a hearing of the Review Board shall be decided by a majority of vote of the members present.

(3) The Chairman shall not vote at the hearing of the Review Board.

(4) In case there is an equality of votes, the Chairman shall discharge the Review Board and notify the Secretary.

(5) On receipt of the notification under subsection (4), the Secretary shall apply the procedures in section 10N(1), (2) and (3) with necessary modification to appoint another Review Board to hear the review concerned.

(6) In case there is an equality of votes at a hearing of the Review Board appointed under subsection (5), then -

(a) where section 10L(5A)(b) is applicable, the result of

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the permittee's assessment shall be taken to be the decision of the Review Board; or

- (b) in any other case, the decision made by the Chief Engineer under section 10L(4) on the subject matter of the application shall be taken to be the decision of the Review Board,

and the Review Board may, in accordance with the decision, exercise any of the powers conferred on it under section 10L(12).".

- (r) In the proposed section 10O -
- (i) in the heading, by adding "**made under an excavation permit**" after "**excavation**";
- (ii) in subsection (1), by deleting "a principal excavation permit or principal" and substituting "an excavation permit or".
- (s) By adding -

"100A. Reinstatement of unleased land after excavation made under a lease, licence, etc.

(1) Any person who makes or maintains an excavation under and in accordance with a lease, licence, deed of appropriation, memorandum of appropriation or engineering

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conditions for land allocation issued by the Director of Lands shall reinstate and make good the land as required by any condition of the lease, licence, deed of appropriation, memorandum of appropriation or engineering conditions for land allocation, as the case may be.

(2) If any unleased land is not reinstated and made good in accordance with subsection (1), the Director of Lands may carry out such work as he considers necessary to reinstate and make good the land, and any other land the reinstatement and making good of which is, in his opinion, necessary in consequence of the excavation, notwithstanding that the works for the carrying out of which the excavation was made have not been completed.

(3) The Director of Lands may recover from the person mentioned in subsection (1) the cost of any work carried out by the Director under subsection (2).

(4) For the avoidance of doubt, it is declared that any work carried out under subsection (2) shall not be regarded as excavation for the purpose of this Ordinance."

- (t) In the proposed section 10P, by deleting "a principal excavation permit or principal" and substituting "an excavation permit or".
- (u) In the proposed section 10Q -
 - (i) in subsection (1), by deleting "a principal excavation permit or principal" and substituting "an excavation permit or";

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- (ii) by deleting subsection (2) and substituting -

"(2) Where there is a permittee and no nominated permittee and subsection (1) is contravened, the permittee shall be guilty of an offence and shall be liable on conviction to a fine of \$200,000.

(2A) Where there is a permittee and a nominated permittee and subsection (1) is contravened, both the permittee and the nominated permittee shall each be guilty of an offence and shall each be liable on conviction to a fine of \$200,000.";

- (iii) in subsection (3), by adding "or (2A)" after "(2)";

- (iv) by adding -

"(4) A court may, in making a decision on the defence provided under subsection (3), take into consideration that a person charged with an offence under subsection (2) or (2A) has -

- (a) hired a competent person to supervise the excavation concerned;
- (b) a documented system for supervising the excavation concerned, including but not limited to a system which -

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(i) is managed by a competent person; and

(ii) requires inspection of the excavation to ensure compliance with duties imposed under subsection (1) and record of such inspection;

(c) a documented system to ensure his contractor complies with the duties imposed under subsection (1);

(d) taken other reasonable steps.

(5) For the purpose of subsection (4), "competent person" (合資格人士) means a person who is registered as -

(a) a registered architect under the Architects Registration Ordinance (Cap. 408);

(b) a registered professional engineer under the Engineers Registration Ordinance (Cap. 409) and is within a discipline

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which is relevant to the excavation concerned or the works within that excavation;

(c) a registered professional surveyor under the Surveyors Registration Ordinance (Cap. 417) and is within a discipline which is relevant to the excavation concerned or the works within that excavation; or

(d) a safety officer under the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations (Cap. 59 sub. leg. Z) and -

(i) where subsection (4)(a) is applicable, has at least 3 years experience in supervising excavation which is similar to the excavation concerned; or

(ii) where subsection (4)(b)(i) is applicable, has at

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least 3 years experience in managing documented system which is similar to the system described in that subsection."

