

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 3 May 2006

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

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

THE HONOURABLE MARGARET NG

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHAN YUEN-HAN, J.P.

THE HONOURABLE BERNARD CHAN, J.P.

THE HONOURABLE CHAN KAM-LAM, S.B.S., J.P.

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

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI, J.P.

DR THE HONOURABLE PHILIP WONG YU-HONG, G.B.S.

THE HONOURABLE WONG YUNG-KAN, J.P.

THE HONOURABLE JASPER TSANG YOK-SING, G.B.S., J.P.

THE HONOURABLE HOWARD YOUNG, S.B.S., J.P.

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH, J.P.

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

THE HONOURABLE MIRIAM LAU KIN-YEE, G.B.S., J.P.

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

THE HONOURABLE CHOY SO-YUK, J.P.

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

THE HONOURABLE LI FUNG-YING, B.B.S., J.P.

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

THE HONOURABLE ALBERT CHAN WAI-YIP

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

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

THE HONOURABLE VINCENT FANG KANG, J.P.

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

THE HONOURABLE LI KWOK-YING, M.H.

DR THE HONOURABLE JOSEPH LEE KOK-LONG

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

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

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

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

THE HONOURABLE LEUNG KWOK-HUNG

DR THE HONOURABLE KWOK KA-KI

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

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

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

THE HONOURABLE CHIM PUI-CHUNG

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

THE HONOURABLE ALBERT JINGHAN CHENG

THE HONOURABLE KWONG CHI-KIN

THE HONOURABLE TAM HEUNG-MAN

MEMBERS ABSENT:

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

THE HONOURABLE MA LIK, G.B.S., J.P.

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

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE RAFAEL HUI SI-YAN, G.B.S., J.P.
THE CHIEF SECRETARY FOR ADMINISTRATION

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

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

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

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

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

CLERKS IN ATTENDANCE:

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

MS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

PRESIDENT (in Cantonese): Clerk, please ring the bell to summon Members to the Chamber.

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

PRESIDENT (in Cantonese): A quorum is now present, the meeting shall now start.

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
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Reserved Commodities Ordinance (Amendment of Schedules 1 and 2) Notice 2006.....	72/2006
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Other Papers

No. 90	—	Audited Statement of Accounts of the Early Retirement Ex-gratia Payment Fund for Aided Primary School Teachers together with the Director of Audit's Report for the year ended 31 August 2005
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Report of the Bills Committee on Public Health and Municipal Services (Amendment) Bill 2005

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Review of Operation of Integrated Family Service Centres

1. **DR FERNANDO CHEUNG** (in Cantonese): *President, the Health, Welfare and Food Bureau indicated last year that the Government intended to review the effectiveness of the operation of Integrated Family Service Centres (IFSCs) one year after the completion of the re-engineering of IFSCs. In this connection, will the Government inform this Council:*

- (a) *of the exact time for conducting the above review, the criteria for deciding the institute to be appointed for conducting the review, the details of the review, and whether it will discuss with the organizations operating IFSCs the timetable for the review;*
- (b) *whether the above review will include an assessment on whether the specific services (such as Single Parent Centres (SPCs) and Post-migration Centres (PMCs)) closed during the re-engineering exercise can be completely replaced by services provided by IFSCs; and*
- (c) *how it will review the various pressures faced by front-line staff in IFSCs, such as overtime work and manpower wastage?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, first of all, I wish to say that I am very glad to hear Dr CHEUNG's voice.

- (a) Following a review of family welfare services in 2000-01 and the evaluation of the pilot projects of IFSCs from 2002 to 2004, the Social Welfare Department (SWD) has re-engineered family services to form a total of 61 IFSCs run by the SWD and non-governmental organizations (NGOs) by phases. The re-engineering exercise was completed in March 2005. We undertook to review the operation model of the IFSCs after the re-engineering of family services.

The SWD has started consulting the welfare sector on the review. All the NGOs operating the IFSCs, however, had unanimously reflected to us that this was not the appropriate time to conduct a

review. They considered that the implementation of the IFSC model had yet to mature, and more time and room is required to practise and consolidate this new model. They took the view that we should not rush to a review. Having considered the views of the welfare sector carefully, the SWD will first collate various service statistics and look into the success factors and barriers, and so on, of the new model to fully prepare for the review. Separately, the SWD will continue to work with the welfare sector closely to share views and experience on service delivery. We aim to complete the review in 2007-08.

- (b) The results of the previous review of family welfare services and the positive findings in the pilot projects of the IFSCs show that the current policy to offer integrated family service via the platform of the IFSCs could provide more comprehensive and accessible services to families in need.

As compared with the five time-limited SPCs located in five districts and four time-limited PMCs in four districts serving a much larger geographical area, the 61 IFSCs which are set up in locations across the territory are more accessible. The IFSCs offer additional services previously not available at the SPCs and PMCs, including intensive counselling, assessment for compassionate rehousing, arrangement for clinical psychological services, and so on. Moreover, the IFSCs provide a continuum of preventive, supportive and remedial services, rendering one-stop service that better meets the varied needs of single parent and new arrival families. IFSC workers with experience and skills in serving single parent and new arrival families can also provide appropriate services for these target groups.

As at the end of December 2005, the 61 IFSCs across the territory were handling over 6 000 active cases involving single parent or new arrival families, representing about 15% of the total caseload. The IFSCs also organize support groups which are designed specifically to provide appropriate assistance for single parent or new arrival families. In accordance with the prevailing policy regarding the provision of integrated services, we have no plan to reopen the SPCs and PMCs. Regardless of the mode of service

delivery, the most important thing is to meet the needs of the service targets.

- (c) The pressure on the welfare sector has been on the rise in view of the increasing complexity of social problems and rising expectation on social workers. In response to the changing social environment and service needs, we need to enhance service and work effectiveness. Besides the manpower issue, we will also strengthen staff training to meet service requirements.

To respond to the different needs, the SWD has allocated additional manpower and other resources in 2005-06 to facilitate the collaboration between the IFSCs and the community, establish more support groups, enhance preventive and supportive services and meet the additional expenses arising from the expansion of the IFSCs. The IFSCs will also collaborate with other service units, including the Family and Child Protective Services Units (FCPSUs) and Integrated Children and Youth Service Centres, in tackling family problems. We will also build up and mobilize social capital to assist the needy families. Starting from 2006-07, we will allocate an additional \$30 million to increase manpower to launch a Family Support Programme (FSP) in the IFSCs, the FCPSUs and the Psychiatric Medical Social Services Units. Under the FSP, the service units concerned will strengthen their connection with vulnerable families that are unwilling to seek help. Volunteers including those who have gone through similar problems or crisis and used similar services before will be recruited and trained to contact these families to form a network of community care and assistance.

The top priority for us and the welfare sector at present is to implement and develop the IFSC model to maturity and effectiveness. We should also develop the leadership of the management of the IFSCs in steering the delivery of service to families and individuals in need. At the district level, the NGOs need to work closely to complement each other's strengths, reduce service overlap, and use resources effectively so as to assist needy families in meeting the challenges brought about by changes in the society.

DR FERNANDO CHEUNG (in Cantonese): *First of all, I wish to thank Dr York CHOW for his concern. I can speak now because I have consulted a specialist. This shows that general out-patient services may not be able to cater for all sorts of complicated problems and illnesses. The severe sore throat that I got is like some special needs in society.....*

PRESIDENT (in Cantonese): Raise your supplementary question, please?

DR FERNANDO CHEUNG (in Cantonese): *.....and these cannot be completely addressed except by specialized social services, instead of by setting up IFSCs which are like general out-patient services. Having said that, general out-patient service can treat patients with a sore throat.....*

PRESIDENT (in Cantonese): What is the supplementary question you wish to ask?

DR FERNANDO CHEUNG (in Cantonese): *My supplementary question is: When a review is conducted of IFSCs, would the Secretary Dr York CHOW consider the special needs of society and families which may not be satisfied by some general and integrated service centres? Would the Secretary take such special needs into account and try to cope with the workload of IFSCs which is already hard to cope with now?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I would like to make it clear that IFSCs are not places where general social work services are provided. There are specialists and specialist facilities in these IFSCs, plus a network of communications. If there are needs for specialist services as Dr CHEUNG has mentioned, IFSCs can offer assistance and there are many kinds of personal support services in IFSCs.

According to information from the SWD, quite a significant number of people are offered specialized services in IFSCs and the so-called experts on serious cases or family services will offer them assistance through various

networks. The service model is very much like in the health care sector where different health care models or various specialist services are offered in an integrated hospital. So in this respect and from a sociological perspective, IFSC is an effective service model. Of course, this kind of facility has been in place for only one year. However, I think that a review can be conducted as and when appropriate to see what kinds of services need to be strengthened to meet demand. I believe Dr CHEUNG is concerned about the question of whether or not problems are effectively dealt with in some individual centres. We will work hard to do better and solve the problems.

MS MARGARET NG (in Cantonese): *President, I met a lady in Tsuen Wan lately. She told me that she used to work in a community service centre in that district on a semi-voluntary basis to help children from families on Comprehensive Social Security Assistance (CSSA) or problem families. She gave lessons to the children in the afternoon and as some of the children came from single-parent or broken families, such kind of voluntary work would mean more than giving lessons. She had to teach them proper conduct. She said to me that last year the scheme had been cancelled because the Government wanted to save on resources and to launch a re-engineering exercise on IFSCs. Now the lady can often see those youngsters who are aged 13 or 14 and who used to be her students loiter around or form into youth gangs. May I ask the Secretary why such a successful scheme was cancelled? Who are responsible for work in this kind of schemes now? By what standards did the Secretary come to the conclusion that what he is doing is able to achieve the same good results as previously achieved by these schemes such that the Secretary is satisfied that these schemes should be cancelled?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, it would be difficult for me to comment on one particular case. I am aware, however, of the fact that there are four IFSCs in Tuen Mun. I have visited these centres. As far as I know, such kind of after-school care service for children which help them cope with schoolwork or deal with problems at school, such as in their study, are still being offered. So if this person who is of the view that such kind of service is not offered could approach these four centres, I am sure she can know clearly that such services are still being offered and how such services can be obtained. I also hope Ms NG could furnish us with the information so that we can contact that person for follow-up action.

MS MARGARET NG (in Cantonese): *President, the Secretary might have mistaken my point. The lady I was talking about was a service provider, not a recipient. The Secretary has unfortunately failed to address the most important part in the supplementary question and that is, on the point that a scheme has been cancelled and replaced by a new one claimed to be all-embracing, by what means is the Secretary able to come to the conclusion that the new service can achieve what the former service has achieved? This is the most important point. What I have referred to is only an example.*

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

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, following a study undertaken in 2000, pilot projects were launched in 2002. When services were re-engineered, we did not want to phase out services proved to be effective. However, during the re-engineering exercise, some services might be relocated elsewhere or some service units might have been merged. For this reason, we have a steering committee in charge of such matters. For matters concerning IFSCs, we have a task force. Apart from the SWD, there are also representatives from other service providers and the Hong Kong Council of Social Service which oversees the implementation. If they are of the view that certain services are in need but lacking, they would propose that such services be restored in these centres. It is my hope that these problems can be addressed in the existing mechanism. If Ms NG could point out some services offered previously but not now and they are still very much needed, we would be glad to follow up.

MR RONNY TONG (in Cantonese): *President, in part (c) of the main reply the Secretary does not mention how services offered by IFSCs can be improved. Figures show that close to 60% of the calls made by the public to these centres during public holidays are ever picked up by a person on a 40% chance only. More often than not, these calls are answered by a machine. May I ask if the Secretary has any new thinking on this to improve service in this respect? Just imagine if a person who has experienced domestic violence calls for help but is only answered by a machine, this will definitely be useless to the caller. The*

incident in Tin Shui Wai took place on a Sunday. It is a big problem. The Secretary has not talked about this at all in his whole main reply.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, this Council has a subcommittee which looks into the problem of domestic violence and detailed discussions have been conducted. I think this has been well accounted for. Of course, we know that there are problems with the existing hotline service and there may not be an instant personal response, but all incoming calls will be returned within half an hour by our staff. If all incoming calls are to be picked up immediately by a person, just imagine how many more staff we will need? Do we need to have many people, especially professionals, stand by and answer the calls? We need to think carefully. We will conduct a review of this. We also hope that the public will not rely on this service too much. What we want to increase are community networks, especially those networks formed by neighbours, relatives, friends and those who work in the housing estates. This will enable people with problems to get the kinds of service or counselling required as early as possible and solve these problems, instead of sitting on these problems and then call for help when it is already too late.

MR RONNY TONG (in Cantonese): *President, the Secretary has yet to give a concrete response. In just a matter of half an hour, an event resulting in loss of human life may take place. Would the Secretary consider drawing reference from overseas experience and adopt the group approach in handling cases? This means a group of people will handle a number of cases, and they are on shift duty. This makes it possible that there will be persons responding to calls for help during public holidays and non-office hours. Would the Secretary consider this idea?*

PRESIDENT (in Cantonese): Mr Ronny TONG, I am afraid this is not part of the supplementary question you raised earlier. Your question is a good one, but I hope you would follow this up through other channels.

MR RONNY TONG (in Cantonese): *But the Secretary has not given any concrete response.*

PRESIDENT (in Cantonese): I cannot permit your doing it, otherwise, I will have to permit other Members doing the same thing, in that event, the Question Time.....

MR RONNY TONG (in Cantonese): *Could the Secretary give us a written reply?*

PRESIDENT (in Cantonese): I am afraid that would not be necessary because it does not form part of your original supplementary question.

MR RONNY TONG (in Cantonese): *It is because of his response that I.....*

PRESIDENT (in Cantonese): You may write to the Secretary to request a written reply from him. As a Member, you may do so.

Now the last supplementary question.

MISS CHAN YUEN-HAN (in Cantonese): *I think that the Secretary, in giving a reply to this question, has not addressed the need for special services squarely. One example is that many organizations of single parents have come to this Council to ask that the Government should pay more attention to single parents so that they will not be discriminated against while in contrast, they can feel warmth in these single parents associations. When the Secretary gave a reply to Dr CHEUNG's question, he stressed in part (c) of the main reply that collaboration with the community would be facilitated. He also said that an evaluation had been made. In my opinion, the Government has not responded positively to a point, that this Council and single parents think that previously they could meet people with similar problems in these centres and hence they could get care and concern and their problems could be solved, but now they do not get this care and concern in IFSCs which have a wider scope of service. What does the Secretary think about this?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I am very concerned about this as well. I visited many IFSCs and watched the activities they organized and I talked to the recipients of these services. I found out that in the centres, many of the activities for single parents were dealt with separately. These women — as most of them were — who shared the same unhappy experience would gather together, organize some activities and receive counselling from some groups. These are like some specific services for single-parent families and activities held in the centres are exactly the same.

There are some services which we would offer from time to time, depending on the specific needs of the service recipients. So in these IFSCs, apart from some services which have been delivered to single parents, there are other services like counselling and personal counselling, and so on. I think it is not that the former services cannot be delivered now, but that the other view I have heard is that the service providers now think that they should not confine themselves to working in a small circle and they would prefer service delivery in a broader context. In this regard and for these workers, there would be a need to adapt to new circumstances. What we would want to look into are the opinions of the service recipients and whether or not the services can be delivered in close proximity to their home. Now there is a service centre in each district. This is vastly different from the past when there were just five service centres to cater for people from all districts across the territory. Now we have 61 centres in all and each one can take care of these people. This would of course be much more convenient. And these centres can offer one-stop services as well. I therefore think that services in this respect must be maintained. It remains of course that a review should be conducted when appropriate to see if there can be improvements.

PRESIDENT (in Cantonese): Second question.

Safety Involved in Using Containers for Transporting Plastic Materials and Waste

2. **MS MIRIAM LAU** (in Cantonese): *Madam President, on the 9th of last month, a fire ball suddenly burst out of a container carrying plastic materials*

when a worker was opening its doors. Both he and another worker were seriously burnt. In this connection, will the Government inform this Council:

- (a) of the number of containers onto which plastic materials or waste were loaded or from which such materials or waste were unloaded in Hong Kong, and the number of similar incidents that occurred, in each of the past three years; and*
- (b) whether the safety aspects involved in using containers for transporting plastic materials and waste are subject to regulation under existing legislation; if so, of the relevant details; if not, whether legislation will be enacted in this respect?*

SECRETARY FOR SECURITY (in Cantonese): Madam President,

- (a) In 2003, 2004 and 2005, the port of Hong Kong handled 1.63million, 1.68 million and 1.90 million TEU (Twenty-foot Equivalent Unit) containers laden with plastic materials or waste, accounting for about 9.9%, 9.4% and 10.3% of the laden container throughput of the port in the respective years. In the past three years, four fire accidents relating to containers laden with plastic materials occurred in Hong Kong, with one of them caused by the ignition of a lighter inside the affected container.
- (b) Plastic materials and waste are not classified as dangerous goods by the Committee of Experts on the Transport of Dangerous Goods of the United Nations. Therefore, conveyance of such materials is not subject to control by the Dangerous Goods Ordinance (Cap. 295).

The accident of 9 April this year, as mentioned in the Honourable Member's question, occurred at Cha Kwo Ling Public Cargo Working Area. The preliminary findings of the investigations by the Labour Department (LD) and the Fire Services Department (FSD) revealed that the goods in the container contained some inflammable and volatile residual hexane. The residual hexane generated inflammable vapour that accumulated in the container. The vapour was ignited when it came into contact with a spark

outside. The accident was not caused by the plastic materials or waste. After relevant government departments have completed the investigation, suitable actions will be taken in accordance with the investigation findings to prevent recurrence of similar accidents.

MS MIRIAM LAU (in Cantonese): *Madam President, according to the main reply, a large number of containers containing plastic materials and waste are handled in Hong Kong every year, ranging from 100 000 to 200 000 TEU. In fact, workers handling these containers will never know whether there are inflammable or volatile residual liquids in the containers or the goods in the containers, be it hexane or other chemicals. So, as they have to handle so many containers every day, there may be a potential risk for they will never know whether a fire ball will burst out when opening one of these containers. The Government said that it would conduct an investigation and formulate appropriate measures. However, it takes time to do all this. But the workers who are transporting and handling these containers operate every day. Before we have some comprehensive measures, policies or legislation to deal with these problems, has the Government put in place any measures to help the workers to deal with these problems in order to reduce the risk or potential hazard they face?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I have to thank Ms Miriam LAU for the supplementary question. I would like to point out that after the accident, the LD has issued a press release to remind employers of container handling workplaces which number at more than 100 to adopt appropriate safety measures before assigning workers to handle containers containing plastic materials and waste. These safety measures include risk assessment, based on which a safe working system can be formulated and implemented. Besides, the employers should also provide safety information, guidance, training and supervision that are needed by the workers in order to ensure that safe working practices are adopted.

The LD also launched a publicity campaign on the safety of container handling during 18 to 29 April. During this period, Occupational Safety Officers visited all container handling workplaces to promote safety measures awareness in handling containers. Besides, the LD has also made use of the Seminar on Container Handling Safety held on 24 April to disseminate the

message of safety to the industry and will propose discussing the issue at the next meeting with the Central Container Handling Safety Committee. The LD will issue a leaflet on the safety of container unloading for the reference of the industry. Of course, the most important thing to do is examining what follow-up actions should be taken after investigation, such as strengthening the requirement of labelling as Ms Miriam LAU just suggested.

MS LI FUNG-YING (in Cantonese): *In part (b) of the main reply, the Secretary mentioned that "Plastic materials and waste are not classified as dangerous goods by the Committee of Experts on the Transport of Dangerous Goods of the United Nations." Because of this, regulation is not imposed. However, when we refer to part (a) of the main reply, we can see that, as indicated by the figures, fire accidents occurred when these materials were in transit. When the Secretary said that there was no regulation, did he mean that it was not necessary to study the issue? Is it appropriate? Will further measures be adopted so that the workers will not suffer from injuries again due to industrial accidents and similar incidents will not occur again?*

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

SECRETARY FOR SECURITY (in Cantonese): Madam President, let me answer the first part of the question. Regarding the need of regulation, I think it depends on scientific evidence. Experts of the United Nations also said that the consignments are not dangerous goods. As far as the accident is concerned, certainly no one wishes to see it. Secretary Stephen IP mentioned earlier how these containers should be handled and pointed out that recommendations have been made to the container handling workplaces and the employers. In addition, advice has been given to employers or workers so that they will attach greater importance to training, and so on.

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Perhaps let me add some more points. In fact, under the Factories and Industrial Undertakings Ordinance and Occupational Safety and Health Ordinance, there is a provision on general responsibility governing the safety measures for handling containers containing plastic materials and waste. It is

stipulated in the relevant legislation that the employers are duty-bound to take all measures within reasonable and feasible efforts to ensure the health and safety of the employees. In order to comply with the requirement of the legislation, the employers should provide and maintain a proper and safe working system. They should also provide workers with the necessary safety information, guidance, training and supervision. As I just said, we had issued some leaflets in the past. In future, we will hold more briefings and continue to organize seminars and publicity campaigns as mentioned just now. Most importantly, we will see what follow-up actions should be taken after the investigation has been completed and the cause of the accident identified.

DR LUI MING-WAH (in Cantonese): *Experts of the United Nations said that those are not dangerous goods. Of course, they are right when the goods are very dry and fresh. They are certainly not dangerous goods. But it may be very dangerous if they are contaminated by other liquids.*

The Secretary just said that a lot of guidelines on containers handling would be provided to workers. But in fact, the effectiveness is minimal. In the past three years, an accident occurred every year. This has proved that special measures are needed. Since regulation is not imposed by the legislation, why do the Government and the container handling workplaces not buy some gas detection devices? If every container is required to install a gas detection device, a sound will be given out once gas is detected and people will be alerted when handling these containers.

PRESIDENT (in Cantonese): Which Secretary would like to answer the question? Secretary for Security.

SECRETARY FOR SECURITY (in Cantonese): Regarding whether or not the consignments are dangerous goods, as I said earlier, we should respect the expert opinions because very often, fires on containers are not related to dangerous goods. If we say that goods stored in the container must be regarded as dangerous goods whenever a fire occurs, it is not quite scientific.

After a fire has occurred, what precautions should be taken in order to prevent the recurrence of similar incidents? As Secretary Stephen IP said

earlier, we need to provide a very good guideline on handling containers in order to prevent the loading of inflammable substances into containers. Dr LUI Ming-wah just asked whether we can suggest the procurement of inflammable substance detectors by container handling workplaces. We can consider the recommendation and see whether there is any scientific method to detect the presence of inflammable substance in a container without opening it. We will consider the feasibility of the proposal after the meeting.

MR DANIEL LAM (in Cantonese): *Madam President, industrial accidents are also related to the workers' knowledge. Can the Government inform this Council whether it will step up publicity on safety in order to prevent the occurrence of accidents in future?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Thank you Mr LAM. In my reply to Ms Miriam LAU's supplementary question, I pointed out that we had done a lot of work during the past month after the accident. Of course, we will continue to make efforts in respect of publicity and education. And we will, as I just said, publish safety leaflets on how to unload materials from containers. We will also remind employers and workers of the importance of work safety.

I would like to take this opportunity to say a few words. Last month we reminded more than 100 container handling workplaces that both the employers and employees should pay attention to safety measures when handling containers. For instance, before handling containers containing plastic materials and waste, they should request the consignors for the safety information concerning the plastic materials such as the dangerous residual substances and the safety precautions before opening the containers containing plastic materials in order to ensure that the containers are kept at a distance from the source of ignition such as flames, engines in motion and hot surfaces. Regarding these factors, they must be careful. When handling containers containing plastic materials which may release inflammable or explosive vapour, the containers should be fully ventilated in order to remove any excessive vapour accumulated inside. We will strengthen education in this aspect.

MR WONG KWOK-HING (in Cantonese): *On the control of container safety, I think the most important thing is regulation at source. However, the Secretary*

has not mentioned regulation at source in either the main or oral reply. In the main reply, he even said that regulation is not necessary because the United Nations does not impose any regulation. As four accidents have occurred in the past three years, how many accidents have to occur before the Government will consider imposing regulation at source? I hope the Secretary will give me a reply in this aspect.

PRESIDENT (in Cantonese): Which Secretary would like to answer the question? Secretary for Economic Development and Labour.

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): President, I thank Mr WONG for the supplementary question. In fact, I have said earlier that we have reminded the workers and the employers that they should ask the consignors to provide safety information on the plastic materials, especially regarding the dangerous residual substances contained, before handling containers containing plastic materials and waste. As I said just now, the accident had occurred because of the presence of an ignition source when opening the container. I think Mr WONG will recall that an accident was caused by the ignition of a lighter. As regards other accidents such as the one occurred this time, the fire might be caused by the engine of the vehicle. Having said that, the real reason is still under investigation. As I said just now, after investigation, most importantly, we have to see — I in fact have the same queries as Mr WONG's — most importantly, we should consider whether more information can be provided. No matter they are the operators of the container handling workplaces or not, they need to check whether there are any labels on the containers so that the workers will know plastic materials are contained and handle the containers carefully. Just now, I was saying that publicity had been conducted and leaflets have been provided. After investigation, we will see if efforts in this aspect should be stepped up.

MR WONG KWOK-HING (in Cantonese): *President, the Secretary has not answered my supplementary question. What I meant is upstream regulation or regulation at source. The measures just mentioned by the Secretary are just incentives such as advising the employers to ask for the manifests. But he has not answered my question concerning regulation at source which must be implemented by the Government.*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I think manifests are precisely a tool for regulation at source. Should the operators get the information in advance? Or is it necessary to stipulate at source that once a container has been loaded, there must be clear indications such as papers and labels on the container clearly describing the goods and the potential risks? This is regulation at source and precisely what I meant.

MR WONG KWOK-HING (in Cantonese): *President, what the Secretary said is the requests of the employers. But what I asked is whether the Government has made any requests. This is precisely what I meant when I said regulation.*

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

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I think Mr WONG has not caught my point clearly. I said we need to take a look at the findings of the investigation before deciding whether there is a need to strengthen measures in this aspect.

MISS TAM HEUNG-MAN (in Cantonese): *In his reply to Mr WONG's supplementary question just now, the Secretary said that an investigation would be conducted and the findings would be published. May I ask when the findings will be published? Will the Secretary draw a conclusion on Members' concerns afterwards?*

PRESIDENT (in Cantonese): Which Secretary would like to answer the question? Secretary for Security.

SECRETARY FOR SECURITY (in Cantonese): The findings have not been published. But according to our preliminary investigation, it is believed that the goods were contaminated with hexane because some solvent was added during an industrial reprocessing process and the goods were loaded into the container without proper cleansing or treatment. This is just our preliminary conclusion.

We will certainly issue a detailed report later. After the publication of the detailed report, we will propose some recommendations to prevent the recurrence of industrial accidents.

MR LAU KONG-WAH (in Cantonese): *In the past three years, there were four similar fire accidents. But the Secretary only mentioned that one of them had been caused by the ignition of a lighter. Can the Secretary tell us the causes of the other three? What guidelines have been issued after investigation? Have the relevant parties implemented the guidelines issued by the Secretary?*

PRESIDENT (in Cantonese): Which Secretary would like to answer? Secretary for Security.

SECRETARY FOR SECURITY (in Cantonese): According to the information at hand, there were four accidents in the past which were the same as the one occurred at Cha Kwo Ling Public Cargo Working Area a few days ago in the sense that all involved a container containing plastic materials and waste. Occurred on 12 August 2004, the location of the first accident is also at Cha Kwo Ling Public Cargo Working Area and the cause of the fire remains unknown. As regards whether the goods contained in the container were dangerous goods, the answer is in the negative. The second fire accident occurred on 30 September 2004 in the vicinity of Modern Terminals at Kwai Tai Road, Kwai Chung, New Territories. After investigation, the cause of the fire remains unknown because the goods in the container were not dangerous goods. The third one occurred on 15 April 2005 at the cargo handling area of a berth at Southeast Lamma. After investigation, the cause of the fire also remains unknown. The last one occurred on 6 May 2005 at the container handling area in San Hing Tsuen, Lau Fo Shan. After investigation, we found that the fire had been caused by the ignition of a lighter inside the container, leading to the combustion of some inflammable gas released by the plastic materials.

MR LAU KONG-WAH (in Cantonese): *President, the Secretary has now answered whether there are any guidelines and whether the industry complies with the guidelines.*

PRESIDENT (in Cantonese): Which Secretary would like to answer the question? Secretary for Economic Development and Labour.

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): In fact, I have reiterated my answer many times. But now I am going to repeat it. Accidents in the past have revealed some factors as I just mentioned and we have reminded employers of container handling workplaces of the need to provide a safe working system for their employees. These measures have in fact included those mentioned by me such as asking for safety information before handling these materials so that the workers will know what residual dangerous substances are contained, taking precautions before opening containers which contain plastic materials, and ensuring that the containers are away from source of ignition. All these are in fact the most important because accidents, as I just said, are caused by ignition. So, the adoption of these measures is very important. Besides, before handling containers containing plastic materials which may release inflammable or explosive vapour, they must ensure that the containers are fully ventilated. Concerning these aspects, we have provided guidelines to remind the operators who are also responsible for providing a safe working environment and system to their workers. Otherwise, they will be punished according to the relevant legislation.

PRESIDENT (in Cantonese): Last supplementary question.

MS MIRIAM LAU (in Cantonese): *Madam President, we will not automatically have a safe working environment just because the Secretary requires a safe working environment in container handling workplaces. As the Secretary just said, the causes of the accidents remain unknown except one which was caused by the ignition of a lighter. The problem is that the Secretary said that plastic materials are not dangerous goods and guidelines are not provided. Thus, the burden of responsibility is shifted onto the operators of the container handling workplaces. This is not right.*

I would like to remind the Government one thing. When reviewing the past records, we found that in 2000, a container explosion was caused by motorcycles containing gasoline. From 1997 to 2000, three accidents occurred, resulting in the formulation of some regulations stipulating how these containers

should be handled in order to enhance safety. So, I would like to ask the Government why this time, as we have already gained some experience in the past.....in fact, the degree of danger is very important.....I can see that in these incidents, a fire ball came out every time and someone was seriously burnt every time. Should the Government be more proactive and take the initiative to check whether some safety codes and measures can be adopted so as to enhance the safety of the working environment rather than just shifting the responsibility onto the operators of the container handling workplaces?

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I would like to emphasize again that we have not shifted the responsibility onto the employers. This is a matter of course. As employers, they are responsible for providing a safe working environment and duty-bound to do so. It is so provided under the Factories and Industrial Undertakings Ordinance and the Occupational Safety and Health Ordinance. All employers must ensure a safe working environment. This is a must.

I understand what Ms Miriam LAU just said and I have reiterated time and again that many measures need to be implemented by the employers. As I have repeated many times, they have to provide safety information. Besides, as I just said, they should remind their employees of the proper ways of handling containers containing plastic materials. Of course, it is also necessary for the workers to be trained and to acquire training certificates. Meanwhile, operators of container handling workplaces may not employ workers without such certificates to handle these containers. In other words, I would like to point out that the employers are duty-bound to provide a safe working area and system and the employees have to receive relevant safety training. Just now we also said that the Government has kept an eye on all these all along. In my reply to Ms LAU's first supplementary question just now, I have already said that inspections were conducted during the past month. Efforts were made not just in that month. Rather, we have stepped up our actions. We have conducted inspections and published leaflets precisely because we noted the importance. Why were inspections conducted? It is to ensure control at source as mentioned by Mr WONG. In response to this accident, is it necessary to require container owners to attach labels onto the containers giving details of the goods and the potential danger once the containers have been loaded with dangerous goods so that the workers will take exceptional care on seeing such information? We are already working in this direction.

PRESIDENT (in Cantonese): Third question.

Term of Office for Harbour-front Enhancement Committee Members

3. **MS AUDREY EU** (in Cantonese): *It has been reported that members of the Harbour-front Enhancement Committee (HEC) have recently been informed by the Government that their term of office will expire at the end of June 2007 so as not to exceed that of the incumbent Secretary for Housing, Planning and Lands. In this connection, will the Government inform this Council:*

- (a) *of the reasons for HEC members' term of office not being able to exceed that of the relevant Director of Bureau under the accountability system;*
- (b) *whether there is any guideline which requires that the term of office of members of an advisory committee must not exceed that of the relevant Director of Bureau under the accountability system; if there is, whether such requirement applies to all advisory committees; and*
- (c) *whether the authorities plan to dissolve the HEC at the end of June 2007; if so, of the organization to be responsible for advising the Government on the planning, land use and developments along the existing and new harbour-front of Victoria Harbour, and the means to enhance public participation in the planning and projects of the harbour-front; and how to ensure that the community will continue participating in the planning of Victoria Harbour?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, the purpose of setting up the HEC is to advise the Government on planning, land uses and developments along the existing and new harbour-front of Victoria Harbour, with a view to protecting the harbour; improving the accessibility, utilization and vibrancy of the harbour-front areas; and safeguarding public enjoyment of the harbour through a balanced, effective and public participation approach.

The HEC completed a lot of work in the past two years. It is also the first to apply the ideas of "planning with the people" and "envisioning together" in

conducting the Kai Tak Planning Review, Harbour Plan Review and the Harbour Enhancement Review — Wan Chai, Causeway Bay and Adjoining Areas.

The HEC has provided a platform to promote and encourage multilateral dialogue, public engagement and consensus building in the planning process, which has substantially increased public acceptability of the planning proposals. The work and contribution of the HEC are perfectly obvious and commendable. I would like to express my heartfelt appreciation to the HEC Chairman and all members for their efforts.

Therefore, before the last term of the HEC members expired, I reappointed all the members to the HEC for a new term until 30 June 2007 and all of them have accepted my reappointment. As the members of the HEC are appointed by me, it is appropriate to tie-in their term with my term of office in the Government. There is no need to overspeculate on the arrangement.

The Government has no guideline stipulating the duration of the term of office of members of an advisory committee.

The HEC still has a lot of work to complete for the matters it is handling. It is very important to maintain continuity of the HEC. The Government has no plan to disband it.

MS AUDREY EU (in Cantonese): *President, the Secretary has not replied to part (a) of my main question, because the Secretary already stated in the reply to part (b) that the Government has no guideline stipulating that the duration of the term of office of an advisory committee may not exceed that of the relevant bureau under the accountability system. If so, why has the HEC been singled out in the reappointment of its members such that their term of office may not exceed that of the Secretary? He did not give the reasons except saying that it is appropriate to do so. If so, all advisory committees should be treated likewise, but they are not. Will the Secretary give the reasons for doing so? Is it because the conclusion reached by the HEC was not totally in line with the Government's instructions, for instance, their ideas of "planning with the people" and protecting the harbour having deviated from the Government's policy, that the Secretary was unwilling to reappoint them for a term longer than his? What are the reasons for the Secretary to adopt such a special approach in handling this advisory committee?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): I do not quite get the gist of the problem raised in this question. Perhaps, if I did not reappoint them at all and dissolved the HEC altogether, there might be a reason to speculate my motive for doing so.

President, I have also stated just now that because there is still a lot of work to be handled in this respect, I thus reappointed them. I believe I may need to explain that the nature of the HEC is different from committees under other statutory advisory framework. Members may well know that the HEC is appointed by me. At that time, I had to deal with the public views on the harbour-front planning and the area for reclamation, as well as a host of outstanding legal issues. I thus, after consideration, wanted to enlist a group of people from different sectors of the community to provide personal advice to me. This is an alternative type of advisory framework set up by me, as I wish to have advisors to tender me advice.

Thus, its work and planning are all related to this issue. As I am of the view that we need to continue the work in this respect and as I have made it clear that we have no intention to dissolve the HEC, please do not speculate on whether we will dissolve it now or in 30 June 2007. We do not have this intention at all.

Hence, I have said just now that there is no need to overspeculate on the arrangement, or to suspect that the Government has an ulterior motive in this respect. We do not have such a motive. All we want to do is to ensure the continuity of the work as planned. We will be pressing on with that. I have already affirmed this point in the main reply.

MR ALAN LEONG (in Cantonese): *The Secretary mentioned in the main reply that the Government has no intention to disband the HEC. In other words, it is not an issue of the personal will of the Secretary, but rather it is because the Government does not have any intention to disband the HEC. As the Government does not have such an intention, why does the appointment this time only last for 14-odd months while the previous appointment was for two years? As the premise is that the Government does not have any intention to disband the HEC, will the Secretary clarify why there is such a special arrangement?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, any committee has a term of office, and I believe the duration is irrelevant to the work of the committee. We have already stated that we have no intention to disband it now as there is still a lot of work to handle. I have also stated just now that we find the work of the HEC commendable and we are appreciative of it. I do have high hopes of the HEC. I thus do not think that there is a need to overspeculate on its term of office. Of course, from my point of view, the HEC has been helpful to my work. To me, it does not matter whether its term ties in with mine or not, as the new Secretary can make his or her own arrangement for the term of the office of the HEC. By that time, consideration can be given to the duration of its term of office.

MR JAMES TIEN (in Cantonese): *President, the power of appointment by the Government has to go through and be endorsed by the Legislative Council, while some of the appointments are made by the three Secretaries of Departments, the Directors of Bureaux or the Chief Executive. I very much agree with the Secretary's view that it is appropriate to tie in the term of the HEC with his term of office in the Government. I wish to ask the Secretary: As it is mentioned in the fifth paragraph of the main reply that the Government has no guideline, under current government policies, are Directors of Bureaux vested with their own power of appointment so that they can make the decision by themselves? I completely agree with Secretary Micheal SUEN's arrangement, but does it mean that other Directors of Bureaux will do the same, meaning that the term of other committees may not exceed that of the relevant Directors of Bureaux?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): I have already explained just now that this is a very special committee, a special product. I personally regard it as one of the methods to resolve the dispute at that time and it has been subsequently proved that it works. As to other advisory frameworks, the majority can be divided into two types, one of which is statutory and the other non-statutory.

For statutory advisory frameworks, the duration of tenure is obviously stipulated by law. As for non-statutory advisory frameworks, many of them have a rather long history. Advisory frameworks all along have their own set of standards, so as to enable its effective operation. I thus particularly mentioned just now that the HEC is a rather special committee as I personally

wish to gather the elites' views from different sectors of the community so that I can have this task done in a better way.

MR PATRICK LAU (in Cantonese): *The Secretary mentioned in the second paragraph of the main reply that the HEC had completed a lot of work in the past two years. May I ask the Secretary whether the HEC has actually done any concrete work? Other than opening up a provisional park in West Kowloon for public use, what concrete work in relation to releasing the water-front for public use has it done which requires it to continue its work to 30 June 2007? Does the HEC have any other work which has to be completed within this period of time? Or can it complete the work within this period of time?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): In fact, the work concerning the West Kowloon water-front area only accounts for a very tiny part of the HEC's work. Of course, one of the ways of using the existing area in West Kowloon is to make the best use of it, despite it being only temporary in nature. We are aware that the HEC still has a lot of substantial work to do and the Legislative Council has also deliberated on it for many times. For instance, the reclamation in Wan Chai and the issue concerning the Central-Wan Chai Bypass are yet to be finalized, and the planning of the Kai Tak area is still in progress. These few outstanding tasks are what the HEC needs to handle and concentrate on.

In fact, as far as the harbour is concerned, its area is even more extensive. The HEC has divided the harbour into seven areas, only three of which are being dealt with now. After this task is done, we will have time to figure out how to deal with the other areas. Hence, Members can see that there is still a lot of work pending and the time required for completion will definitely straddle July 2007.

MISS CHOY SO-YUK (in Cantonese): *President, may I ask the Secretary whether he thinks the HEC should remain after the end of 30 June 2007? In other words, as the Secretary for Housing, Planning and Lands, does he find it necessary for the HEC to continue its work? If he finds it necessary and by the time when the new Secretary takes office, new appointment has not been made,*

there will be a vacuum. Thus, does he think that he should let his successor to decide whether it is necessary for the HEC to continue its work?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): I do hope and I believe Members also hope to learn who the new Secretary for Housing, Planning and Lands will be before 30 June 2007, and whether the new Secretary will let such work continue when he or she takes office.

MISS TAM HEUNG-MAN (in Cantonese): *The Secretary stated just now that the Government has no established guideline stipulating that the duration of the term of office of members of an advisory committee may not exceed that of the relevant Director of Bureau. The term of office of lots of statutory advisory frameworks in Hong Kong does not tie in with that of the Director of Bureau relevant to its policy area under the accountability system. May I ask the Secretary to clarify whether there has been a change in the existing policy requiring that the term of office of advisory bodies has to tie in with that of the relevant Director of Bureau?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, I believe in the questions and answers made in this Chamber just now, no one has ever said that there is such a need. I thus agree with Miss TAM that there is no such need and we do not intend to do so either.

PRESIDENT (in Cantonese): Fourth question.

Implementation of Statutory Minimum Wage

4. **MISS CHAN YUEN-HAN** (in Cantonese): *Madam President, in late 2004, the authorities referred to the Labour Advisory Board (LAB) for examination the subject on implementing the statutory minimum wage in Hong Kong. The Chief Executive stated in last November that the subject would be referred to the Commission on Strategic Development for discussion if the LAB could not reach any consensus on it by the middle of this year. In this connection, will the Government inform this Council:*

- (a) *of the progress of LAB's discussion on implementing the statutory minimum wage;*
- (b) *as it is stipulated in the provisions of the Trade Boards Ordinance (TBO) (Cap. 63) that, if the Chief Executive in Council is satisfied that the minimum rates of wages being paid to any persons employed in any trade are unreasonably low, he can fix minimum rates of wages for such trade with reference to the inquiry report submitted by the trade board established for this purpose, whether it has informed the LAB of the contents of these provisions; if it has, of the views of the LAB members; if not, the reasons for that; and*
- (c) *whether it has made preparations for referring the subject to the Commission on Strategic Development immediately if the LAB fails to reach a consensus on it by the middle of this year, and how much time will be given for the Commission on Strategic Development to discuss?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): President,

- (a) The LAB has been analysing and discussing the various considerations of introducing a minimum wage system in Hong Kong, the employment earnings and features of employees of selected occupations (namely the cleansing and guarding services sectors), as well as the experience of other places in implementing a minimum wage system. The LAB has also explored the possible impact of introducing a minimum wage on Hong Kong's overall economy as well as employers and employees, with particular reference to the cleansing and guarding services sectors. Furthermore, the LAB has taken stock of the views expressed by the public on the issue collected by the Labour Department (LD). The LAB is deliberating the matter in depth.
- (b) The TBO was enacted in 1940 but its provisions have never been invoked. As the TBO has been on the statute books for over 60 years, many of its provisions are outdated and unable to meet the needs and changing circumstances of modern-day society. Some

provisions are inadequate for the purpose of law enforcement whilst others are inconsistent with the requirements of the Hong Kong Bill of Rights Ordinance and the Basic Law. For these reasons, we have not particularly mentioned this Ordinance in the course of the LAB's discussion.

- (c) Should there be no substantive progress in the LAB's discussion in the next few months, the SAR Government will consider referring the matter to the Commission on Strategic Development for further deliberation. As the LAB is still studying the matter, it is premature to speculate on whether and when the issue would be referred to the Commission on Strategic Development for discussion. We hope that the LAB could reach a consensus on the issue.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, the Legislative Council will from time to time make amendments to outdated ordinances. If the Government's excuse is that the content of the Ordinance is outdated, as the Secretary so stated in the part (b) of the main reply, I will only find it not convincing. However, I would like to remind the Government that while the United Kingdom is a state party, the People's Republic of China is also a state party. In other words, the minimum wages of relevant labour organizations are acknowledged, for it is noticed that some workers in the market lack bargaining power and minimum wages have to be established to help them and protect their livelihood in a competitive market. Why does the Government of Hong Kong not use this yardstick? Why does it have to evade the issue?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): President, we are not evading the issue.

In the United Kingdom, a trade board Act of this type had once been enacted. But I believe Miss CHAN is also aware that the relevant Act was subsequently repealed by the United Kingdom. What we consider most important is that if a minimum wage is to be implemented in Hong Kong, tripartite discussions among employers, employees and the Government must be held, for society has divergent views on this issue.

We certainly hope that — I myself in fact very much hope that a consensus on this complicated issue can be reached in the LAB framework. President, I was once the Chairman of the LAB and I consider the LAB the most suitable forum for discussion on this issue, for it comprises both representatives from employers and employees and is chaired by the representative of the Government. In my experience, many thorny problems were resolved through negotiations in the LAB in the past.

Therefore, we now attach great importance to this issue, and I sincerely hope that the LAB may come up with a solution in the next few months.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, the Secretary quoted the case of the United Kingdom as an example earlier, but I think it will somehow mislead the public, for minimum wages and standard working hours were implemented again in the United Kingdom subsequently.*

PRESIDENT (in Cantonese): Miss CHAN, it is not a supplementary question and it does not comply with the rules for putting questions. If you would like to make a clarification, you may do so on other occasions.

MR KWONG CHI-KIN (in Cantonese): *President, according to the Secretary, if a consensus cannot be reached by the LAB in the next few months, the issue will be referred to the Commission on Strategic Development for deliberation. I think the Secretary also know that, insofar as employers and employees sitting on the LAB whom we have contacted are concerned, they do not want the issue be referred to the Commission on Strategic Development for discussion. I certainly hope that the Secretary will enact a new law in the next few months to fulfill the aspiration of the labour sector. However, it seems difficult to achieve, that is a new law cannot be introduced. In this connection, may I ask the Secretary whether he will consider adopting Miss CHAN Yuen-han's proposal? I mean that since the TBO is already in place, though it has never been invoked and that the content of the Ordinance is less than desirable, it could be used in the interim after making some amendments to its content. As the Government mentioned the idea of wage council earlier, the labour sector in fact has also*

PRESIDENT (in Cantonese): I think you have already raised your supplementary question, have you not?

MR KWONG CHI-KIN (in Cantonese): *I meant to say that with the establishment of a wage council by the Government, the TBO can be used. May I ask the Secretary whether he will consider this option? So that should problems arise in the interim, the TBO can be invoked.*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I have to thank Mr KWONG for his supplementary question.

Like Mr KWONG, I also aim to look for a channel through which the problem can be solved. I also agree that it is naturally most desirable that the problem can be settled within the LAB. I remember some Members did want the issue be referred to the Commission on Strategic Development previously. However, if Members now consider the LAB a more suitable forum to address the problem, we certainly will be more than willing to consider solving the problem at the LAB level. As I said earlier, I also hope that it can be done this way. I believe we have now come to a relatively critical stage, and I think we should not give up in the middle of the way. In the next few months, we should continue to step up our efforts in discussion with a view to identifying a solution acceptable to all parties.