- 6
- (a) In the heading, by adding "**the Environment, Transport and**" before "**Works**".
 - (b) By deleting paragraph (a) and substituting -
 - "(a) in subsection (1), by repealing "8 or 12" and substituting "10, 10A, 10AA, 10B, 10C, 10D, 10E, 10I, 10J, 10K, 10L, 10N, 10NA, 10O, 10OA, 10P, 10R, 12 or 18C";".
 - (c) In the proposed section 18(1A) -
 - (i) by adding "the Environment, Transport and" before "Works";
 - (ii) by deleting "or 10N" and substituting ", 10N or 10NA".
- 7
- (a) In the proposed section 18B -
 - (i) in subsection (1) -
 - (A) by deleting "Director of Highways" and substituting "Review Board";

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- (B) by deleting "the refund of economic costs" and substituting "an assessment made under section 10L(1)(d), (g), (h) or (i)";
- (ii) in subsection (2), by deleting everything after "days" and substituting "from the date of service of a notice of the decision on the aggrieved person.";
- (iii) in subsection (3), by deleting "economic costs" and substituting "prescribed fee".
- (b) By adding -

**"18C. Authority's power to specify
time limit and newly
constructed street**

(1) The Authority may, by notice published in the Gazette, specify -

- (a) the time limit for the submission of an application for -
- (i) the issue of an excavation permit or emergency excavation permit in relation to an excavation or any class of excavation; or
- (ii) the extension of the period for which an excavation permit is valid in relation to an

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excavation or any
class of excavation;

- (b) a street or any class of streets as a newly constructed street or a class of newly constructed streets and the duration for which and the extent to which such street or such class of streets, as the case may be, shall not be used for any excavation.

(2) For the avoidance of doubt, it is declared that a notice published under subsection (1) is not subsidiary legislation."

9(b) In the first column -

- (a) by adding after "10A(4)" -

"10AA(1)
10AA(2)";

- (b) by deleting "10D(2)"

and substituting -

"10D(1A)
10D(2)
10E(1)
10E(2)
10E(3)";

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(c) by adding after "10K(3)" -

"10L(14)
10L(15)";

(d) by deleting -

"16C(1) and
16C(2)"

and substituting -

"16C(1)
16C(2) and
18C(1)".

11 In the proposed section 3A -

(a) in the heading, by deleting "**principal**" where it twice appears;

(b) in subsection (1), by deleting "a principal" and substituting "an".

14 In the proposed Schedule 3 -

(a) in Part I -

(i) in the heading, by deleting "PRINCIPAL";

(ii) in item 1 -

(A) by deleting "a principal" and substituting "an";

<u>Clause</u>	<u>Amendment Proposed</u>
	(B) by deleting "the principal" and substituting "the";
	(iii) in item 2, by deleting "a principal" and substituting "an";
	(b) in Part II -
	(i) in the heading, by deleting "PRINCIPAL";
	(ii) in item 1, by deleting "a principal" and substituting "an";
	(iii) in item 2, by deleting "a principal" and substituting "an".
15	By deleting "the refund of economic costs" and substituting "an assessment made under section 10L(1)(d), (g), (h) or (i)".
16	By deleting "a principal" where it twice appears and substituting "an".

Appendix I**WRITTEN ANSWER****Written answer by the Secretary for Commerce, Industry and Technology to Mr SIN Chung-kai's supplementary question to Question 2**

Under the voluntary labeling scheme, mobile phone manufacturers or dealers may apply to the Office of the Telecommunications Authority (OFTA) for type approval of their mobile phones before marketing. A fee of HK\$3,100 would be levied in respect of each mobile phone model for the type approval. Manufacturers or dealers may on their own affix authorized labels which have been published by the Telecommunications Authority to the handsets, or displayed on the packing materials or user manuals of mobile phones which have been type-approved by the OFTA. The OFTA will not levy additional fee for the labels.

Members may also be interested to know that the average processing time required by the OFTA for type approval is about seven working days.