I would like to point out that we do have read the TBO. The Ordinance was enacted 60 years ago. But it has never been implemented in reality and many circumstances have changed since then. For instance, section 5(5) of the Ordinance stipulates that on any prosecution of a person for paying wages at not less than the minimum rate (sic), it shall lie on that person to prove that he has not paid wages at less than the minimum rate. That is to say, the onus of proof lies not on the Government but the person being prosecuted. This is exactly in violation of the requirements of the Hong Kong Bill of Rights Ordinance which state the principles of the right of a defendant to a fair trial and the presumption of innocence in a criminal case. Besides, the penalty laid down in certain provisions of the Ordinance is extremely light, failing to serve as a deterrent. Let me cite a simple example to illustrate my point. In section 5(1), it is stipulated that if an employer fails to pay the minimum wage, he shall be liable on summary conviction in respect of each offence to a fine of \$500 and to a fine

of \$50 for each day on which the offence is continued therefor. I believe the penalty is on the low side and cannot achieve any deterrent effect. However, I agree with Mr KWONG that for any proposal which a consensus between employers and employees on the LAB can be reached and is considered an acceptable solution to the problem, we will be most willing to consider.

Surely, if Members consider it useful to discuss the issue at the LAB, discussions can certainly be held, and proposals and views of all kinds can be discussed. I have to stress that the critical point is that members of society hold divergent views on this issue. In other words, the major problem we are now facing is that employers and employees have different views. Therefore, we think that with the presence of government representatives in the LAB framework, discussions among different parties can be carried out and any proposal can be raised for discussion. It is imperative that the proposal is considered practicable and acceptable to all the three parties. This is what I am looking forward to achieving in the next few months.

PRESIDENT (in Cantonese): There are altogether 11 Members waiting for their turn to ask supplementary questions, so will Members who have the opportunity to ask questions put their supplementary questions direct.

MR ANDREW LEUNG (in Cantonese): *President, the Secretary said earlier that members of society hold markedly different views on minimum wage. May I ask the Secretary how different views expressed by different sectors will be taken stock of at the LAB, so that detailed consideration can be given to these views? If the issue is referred to the Commission on Strategic Development, how will these views be made known to the members of the Commission then?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Actually, the LAB has all along been conducting studies on the issues mentioned by Mr LEUNG, that is, drawing reference from overseas experience and taking note of local opinions. The LD did collect views on this issue in the past. Surely, it is most important to gauge the views of representatives of employers and employees via the LAB and pool them together to discuss the issue. Therefore, my reply will be the same. I once again stress that it is most important that sincere discussions on the issue can be held in the

next few months. As I said earlier, I agreed with the view put forth by Members earlier, that it would be most desirable if the issue could be solved in the LAB without referring it to the Commission on Strategic Development. This is surely my hope.

MR LEE CHEUK-YAN (in Cantonese): *President, in fact, we have been discussing this issue at the LAB for over a year, so far, no results have been concluded and I am not sure if the Government is employing the delaying tactic. I would like to ask the Secretary this question. As it is said that let the one who tie the bell on the tiger take it off, if the Government itself can give the final word on this — if Donald TSANG can give the final word for the establishment of minimum wage, and then let the LAB discuss the drafting of the legislation, I think the workers in Hong Kong will have hopes. Therefore, could the Secretary adopt strong governance and give the final word for this? Does the Government now support legislation on minimum wage?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Thank you, Mr LEE. Mr LEE seldom urges the Government to give the final word on any issue, for he usually demands us to conduct consultations. But it does not matter.

In respect of labour issues, as I was once the Commissioner for Labour, as far as I understand it, tripartite agreement is of the utmost importance, while mutual benefit of employers and employees is also vital. It is exactly because of this spirit that I consider the LAB so important. And I hope — I have to repeat the same line again, Mr LEE — if all of us can make a sincere effort, I can tell from my experience that many problems, such as severance pay and long service payment, can be solved. I earnestly hope that we can find a solution to this issue.

MR LEUNG YIU-CHUNG (in Cantonese): *President, I believe the Secretary will also agree that given the prevailing economic situation in Hong Kong, the earnings of some workers are extremely low, the establishment of minimum wage is thus called for and the discussion of the issue by the LAB is required. This principle is actually the same as the one adopted in enacting the TBO in 1940. May I ask the Secretary, since the principle of the two are the same, whether he*

will refer the Ordinance to the LAB for discussion, so that the LAB can identify any imperfection in the enforcement details and make amendments? Since the principle is already there now, we should no longer drag on the discussion of principle but should focus on the enforcement details.

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): President, I have in fact stated that in my reply to Mr KWONG Chi-kin's supplementary question earlier; I will give the same answer to Mr LEUNG Yiu-chung's supplementary question. I think all proposals, so long as they are conducive to solving the problem, are absolutely welcome to be brought up for discussion, and that includes the proposal just made by Mr LEUNG Yiu-chung.

However, I have to point out that all along the Government has actually been moving ahead and putting in a lot of effort in this respect. I believe Members are also aware of that. For instance, the Census and Statistics Department has now adopted an average wage rate for cleansing and guarding services. The Government has taken the lead. Many public organizations, subvented agencies and schools have now followed suit. And this is good news that the MTRCL has recently adopted the same practice. At present, about 26 000 employees can benefit from this practice. We will definitely continue discussing this at the LAB with a view to working out a solution. In the meantime, we will continue encouraging other organizations but not only public organizations to adopt this practice. We hope that all companies will follow suit.

MR LEUNG YIU-CHUNG (in Cantonese): *The Secretary merely stated in his earlier reply that proposals were welcome and all proposals could be discussed, but he did not say whether enforcement details under the Ordinance would be discussed. If those details cannot be enforced, amendments may as well be proposed.*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): President, I have in fact answered the question. All proposals, whether they are provisions of the Ordinance or other options, can be discussed so long as they are acceptable to both the employers and employees.

MR ANDREW CHENG (in Cantonese): *President, I would like to follow up the question raised by my colleagues earlier on the reason for not amending the TBO. On the issue of minimum wage, the Secretary said that discussions would be held. The Secretary gives us the impression that the Government has become more and more open-minded about this.*

Given the open attitude of the Government, may I ask the Government why after the discussion of the issue at the LAB, particularly when the minimum wage spirit has been introduced under the TBO but that only the TBO includes provisions which may be inconsistent with the Basic Law or the Hong Kong Bill of Rights Ordinance, the Secretary makes no amendments to the provisions he cited earlier and then submits the amendments to the Legislative Council to establish the spirit of minimum wage? Why does the Government not do so to preclude our employees from continuing earning low wages, being deprived and stripped of their dignity?

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): *President, I would like to tell Mr CHENG that we do not seem to be open-minded but is really open-minded. Actually, in the past two years, you should have noticed and I have just mentioned that we have taken the lead to do a lot of work. I actually think that we have been moving ahead all along. I do not wish to repeat my reply, President. My reply is that if these amendments were to be made, it would be no different from enacting a new piece of legislation, for after all, these amendments have to be submitted to the Legislative Council and Members have to vote on these amendments and draw up relevant amendment provisions. We therefore think that all proposals can be considered. I think it is most important that in the next few months, we will all make vigorous efforts to explore how this should be implemented.*

MR TOMMY CHEUNG (in Cantonese): *President, in part (b) of the main reply, the Secretary mentioned the TBO. Some colleagues of mine asked him why the Ordinance was not amended, but I would like to ask the Secretary this question. Since the Ordinance has never been invoked, has been enacted for over 60 years and is inconsistent with the Hong Kong Bill of Rights Ordinance, will he consider repealing the Ordinance?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): President, as regards this Ordinance, the United Kingdom did once put in place such legislation, but the legislation was later repealed. And as some Members have pointed out earlier, after the repeal of that legislation, the United Kingdom has subsequently enacted a law on minimum wage. Members may thus notice from the case of the United Kingdom that the enactment of the TBO is found not to be a desirable option, for legislation on minimum wage has subsequently been enacted. Therefore, I have repeatedly stressed earlier that the Ordinance is largely obsolete, just as Mr CHEUNG has said. Though the Ordinance is in place, no mechanism has been established, the relevant boards have never been set up and all penalty provisions stipulated therein are seriously inadequate. Hence, if a lot of amendments have to be made, it will be no different from enacting a new piece of legislation which has to be put to vote by the Legislative Council after all.

When I said that we are completely open-minded about this, I mean that all options and proposals are open to discussion. The most important point is that even if amendments were to be made to the Ordinance, the matter has to be referred to the Legislative Council, and after all, the consent of employers and employees has to be obtained and bilateral discussions have to be held. Therefore, basically, the difference between the two options is small.

MR RONNY TONG (in Cantonese): *President, may I ask the Secretary whether the LAB has been reminded of our responsibility under the Basic Law? It is stated unequivocally in Article 7 of the International Covenant on Economic, Social and Cultural Rights that — President, I would like to look at the provision first — we have the obligation to provide fair wages to employees to ensure that they can make a decent living, that is, to maintain a reasonable standard of living. It is a constitutional obligation of our Government. Will the Secretary inform the LAB that the Government needs to discharge this obligation?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): President, I would like to point out that it is also stated in the Covenant that individual state parties may discharge its obligation under the Covenant by suitable means according to their actual situation. These

obligations may be fulfilled by different means like administrative measures, promotion and appeal.

PRESIDENT (in Cantonese): Last supplementary question.

MS LI FUNG-YING (in Cantonese): *President, in the last sentence of the main reply, the Secretary stated that it was hoped that the LAB could reach a consensus on the issue. I do not think that a consensus can be reached by just sitting and waiting. If you want to win the Mark Six lottery, you at least have to place the bet to get a chance. Therefore, may I ask the Secretary of the effective measures he plans to take to make his wish of reaching a consensus come true?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I totally agree with Ms LI that if one wants to win a Mark Six lottery, one must first place the bet. But I am not encouraging the public to bet on Mark Six lottery.

What is most important, and I believe Ms LI also knows, is that we have all along been discussing the issue with all parties including both employers and employees through different channels. All these days, like yesterday, today and those days in the past, I have been discussing this issue, and I really hope that the problem can be solved. I do understand the aspiration of Members. I only wish to say that we are definitely not idly sitting around and making no effort. I believe Members are all aware that we have been doing a lot of backstage liaison work, hoping that a proposal acceptable to all parties on the LAB can be identified. I hope Members may give us some more time. And that is why I keep mentioning "in the next few months" in my earlier replies.

MS LI FUNG-YING (in Cantonese): *President, the Secretary has not answered my question about what effective measures he has.*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I think Members will be able to notice these effective measures after they are implemented. *(Laughter)*

PRESIDENT (in Cantonese): Fifth question.

Placing of Cargo Compartments at Roadsides

5. **MISS CHOY SO-YUK** (in Cantonese): *President, in recent years, when carrying out building renovation or alternation works, many construction works contractors casually placed cargo compartments at roadsides for use as temporary storage for construction wastes. There have been complaints that such cargo compartments block traffic flow and will likely cause traffic accidents. Moreover, the dust and grit contain therein will easily pollute the environment and pose safety threats to pedestrians. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of such complaints received, enforcement and prosecution actions taken by each of the departments concerned, as well as the number of persons convicted and the penalties imposed on them in each of the past three years; and*
- (b) *whether the Government has implemented any new initiatives to improve the situation since this Council raised a question on the placing of cargo compartments at roadsides in December 2003; if it has, of the details of the initiatives; if not, the reasons for that?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, cargo compartments ("skips") placed on streets or at roadsides are mostly used as temporary storage for construction waste generated from renovation or fitting-out in nearby buildings, pending transportation to landfill sites for dumping. The impact of such skips on traffic and pedestrians is temporary. The renovation and fitting-out trades have a practical need for these skips. Besides, their use reduces the dumping of construction waste on streets, which may cause environmental hygiene and traffic nuisance. My reply to the two-part question is as follows:

- (a) The number of complaints received and the number of notices put up under section 6(1) of the Land (Miscellaneous Provisions) Ordinance by the Lands Department (LandsD) over the past three years are as follows:

<i>Year</i>	<i>No. of complaints received</i>	<i>No. of notices put up</i>
2003	90	90
2004	154	162
2005	822	869

Only in case of failure on the part of the owner of a skip to take any removal action after the expiry of the period specified in the notice affixed to the skip can the LandsD institute a prosecution against him/her under the Land (Miscellaneous Provisions) Ordinance (Cap. 28). The LandsD successfully prosecuted four persons for unauthorized placing of skips. The prosecuted were fined \$2,000 each upon conviction.

In the past three years, the Food and Environmental Hygiene Department (FEHD) received a total of 154 complaints in relation to the above breaches. Some of the complaints overlapped with those received by the LandsD, and therefore were referred to the LandsD for follow-up after verification. A total of 14 joint actions were conducted with the participation of both departments in the last year.

- (b) Since 2003, the Administration has been joining hands with the relevant departments in addressing the issue of casual placing of skips at roadsides. If the skips at roadsides were found to cause rather serious impact on the traffic flow and the environmental hygiene in the vicinity, the case would be brought up for discussion at the District Management Committee. Where necessary, joint actions by the relevant departments (including the LandsD, Transport Department, Highways Department, Hong Kong Police Force and FEHD) would be taken, through the co-ordination of the District Officer concerned, to remove the skips in question. In handling the complaints received, the relevant departments may exercise the power conferred on them by the following Ordinances:
 - (i) In case of unauthorized placing of skip on the government land, the LandsD may, in accordance with the Land (Miscellaneous Provisions) Ordinance, put up a notice on the skip for not less than a day, requiring the owner to remove the skip before the deadline. Should the owner fail to do so, the

LandsD may confiscate the skip and initiate prosecution action against the owner;

- (ii) If skips placed on public streets cause environmental nuisances or obstruction to street cleansing, the FEHD may, under the Public Health and Municipal Services Ordinance, put up a notice on the skips for not less than four hours, requiring the owners to remove the same before the deadline. Should the owners fail to do so, the FEHD may take action to remove the skips;
- (iii) Under the Road Traffic (Traffic Control) Regulations, the Director of Highways or a police officer of the rank of sergeant or above may give notice, either orally or in writing, to the person responsible for any obstruction on or near a road which hinders or endangers any person to remove the obstruction as soon as possible. Should the person fail to remove the obstruction in compliance with the notice, the Director of Highways may arrange for its removal and recover the cost so incurred from the said person; and
- (iv) If skips placed on public streets cause any obstruction, inconvenience or harm to pedestrians or vehicles passing by, the FEHD or the police may take immediate action under the Summary Offences Ordinance to remove and confiscate the skips causing the obstruction.

MISS CHOY SO-YUK (in Cantonese): *President, although we do recognize the purpose of and need for placing such skips on roads,, it must still be pointed out that they are seen at many spots along the double yellow lines of such thoroughfares as King's Road, Hennessy Road and even the narrow Electric Road. In some cases, skips are even left at the locations concerned for more than a week.*

The Secretary tells us that — Members belonging to the DAB saw some skips near Sharp Street East and Matheson Street — if the authorities receive a complaint about a roadside skip causing obstruction and find that the complaint

is substantiated, joint actions by the relevant departments will be taken through the co-ordination of the District Officer concerned. However, it will be necessary to follow all the procedures mentioned by the Secretary in part (b) of his main reply before an appropriate ordinance as determined by the location of the cargo compartment can be invoked to initiate prosecution. I believe the whole process will take at least one month. Therefore, unless the skip concerned has been placed at the location for two to three months, it is simply impossible to initiate any prosecution.

The greatest problem now is the absence of any guidelines. We are convinced that all fitting-out companies and owners of skips would like to see a set of clear guidelines, and I also do not think that they have any intention of causing nuisance to others. However, the Government has not put in place any mechanism whereby they can submit applications and know when and where they can place a skip for the collection of construction waste. May I ask the Secretary whether any effective and clear regulations will be formulated for the trades concerned?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese):
Members who listened carefully to my reply should have come to the conclusion that such procedures and mechanism are already in place.

Miss CHOY says that roadside skips can be seen all the time. This is nothing surprising because as Members are aware, fitting-out and demolition works are going on everywhere and every day in Hong Kong. It is therefore not at all surprising to see roadside skips. However, I do not quite agree with Miss CHOY that a skip can be left on the roadside for as long as two to three weeks. If there are any such skips, I hope Miss CHOY can provide us with the relevant information, so that we can take formal actions.

In regard to the taking of actions, as I have pointed out, since Members started to express concern over this issue in 2003, we have been adopting the policy of referring such cases to District Management Committees and we have also put in place a series of other measures. If a skip poses temporary hindrance to traffic or poses danger to pedestrians, we will require the owner to remove the skip immediately.

If a skip causes environmental nuisance, the FEHD may put up a notice of removal on the skip for four hours. If the owner fails to comply after four hours, the FEHD may take actions to remove the skip. However, if a roadside skip is used for the sole purpose of collecting construction waste and does not cause any of the problems mentioned above, we will remove it only after putting up a notice of removal for no less than one day. Therefore, we will first consider the locations of roadside skips and the resultant nuisance and then seek to resolve the problems as early as possible, taking into account the powers vested with the relevant departments under the appropriate ordinances.

MR WONG YUNG-KAN (in Cantonese): *President, we certainly do not oppose the placing of skips at roadsides. But may I ask the Secretary whether there are any guidelines for the trades concerned? For example, is there any requirement on the installation of covers to prevent the escape of dirt? And, is there any guideline on the installation of night-time warning lamps, so that motorists can notice the locations of roadside skips and thus avoid traffic accidents? Has the Government tried to inform applicants of such guidelines, so that they can take precautions?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Members should note that the positioning of roadside skips must depend on the sites of works. Owners of roadside skips naturally hope that their skips can be placed before or near their sites of works. Consequently, the positioning of such skips will depend largely on the locations of works sites. As also mentioned by Members just now, whether any application can be approved will have to depend on the availability or otherwise of suitable locations in the vicinity. As I already explained, if a roadside skip poses danger to pedestrians and obstruction to traffic, we will not approve the relevant application. But in the case of remoter localities, we will permit the placing of roadside skips within tolerable limits. We do have some requirements in this regard.

MR TAM YIU-CHUNG (in Cantonese): *President, currently, totally five departments are responsible for handling this problem. But very often, when five departments are responsible, none of them will do anything. Should the*

Government consider whether it is better to establish a standing inter-departmental working group with sole responsibility for handling such problems and complaints, instead of forming an inter-departmental working group only when the need arises? And, in general, for how long will a skip be placed at the roadside?

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

Actually, in most cases, the work is not so complicated. And, as mentioned in my main reply, most complaints are referred to the LandsD for handling. The FEHD also receives a considerable number of such complaints. If immediate actions are required — if, as I pointed out just now, there are any environmental nuisance and hygiene problems — the authorities will take actions within four hours. But if a complaint does not fall into this category, it will be referred to the LandsD. Since the LandsD is required under the relevant ordinance to put up a notice for no less than one day, we will usually give a one-day notice, and the speed of handling is usually very fast. It is only when the cases concerned are especially serious or difficult to handle that the mechanism of District Management Committees is activated. Usually, it is not necessary for us to activate this mechanism. The departments concerned have established some sort of tacit understanding among themselves. As Members can observe, since our relevant policy is highly effective and everybody knows of its existence, the number of cases handled and the number of complaints received have both increased drastically over the recent years.

MS AUDREY EU (in Cantonese): *President, I wish to ask a question on part (a) of the main reply. We notice that there was a continuous increase in the number of complaints in the past three years. The notices put up by the LandsD in 2003, 2004 and 2005 numbered 90, 162 and 869 respectively. The Secretary also explained that the LandsD could institute prosecution only after the expiry of the period specified in the notice, and that there had been four successful prosecutions. I guess these four prosecutions should all take place during the same period, that is, from 2003 to 2005.*

After doing some computations, I see that the LandsD issued a total of some 1 120 notices. But can the Secretary explain why there were just four

successful prosecutions? Can the Secretary tell us why the number of successful prosecutions was so small? Was that because in these 1 100 or so cases, the skips placed at roadsides without authorization were all removed within one day? Was the notice so very effective in every case?

Besides, may I ask the Secretary whether there are any unsuccessful prosecutions? If yes, why?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): I do not have any figures on unsuccessful prosecutions on hand. Maybe, I shall confirm whether there is really no such information after the meeting. But as far as I know, there should not be any.

Why was the number of prosecutions so small? As Members are aware, roadside skips are used in times of building demolition works. When a skip is fully loaded with demolition waste, it will be necessary to remove it, so the owner must clear his skip from time to time. In those cases, after we had put up a notice, the owners would know that we were aware of the situation, so they removed the skip. Since most owners could remove the skips concerned within the specified period and the problem could thus be solved, we could initiate prosecution only under very exceptional circumstances.

We know that there were four successful prosecutions. As for the number of unsuccessful prosecutions, I will have to do some checking after this meeting. If there was any, I shall submit a written reply.

MS AUDREY EU (in Cantonese): *I hope the Secretary can clarify one more thing in his written reply. When replying to my supplementary question just now, he disclosed that most owners could remove their skips within the specified period. This actually implies that there were others who could not. President, I wish to know why the number of prosecutions was so small. The Secretary said that most of the skips were subsequently removed. This is of course fine enough. But then, it means that some were not removed. Why was there no*

prosecution? Besides, were there any unsuccessful prosecutions? I hope the Secretary can also give additional information about all this.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): I shall do so. (Appendix I)

MR WONG KWOK-HING (in Cantonese): *The Secretary's reply seems to suggest that the present policy is very effective. But we can observe from part (a) of the main reply that there has been a huge increase in the number of complaints indeed. The number of complaints received in 2005 increased by 533% when compared with the figure for 2004 and by 900% when compared with that for 2003. This illustrates that the ordinance concerned is already outdated because the specified period is just 24 hours. And, the specified period in the case of the FEHD is also very short, just four hours. Therefore, may I ask the Secretary via the President if the Government will examine whether the ordinances are already outdated. And, will it introduce any amendments to better suit the need of regulating roadside skips?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, I have already explained that depending on actual circumstances, we will adopt different ways to handle the problem. Why is the specified period of the FEHD shorter? The specified period is just four hours because environmental hygiene is affected in such cases. In cases where obstruction is caused to pedestrians or traffic, a police officer of the rank of sergeant or above may take immediate actions. In brief, we must consider the gravity of the situation and the impacts on public safety when determining what actions to take. We are of the view that the existing ordinances can already cover various situations and provide appropriate channels for us to handle the problem. Therefore, we have no intention of introducing any amendment.

MR WONG KWOK-HING (in Cantonese): *President, the Secretary has not answered my supplementary question. I have already given all the relevant facts. The huge increase in the number of complaints can illustrate that the*

ordinances are unable to achieve the desired effect. I wish to urge the Secretary, through the President again, to consider this point. If the desired effect cannot be achieved, he should amend the ordinances.

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

SECRETARY FOR PLANNING, HOUSING AND LANDS (in Cantonese): I have nothing to add. However, I do wish to raise one point about the number of complaints. To a very great extent, the relevant debates in the Legislative Council have made more people aware of the complaint channels, and this should explain why there have been more complaints. Members of the public can see that we are able to tackle the problems successfully after the receipt of complaints. They therefore think that the present approach is effective.

MR WONG KWOK-HING (in Cantonese): *I do not think that the Secretary has answered my supplementary question. The present approach is obviously ineffective, but he insists that the opposite is the case.*

PRESIDENT (in Cantonese): I see what you mean. But whether you are satisfied, I cannot do anything to help you.

Last supplementary question.

MR LAU KONG-WAH (in Cantonese): *President, the Secretary's reply to this oral question seems to suggest that things are well done in many ways. But the number of complaints has been rising. I even think that the figures are astounding. And, the situation we see in the streets can even be described as horrible.*

According to the Secretary, several departments have the authority of removing roadside skips. But we have been informed by the LandsD that they

do not have any tow trucks. In other words, they are not capable of doing the job. May I ask whether it is true that the departments concerned are simply incapable of doing the job? The Secretary mentions only the putting up of notices and the number of successful prosecutions has been very small. Does all this mean that the relevant departments are actually incapable of doing the job? Does all this mean that although the Secretary claims the otherwise, the departments concerned are actually incapable of doing the job?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): I suppose all will depend on how Members interpret "capable" and "incapable".

As I have explained, skips are not placed in the streets for display. Rather, they are used for collecting fitting-out waste. Once they are fully loaded, they will have to be removed. Therefore, in case a skip has been placed at the roadside for a very long time, the LandsD will put up a notice for no less than one day. If the owner can remove the skip after the posting of the notice, the problem will be solved. That is why we can usually handle these problems within a couple of days. Despite the frequent sightings of roadside skips, we do not think that there is a very serious nuisance problem.

PRESIDENT (in Cantonese): Sixth question.

Extending the Retirement Age

6. **MR MARTIN LEE** (in Cantonese): *Madam President, as Hong Kong's population is ageing, will the Government inform this Council whether:*

- (a) *it has studied the impacts of extending the retirement age on the local community, economy and labour force, including those on the Mandatory Provident Fund (MPF) System and the Civil Service; if so, of the findings; if not, the reasons for that; and*
- (b) *the Task Force on Population Policy (TFP) will make any recommendations regarding the extension of the retirement age?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, the SAR Government has all along attached great importance to the issue of ageing population in Hong Kong.

An ageing population is expected to impact on the local community, economy and labour force. Unless our productivity improves significantly, the persistent shrinkage of the labour force relative to the overall population may bring about a slowdown in economic growth and hence a possible reduction in government revenue. At the same time, there will also be an increasing demand for resources to take care of an ever-growing elderly population, thereby increasing the expenditure on social security assistance, welfare and health care services.

At present, there is no mandatory retirement age in Hong Kong. Individual employers or establishments can work out the appropriate retirement age for their staff which may form part of the employment terms agreed between employers and employees. In view of the concerns arising from an ageing population, last year the Central Policy Unit conducted an internal study on the policies and practices in selected countries in respect of retirement age and their applicability to Hong Kong. The study covered various policy areas including the retirement arrangement of civil servants and the MPF schemes. The study report is being examined and considered by the relevant bureaux and departments.

To develop a set of population policies which suits Hong Kong's long-term social and economic development, family values and wider community interests, the Government set up the TFP in 2002. The TFP report, released in February 2003, set out a number of recommendations on measures pertaining to admission of talents, education and manpower development, elderly and welfare policies. These recommendations have been implemented or adopted as ongoing measures by the relevant bureaux and departments.

Building on the work of the TFP, the Government will review its population policy from time to time to see if it fits in with the changes in the demographic trends of Hong Kong. For instance, the Quality Migrant Admission Scheme will be introduced in June this year to attract the best talents throughout the world to settle in Hong Kong for future development. This will

enhance the overall quality of our population. Moreover, the Government will continue to review the arrangements for the MPF System.

In view of the importance of population policy and related issues such as ageing population and in order to facilitate public discussion among people from different sectors of the community, the Commission on Strategic Development (the Commission) has agreed to accord priority to discuss the matter. At its meeting held on 24 April, the Committee on Social Development and Quality of Life of the Commission discussed the issues of promoting parenthood and enhancing the quality of our population. The Committee will discuss other population issues at its next meeting, including ageing population and eligibility for and portability of social benefits.

Moreover, the Council for Sustainable Development will arrange a "public engagement process" for the various population policy issues in the second quarter of this year, with a view to soliciting public opinion on the relevant subjects. Taking into account public feedback, the Council will make recommendations to the Government on enhancing population potential for a sustainable future. The Government will consider the recommendations from the Council in its formulation of a long-term strategy on population policy.

MR MARTIN LEE (in Cantonese): *Madam President, given that the Government has set a rigid retirement age for civil servants, civil servants must retire when they reach the retirement age, and the Government will not take into consideration their psychological and physical conditions. As technology advances rapidly, Hong Kong people now have an increasingly longer life expectancy. Many people are still strong even at the retirement age set by the Government and they also have many experiences of life. So, it is not only inappropriate for them to completely stop working after retirement, but also a waste of human resources. When conducting studies on the retirement age, will the Government consider extending or even abolishing the retirement age and adopting other more objective criteria, such as the psychological and physical status of employees, for deciding whether retirement is necessary for employees?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I very much thank Mr Martin LEE for his concern about the

psychological and physical status of civil servants. On the psychology front, I think assessments would be rather difficult. But what I wish to say is that in determining the retirement age of civil servants, other than the factor of an ageing population, it is actually necessary to take into consideration many other aspects, including the impact on manpower planning, public finance, the promotion prospects of civil servants at lower ranks, the employment prospects of the youth, and so on. Mr LEE may recall that in fact, the retirement age of civil servants was 55 before 1987. In 1987, having considered such factors as manpower planning, social conditions, and so on, the Government extended the normal retirement age of civilian staff from 55 to 60. In this connection, I very much thank Mr LEE for his question. The authorities will pay attention to the demographic changes and latest conditions in the labour market, in order to consider whether there is a need to review such arrangements as the retirement age of civil servants.

MR CHIM PUI-CHUNG (in Cantonese): *President, in the main reply the Secretary mentioned that there is no retirement age requirement in Hong Kong. May I ask if this is applicable to Directors of Bureau, Secretaries of Department and even Members of the Executive Council?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): As I said just now, insofar as Hong Kong is concerned, there is no mandatory retirement age. As far as I understand it, there is no requirement on retirement age.

DR YEUNG SUM (in Cantonese): *Madam President, in the second paragraph of the main reply, the Government pointed out that an ageing population will lead to increases in the expenditure on social security assistance and welfare services. In fact, many studies also pointed out that the MPF benefits in Hong Kong will not be sufficient to provide for employees' living after their retirement. For others who are not covered by the protection of MPF, their living in their old age is even more worrying. I would like to ask the Secretary whether the Central Policy Unit of the Government will introduce universal retirement protection in Hong Kong with tripartite contributions from employees, employers*

and the Government, in order to further improve the MPF System and ensure a secured old age for all elderly persons?

PRESIDENT (in Cantonese): Dr YEUNG Sum, can you explain how your supplementary question is related to the main question?

DR YEUNG SUM (in Cantonese): *Madam President, we have basically mentioned the retirement system, and this supplementary question is to a certain extent related to the retirement system.*

PRESIDENT (in Cantonese): Fine. Secretary, your reply please.

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): My thanks go to Dr YEUNG Sum.

I think Dr YEUNG Sum may recall that in fact, this Council already had a motion debate last week discussing in detail such issues as the need to provide universal retirement protection as he mentioned earlier, and Secretary Dr York CHOW already gave a detailed response. Certainly, I am not going to read out the reply of Secretary Dr CHOW. What I wish to say is that, as Dr YEUNG may recall, the MPF Scheme has been implemented since 2000, and in our workforce of about 3 million in Hong Kong, about two thirds are below 40 years of age. We believe that after the implementation of the MPF System, they will make contributions for a rather long period of time and this will ensure that they will have quite a large sum of money in the future for the protection of their living after retirement. Certainly, we all are very concerned about the MPF System, and in the paper of the Central Policy Unit, it is also mentioned that a review will be conducted or work will be carried out in this regard. We are in the process of consulting the relevant Policy Bureaux. Of course, we agree that the MPF System should be constantly reviewed in the light of the development of society.

MR LEE WING-TAT (in Cantonese): *President, if my memory has not failed me, five or six young people are supporting one elderly person now, and 20 years*

later, it will be about two or three young people supporting one elderly person. I would like to ask the Secretary this: Are those studies on retirement protection, retirement age for civil servants and even health care financing conducted by the Government progressing too slowly? Does the Government consider it necessary to proceed at a faster speed, so as to address these problems as early as possible? It is because insofar as these policies are concerned, it may take 10 years to complete the studies before a policy decision can be made.

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Perhaps let me cite some figures for the reference of Mr LEE. According to these figures, and as far as I understand it, there are about 840 000 people aged above 65, and by 2033, their number will be about 2.24 million. In other words, one in every eight people in Hong Kong is an elderly person now and by 2033, there will be one elderly person in about four people, and all of us here will be among the elderly. We certainly agree that such issues as an ageing population, population policy, and so on, are very important. So, as Members can see from my main reply, I said that the Commission had started discussions on this issue, as they had discussed it in the last meeting and will discuss it in the next meeting. Yesterday, the Chief Secretary for Administration said that the Council for Sustainable Development will submit a paper in June or at an earlier date and initiate a "public engagement process" which will cover issues of common concern for consideration and comment by members of the community. In other words, we can see that in fact, the Government has been conducting consultation on this issue and giving consideration to it through a diversity of channels. I believe we all understand the importance of this issue.

MR TAM YIU-CHUNG (in Cantonese): *President, when I was the Chairman of the Elderly Commission, I already proposed that the retirement age be extended and flexible retirement schemes be implemented. But there were different views in the community. May I ask the Government if it will consider encouraging various organizations and calling on them to transfer employees approaching the retirement age from their original posts to less demanding posts in which they do not need to assume major responsibilities, so that they can have the chance to continuously give play to their ability? Will the Government consider the issue in this direction?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Thank you, Mr TAM. I think as Mr Martin LEE has said earlier on, human beings now have better physical conditions and a longer life expectancy than in the past. We all hope that the retirement age can be flexible. This, we do understand. But we also need to consider various other issues such as the workforce. In fact, as I mentioned in the main reply earlier, whether it be the internal documents of the Central Policy Unit or papers to be submitted by the Commission or the Council for Sustainable Development later on, consideration will be given to the issue of an ageing population and public opinions will be solicited, in order to look into what we can do in various aspects to address the problems brought by an ageing population.

MR LEE CHEUK-YAN (in Cantonese): *In fact, the main question today is about the extension of the retirement age. What I find utterly ironic is that, I wonder if the Secretary is aware of it, in some companies in Hong Kong, the retirement age of their employees is 45 years. For example, flight attendants are required to retire at the age of 45. Compare to the retirement age in the Government, which is 60, it is still 15 years away from the normal retirement age. May I ask the Secretary — although he said in the main reply that there is no mandatory retirement age — what actions the Government will take to deal with these cases of age discrimination?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, I was expecting Mr LEE to ask this supplementary question.

Let me say this once again. There is no statutory retirement age in Hong Kong. As far as I understand it, there is also no mandatory retirement age in many other places. At present, the mainstream view is that there can be greater flexibility, as Members have said earlier on. I also agree with this point. Of course, if the employees are physically and psychologically fit for work, they should be allowed to work as far as possible. But it is because there is no mandatory retirement age that, at present, the retirement age is normally agreed between the employers and employees to form part of the employment contract. Certainly, we do not wish to see cases of age discrimination. Normally, we

will encourage employers to treat their employees properly through education and publicity.

MISS CHOY SO-YUK (in Cantonese): *President, with regard to such issues as the retirement age and even welfare for the elderly, compatibility is often lacking, because in some cases, it is 60, and in other cases, 65. May I ask the Secretary whether he will seriously and comprehensively review the measures adopted by various departments, such as the tax allowance for dependent parents, transport fare concessions for the elderly and the overall retirement age, in formulating the overall population policy and conduct a more comprehensive review of the entire system, in order to address the incompatibilities?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Thank you very much, Miss CHOY. I think Miss CHOY, being a member of the Council for Sustainable Development, will recall that this issue was also discussed yesterday. We will submit some papers and make consideration from the economic, social and environmental perspectives. I certainly agree that we should consider it from all angles. Miss CHOY mentioned the question of incompatibilities. In some organizations, the retirement age is 60 years, but the retired employees may have to wait until they reach 65 before they can receive their MPF benefits. So, as I said in the main reply, we will provide the relevant papers and conduct consultation on these issues. After we have considered the views received, we will decide on how a long-term strategy on the population policy can be formulated.

PRESIDENT (in Cantonese): Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS

Tree Protection

7. **MR JAMES TO** (in Chinese): *President, the Government announced earlier that it would deck over 16 sections of nullahs throughout Hong Kong by*

three stages, and the works on the first stage have started. However, the decking of Lung Chu Street Nullah at Tai Hang Tung has recently aroused widespread disputes as the works involve felling of rare trees on stone walls. Some green groups opine that the Government should consider alternative works options to prevent rare trees from being sacrificed. In this connection, will the Government inform this Council:

- (a) of the species and numbers of trees which are affected by such works and require relocation, broken down by the 16 decking works;*
- (b) whether the authorities will consider replacing those of the 16 decking works which involve relocating precious trees by alternative works options or amending the scope of such works, in order to preserve rare trees; if they will, of the names of the decking works concerned; and*
- (c) whether the authorities have assessed, in the past two years, if existing legislation is sufficient for protecting trees; if they have, of the assessment results, and whether they will consider enacting legislation on tree protection; if they will, of the details; if they will not, the reasons for that?*

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

- (a) For the eight nullah decking works in Stage 1, 24 trees require felling and five trees require transplantation, but none of them belongs to important tree¹ (see Annex 1 for details).

The other eight nullah decking works in Stages 2 and 3 are still under preliminary investigation. It is estimated that around 22

¹ Important trees refer to trees on the Register of Old and Valuable Trees, and any other trees not on the Register but meet one or more of the following criteria:

- (i) trees over 100 years old;
- (ii) trees of cultural, historical or memorable significance;
- (iii) trees of precious or rare species;
- (iv) trees of outstanding form; or
- (v) trees with trunk diameter exceeding 1 m (measured at 1 m above ground level).

trees may be affected but again, none of them belongs to important tree (see Annex 2 for details). We can only determine the exact number of trees affected after the design has been completed.

- (b) For all the 16 nullah decking works, only about 51 trees will be affected and no felling or relocation of important trees is involved. Before implementing any works project, the Drainage Services Department (DSD) will carefully consider different options in the design stage to ensure that trees located within the works area are preserved as far as possible, with priority being given to important trees that are affected.

The decking works of Lung Chu Street Nullah in Stage 1 does not involve any important trees. However, early in the year some environmentalists pointed out that some trees grown on the masonry walls affected by the decking works have special value. A review was immediately conducted on that batch of trees by the DSD and its landscape consultant in collaboration with the experts of the Leisure and Cultural Services Department, which confirms that those masonry wall trees are neither important trees nor suitable for transplanting. Nevertheless, the DSD, in an all-out effort to preserve that batch of trees as far as practicable, has revised the design on the decking works after consulting the Environment and Food Committee of Sham Shui Po District Council. Three masonry wall trees which have to be removed originally are thus preserved, reducing the number of trees to be felled to 18. Meanwhile, we are exploring the feasibility to preserve more masonry wall trees on the base that other trees located within the park adjacent to the Lung Chu Street Nullah will not be affected.

As the nullah decking works are implemented at the strong requests of the District Councils and local community, the Government will complete all the 16 nullah decking works as scheduled in order to improve the environment in the vicinity of the nullahs.

- (c) The Government has been attaching great importance to protecting trees in Hong Kong. At present, there are several pieces of

legislation for the protection of trees on government land, including the Forests and Countryside Ordinance, the Country Parks Ordinance, the Crimes Ordinance and the Public Health and Municipal Services Ordinance. These ordinances can protect trees in public places and country parks from being damaged or felled illegally.

The Government has also taken a series of administrative measures to protect trees on government land. For instance, to avoid unnecessary felling of trees, the Environment, Transport and Works Bureau and the Lands Department have issued technical circulars and instructions, which clearly state the rules and regulations of tree protection. For public works projects that involve transplanting or felling of trees, the works departments concerned are required to include information on tree protection in their submissions to the Public Works Subcommittee when seeking funding approval from the Legislative Council. Moreover, more stringent conditions have been introduced in works contract since June 2004 to enhance the protection of trees in construction sites of public works. For example, contractors are required to conduct a tree survey before the commencement of the works to ascertain the number, the condition and the species of existing trees. They are also required to set up protection facilities and submit monitoring report regularly on the condition of the trees.

For private land, the Government has included tree preservation clauses in all land leases since the '70s. In general, felling or transplanting of trees on private land requires the approval of the Lands Department which will not be given in the absence of full justification. For land leased before the '70s, the Lands Department will incorporate tree preservation clauses in the lease modification when lot owners apply for redevelopment.

To conclude, the Government has put in place a series of administrative and legislative measures to protect trees and these have proved to be effective. Therefore, the enactment of new legislation on tree protection is not one of our priorities.

Annex 1

Stage 1 of Nullah Decking Works

	Name of Nullah	Trees affected by such works and require felling		Trees affected by such works and require transplantation		Remarks
		Species	No.	Species	No.	
1	Mong Kok Road Nullah	Ficus microcarpa	1	not applicable	none	No important trees were involved. The felling of trees was approved by the Lands Department and completed in 2005. The works are progressing smoothly and are expected to be completed in the third quarter of this year.
		Macaranga tanarius	1			
		Bombax ceiba	1			
		Ficus virens var. sub lanceolata	2			
		Leucaena leucocephala	1			
2	Lung Chu Street Nullah	Ficus variegata var. chlorocarpa	11	Cassia surattensis	3	No important trees were involved.
		Ficus hispida	2	Melaleuca quinquenervia	2	
		Ficus microcarpa	2			
		Mallotus paniculatus	1			
		Macaranga tanarius	1			
		Ficus superba var. japonica	1			
3	Joyful Building Nullah	not applicable	none	not applicable	none	not applicable
4	Summit Terrace Nullah	not applicable	none	not applicable	none	not applicable
5	Kwai Wing Road Nullah Ramp	not applicable	none	not applicable	none	not applicable
6	San Kwai Street Nullah Ramp	not applicable	none	not applicable	none	not applicable
7	Fung Fai Terrace Nullah	not applicable	none	not applicable	none	not applicable
8	Yip Shing Street Nullah	not applicable	none	not applicable	none	not applicable
	Total		24		5	

Annex 2

Stages 2 and 3 of Nullah Decking Works

	<i>Name of Nullah</i>	<i>No. of trees possibly affected by such works</i>	<i>Remarks</i>
Stage 2 of Works			
9	Jordan Valley Nullah	none	not applicable
10	Rambler Crest Nullah	none	not applicable
11	Flower Market Road Nullah	3	none of them is an important tree
12	Tonkin Street Nullah	none	not applicable
Stage 3 of Works			
13	Queen's College Nullah	4	none of them is an important tree
14	Kai Tak Nullah	10	none of them is an important tree
15	Heung Yip Road Nullah	5	none of them is an important tree
16	Fuk Man Road Nullah	none	not applicable
	Total	22	

Policy of Subvented Tertiary Institutions in Determining Tuition

8. **MR CHEUNG MAN-KWONG** (in Chinese): *President, the Administration announced in 1991 that subvented tertiary institutions should aim at recovering 18% of costs from tuition from the 1997-98 academic year onward. In this connection, will the Government inform this Council:*

- (a) *whether the above policy is still in force; if so, how it ensures that the institutions follow the policy when determining tuition; if not, of the time when the policy was changed and the reasons therefore, and whether the new percentage has been announced;*
- (b) *of the average cost and tuition for each place and the percentage of tuition against the cost in respect of each of the past five years, broken down by academic level and institution; and*
- (c) *whether the tuition charged in the past five years by the institutions has exceeded the above percentage; if so,*

- (i) *of the reasons and details regarding the overcharge;*
- (ii) *whether the relevant institutions have breached the above policy; and*
- (iii) *whether it will request the relevant institutions to bring the tuition down to the above percentage immediately and return the overcharged amount; if it will, of the details of the request; if not, the reasons for that?*

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

- (a) The then Executive Council decided in 1991 that the cost recovery target for fees for degree courses should be increased by phases to 18% of the total recurrent costs by the end of the 1995-96 to 1997-98 triennium. This target was achieved in the 1997-98 academic year as scheduled.

The 18% cost recovery target was set against the background of a very low cost recovery rate at that time. The aim was to increase the tuition fees gradually so as to achieve a more reasonable balance between the students/parents and the community at large in shouldering the cost of providing tertiary education. The cost recovery target also provides an overall indicator for the Government to compare and benchmark students/parents' contribution to tertiary education in Hong Kong with those in other jurisdictions. It is however not the intention nor would it be practical to enforce the cost recovery rate down to the institution, academic discipline and programme level. This is because applying the same tuition fee level to different institutions, levels of studies and disciplines gives rise to different cost recovery rates due to different cost structures. This has always been the understanding of the Government, the institutions and the community at large, and reflects the current situation.

It is not the Government's intention to fix the cost recovery rate at 18% once and for all. As with the tuition fee level, the cost

recovery rate is subject to revision in the light of changing social and economic circumstances.

- (b) Through the University Grants Committee (UGC), the Government provides recurrent subventions to the eight UGC-funded institutions mainly in the form of block grants. The institutions are free to determine the amount of funds to be used for different levels of studies and disciplines, as well as the actual tuition fee levels.

The average student unit costs, tuition fees and cost recovery rates for different levels of study of the eight UGC-funded institutions in the past five academic years are set out at Annex. In calculating the unit costs, we have taken into account only the recurrent expenditure of the institutions, but not the new sources of non-recurrent funding (for example, the two Matching Grant Schemes totalling \$2 billion launched in 2003 and 2005) provided to them to support internationalization and ongoing academic developments and to strengthen their fund-raising capabilities.

- (c) While the average tuition fees for degree courses in the past five academic years have remained unchanged (at \$42,100), the average cost recovery rates for the 2003-04 and 2004-05 academic years had slightly exceeded 18%, primarily due to a reduction in the recurrent costs incurred by the UGC-funded institutions. However, it should be noted that the recurrent costs, which comprise the Government's recurrent subvention, is only part of the Government's funding support for the UGC sector. The Government has indeed made substantial cash injections into the UGC sector in the past few years, notably the two Matching Grant Schemes totalling \$2 billion which have helped secured substantial private sector donations for the institutions. The total amount of resources available to the institutions and their students has thus increased substantially, only not in the conventional mode of recurrent funding and therefore cannot be reflected in the student unit costs and cost recovery rates.

Insofar as the students are concerned, by freezing the level of tuition fees since the 1997-98 academic year and continuing to provide financial assistance to needy students, the Government has not changed its policy, which is that no student should be deprived of

education because of the lack of means. Indeed, as a result of the Matching Grant Schemes and the donations received by the institutions in the past few years, students of the UGC-funded institutions will benefit from better facilities, higher quality of education and the availability of more scholarships.

As it is within the institutions' authority to set tuition fees, the Government should not and will not intervene in the institutions' decisions. Nonetheless, reducing tuition fees or refunding the fees received to students would adversely affect the financial situation of the institutions and hence their plans to upgrade their programmes and facilities, which will not be in the interest of the institutions or the students.

Annex

2000-01 Academic Year

	<i>Average Student Unit Cost⁽¹⁾</i> \$	<i>Average Tuition Fee⁽²⁾</i> \$	<i>Average Cost Recovery Rate</i>
Sub-degree	161,200	23,800	14.8%
Undergraduate	246,600	42,100	17.1%
Taught Postgraduate	243,500	42,100	17.3%
Research Postgraduate	421,000	42,100	10.0%
Overall	240,600	39,000	16.2%

2001-02 Academic Year

	<i>Average Student Unit Cost⁽¹⁾</i> \$	<i>Average Tuition Fee⁽²⁾</i> \$	<i>Average Cost Recovery Rate</i>
Sub-degree	151,200	25,500	16.9%
Undergraduate	234,500	42,100	18.0%
Taught Postgraduate	226,400	42,100	18.6%
Research Postgraduate	393,000	42,100	10.7%
Overall	229,600	39,500	17.2%

2002-03 Academic Year

	<i>Average Student Unit Cost⁽¹⁾</i> \$	<i>Average Tuition Fee⁽²⁾</i> \$	<i>Average Cost Recovery Rate</i>
Sub-degree	142,300	26,100	18.3%
Undergraduate	230,200	42,100	18.3%
Taught Postgraduate	217,000	42,100	19.4%
Research Postgraduate	390,700	42,100	10.8%
Overall	226,100	39,800	17.6%

2003-04 Academic Year

	<i>Average Student Unit Cost⁽¹⁾</i> \$	<i>Average Tuition Fee⁽²⁾</i> \$	<i>Average Cost Recovery Rate</i>
Sub-degree	127,000	27,200	21.4%
Undergraduate	212,700	42,100	19.8%
Taught Postgraduate	202,400	42,100	20.8%
Research Postgraduate	367,800	42,100	11.4%
Overall	208,900	39,800	19.1%

2004-05 Academic Year

	<i>Average Student Unit Cost⁽¹⁾</i> \$	<i>Average Tuition Fee⁽²⁾</i> \$	<i>Average Cost Recovery Rate</i>
Sub-degree	121,600	27,700	22.8%
Undergraduate	204,700	42,100	20.6%
Taught Postgraduate	201,100	42,100	20.9%
Research Postgraduate	358,400	42,100	11.7%
Overall	202,700	39,900	19.7%

Notes:

- (1) The average unit cost is calculated on the basis of the institutions' reported recurrent expenditure on the UGC-funded activities over the total number of students in those activities.
- (2) The average tuition fee level for sub-degree (SD) programmes offered by the UGC-funded institutions is \$31,575 per annum, except SD programmes offered by The Hong Kong Institute of Education (HKIEd). SD programmes offered by HKIEd are subject to a different scale of tuition fees - the bulk of HKIEd's SD programme tuition fees come from the Certificate in Education courses which are charged at \$15,040.

Applications for Installation of Village Street Lights

9. **MR LAU WONG-FAT** (in Chinese): *President, will the Government inform this Council of:*

- (a) *the number of applications for installation of street lights in villages in Hong Kong which are being processed currently, and the proposed locations for installation; and*
- (b) *the estimated time required for completing the assessment of the above applications and the relevant installation works, the annual progress of assessing such applications and implementing the works, as well as the amount of expenditure on such works?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President,

- (a) At present, there are about 3 200 village street lights that are pending approval for installation in the New Territories. These street lights are mainly distributed in Yuen Long (1 307), the North District (716), Tai Po (406) and Sai Kung (329).
- (b) In general, the Administration will vet the proposals for installation of village lights within the year in which they are received and determine the order of priority for installation according to established criteria. Under normal circumstances, proposals which will benefit the largest number of households will be given priority. Moreover, when processing the proposals, the Administration will take into full consideration factors such as public safety, pedestrian flow, existing lighting facilities, availability of land, electricity supply and technical problems.

The number of village lights approved each year shall depend on the resources available. For example, in 2006-07, the Administration will give approval for a total of 600 village lights. As a normal practice, the Administration will conduct site visit and public

consultation immediately after approving a proposal. As soon as the location where the village light to be installed is confirmed, the Highways Department will apply for the necessary road excavation permit and carry out the installation works when the permit is issued. In general, the Administration will complete the above process and the relevant installation works in one or two years after approving the proposal.

The Administration will actively consider allocating more resources to facilitate early approval and completion of the installation work of the above 3 200 village lights.

According to the statistics on the completed items, the amount of expenditure on providing a village light is about \$12,000, which includes the cost for carrying out related works.

Closing of Access Road Leading to Tseung Kwan O Chinese Permanent Cemetery

10. **MR JAMES TIEN** (in Chinese): *President, every year, during the Ching Ming, Easter and Chung Yeung holidays as well as on several preceding and following weekends, the Transport Department closes to all vehicular traffic the access road leading to the Junk Bay Chinese Permanent Cemetery (the Cemetery). As a result, grave-sweepers have to walk about 1.3 km uphill to the Cemetery. It has been reported that on the day of the Ching Ming Festival this year, thousands of old and young people went to the Cemetery to pay respects to their ancestors, but more than 10 of them fell on the way or felt sick in the heat of the day. In this connection, will the Government inform this Council:*

- (a) of the average number of visitors to the Cemetery for grave-sweeping on each of the road closure days this year; and*
- (b) how it will improve the traffic arrangements for access to the Cemetery, and whether it will consider the suggestions of the local community, such as providing an uphill escalator, a pedestrian link*

to Tiu Keng Leng MTR Station, or another vehicle access road; if it will consider, of the details; if not, the reasons for that?

SECRETARY FOR HOME AFFAIRS (in Chinese): President,

- (a) To ensure public safety and facilitate vehicular and pedestrian traffic at the Cemetery and the nearby area, special traffic arrangements are implemented every year during Ching Ming and Chung Yeung Festivals (the Festivals). These include closure of the access road to the Cemetery to all vehicular traffic on the days of the Festivals and on Saturday, Sundays and public holidays in the weeks preceding and after the Festivals. The dates of road closure during the Ching Ming Festival in 2006 and the number of visitors to the Cemetery on each of those dates are set out in the Annex.
- (b) The road closure arrangements are part of the package of measures implemented since the Chung Yeung Festival in 2001 to improve access to the Cemetery during the Festivals in the light of the serious traffic congestion at the Cemetery and the nearby area during the Ching Ming Festival in 2001¹. Other measures to facilitate grave sweepers' access to the Cemetery include:
 - (i) Widening of the existing access road: the Board of Management of the Chinese Permanent Cemeteries (BMCPC) widened the access road from the entrance at Yau Tong to the Cemetery Office to dual lanes in March 2002 at a construction cost of \$26.8 million;
 - (ii) Special bus service: except on Ching Ming Festival and Chung Yeung Festival and the Sundays preceding and after the Festivals, the Kowloon Motor Bus Company (1933) Limited operates a special bus service (Route No. 14S) from Yau Tong via Lei Yue Mun Road to the Cemetery on the road closure days; and

¹ Previously, road closure was implemented on the few days preceding and after the Festival Days. Since the Chung Yeung Festival in 2001, such measures have been extended to all Saturdays, Sundays and public holidays in the weeks preceding and after the Festival Days.

- (iii) Spreading out the flow of visitors to the Cemetery: the BMCPC advances the opening hours of the Cemetery to 7 am on road closure days and encourage the public to sweep graves on weekdays through the media.

As a long-term measure to further improve access to the Cemetery during the Festivals, the BMCPC is looking into the feasibility of constructing a footpath linking the Cemetery to the Tiu Keng Leng area and will consult the Kwun Tong and Sai Kung District Councils again on the latest proposal shortly.

As regards the suggestions of constructing an escalator connecting the Cemetery with Yau Tong area and the provision of a vehicular access connecting the Cemetery with the proposed road network in Tiu Keng Leng area, the BMCPC and the departments concerned have concluded that both suggestions are not viable:

- Escalator: this will not help resolve the existing bottleneck problem at Yau Tong area as both the proposed escalator and the existing access road start at Ko Chiu Road, Yau Tong. In addition, since high usage of the escalator will mainly be confined to the few weeks preceding and after the two Festivals, it is not cost-effective having regard to the high construction and maintenance costs of the escalator.
- Vehicular access: given the huge vertical level difference between the Cemetery and the proposed road network in Tiu Keng Leng area, an access road connecting the two involves sophisticated technical issues including substantial environmental impacts and any additional reclamation which are not justified having regard to the usage of the road being confined to the Festivals. Moreover, the works programme for the road network in the area is also not definite and a long lead time is required for its completion. Given the above, this proposal will not meet the imminent need to improve access to the Cemetery to relieve the overcrowdedness during the festival periods.

Annex

Number of Visitors to the Cemetery on Road Closure Days during
the Ching Ming Festival in 2006

<i>Road Closure Date</i>	<i>Number of Visitors</i>
12 March 2006 (Sunday)	21 008
18 March 2006 (Saturday)	10 090
19 March 2006 (Sunday)	22 160
25 March 2006 (Saturday)	11 962
26 March 2006 (Sunday)	17 424
1 April 2006 (Saturday)	15 970
2 April 2006 (Sunday)	23 372
5 April 2006 (Wednesday) (Festival Day)	67 076
8 April 2006 (Saturday)	12 362
9 April 2006 (Sunday)	16 740
14 April 2006 (Friday) (PH)*	14 086
15 April 2006 (Saturday) (PH)	10 374
16 April 2006 (Sunday) (PH)	20 439
17 April 2006 (Monday) (PH)	11 643
22 April 2006 (Saturday)	9 885
23 April 2006 (Sunday)	11 173
29 April 2006 (Saturday)	4 611
30 April 2006 (Sunday)	16 952
1 May 2006 (Monday) (PH)	6 747
5 May 2006 (Friday) (PH)	not available

(PH)*: Public Holiday

Rail Freight Volume

11. **MR WONG TING-KWONG** (in Chinese): *President, it has been reported that the rail freight volume handled by Hong Kong has been dropping year after year, from 2 200 000 tonnes in 1989 to 210 000 tonnes in 2005. Moreover, the Freight Department of the Kowloon-Canton Railway Corporation (KCRC) closed six of its mainland offices earlier this year and only its Shenzhen office has been retained. In this connection, will the Government inform this Council whether:*

- (a) *the KCRC has reviewed the company's persistent yearly drop in rail freight volume; if it has, of the details; if not, the reasons for that;*
- (b) *the KCRC has downsized its freight business; if it has, of the details; and*
- (c) *it will consider formulating measures to enhance the competitiveness of Hong Kong's rail freight service, including discussing with the State Ministry of Railways the joint development of cross-boundary rail freight service; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): President,

- (a) The KCRC operates its business including freight business under prudent commercial principles. The KCRC reviews its freight business from time to time and conducted a detailed examination of its freight business strategy in 2004.

The KCRC considers that the decreasing rail freight volume in recent years is due to a combination of factors, notably market competition. As compared with other modes of freight transport, rail freight has less flexibility due to the constraints by the alignment of the railway network. Goods transported by rail invariably need to be further transported by road vehicles. Besides, there are operational aspects in rail freight which render the time for transport longer, including the transfers at railway stations, switch of train locomotives, and customs clearance arrangements, and so on. As a result, as compared with the direct use of road vehicles or barge in freight transport, rail freight does not have unique advantages in terms of time or costs in the Hong Kong market.

The KCRC also considers that the rapid development of other freight terminals in Shenzhen (for example, Yiantian, Shekou) and Nansha in Guangzhou has reduced the rail freight volume between Hong Kong and the Mainland.

- (b) The KCRC conducted a detailed examination of its freight business strategy in 2004 and repositioned its strategy in 2005. The KCRC decided to phase out its freight forwarding business due to market conditions, and gradually closed down six offices in the Mainland since last year while retaining the office in Shenzhen. The KCRC, however, has not completely withdrawn from freight business. It continues with its core business in freight business under prudent commercial principles and, as a carrier, develops rail freight for containers, general cargo and livestock, and operates freightyards. Specifically, on freight business, the KCRC focuses on further enhancing cross-boundary freight services and liaison on port facilities matters with the mainland railway authorities, so as to enhance the competitiveness of rail freight. The KCRC also steps up its marketing efforts, including information collection on market situation, exploring new business opportunities, launching new services and promotions, and so on.
- (c) The Government has all along been encouraging the KCRC to fully capitalize on the advantages of rail freight and proactively develop cross-boundary rail freight business. On this, the KCRC is actively exploring with the mainland railway authorities freight through-train services between Hong Kong and mainland cities. For example, in the light of the rapid development of manufacturing industries in Dongguan and the completion of a number of industrial areas in the city which bring about an increased demand in timber, metals, mechanical equipment and plastics, there will be an increase in demand for rail freight as the transport of such goods relies heavily on rail. On this, the KCRC and relevant government departments are in discussion with the relevant mainland authorities to start the freight through-train service between Hong Kong and Dongguan as early as practicable.

In addition, having regard to market competition, the KCRC has implemented a series of measures to facilitate cross-boundary freight business including:

- (i) proactively exploring with the relevant mainland authorities the possibility of lowering charges and offering discount to clients;

- (ii) further enhancing the operating system of freight business including introduction of online system and procurement of new loading/unloading facilities for enhanced efficiency; and
- (iii) strengthening communication with the relevant mainland authorities in order to streamline the customs clearance arrangements as far as practicable.

Manpower Shortage in Hotel Industry

12. **MR HOWARD YOUNG** (in Chinese): *President, it is learnt that a number of hotels in Hong Kong have started business one after another recently and up to 52 hotels will be opened in Macao in the coming six years, which has prompted a shortage of manpower, particularly the senior management staff, in Hong Kong's hotel industry. In this connection, will the Government inform this Council:*

- (a) *whether it has assessed the demand and supply of manpower in Hong Kong's hotel industry in the next five years; if it has, of the assessment results; if not, the reasons for that; and*
- (b) *of the measures in the short, medium and long terms to alleviate the problem of manpower shortage in the hotel industry?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Chinese): President,

- (a) In respect of manpower training, the Education and Manpower Bureau (the Bureau) conducts manpower projection of different industries (including the hotel industry) from time to time. It also takes into account the feedback from professional bodies and trade organizations in assessing the manpower requirements; and reviews regularly the allocation of resources for higher education and pre-employment training in order to meet the needs of economic development of Hong Kong. When planning their future programmes, the tertiary institutions also take into account market needs in allocating student places.

The Economic Development and Labour Bureau also monitors regularly the hotel supply so as to assess the provision of employment opportunities in the hotel industry. By end 2005, there were a total of 118 hotels and 467 guesthouses in Hong Kong. According to the "Employment and Vacancies Statistics for December 2005" recently published by the Census and Statistics Department, the hotels and boarding houses sector has engaged 28 400 persons and the vacancy rate was 1.8%. This ratio was similar to other tourism-related sectors, such as the retail and catering sectors. It is estimated that 37 new hotels will be built in the coming five years (2006 to 2010). Upon completion, these hotels will provide about 8 000 positions, including managerial and front-line, in the labour market. The Bureau and the tertiary institutions will plan for student places for the tourism and hotel management programmes based on the above projections.

- (b) Tourism is one of the major economic pillars of Hong Kong and the Government attaches great importance to the long-term development and manpower training of the industry. The Government has invested considerably in providing education and training through subsidizing tertiary institutions, the Vocational Training Council (VTC) and other training institutes to provide a variety of training programmes for people who intend to join the tourism industry.

Regarding the training of professionals, the courses currently provided by the tertiary institutions include operations and management of hotels and food and beverages, service techniques and management, tourism economics and accounting, human resources management for tourism industry, and so on. Apart from classroom teaching, the tertiary institutions also collaborate with the hotel industry to provide internship that allows students to have a better understanding of the practical requirements and the working environment of the industry. Such internship also allows the hotel industry to train and identify suitable candidates at an early stage. The above training programmes contribute to the continual supply of suitable professionals to the hotel industry.

Regarding the training of junior and middle management staff, the Hospitality Industry Training and Developing Centre and the

Chinese Cuisine Training Centre under the VTC mainly train operational staff and supervisors for the industry. Their courses include practical training on front office operations, housekeeping, Chinese and Western food and beverage service and cooking, as well as supervisory operations. The Hong Kong Institute of Vocational Education under the VTC offers various diploma courses to train junior and middle management staff. Courses include housekeeping and front-line operations, customer service management, human resources operations, information systems and operations for hotels. The above training programmes at different levels aim to provide those who intend to join the hotel industry with a solid foundation of knowledge. In fact, many senior management staff of hotels joined the industry at a junior level and work their way up the career ladder.

The tourism industry has continued to perform well in recent years and there has been an increasing demand for tourism related services. More students enrolled in the tourism and hotel management related programmes at tertiary institutions (including The Chinese University of Hong Kong and The Hong Kong Polytechnic University) in the past few years. In the 2005-06 academic year, about 1 100 students have enrolled in the seven tourism and hotel management related degree and sub-degree programmes funded by the University Grants Committee. The number represents an increase of almost 20% as compared with the 2003-04 academic year. In the next two years, the Government will maintain a similar number of subsidized student places. The tertiary institutions will continue to take into account the market demand in planning future academic programmes, and good career prospect will also help attract students to take those programmes. Besides, the VTC has also enhanced their facilities to accommodate an increase in the number of student places in the past few years. In the 2005-06 academic year, the Hong Kong Institute of Vocational Education, the Hospitality Industry Training and Developing Centre and the Chinese Cuisine Training Centre under the VTC provided about 6 200 places for pre-employment and on-the-job training programmes. This has increased by 43% as compared with the 2003-04 academic year; and is expected to

increase by 78% in the 2009-10 academic year as compared with 2003-04.

Other than the above government-funded training places, there are also a number of organizations in the community that offer a variety of training programmes for people who intend to join the hotel industry. These programmes include various certificate and diploma courses in hospitality management, and hotel front-line operations and services, and so on.

The demand and supply of labour in the hotel industry is determined by market forces. We believe that the hotel industry will also, based on its operations, devise suitable personnel and resources management strategies to attract, train and retain the talents. The Government will continue to provide training opportunities to meet the long-term development needs of the tourism industry.

Hong Kong Students Studying at Mainland Universities

13. **MR ABRAHAM SHEK** (in Chinese): *President, it had been reported that the Vice Minister of the State Ministry of Education indicated in Beijing that Hong Kong students enrolled in mainland universities will pay the same tuition as their mainland counterparts starting from this autumn. He believed that, with the reduction in the tuition, more Hong Kong students would choose to pursue their studies in the Mainland. In this connection, will the Government inform this Council whether:*

- (a) *it has conducted any survey on the number of Hong Kong students studying at mainland universities, the subjects studied, the cities where the universities are located and the post-graduation profile of these students (including returning to Hong Kong or seeking employment in the Mainland, and so on) in each of the past five years; if it has, of the survey results; if not, the reasons for that;*
- (b) *the academic qualifications of Hong Kong graduates from mainland universities, who return to seek employment in Hong Kong, are recognized by local employers, and whether the academic qualifications of graduates from mainland universities are*

recognized as those of the local university graduates when they apply for civil service posts or sit for qualifying examinations of professional qualifications in Hong Kong; if not, the relevant details; and

- (c) *it has assessed the impact of the tuition reduction arrangements on Hong Kong students' decision to study at mainland universities; if so, of the assessment results; whether loans will be provided for Hong Kong students who study in the Mainland; if so, of the details; if not, the reasons for that?*

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

- (a) The University Grants Committee had commissioned the Census and Statistics Department to conduct a Thematic Household Survey on the "Pattern of Study in Higher Education" from June to August 2004. The survey revealed that amongst the 2.2 million of domestic households in Hong Kong at the time of enumeration, some 72 000 persons aged 15 and over were pursuing higher education outside Hong Kong. Among them, around 8% (or 5 500 persons) were studying in the Mainland. In addition, about 1 400 persons aged 15 and over had completed higher education in the Mainland in the three years before the survey was conducted.

The abovementioned survey further revealed that most Hong Kong students pursuing higher education in the Mainland studied "arts and humanities" and "social sciences" subjects.

The survey however did not cover the post-graduation profile and employment situation of the Hong Kong students graduated from the mainland institutions. The Administration does not have such information either.

- (b) As Hong Kong is a free market, employers are free to determine whether the academic qualifications awarded by mainland institutions should be recognized in staff recruitment.

In devising the entry qualifications for the Civil Service, the Hong Kong Special Administrative Region Government primarily made reference to the qualifications awarded by the local institutions. Degree qualifications awarded by non-local institutions, including those by mainland institutions, are subject to individual assessment to determine whether they are comparable in standard to the local qualification requirement set for a civil service post. The Civil Service Bureau will seek advice from the Hong Kong Council for Academic Accreditation on the standard of individual academic qualifications where necessary.

- (c) We believe that Hong Kong students will take into account a number of factors when they consider furthering their studies abroad, and the level of tuition fees will be one of their considerations. It is therefore difficult for us to assess at this stage whether a reduction in the level of university tuition fees will attract more Hong Kong students to pursue their studies in the Mainland.

In general, local students pursuing post-secondary accredited programmes offered by local institutions with up to 50% of the modules offered outside Hong Kong may apply for all financial assistance schemes administered by the Student Financial Assistance Agency, subject to the fulfillment of the relevant eligibility criteria of the individual schemes. To ensure the most effective use of our resources, these schemes are not applicable to students pursuing education offered by non-local institutions outside Hong Kong.

Services Provided Under Public Medical System

14. **MISS TAM HEUNG-MAN** (in Chinese): *President, some patients with periodontal disease have complained to me that government dental clinics have refused to provide treatment for such dental disease as it is outside the scope of their services. Regarding services provided under the public medical system, will the Government inform this Council:*

- (a) *of the existing criteria for determining whether medical services for certain diseases are to be provided in the public medical system;*

- (b) *whether it has regularly reviewed the above criteria; if it has, of the outcome of the review; if not, the reasons for that; and*
- (c) *where medical services are not provided for certain diseases under the public medical system, whether the authorities will, through subsidy or other means, help the patients seek treatment from the private medical system; if they will, of the details; if not, the reasons for that?*

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

- (a) Generally speaking, with the exception of dental diseases, public hospitals and clinics will provide medical services to patients with diseases requiring clinical treatments.

With regard to dental services, the Government's policy aims to improve the oral health and prevent dental diseases of the public through promotion and education, thereby raising their awareness in oral health, and facilitating the development of proper oral health habits and the proper use of oral care services. As far as dental treatment is concerned, the Government provides limited dental services to people in need of emergency treatment and people with special oral health care needs. Currently, there are 11 designated dental clinics under the Department of Health (DH) providing free-of-charge emergency dental treatment to the public for management of cases like dental pain and injury. The DH has also set up dental units in seven public hospitals for providing dental services to in-patients and people with special oral health care needs, for example, patients who are medically compromised, physically or mentally handicapped or those with facial deformity. The above services do not include treatment of periodontal disease, which indeed is preventable through good oral hygiene practices.

- (b) The Government conducts a territory-wide oral health survey at a 10-year interval to ascertain and monitor the oral health status and related oral health behaviour of the population. The last survey was carried out in 2001, and the findings revealed that the oral

health status of the population had been improving steadily and was found to be comparable to that of many developed countries. The result shows that the Government's publicity and education programmes have been effective in improving the oral health of the population.

- (c) While the existing policy of the Government on dental services mainly focuses on the prevention side, general dental services to the public are provided by the private sector. The Government also gives advice and guidance to patients where necessary for them to obtain appropriate services in the private sector. For those with financial difficulties, dental grants are made available to the elderly (aged 60 or above), the disabled or ill-health to cover the cost of dental treatment (dentures, crowns, bridges, scaling, restorations and root canal treatment) through the Comprehensive Social Security Assistance Scheme.

Use of Mobile Phones While Driving

15. **DR RAYMOND HO** (in Chinese): *President, with effect from 1 July 2000, a driver is prohibited by law from using any mobile telephone or other telecommunication equipment while holding it in his hand when the vehicle being driven by him is in motion. In this connection, will the Government inform this Council:*

- (a) *of the number of traffic accidents with casualties in each of the past three years which occurred while the drivers concerned were using mobile telephones held in their hands, and whether there is an upward trend in the number of such accidents;*
- (b) *of the up-to-date number of people prosecuted so far for breaching the relevant law; and*
- (c) *whether the police will step up enforcement in this respect?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Chinese): President, the numbers of traffic accidents with casualties and which were related to drivers using handheld mobile telephones while driving

were three, five and one in 2003, 2004 and 2005 respectively. The figures do not indicate an upward trend of such accidents. It should, however, be noted that generally, it is difficult to ascertain whether the drivers concerned are using handheld mobile telephones when accidents occur.

Between 1 July 2000 and March this year, a total of 34 921 prosecutions were instituted against drivers who were using handheld mobile telephones while driving.

The police have been taking active enforcement actions against this offence. We have also included this offence in the Schedule to the Fixed Penalty (Criminal Proceedings) Ordinance since 1 January 2006, so that the police can institute prosecutions by way of fixed penalty tickets. The police will continue to step up enforcement against this offence.

Plastic Sheathing of Water Pipes

16. **MR CHEUNG HOK-MING** (in Chinese): *President, it has been reported that copper fresh water pipes laid in the public area and sheathed with plastic can still be found in certain public housing blocks completed in or before 1996. Such plastic sheathing emits toxic gases when burned, and hence is not in compliance with the current fire safety requirements. In this connection, will the Government inform this Council:*

- (a) *of the current number of public housing estates with such fresh water pipes, their names as well as the numbers of blocks and households involved in each of the estates;*
- (b) *whether it will consider immediately removing the plastic sheathing of the existing water pipes to abate the potential fire safety hazards;*
- (c) *whether the Housing Department (HD) will expeditiously replace all such fresh water pipes; if so, of the works schedule; if not, the reasons for that; and*
- (d) *whether the authorities will consider bringing the buildings of the Hong Kong Housing Authority (HA) under the ambit of the Buildings Ordinance, so as to allow the Buildings Department (BD) to monitor the building materials used by the former?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Chinese): President, copper pipes sheathed with plastic are widely used locally. With effective insulation performance and good outward appearance, sheathed pipes are commonly used in exposed locations in both public and private buildings. Material testing has confirmed that the sheathed copper pipes used in public housing estates is non-inflammable, low-smoke and non-toxic. No harmful substances (such as dioxin) will be emitted during combustion. To minimize possible fire risks, the Fire Services Department advises against the use of sheathed pipes at fire-protected areas in public housing buildings. According to the HD's records and recent inspection checks, the bulk of sheathed pipes used in public housing estates are located at non-fire-protected areas and hence they will not pose any particular fire risks. Nonetheless, in the past, when repairing or replacing the water pipes in individual estates, sheathed pipes were also used at fire-protected locations.

My reply to the four-part question is as follows:

- (a) Sheathed pipes are used in 78 public housing estates. Amongst them, 17 blocks in seven estates have such pipes located in fire-protected areas. Details are set out in the Annex.
- (b) The plastic sheathing of the copper pipes used in public housing estates is a safe material and will not pose any safety problem. Nonetheless, to address residents' concerns, the HD will remove the plastic sheathing of the pipes at fire-protected locations. The works will take a few months to complete.
- (c) As mentioned above, the sheathed pipes used in public housing estates are mostly located in non-fire-protected areas and will not pose any safety problem. As for pipes in fire-protected areas, with removal of the plastic sheathing, there will be no further fire safety concern. The copper pipes can continue to be used and there is no need to replace them.
- (d) As regards bringing the HA buildings under the ambit of the Buildings Ordinance (Cap. 123) so as to allow the BD to monitor the

HA's use of building materials, the Government will consider this proposal as part of its study on the options for application of the Buildings Ordinance to public housing. Moreover, the Independent Checking Unit has been established in the HD since November 2000 to conduct third-party building control over public housing projects. The approval, consent and supervision mechanism being applied to new public housing projects, including the building materials used, are consistent with the BD's practices to ensure compliance with the technical and safety standards of the Buildings Ordinance.

Annex

Public Housing Blocks with Plastic-sheathed Copper
Pipes in Fire-protected Areas

<i>Names of Public Housing Estates</i>	<i>Names of Buildings</i>
1. Kwong Tin Estate	Kwong Ngar House
	Kwong Hin House
2. Wang Tau Hom Estate	Wang Cho House
	Wang Wai House
	Wang Yiu House
	Wang Lai House
3. Choi Fai Estate	Choi Wah House
	Choi Yip House
4. Tin Yiu (1) Estate	Yiu Shing House
5. Tin Yiu (2) Estate	Yiu Cheong House
	Yiu Fung House
	Yiu Chak House
	Yiu Lung House
	Yiu Tai House
	Yiu Wah House
6. Siu Sai Wan Estate	Sui Tai House
7. Kwai Fong Estate	Kwai Kin House

Internet Protocol Addresses

17. **MR SIN CHUNG-KAI** (in Chinese): *President, will the Government inform this Council whether Internet Protocol (IP) addresses are regarded as a type of the "personal data" so defined in the Personal Data (Privacy) Ordinance (Cap. 486) (the Ordinance); if so, of the justifications; if not, whether the Government will review the Ordinance and adopt measures to prohibit the disclosure of IP addresses to third parties without the authorization of the owners?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President, according to section 2(1) of the Ordinance, "personal data" means any data:

- (i) relating directly or indirectly to a living individual;
- (ii) from which it is practicable for the identity of the individual to be directly or indirectly ascertained; and
- (iii) in a form in which access to or processing of the data is practicable.

The definition of "personal data" under the Ordinance is similar to the definition adopted in data protection laws of other jurisdictions such as Australia and New Zealand. It is also comparable to the definition of "personal data" in the European Union's Directive on the Protection of Personal Data and on the Free Movement of Such Data.

An IP address is a specific machine address assigned by the web surfer's Internet Service Provider (ISP) to a user's computer and is therefore unique to a specific computer. An IP address alone can neither reveal the exact location of the computer concerned nor the identity of the computer user. As such, the Privacy Commissioner for Personal Data (PC) considers that an IP address does not appear to be caught within the definition of "personal data" under the Ordinance. That said, whether an IP address together with other data constitutes "personal data" under the Ordinance will have to depend on the specific circumstances surrounding the case.

ISPs in Hong Kong have to take out a Public Non-exclusive Telecommunications Service (PNETS) licence issued by the

Telecommunications Authority under the Telecommunications Ordinance. Information about customers of ISPs (which may or may not be classified as personal data under the Ordinance) is protected by Special Condition 7 of the PNETS licence which provides that:

- (i) the licensee shall not disclose information of a customer except with the consent of the customer, which form of consent shall be approved by the Telecommunications Authority, except for the prevention or detection of crime or the apprehension or prosecution of offenders or except as may be authorized by or under any law; and
- (ii) the licensee shall not use information provided by its customers or obtained in the course of provision of service to its customers other than for and in relation to the provision by the licensee of the service under the licence.

A breach of the licence conditions may result in financial penalties and under exceptional circumstances, revocation of the licence.

ISPs in Hong Kong are bound by the Ordinance. As data users, ISPs need to comply with Data Protection Principle 3 which provides that personal data shall not be used, disclosed or transferred for a purpose other than for which they were collected at the time of their collection (or a directly related purpose) in the absence of the data subject's prescribed consent.

As explained in the second paragraph above, the exact location of a computer or the identity of a computer user cannot be traced using an IP address alone. To trace an account user (in the case of a dial-up customer) or the physical address of a user's computer (in the case of a leased circuit or broadband customer) that has made use of a particular IP address at a particular point in time, one must have the IP address, the time of use of the IP address and the appropriate IP assignment logs kept by the ISPs. The provisions of the Ordinance together with the relevant licence conditions in the PNETS licence issued to ISPs should therefore be sufficient to prohibit the unauthorized disclosure of information collected by ISPs.

The PC is separately conducting an in-depth research on whether an IP address can be regarded as "personal data" under the Ordinance. Apart from a

study of the judicial decisions of local and overseas courts on "personal data", the PC has also sought the views of privacy commissioners of other jurisdictions on the scope of coverage of "personal data" in their respective jurisdictions, as well as consulted the professional views of a senior counsel on issues relating to the scope of "personal data". Should research findings conducted by the PC reveal that an IP address should be treated as personal data under the Ordinance, disclosure of such information would be regulated by the Ordinance.

Specialist Out-patient Services at Public Hospitals

18. **DR JOSEPH LEE** (in Chinese): *President, regarding the specialist out-patient (SOP) services at public hospitals, will the Government inform this Council whether it knows:*

- (a) *the 10 SOP services with the longest average waiting time for new cases at present, and the reasons for the relatively longer waiting time required;*
- (b) *for each of the above 10 SOP services in each of the past three years, the respective numbers of new cases in Hong Kong as a whole and in each hospital cluster, the average and longest waiting time for new cases, the patients' absence rate for scheduled appointments, and the ratio of medical practitioners and nurses to new cases; and*
- (c) *if the Hospital Authority (HA) plans to shorten the relevant waiting time; if so, of the details of the plan?*

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

- (a) At the SOP Departments of the HA, the 10 specialties with the longest median waiting time in 2005 in descending order were Surgery (SUR); Orthopaedics and Traumatology (ORT); Medicine (MED); Ear, Nose and Throat (ENT); Gynaecology (GYN); Psychiatry (PSY); Paediatrics and Adolescent Medicine (PAE); Neurosurgery (NS); Ophthalmology (OPH); and Obstetrics (OBS).

After the implementation of a triaging system for SOP services in 2004, SOP cases are classified into Priority 1 (urgent), Priority 2 (semi-urgent), and Routine categories according to the urgency of the patients' clinical condition. This is to ensure patients with urgent conditions are given the appropriate medical attention in a timely manner. The triaging system benefits patients with urgent conditions by shortening their waiting time. Nevertheless, the waiting time for patients with non-urgent conditions has lengthened as a result, hence the increase in the median waiting time in the past two years.

- (b) The number of new cases booked for the 10 specialties above, the median waiting time and the waiting time at the 99th percentile for such bookings in the past three years are set out in the table below.

<i>Specialty</i>	<i>No. of new cases booked</i>			<i>Waiting time (weeks) for new cases</i>					
	2003	2004	2005	2003		2004		2005	
				<i>Median</i>	<i>99th percentile</i>	<i>Median</i>	<i>99th percentile</i>	<i>Median</i>	<i>99th percentile</i>
SUR	137 360	146 986	133 388	11	69	14	102	16	123
ORT	87 674	93 839	86 352	9	54	12	82	16	120
MED	106 604	106 432	98 505	13	70	13	85	13	93
ENT	66 315	72 864	70 541	8	64	5	81	7	90
GYN	55 050	57 480	51 506	6	33	8	42	7	62
PSY	30 820	35 971	35 055	4	62	5	81	4	85
PAE	22 276	23 812	25 331	2	22	3	27	4	42
NS	3 811	4 408	4 582	2	86	3	78	4	62
OPH	98 295	108 286	104 775	2	57	3	76	3	79
OBS	33 164	35 918	37 593	1	7	1	8	1	9

A breakdown of the median waiting time for Priority 1, Priority 2, and Routine cases for SUR, ORT, MED, ENT, GYN, PSY, PAE and OPH in 2005 are shown in the table below. The breakdown figures for NS and OBS are not readily available.

<i>Specialty</i>	<i>Median Waiting Time (weeks)</i>		
	<i>Priority 1</i>	<i>Priority 2</i>	<i>Routine</i>
SUR	1	5	34
ORT	< 1	4	35
MED	1	7	31
ENT	< 1	4	16
GYN	< 1	4	15
PSY	< 1	4	22
PAE	< 1	4	12
OPH	< 1	4	27

The total number of first SOP attendances handled by each hospital cluster in the past three years is set out in the table below.

<i>Hospital Cluster</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>
Hong Kong East	58 768	61 815	62 330
Hong Kong West	52 946	53 137	53 041
Kowloon East	69 412	76 391	78 845
Kowloon Central	82 736	91 919	85 322
Kowloon West	109 927	119 555	112 982
New Territories East	91 672	99 964	99 688
New Territories West	69 146	71 255	68 267
Total	534 607	574 036	560 475

The default rate (or rate of absence) of new cases for SOP attendance for the 10 specialties above in the past three years are set out in the table below.

<i>Specialty</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>
SUR	25.6	21.8	22.8
ORT	23.4	19.6	21.5
MED	22.7	18.3	17.9
ENT	22.3	16.7	16.1
GYN	18.4	15.7	16.9
PSY	19.1	17.8	17.2
PAE	16.7	13.5	14.7
NS	14.0	13.0	13.1
OPH	9.6	7.9	8.2
OBS	9.1	7.7	7.7

Since doctors and nurses are deployed to provide health care services in both the in-patient and out-patient settings, we are not able to provide meaningful ratios of the number of doctors and nurses to new SOP cases.

- (c) The HA has taken a number of measures to alleviate the waiting time problem at SOP Departments. These include:
 - (i) implementing the triage system to differentiate patients into Priority 1, Priority 2 and Routine cases, and ensure timely attendance for patients with urgent medical needs;
 - (ii) deploying specialists on sessional basis at General Out-patient Clinics to support the management of chronically ill patients;
 - (iii) setting up 18 Family Medicine Specialist Clinics to take up the patients triaged as non-urgent cases and act as the gatekeeper for SOP Clinics;
 - (iv) reducing unnecessary referrals by the distribution of referral and triage guidelines to relevant doctors in both the public and private sector;
 - (v) establishing protocols for the discharge of medically stable patients to be followed up at the primary care level; and
 - (vi) developing shared care externally with private practitioners and non-governmental organizations, and internally between doctors and nurses/physiotherapists.

Harassment by Debt Collection Agencies

19. **MR ALBERT CHAN** (in Chinese): *President, in reply to my question at the Council meeting on 8 December 2004, the Government advised that it would continue to combat illegal practices employed by debt collection agencies (DCAs). However, I have learnt that there is a deteriorating trend in the harassment of members of the public by DCAs in recovering debts. Apart from banks, finance companies and telecommunications companies, recently some beauty service*

companies and tutorial teachers have also hired DCAs to collect money owed by their customers, causing many people to suffer harassment. In this connection, will the Government inform this Council:

- (a) of the number of cases reported by the public to the police since December 2004 about harassment by DCAs, and how the figure compares to those in the preceding two years;*
- (b) whether the authorities will reconsider accepting the Law Reform Commission (LRC)'s recommendations in 2002 on creating an offence of harassment of debtors and others and introducing a statutory licensing system; if so, of the details; if not, the reasons for that; and*
- (c) whether it will consider stepping up law-enforcement actions to curb the harassing practices of DCAs; if so, of the details; if not, the reasons for that?*

SECRETARY FOR SECURITY (in Chinese): President,

- (a) In 2004, there were 1 988 crime reports and 20 429 non-crime reports relating to debt collection. In 2005, there were 2 355 crime reports and 18 255 non-crime reports in relation to debt collection activities. For the first quarter of 2006, the figures are 482 and 3 877 respectively.

The figures above should be considered against the fact that there was a change in the classification of "crime" and "non-crime" cases since mid-2004 with the aim to better streamline and utilize existing resources. Some borderline cases that were previously classified as "non-crime reports" are now classified as "crime reports", and all such cases would be investigated by the Criminal Investigation Team, thus ensuring more thorough examination of the cases from the criminal investigation angle. While this has resulted in an increase of crime reports, the total number of debt collection related reports in 2005 (20 610) has in fact decreased by 1 807 cases or 8% compared to 2004 (22 417). When compared to the first quarter of

2005, the first quarter of 2006 has also recorded a decrease of 1 048 cases or 19.4%.

- (b) The Administration has thoroughly studied the findings and recommendations of the LRC Report on the Regulation of Debt Collection Practices. In September 2005, we issued to the Panel on Security of the Legislative Council our response to the Report. In formulating its response, the Administration has taken into account a number of factors and considerations, as well as developments subsequent to the publication of the Report. At present, a number of legislative provisions are already in place to combat abusive practices employed by DCAs. These include, *inter alia*, the criminal offences of blackmail, criminal intimidation, criminal damage and common assault. The Administration will continue to enforce existing laws to combat illegal practices in debt collection. The question of stalking that may be associated with debt collection is being considered in the context of the study on the LRC Report on Stalking.

The Administration will continue to adopt a multi-disciplinary mode in providing the necessary infrastructure, support, service and statutory safeguards to deal with abusive practices associated with debt collection.

- (c) The police accord a high priority to tackling unscrupulous debt collection practices. Since June 2004, internal procedures have been streamlined such that greater resources are provided to debt collection malpractices. These include the new classification system for such cases into crime and non-crime reports, with the latter further sub-divided into "high-threat" and "low-threat" reports. The police will take the necessary follow-up action on the reports. The police will instigate prosecution where there is sufficient evidence.

Control of Drugs Containing Codeine

20. **DR KWOK KA-KI** (in Chinese): *President, regarding the control and abuse of drugs containing Codeine, will the Government inform this Council:*

- (a) *of the quantities of drugs containing not less than 0.2% of Codeine that have been sold by private registered pharmacies, private hospitals, public hospitals or clinics and registered medical practitioners each year since 2001;*
- (b) *as the authorities amended the legislation in November 2005 to require that pharmaceutical products containing not less than 0.2% of Codeine must be sold in pharmacies under the supervision of registered pharmacists and in their presence, with the support of prescriptions, whether the Department of Health (DH) has stepped up the inspection of pharmacies in order to ensure that the drugs concerned are sold according to the above requirement; if it has, of the details of inspection;*
- (c) *whether research has been conducted on the reasons for the rising trend in the abuse of drug containing Codeine since 2001; and*
- (d) *of the effectiveness of drug addiction treatment and rehabilitation services operated or funded by the DH, Social Welfare Department (SWD), Hospital Authority (HA) and non-government organizations for persons who abuse drugs containing Codeine?*

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

- (a) At present, cough preparations containing Codeine available in the local market are mostly produced by local manufacturers with imported Codeine materials. Under the Import and Export Ordinance, importers are required to apply for an import licence from the DH before any pharmaceutical products or drugs can be imported into Hong Kong. According to the DH's records, the quantities of the Codeine materials imported (in kg) from 2001 to 2005 are as follows:

<i>Year</i>	<i>2001</i>	<i>2002</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>
Kg	1 632	1 613	1 608	1 584	1 613

The Pharmacy and Poisons Ordinance does not require importers to provide the DH with information on the business units or other institutions to which the imported drugs are sold. The DH does not require importers to furnish this information either. Therefore we are unable to provide the data required by this part of the question, except for public hospitals.

The quantities of pharmaceutical products containing not less than 0.2% of Codeine which were dispensed to patients of the HA during the period from 2001-02 to 2005-06 are as follows:

	2001-02	2002-03	2003-04	2004-05	2005-06
Codeine Phosphate Tab (30 mg)	540 732 tabs	627 882 tabs	703 913 tabs	788 816 tabs	792 073 tabs
Codeine Phosphate Syrup (25 mg/5 ml)	854 437 ml	718 492 ml	648 510 ml	611 354 ml	740 777 ml
Codeine Phosphate Tab (15 mg)	5 606 tabs	32 tabs	0	0	0

- (b) The Administration introduced amendments to the Pharmacy and Poisons Regulations in November 2005 to list drugs containing not less than 0.2% of Codeine in the Third Schedule to the Regulations for Part I Poisons, so that these pharmaceutical products must be sold with the support of prescription of a medical practitioner under the supervision of a registered pharmacist. After the amended Regulations came into effect, the DH has stepped up supervision over the sale of the drugs through test-purchases. The numbers of test-purchases of cough preparations (with products containing Codeine as the main target) conducted since 2004 are tabulated as follows:

<i>Year</i>	2004	2005	2006 (<i>First quarter</i>)
Number of test-purchases	679	867	610

Since the amendments came into operation, no pharmacies have been found in breach of the legislation for selling drugs containing not less than 0.2% of Codeine.

- (c) Codeine is an active ingredient in cough medicine. According to the Central Registry of Drug Abuse (CRDA), the number of reported cough medicine abusers had gradually increased from 291 in 2001 to 704 in 2005. In the past few years, the number of cough medicine abusers accounted for approximately 2% to 5% of all drug abusers (see the table below).

	<i>Number of cough medicine abusers</i>	<i>As a percentage of all drug abusers (%)</i>
2001	291	1.8
2002	377	2.4
2003	547	3.9
2004	658	4.5
2005	704	5.1

According to the CRDA, the reasons cited by abusers of cough medicine for drug abuse are largely similar to those of abusers of other psychotropic drugs. They include mainly "relief of boredom/depression/anxiety", "peer influence" and "seeking ecstasy or sensual gratification". A study on cough medicine abuse among young people in Hong Kong¹ has found that in addition to the personal factors mentioned above, youngsters also have the misconception that abusing cough medicine is unlikely to result in addiction. Besides, family reasons like poor relationship with parents and social factors like the easier availability of cough medicine relative to other drugs also account for the abuse of cough medicine by youngsters.

- (d) Hong Kong adopts a multi-modality approach in the provision of drug treatment and rehabilitation services for drug abusers, including people abusing cough medicine. Each modality has its own specific focus to cater for the divergent needs of abusers from different backgrounds. At present, government-funded voluntary residential treatment and rehabilitation centres will submit regular reports of their services to the relevant departments. In the reports, however, no breakdown is provided on the types of drugs abused.

¹ The relevant report was published jointly by the Tung Wah Group of Hospitals and The Chinese University of Hong Kong in June 2004.

Numbers of cases handled by various types of service providers in 2005 are summarized as follows:

- residential services were provided to a total of 2 287 drug dependent persons by 18 residential drug treatment and rehabilitation centres subsidized by the DH and SWD;
- 334 cases were handled by the five SWD subvented counselling centres for psychotropic substance abusers; and
- the total caseload of the five substance abuse clinics under the HA amounted to 12 373, of which 888 were new cases and 11 485 were follow-up cases.

Data regarding the services provided by non-subvented agencies are not available as they are not under obligation to report to the Government.

BILLS

Second Reading of Bills

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): Bills. We now resume the Second Reading debate on the St. Stephen's College Incorporation (Change of Name of the Council of St. Stephen's College and General Amendments) Bill 2005.

ST. STEPHEN'S COLLEGE INCORPORATION (CHANGE OF NAME OF THE COUNCIL OF ST. STEPHEN'S COLLEGE AND GENERAL AMENDMENTS) BILL 2005

Resumption of debate on Second Reading which was moved on 30 November 2005

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the St. Stephen's College Incorporation (Change of Name of the Council of St. Stephen's College and General Amendments) Bill 2005 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): St. Stephen's College Incorporation (Change of Name of the Council of St. Stephen's College and General Amendments) Bill 2005.

Council went into Committee.

Committee Stage

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

ST. STEPHEN'S COLLEGE INCORPORATION (CHANGE OF NAME OF THE COUNCIL OF ST. STEPHEN'S COLLEGE AND GENERAL AMENDMENTS) BILL 2005

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the St. Stephen's College Incorporation (Change of Name of the Council of St. Stephen's College and General Amendments) Bill 2005.

CLERK (in Cantonese): Clauses 1 to 5, 7, 8, 9 and 12.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 6, 10 and 11.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam Chairman, I move the amendments to clauses 6 and 10 and the deletion of clause 11, and I will briefly explain the reasons for these amendments.

Clause 6 is about the objects of the St. Stephen's College Council (the Council). As it is the wish of the College to take forward and extend the education work in which it has been originally engaged, we believe the proposed amendment can fully reflect this wish. Moreover, we propose to add "or the incorporated management committee" after "committee" to ensure continuous application of the provision in the event of an incorporated management committee being formed.

We propose to amend clause 10. With regard to the proposed provisions, after further consultation with the council of the College on matters relating to privacy, we propose that the addresses of members of the Council be excluded from the requirement of being delivered to the Registrar of Companies for registration. Besides, in drafting the Bill, we proposed the addition of section 6D(b), so that the council of the College will continue to have the powers currently conferred on it under the existing sections 4(2) and 4(3).

Subsequently, the council of the College raised no objection to the inclusion of the commencement provision to defer the commencement of the Bill and hence ensure the continuity of those powers before the adoption of the new Constitution. We will simplify the proposed section 6D accordingly.

Furthermore, clause 11 is about the transitional arrangement for the Constitution. Given the inclusion of the commencement provision, it is no longer necessary to retain this clause and so, we propose to delete it.

I hope Members will support and pass these amendments.

Thank you, Madam Chairman.

Proposed amendments

Clause 6 (see Annex I)

Clause 10 (see Annex I)

Clause 11 (see Annex I)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): As the amendment to clause 11, which deals with deletion, has been passed, clause 11 is deleted from the Bill.

CLERK (in Cantonese): Clauses 6 and 10 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clause 1A Commencement.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam Chairman, I move that new clause 1A be read the Second time. It seeks to add immediately after clause 1 a new clause 1A on commencement which provides that the Amendment Ordinance shall come into operation on a day to be appointed by the Secretary for Education and Manpower by notice published in the Gazette.

The new clause serves to maintain flexibility, so that the relevant regulations will continue to govern meetings of the Council, the council of the College, and so on, until the completion of the drafting of the new Constitution and its adoption by the Council.

I hope that Members will support and pass this amendment. Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 1A be read the Second time.

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 as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clause 1A.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam Chairman, I move that new clause 1A be added to the Bill.

Proposed addition

New clause 1A (see Annex I)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 1A be added to the Bill.

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

ST. STEPHEN'S COLLEGE INCORPORATION (CHANGE OF NAME OF THE COUNCIL OF ST. STEPHEN'S COLLEGE AND GENERAL AMENDMENTS) BILL 2005

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

St. Stephen's College Incorporation (Change of Name of the Council of St. Stephen's College and General Amendments) Bill 2005

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 St. Stephen's College Incorporation (Change of Name of the Council of St. Stephen's College and General Amendments) Bill 2005 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): St. Stephen's College Incorporation (Change of Name of the Council of St. Stephen's College and General Amendments) Bill 2005.

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): We now resume the Second Reading debate on the Births, Deaths and Marriages (Digital Image) Bill.

BIRTHS, DEATHS AND MARRIAGES (DIGITAL IMAGE) BILL

Resumption of debate on Second Reading which was moved on 8 March 2006

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Births, Deaths and Marriages (Digital Image) Bill be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Births, Deaths and Marriages (Digital Image) Bill.

Council went into Committee.

Committee Stage

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

BIRTHS, DEATHS AND MARRIAGES (DIGITAL IMAGE) BILL

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Births, Deaths and Marriages (Digital Image) Bill.

CLERK (in Cantonese): Clauses 1 to 4, 6 to 47, 49 and 50.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 5 and 48.

SECRETARY FOR SECURITY (in Cantonese): Madam Chairman, I move the amendments to clauses 5 and 48, as printed on the paper circularized to Members. These are technical amendments proposed in the light of the suggestions made by the Legal Service Division of the Legislative Council after studying the Births, Deaths and Marriages (Digital Image) Bill (the Bill).

In the new provisions under clauses 5 and 48, corresponding digital image "filed (載入)" in the relevant Register of Births and Deaths and certified copies "filed (載入)" in the relevant Register Book of Births and Deaths are mentioned. In other words, "載入" in the Chinese text of the Bill is used for records maintained by electronic means or in paper format.

To put it more specifically, we propose in the amendment that in the Chinese text, when the records are stored by electronic means, "載入" will be replaced by "備存", and for records stored in paper format, "載入" will be replaced by "存檔".

Thank you, Madam Chairman.

Proposed amendments

Clause 5 (see Annex II)

Clause 48 (see Annex II)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 5 and 48 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clause 13A Official seal.

SECRETARY FOR SECURITY (in Cantonese): Madam Chairman, I move that new clause 13A, as printed on the paper circularized to Members, be read the Second time.

Clauses 4(5) and 47(3) seek to amend the relevant provisions of the Civil Aviation (Births, Deaths and Missing Persons) Ordinance (Cap. 173) and Merchant Shipping (Seafarers) Ordinance (Cap. 478) respectively, stating that the references to computer record in sections 22, 24, 25 and 28 of the Births and Deaths Registration Ordinance are references to the database of a register computer.

However, section 24 of Cap. 174 which provides that the certified copy must be stamped with the official seal does not make any direct or indirect reference to computer record, although the relevant computer database will be involved in the making of the certified copy. To enable readers to understand the provision more easily, we propose to add a subsection (3) to section 24 of Cap. 174 to provide that a reference to a certified copy of any entry in a register includes a reference to such a certified copy that is produced by using the information recorded in the computer record.

Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 13A be read the Second time.

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 as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clause 13A.

SECRETARY FOR SECURITY (in Cantonese): Madam Chairman, I move that new clause 13A be added to the Bill.

Proposed addition

New clause 13A (see Annex II)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 13A be added to the Bill.

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

BIRTHS, DEATHS AND MARRIAGES (DIGITAL IMAGE) BILL

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

Births, Deaths and Marriages (Digital Image) Bill

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

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Births, Deaths and Marriages (Digital Image) Bill be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Births, Deaths and Marriages (Digital Image) Bill.

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): We now resume the Second Reading debate on the Public Health and Municipal Services (Amendment) Bill 2005.

PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) BILL 2005**Resumption of debate on Second Reading which was moved on 4 May 2005**

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

MR FRED LI (in Cantonese): I now speak in my capacity as Chairman of the Bills Committee on Public Health and Municipal Services (Amendment) Bill 2005.

As the Report of the Bills Committee has set out in detail our deliberations, I will only highlight some salient points today.

The Bills Committee's major concerns are the scope of the Bill, the proposed powers of and procedures for entering private premises and the legal liability of persons responsible for the premises.

Some members consider that if the legislative intent of the Bill is to strengthen anti-mosquito work in areas which pose problem, for instance, abandoned private farmland and huts and common parts in multi-storey buildings, the additional powers to be conferred by the Bill should only be applicable to these problem areas instead of all private land and premises.

The Administration has explained that the powers to carry out anti-mosquito actions and the power of entry into any premises are already provided for under the existing sections 27 and 126 respectively of Cap. 132. The new section in the Bill is to empower the Authority to take necessary actions for preventing the breeding of mosquitoes without notice where there is mosquito-related health hazard. Where such hazard is attributable to any act,

default or sufferance of any person, the Authority may recover from the person any costs incurred by the Authority in the taking of such actions. As section 126 of Cap. 132 deals with general power of entry, it is not appropriate to make express provisions to restrict the powers of entry under Cap. 132 for the purpose of carrying out anti-mosquito actions to certain problem areas only.

On the expression of "person responsible for the management of the premises" proposed in the Bill, the Administration has explained that Cap. 132 currently only imposes legal liability on owners or occupiers and the Administration can only seek the co-operation of the management body to take remedial actions to prevent mosquito breeding. To impose a legal duty on the management body will make it act more responsibly.

To respond to members' concerns on the definition of mosquito-related health hazards, the Administration has agreed to specify in the internal guidelines that mosquito-related health hazard refers to the following scenarios:

- (1) any potential mosquito breeding grounds found within 500-m radius of a recent local or imported case of dengue fever;
- (2) any potential mosquito breeding grounds found within 2-km radius of a recent local case of Japanese encephalitis; and
- (3) any areas where the area ovitrap indices are above 40%.

Some members have expressed concern that managers of tso/t'ongs in the New Territories will be regarded as persons responsible for the premises and held legally liable. Members have pointed out that many owners/occupiers of abandoned land or huts are not in Hong Kong and they may not be aware of the mosquito breeding problem on their land or premises and the notice requiring them to take remedial actions. Moreover, appointed managers of tso/t'ongs only act on behalf of the villagers. They do not actually own the land/premises or have power to dispose of such land/premises. They should not be held liable for failure to comply with the notice or to pay the costs for anti-mosquito actions taken by the Government.

According to the Administration, it has explained to Heung Yee Kuk that the cost recovery mechanism is already provided for in an existing ordinance and the Bill has not proposed any change. It is also a well-established principle that

owners/occupiers of private land should manage the land themselves. The duties and responsibilities of appointed managers of tso/t'ongs will remain unchanged even if the Bill is not passed. The Administration has also pointed out that the implication of the proposed section 27(3) in the Bill is that the person will not commit any offence if the mosquito problem is not attributable to the act, default or sufferance of the person. The land owner or manager of the land will not be liable if the mosquito problem is caused by factors beyond his control.

Regarding the powers of entry into private premises, members are of the view that to guard against the Authority abusing its powers, the Administration should consider setting out the relevant procedures in the Bill. The Administration has assured the Bills Committee that the power of entry will continue to be exercised with care and only when strictly necessary. Under the existing and proposed procedures, staff of the Food and Environmental Hygiene Department (FEHD) will first try to identify the occupiers or owners concerned to enlist their co-operation in clearing any accumulation of water or eliminate any mosquito breeding grounds. Under section 126(1) of Cap. 132, admission to any premises not for business purposes is subject to the serving of the Notice of Intended Entry to the occupier or person in charge of such premises and such notice should be served for at least two hours before demand of admission.

The Administration has explained that the FEHD will still have to apply for a court warrant to enter private premises which are not for commercial purposes even after the Bill has been enacted. It is not necessary to specify in the Bill the procedure for serving the Notice of Intended Entry and Notice of Intention to apply for Warrant of Entry as they are provided for in section 126 of Cap. 132. Nevertheless, the Administration has undertaken to provide clear guidelines to FEHD staff on the procedures for carrying out anti-mosquito actions and gaining entry into private premises.

The Bills Committee also supports the Committee stage amendments proposed by the Administration.

Madam President, I so submit.

MR WONG YUNG-KAN (in Cantonese): Madam President, the objectives of the Bill are to empower the Government to deal with mosquito breeding

problems, to issue notices to persons responsible for the premises to require them do certain acts for preventing the breeding of mosquitoes, and to take actions to prevent the breeding of mosquitoes without serving a notice where there is mosquito-related health hazard. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) supports the Bill in principle.

However, during the discussion of the Bills Committee on the proposed section 27(1AA) which relates to the interpretation of the term "the person responsible for the premises", I noticed that these persons responsible for the premises include appointed managers of land of tso/t'ongs in the New Territories as well as trustees of trustee premises. Owing to the relatively complicated nature of issues relating to land of tso/t'ongs in the New Territories, the problem of traditional land management and the possible impact of the relevant provisions on numerous multi-storey buildings in Hong Kong, the Bills Committee thus suggested the Government to consult the views of the Heung Yee Kuk and the 18 District Councils. Unfortunately, due to a communication problem between the Government and the New Territories Heung Yee Kuk, Mr CHEUNG Hok-ming and other Members (including Mr Daniel LAM) joined the Bills Committee midway in the course of deliberations on the Bill. I have to express my great regret regarding the communication ability of the Government. After Mr CHEUNG Hok-ming and Mr Daniel LAM had joined the Bills Committee midway, they expressed their views on the problem of tso/t'ongs.

On the other hand, I also notice that under proposed section 27(1B) and (2B), the authority concerned may take such actions as it considers necessary and apply for warrants from the Court to gain entry into the premises to carry out anti-mosquito actions. The authorities have assured the Bills Committee that they would endeavour to identify the person responsible for the premises and require him to take remedial actions to prevent mosquito breeding before taking enforcement actions, but the authorities may still have the need to enter the premises concerned. I hope that such actions will be taken only as a last resort where there is no alternative. At the same time, I hope the authorities can by all accounts exercise self-restraint and try to gain entry into premises by exhortation to carry out anti-mosquito actions, so as to avoid any unhappy incidents.

Madam President, I so submit.

MRS SELINA CHOW (in Cantonese): Madam President, the rainy season in Hong Kong has begun. The advent of the rainy season may not only cause flooding problems but will also bring the worrying issue of mosquitoes. Actually, after the SARS outbreak, the public has heightened their awareness of public health, and a number of fatal diseases, such as Dengue fever, Japanese Encephalitis and Chikungunya fever, have already been proved to be mosquito-borne-diseases. Therefore, in recent years, members of the public have been particularly concerned about the mosquito breeding problem.

According to the ovitrap index announced by the Food and Environmental Hygiene Department (FEHD) last month, the indices for certain districts showed drastic increases. Among which, the indices recorded at Lai King and Diamond Hill, being 18.2% and 17% respectively, were the highest, close to the alert level. For the other three districts, namely Yuen Long, that is my constituency in New Territories West, and Fanling and Sheung Shui in New Territories East, the indices recorded all exceeded 10%, so the situation is obviously worse than last year. The FEHD also estimates that this year, the mosquito problem will be more serious than previous years. We often receive concerns in this respect expressed by residents of these districts, requesting the Government to step up its anti-mosquito actions.

On this premise, as well as the consideration for public health and safety, the Liberal Party strongly supports the amendments proposed by the authorities to the Public Health and Municipal Services Ordinance, which introduce more effective methods to deal with the mosquito problem and provide greater protection for the public.

In the course of the deliberations on the Bill, our party comrade, Mr Tommy CHEUNG, noticed a problem related to "the powers of and procedures for entering private premises". As the Bill confers additional powers on the authority concerned to enter private premises, to guard against any abuse of power by the authority, particularly if it involves the entering of private premises that may result in the infringement of privacy and property right of the public, we proposed that sufficient safeguards should be put in place.

The authorities later explained to the Bills Committee that clear procedures for entering private premises, which FEHD officers have to comply with, have been set out in existing ordinances. These provisions include the serving of a "Notice of Intended Entry" to the occupier or person in charge of the premises

concerned at least two hours before demand for admission; and if the premises is unoccupied, or entry to the premises is still refused two hours after the serving of the aforesaid notice, the FEHD has to apply for a warrant of entry from the Court. The authorities also stressed that despite the passage of the present Bill, the FEHD still has to apply for a court warrant to enter private premises which are not for commercial purposes. It seems that this power is already subject to check and balance to a certain extent.

At the same time, the authorities undertook to issue clear guidelines to the FEHD on the procedures for carrying out anti-mosquito actions and gaining entry into private premises. We hope that the approach adopted must be very clear and comprehensive, so that it can guard against abuse of power and prevent confusion. Given all these, we consider that our concerns on various aspects, which we think are also major concerns of the public, have been addressed by the authorities. The most important point is that the public is deeply concerned about the protection of their privacy and property right to their premises. We, the Liberal Party, therefore support the Bill. However, as the mosquito breeding problem is worsening, in addition to making an all-out effort in anti-mosquito actions, the authorities should step up its prevention and education work, gearing every one in the community to work together in anti-mosquito actions. Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Health, Welfare and Food to reply.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I thank the Chairman of the Bills Committee on Public Health and Municipal Services (Amendment) Bill 2005 (the Bills Committee), Mr Fred LI, and all its members for their efforts in scrutinizing the Bill. I must also thank in particular the New Territories Heung Yee Kuk (HYK), District Councils (DCs), Area Committees, District Clean Hong Kong Committees, the pest control trade and building management bodies for giving us their valuable

views during the consultation. Their views are very important to us in further perfecting the Bill.

At present, section 27 of the Public Health and Municipal Services Ordinance already empowers the Administration to issue a notice to the occupier or owner of the premises where there is an accumulation of water with possible existence of larvae, requiring the removal of accumulated water within a specified time. If the occupier or owner fails to take actions in compliance with the notice, government officers may request for entry into the premises to remove the accumulation of water and recover the costs incurred. This Amendment Bill is proposed to make up for the inadequacies in the existing provisions, so that the Government can more effectively deal with the problem of mosquito breeding caused by accumulation of water.

The proposed amendments mainly serve to address problems in three areas:

Firstly, there is no express provision in the existing legislation stipulating that the Food and Environmental Hygiene Department (FEHD) can remove articles that can cause accumulation of water inside the premises, such as used lunch boxes, bottles and cans, tyres, and so on. The proposed amendments will empower FEHD officers to deal with articles that can cause accumulation of water;

Secondly, the Government does not have the power to require building management bodies to remove accumulation of water in the common areas of the building to prevent mosquito problem. These bodies, therefore, are not legally liable for mosquito problems. Under the proposed amendments, building management bodies will be held legally liable for mosquito breeding and they will be required to take actions to prevent mosquito breeding and eliminate potential mosquito breeding grounds; and

Thirdly, at present, in order to serve a notice of removal of accumulation of water, FEHD staff have to identify the occupier or owner, and they can take removal actions, including applying for a warrant from the Court to enter the premises, only when the occupier or owner has failed to comply with the notice. As the identification procedures are time-consuming, especially when dealing with abandoned huts or farmland which involve

even greater difficulties, it is difficult for the FEHD to take immediate actions even in urgent circumstances. We propose that where there is mosquito-related health hazard, FEHD staff can directly apply for a warrant from the Court without serving a notice on the occupier, owner or the management body, and take immediate actions to eliminate potential mosquito breeding grounds in order to prevent mosquito problems, and recover the associated costs from the occupier, owner or the management body.

The Bills Committee was concerned that the HYK and DCs might have misgivings about the proposals and therefore asked us to consult their views. Forums were organized to explain the proposals of the Bill to the DCs, Area Committees and District Clean Hong Kong Committees and to consult their views. We also particularly consulted the pest control trade and building management bodies on the proposals. Members of the pest control trade and the attendees at the forums generally supported the proposals of the Amendment Bill and called on the Government to implement the proposed measures as soon as possible, in order to address the problem of mosquito breeding, while building management bodies also stated that they do not oppose the proposals. We had also discussed the Bill in detail with the HYK and clarified the principles of the Bill through the Bills Committee. I am very glad that after detailed explanation, the HYK has accepted the proposals of the Bill.

In the course of the scrutiny of the Bill, the Bills Committee had had discussions over a number of aspects. I would like to reiterate our position and the spirit of legislation.

At present, the Public Health and Municipal Services Ordinance already includes provisions empowering government officers to enter premises to deal with accumulation of water and mosquito problems. Madam President, it has always been the responsibility of the occupiers or owners to manage their private land or premises. The purpose of the Government in making this legislation is to encourage the public to remove accumulation of water on their own initiative to prevent mosquito problems. After the Bill has come into effect, the FEHD will ask the occupiers or owners of the premises or the managers of the land to remove accumulation of water by themselves as far as possible if the FEHD can come into contact with them. But if there is mosquito-related health hazard and

if the FEHD cannot get in touch with the occupier or owner, the FEHD will apply for a warrant from the Court. When a warrant is issued and before taking actions, FEHD staff will make another attempt to contact the occupier or owner of the premises or the manager of the land. The Bills Committee has looked into the powers and procedures for entry into premises in the Bill. The power of FEHD staff to enter private premises to carry out anti-mosquito work comes from section 126 of the Public Health and Municipal Services Ordinance. The authority is not given any additional power to enter premises.

On the definition of "mosquito-related health hazard", we have already explained it to the Bills Committee. Mosquito-related health hazard refers to the following scenarios: Any potential mosquito breeding grounds found within 500 m of a case of Dengue fever; any potential mosquito breeding grounds found within 2 km of a local case of Japanese encephalitis; or any areas where the area ovitrap indices are above 40%.

Where an amendment of the guidelines on mosquito-related health hazard is necessary, we will certainly consult the Legislative Council Panel on Food Safety and Environmental Hygiene when time permits.

Moreover, the purpose of the legislation is not to facilitate prosecution of the occupier or owner by the Government. On the contrary, the new legislation will include provisions to the effect that a person will commit an offence only if the mosquito problem is attributable to the act, default or sufferance of the person.

Madam President, after the legislation has come into effect, the FEHD will launch publicity campaigns in tandem, and co-operation between the Government and the public is required before mosquito prevention work can be successful. I can also stress that the FEHD will step up its anti-mosquito effort. In this connection, I call on the public to remove accumulation of water frequently and take suitable mosquito prevention measures, with a view to minimizing the chance of mosquito breeding.

I urge Members to support the Bill, so that we can take effective actions to protect public health and the physical well-being of the people.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Public Health and Municipal Services (Amendment) Bill 2005 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Public Health and Municipal Services (Amendment) Bill 2005.

Council went into Committee.

Committee Stage

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

PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) BILL 2005

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Public Health and Municipal Services (Amendment) Bill 2005.

CLERK (in Cantonese): Clauses 1 and 3.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clause 2.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam Chairman, I move the amendments to clauses 2(a), 2(d) and 2(e), as printed on the paper circularized to Members. I will now briefly explain these amendments to Members.

We have discussed with the Bills Committee the responsibility of the appointed contractor for mosquito problems on construction sites. The amendments proposed to clauses 2(a) and 2(e) of the Bill serve to maintain the current arrangement whereby the appointed contractor will be held responsible for any mosquito breeding problem found on the construction site. I propose that in the Chinese text of clause 2(a), in the definition of "有關處所的負責人", "包括任何建築地盤" shall be deleted and substituted by "由任何建築地盤組成". This amendment can more clearly provide for the scope of the premises within the responsibility of the appointed contractor.

With regard to clause 2(e) of the Bill, I propose that the proposed subsections (3) and (3A) be renumbered as subsections (3A) and (3) respectively, and in the renumbered subsection (3), everything before ", the appointed contractor" shall be deleted and substituted by "If any larvae or pupae of mosquitoes are found on any premises consisting of a building site of which there is the appointed contractor". This amendment will explicitly state that the appointed contractor will be held responsible for mosquito problems on the

building site under his management. In the proposed subsection (3A)(a) after the renumbering, I propose to add "other than those mentioned in subsection (3)" after "premises" to make it clear that section 27(3) as proposed in the Bill will be applicable only to premises which do not consist of a building site, and the new section 27(3A) in the Bill is not subject to section 27(3). The Bills Committee supported these amendments.

With regard to subsection (2B)(a) in clause 2(d) of the Bill, I propose the addition of "take such other action as he considers necessary to prevent the existence of larvae or pupae of mosquitoes on the premises". This amendment will empower enforcement staff of the FEHD to take suitable actions to prevent the existence of larvae or pupae of mosquitoes inside the premises.

The other amendments are minor technical amendments. All the amendments were discussed at meetings of the Bills Committee and supported by the Bills Committee. I hope that Members will support the amendments moved by me.

Thank you, Madam Chairman.

Proposed amendment

Clause 2 (see Annex III)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clause 2 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) BILL 2005

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

Public Health and Municipal Services (Amendment) Bill 2005

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

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Public Health and Municipal Services (Amendment) Bill 2005 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Public Health and Municipal Services (Amendment) Bill 2005.

MOTIONS

PRESIDENT (in Cantonese): Motions. Proposed resolution under the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and the Hong Kong Court of Final Appeal Ordinance.

PROPOSED RESOLUTION UNDER THE BASIC LAW OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA AND THE HONG KONG COURT OF FINAL APPEAL ORDINANCE

CHIEF SECRETARY FOR ADMINISTRATION: Madam President, I move that the appointment of Mr Michael McHUGH and the Right Honourable Thomas Munro GAULT to the Court of Final Appeal (CFA) as non-permanent judges be endorsed by the Legislative Council.

In accordance with the procedures agreed by the House Committee in 2003 on the appointment of judges, the Administration informed the House Committee on 6 January that the Chief Executive had accepted the recommendation of the Judicial Officers Recommendation Commission (JORC) on the two appointments.

On 16 February, representatives from the Administration and the Secretary to the JORC attended a meeting of the Subcommittee formed by the House Committee to examine the appointment. The latter endorsed the Subcommittee's report on 31 March 2006.

Article 92 of the Basic Law stipulates that judges of the Hong Kong Special Administrative Region shall be chosen on the basis of their judicial and professional qualities and may be recruited from other common law jurisdictions. Under section 12(4) of the Hong Kong Court of Final Appeal Ordinance, a person shall be eligible to be appointed as a non-permanent judge from another common law jurisdiction if he is:

- (a) a judge or retired judge of a court of unlimited jurisdiction in either civil or criminal matters in another common law jurisdiction;
- (b) a person who is ordinarily resident outside Hong Kong; and
- (c) a person who has never been a judge of the High Court, a District Judge or a permanent magistrate, in Hong Kong.

The total number of persons holding the office as non-permanent judges at any one time is capped at 30 under section 10 of the Hong Kong Court of Final Appeal Ordinance. At present, there are 17 non-permanent judges, comprising eight from Hong Kong and nine from other common law jurisdictions.

When hearing and determining appeals, the CFA is constituted by five judges. They are the Chief Justice, three permanent judges and one non-permanent judge who is either a Hong Kong judge or judge from other common law jurisdictions. The Chief Justice has usually invited non-permanent judges from other common law jurisdictions to sit as the "fifth" judge. The Chief Justice considers that the proposed appointment will give the CFA greater flexibility in dealing with the caseload of the CFA.

In accordance with Article 88 of the Basic Law, the JORC has recommended to the Chief Executive the appointment of Mr Michael McHUGH and the Right Honourable Thomas Munro GAULT as non-permanent judges from other common law jurisdictions to the CFA.

Mr Michael McHUGH was called to the New South Wales Bar in 1961 and was appointed Queen's Counsel in 1973. He has served as a Judge in Australia for almost 21 years since 1984. He has been a Justice of the High Court from 1989 until his retirement in 2005. He has served as Acting Chief Justice of Australia on a number of occasions during the absence of the Chief Justice. His judicial experience has covered all areas of law.

The Right Honourable Thomas Munro GAULT was appointed a judge of the High Court of New Zealand in 1987, the Court of Appeal of New Zealand in 1991, and a member of the Privy Council in 1992, and became President of the Court of Appeal of New Zealand in 2002. He was appointed to the Supreme Court of New Zealand in 2004 upon its establishment, and has just retired from that Court in April this year. He was also appointed a judge of the Supreme Court of Fiji in 2002 and has sat in that Court from time to time. His judicial experience has also covered all areas of law.

The two judges have eminent international standing and reputation, and their appointment will be a great asset to the CFA of Hong Kong.

The Chief Executive is pleased to have accepted the recommendations of the JORC. Subject to the endorsement of the Legislative Council, we aim to give effect to the appointment in mid-2006 and will report to the Standing Committee of the National People's Congress for the record in compliance with Article 90 of the Basic Law. I now invite Members to endorse the appointment. Thank you.

The Chief Secretary for Administration moved the following motion:

"RESOLVED that the appointment of -

(a) Mr Michael McHUGH; and

(b) the Right Honourable Thomas Munro GAULT,

as judges of the Hong Kong Court of Final Appeal from other common law jurisdictions pursuant to section 9 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) be endorsed."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Chief Secretary for Administration be passed.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Chief Secretary for Administration be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Proposed resolution under the Legal Aid Ordinance.

PROPOSED RESOLUTION UNDER THE LEGAL AID ORDINANCE

CHIEF SECRETARY FOR ADMINISTRATION: Madam President, I move the resolution standing in my name on the Agenda.

At present, a person whose financial resources do not exceed \$155,800 is financially eligible for legal aid under the Ordinary Legal Aid Scheme. The corresponding limit for the Supplementary Scheme is \$432,900. The two limits

are specified in the Legal Aid Ordinance. Our policy is to review the limits annually to take into account movements in consumer prices, so as to maintain the real value of the limits.

The limits were last adjusted downward by 8.2% in July 2004, to reflect the accumulated changes in the Consumer Price Index (C) recorded during the reference periods of the three annual reviews in 2001 to 2003. Having consulted the Legal Aid Services Council and the Legislative Council Panel on Administration of Justice and Legal Services pursuant to the 2004 review, the Administration decided to reserve the small increase of 0.4% in the Consumer Price Index recorded during the reference period of the review, covering July 2003 to July 2004. In deciding to reserve the 0.4% increase, we undertook to consider the increase together with the outcome of the 2005 review.

We have now completed the 2005 review. The cumulative increase in the Consumer Price Index from July 2003 to July 2005 is 1.6%. We accordingly propose the resolution to adjust upward the limit for the Ordinary Legal Aid Scheme from \$155,800 to \$158,300, and that for the Supplementary Scheme from \$432,900 to \$439,800, in accordance with the 1.6% increase in the Consumer Price Index.

I invite Members to support the resolution.

The Chief Secretary for Administration moved the following motion:

"RESOLVED -

- (a) that the Legal Aid Ordinance (Cap. 91) be amended -
 - (i) in section 5(1), by repealing "\$155,800" and substituting "\$158,300";
 - (ii) in section 5A(b) -
 - (A) by repealing "\$155,800" and substituting "\$158,300";
 - (B) by repealing "\$432,900" and substituting "\$439,800"; and

- (b) that this Resolution shall come into operation on a day to be appointed by the Director of Administration by notice published in the Gazette."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Chief Secretary for Administration be passed.

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

MS MARGARET NG (in Cantonese): Madam President, I have no objection to this motion proposed by the Chief Secretary for Administration today, which was discussed by the Panel on Administration of Justice and Legal Services (the Panel) on 23 January this year. At the Panel meeting, views were expressed by both the Hong Kong Bar Association and The Law Society of Hong Kong. While raising no objection to the revised amounts, the two legal professional bodies expressed their dissenting views only on the calculation process. In the end, the Government still adhered to its own calculation method. The differences between the calculation methods are merely \$100 and \$400.

Nevertheless, Madam President, we cannot say that we sincerely support the motion. The legal profession is actually strongly dissatisfied with the fundamental policy and concept of the motion. In the first paragraph of the speech delivered by the Chief Secretary just now, it is pointed out that "our policy is to review the limits annually to take into account movements in consumer prices, so as to maintain the real value of the limits". The two limits have actually become outdated. In particular, the method for calculating the limits renders people below a certain asset line eligible for legal assistance, and those above the line ineligible for assistance. We do not consider the method appropriate.

It is simply impossible for a person whose financial resources reach \$155,800 or \$158,300 to file a lawsuit. So does it mean that he will have sufficient means to do so when his financial resources exceed the limits? It is still very likely that he cannot afford a lawsuit. For this reason, it all boils

down to the significance of the lawsuit, not whether his asset exceeds the limits. Without legal aid, will a person lose his power to exercise his own right? In some lawsuits, a number of persons are involved. The Director of Legal Aid (the Director) cannot approve their applications for legal aid if the asset of any one of them exceeds the upper limit, except in certain special circumstances, such as when human rights are involved. Otherwise, under the law, it is simply impossible for the Director to treat the case as exceptional. Another major issue concerns ways to calculate financial resources, as we have pointed out repeatedly. Basically, the most earnest request of the legal profession is to expand the Legal Aid Schemes.

Madam President, we certainly have no intention to conduct discussions today through this motion. However, we have repeatedly reflected to the Government through the Panel that the Legal Aid Schemes and relevant legislation must be reviewed comprehensively. While we do not object to the microscopic adjustments proposed today, we feel that the fundamental problem has not been tackled. Furthermore, insofar as making adjustments to maintain an appropriate level is concerned, we feel that the level has never been appropriate right from the beginning. Neither can it be considered a calculation method.

At the same Panel meeting, the issue of expanding the SLAS was raised by us again. The Director of Administration (D of Adm) also heard the views expressed by Members. I think the commitment he made in paragraph 27 of the minutes of the meeting should be put on the record. The Law Reform Commission also proposed then a consultation paper on conditional fees, which means that lawyers can charge according to a new method. Nevertheless, a sub-committee of the Law Reform Commission did not consider this method the best. It considered expanding the SLAS a better option. In this connection, the D of Adm undertook to give us a response. Paragraph 27 reads: "The D of Adm informed members that the Conditional Fees Sub-committee of the Law Reform Commission had issued a Consultation Paper on Conditional Fees in 2005. The Sub-committee had recommended that the scope of Supplementary Legal Aid Scheme (SLAS) be expanded and the limit under the SLAS be raised. The D of Adm said that both the Administration and the Legal Aid Services Council had requested an extension of the consultation period. After considering the views of the Council which were still awaited, the Administration would provide its response to the Sub-committee before the

extended deadline for submissions." Madam President, the Legal Aid Services Council has now formally announced its objection to conditional fees and its support for expanding the scope of legal aid and raising its limits. In this connection, we earnestly hope that the Government can give us a positive and active response.

This adjustment made according to the Consumer Price Index will become truly meaningful only upon the establishment of a correct basis like this, subject to the Government's adjustment. By then, we will sincerely lend our support instead of raising no objection reluctantly. Insofar as the adjustment is concerned, we can compare it to "chicken ribs" — tasteless to the tongue, but a bit of a waste to throw away. We nevertheless lend our support because a person in need of legal aid can then benefit from the Ordinary Legal Aid Scheme if his financial resources are between \$155,800 and \$158,300 or, in the case of SLAS, between \$432,900 and \$439,800. Even though the chances are extremely slim, we still support the adjustment.

Madam President, we have repeated the same words over and over again. However, we are not doing this as a matter of routine. It is certainly our earnest hope that the Administration can really conduct a fresh review of the legal framework and policy basis of legal aid. Thank you, Madam President.

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

MR LEE CHEUK-YAN (in Cantonese): The motion today has merely sought to make a trivial adjustment. However, Chief Secretary, I really hope to see some fundamental reform. For some people, law was originally not at all essential to their life and relevant to them. However, they will realize the importance of legal aid when they encounter legal problems. This is particularly so for workers. Very often, they think that lawsuits can be dealt with by the Labour Tribunal in a fast, inexpensive and simple manner. However, their employers may choose to appeal after a case is ruled in their favour. Should that be the case, President, the employees will have to seek legal aid for litigation even though they have won a legal battle. However, it is very easy to exceed the dividing line if it is set at \$153,000 — it is now adjusted to \$158,000. Should that be the case, the labour side will very often lose, given the imbalance in employment relations and financial resources.

Secondly, employees wishing to apply to the Protection of Wages on Insolvency Fund (PWIF) have to seek legal aid too. They have to go through the asset test for legal aid even though they just want to get back outstanding wages due. After the assessment, if they are found to have exceeded the limit, they will lose any further opportunity to apply to the PWIF, even after their companies have gone bankrupt or into liquidation. One hundred such cases are recorded annually. Since the persons involved in these cases cannot satisfy the asset test for legal aid, they cannot get back their wages in arrears.

President, I very much hope that the Chief Secretary can lead the reform of the entire legal aid system. It was pointed out earlier that the present adjustment to the system was merely a minor one based on Consumer Price Index. What are the problems with the system? President, the calculating method for legal aid asset test is to deduct expenditure from household income, with savings to be added next. How is expenditure calculated? What standard of living is adopted for the purpose of calculating expenditure amounts? President, 35% is presently used as the dividing line. In other words, 65% of the people in Hong Kong are richer, and 35% of the people in Hong Kong are poorer, than the persons eligible for legal aid. So, 35% is used as the dividing line. Actually, people on this line remain poor. Therefore, if a fairer line is to be drawn, it should not be set at 35%. Instead, the median should be considered as the dividing line. In my opinion, it is fairer to set the dividing line at the median, since only the latter can reflect the expenditure of households in general.

I hope to see the minor adjustment made by the Chief Secretary this time. What is more, we hope to see concrete reforms very soon and submission of a proposal for truly reforming the legal aid system to this Council next time. I would like to specially request the Chief Secretary to give consideration to workers by exempting all of them from the asset test in relation to the appeal and injury cases dealt with by the Labour Advisory Board and the bankruptcy and liquidation cases handled by the PWIF. Thank you, President.

MR LEUNG KWOK-HUNG (in Cantonese): President, I agree with Mr LEE Cheuk-yan and Ms Margaret NG that there is indeed a problem. We have since the reunification been governed by the Basic Law. As a constitution did not exist previously, we probably had to seek interpretation from the Court in

dealing with whether the Government had acted unconstitutionally or other constitutional issues. Insofar as this point is concerned, it is indeed essential for the basic civic rights specified in the constitution or rights enshrined in the constitution to be guaranteed or affirmed through legal proceedings.

As regards this issue, the Legal Aid Department (LAD) will be unable to resolve the problems should it obstinately adhere to the previous limits or merely raise the limits. If I have to resort to litigation, for instance, I will definitely encounter great difficulty in applying for legal aid. Furthermore, I have received many complaints from the public that the LAD has acted in a most arbitrary manner in granting approval. As such, the reform should include: First, litigation should be free should an application be turned down by the LAD. I have once encountered a case in which an application for legal aid was rejected by the LAD and the applicant had to pay for the litigation. If the lawyers of the LAD charge exorbitant fees, poor applicants might end up losing all their money. Therefore, realistic consideration must be given to this.

As pointed out by Mr LEE Cheuk-yan, this reflects the weak position of the labour sector. Even if they win a legal battle, they might still experience great anxiety because of possible appeals. If they end up losing the legal battle, they will have to pay the court costs for the other party and thus be punished severely.

For these reasons, I propose that certain rules be established. For instance, litigations involving human rights, labour rights or basic civic rights should be approved. In addition, the LAD should be monitored, though not by the Court. Instead, it is more appropriate for members of the public or legal practitioners to take part in examining the merits of the cases, as in the case of the Independent Police Complaints Council. If all cases have to be dealt with by litigation, justice will probably be determined by the financial resources of an applicant, not by the Court.

Regarding this institutional reform, I hope the Government can understand that after the reunification, given the Basic Law and the constitution for protecting the people's basic rights, the Government should help the public, including every citizen, seek justice. The money required is worth spending too. After the reunification, public funds must be used to determine how the Basic Law should be applied and the Government's authority be restrained for

the purpose of protecting civic rights. It is indeed unfair if the poor people have to bear the cost. This is my opinion.

MR WONG KWOK-HING (in Cantonese): As regards the slight adjustment to legal aid, I think it is just better than nothing. Insofar as salary earners are concerned, the assistance is simply inadequate. I very much hope to extend an invitation through the President to the Chief Secretary to widen the scope of protection to cover the rights of salary earners in the review to be conducted in the future.

Let me cite the recent "Dickson incident" as an example. To date, 619 of the workers affected have yet to get back their wages in arrears. They even have difficulty in applying to the PWIF, as they have to first apply for legal aid. Yet, the existing rules make it extremely difficult for them to meet the requirements of legal aid. Actually, salary earners in general rarely have a chance to save money to enable them to have a little money as emergency reserves should they lose their jobs one day. However, the existing rules make it impossible for the affected workers to protect their own rights through applying for legal aid. It is equally extremely difficult for them to recover their own wages.

Therefore, I hope to request the Chief Secretary through the President to seriously consider widening the scope of protection to cover workers' entitlement. Meanwhile, is there an appeal mechanism in place for applicants whose legal aid applications have been turned down? I hope the Chief Secretary can further consider the matter. Thank you, President.

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

MR ALAN LEONG (in Cantonese): Madam President, the Chief Secretary for Administration has moved a resolution in this Council today to adjust upward the financial eligibility limits under the Ordinary Legal Aid Scheme (OLAS) and the Supplementary Legal Aid Scheme (SLAS), in accordance with the 1.6% cumulative increase in inflation over the past two years. The matter was discussed in details by colleagues at the meeting held by the Panel on Administration of Justice and Legal Services (the Panel) on 23 January. I

would like to thank Ms Margaret NG, Chairman of the Panel, as well as other colleagues, for establishing a basis for today's debate on the resolution.

Madam President, the financial eligibility limits for legal aid were last adjusted on 17 March 2004. At that time, the upper financial eligibility limits were substantially adjusted downward by 8.2% on the ground of having cumulative deflation for three consecutive years. Despite the passage of the resolution by this Council, a number of Members who spoke on that day pointed out solemnly that the paramount mission of legal aid was to ensure that all people who had sufficient justifications for litigations or defence would not be deprived of the chance to seek justice because of lack of means. To consider eligibility for legal aid by focusing solely on expenditure or economic growth is obviously inconsistent with the original intent of the provision of legal aid.

Madam President, the Government has merely sought to, through moving the resolution at this meeting, conduct an annual review of legal aid amounts and make certain technical amendments. According to the Government, such a move is meant to reflect movements in consumer prices only. In the light of this extremely trivial adjustment, I really wish to invite the responsible officials to pay a visit to Members' offices to find out from the help-seekers whether such cosmetic changes to the existing legal aid system are adequate.

Put simply, Madam President, the inadequacy of Hong Kong's legal aid system has actually reached such a stage that judicial justice can be compromised. In a Consultation Paper published last year on conditional fees, the Law Reform Commission (LRC) pointed out, and I quote, that "unrepresented litigants have become a major feature of the litigation landscape in Hong Kong". The percentage of civil cases heard in the High Court involving unrepresented litigants for the years 2001 to 2004 rose sharply from 37% to 42%. As for hearings in the District Court, the percentage during the same period remained at 49%.

The fact that nearly half of the litigants in the Court were unrepresented does prove that both the OLAS and the SLAS have failed to effectively protect the rights of the majority of the public to fair trials. If the Government truly hopes to help the middle-income earners of the "sandwich class" receive fair treatment in the Court, it must consider expanding the SLAS expeditiously. Last year, similar proposals were also raised in a report compiled by the LRC on conditional fees. The proposals raised include raising the financial eligibility

limits on the applicants, expanding the types of cases which can use the relevant services, and so on.

Madam President, the abovementioned report compiled by the LRC seeks mainly to allow for conditional fees in the hope of resolving the problem of a large number of middle-income earners failing to hire a lawyer. Should the proposal be implemented, the charging system for legal services, which has been operating for years, will definitely be changed substantially. For this reason, great care must be exercised in considering whether the proposal should be adopted. According to overseas practical experience, given the reduced cost of losing a lawsuit, it might lead to such crises as litigation service abuses or lawyers persuading their clients to file a lawsuit. Furthermore, society must guard against the Government's possible reduction in legal aid services by using the introduction of the new system as an excuse. Furthermore, legal practitioners will face enormous risks if the conditional fees system is not complemented by a sophisticated legal professional insurance system.

On the face of it, people of the lower stratum are most likely to benefit from the existing legal aid schemes. However, Madam President, this is actually not the case. As in a labour case mentioned by an Honourable colleague earlier, the labour side has to apply for legal aid if the case is to be transferred from the Labour Tribunal to the High Court for appeal or the labour side wishes to apply for a winding-up petition against the employers defaulting on payment of wages. Strangely, even these grass-roots workers have very often failed to satisfy the financial test. As a result, a worker might have to pay tens of thousands of dollars in lawyers' fee just to recover \$10,000 or so wages in arrears. More often than not, the worker may merely opt for giving up.

The fact that even grass-roots workers cannot apply for legal aid probably demonstrates the unreasonableness of the existing OLAS. As pointed out by Mr LEE Cheuk-yan earlier, the current disposable income formula is based on the average expenditure of the territory's lowest 35% households after such expenses on housing, tax payment, and so on, have been deducted. However, the family expenses of Hong Kong citizens can increase owing to such factors as children's education expenses, transport expenses, and so on. As a result, some people may still be ineligible for legal aid even though they have less disposable income.

I hope that this outdated, rigid legal aid system can be expeditiously reformed to truly help the grassroots and middle-class people in need. Only through genuinely reforming the legal aid system can all the citizens be protected so that they will not be deprived of the chance of winning justice because of lack of means. Furthermore, the general public will thus not treat the adjustment to legal aid amounts as an arithmetic game. Providing effective legal aid is likely to produce an even more instant result than substantially revising the lawyers' fees system.

Madam President, I so submit.

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

MR LEUNG YIU-CHUNG (in Cantonese): President, social justice is protected by law. However, whether this notion can truly materialize in reality is highly questionable. For the disadvantaged groups in society in particular, the Court is very often the channel through which they can hope to see justice done.

However, it is a great pity that it is by no means easy to gain access to the Court. Actually, many civil litigation and labour rights cases are frequently thwarted for this reason.

As pointed by many colleagues earlier, workers have to file a winding-up petition against their companies or employers in relation to wage defaults or making their wage or severance payment claims against the PWIF. In the process, a legal procedure will definitely be involved. When the legal procedure is initiated, this question will definitely come to our minds: As the claimants cannot perform this task on their own and have to hire a lawyer to do it, where do the fees come from? The claims made by the claimants are thus frequently delayed.

As we are aware, legal aid was, to a certain extent, helpful to socially disadvantaged groups and grass-roots workers in the past. It is nevertheless a great pity that the assistance is not universal, and is subject to a lot of constraints. As Members are aware, the means test is subject to an upper limit. People earning over \$170,000 annually cannot benefit from the scheme. This will

certainly bring great difficulty as a person with an annual income of \$170,000, or a monthly income of more than \$10,000, will exceed the limit. For this reason, the efforts made by many workers in making their wages claims have frequently come to naught. Failing to initiate litigation, they will thus be unable to make their claims. Given that the objective of establishing the Legal Aid Department is to assist claimants in initiating proceedings, why does the Government not consider the matter in a more in-depth manner to allow marginal claimants to truly exercise their rights? Many people are barred from entry since the threshold is set at so low a level. Despite the increases proposed in this adjustment exercise, the rate of increase is simply too small. President, the effectiveness will thus not be great at all.

Many colleagues have asked whether more radical action can be taken by further raising the threshold so as to enable people in certain households to truly enjoy the opportunity of enjoying such right by, for instance, raising the family income ratio from 35% to at least 50% so that these households can truly have a chance to see justice done. We just want to uphold justice; we are not asking for anything else. We only hope to find out through court rulings whether something is reasonable. Depriving the people of such an opportunity is thus tantamount to denying the so-called establishment of justice in society.

Despite the adjustment made today, I feel that it is still very far from what we pursue and hope for. Instead of the cosmetic changes proposed now, I am hoping for a radical change. Although we know that the Government will make constant adjustments, particularly in accordance with inflation rates, this prerequisite is far from satisfactory, as the adjustments will be made only according to inflation in a narrow manner, instead of according to the base as a matter of basic principle.

From today onwards, I hope the Government can reconsider and conduct a fresh review of the dividing line of the basic principle so as to enable more people in society to access the channel to justice, and widen the threshold to allow entry of more people. President, I so submit.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Chief Secretary for Administration, you may reply.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, first of all, I would like to thank Members though they have a great deal of opinions about the policies or framework behind the motion, at least some of them did not object to the motion. I also believe that for a good period of time ahead, this motion will be followed up and discussed in the Panel which sees Ms Margaret NG's involvement.

Now, I would like to briefly respond to the several points raised by Members just now. Our legal aid policy mainly seeks to ensure that any person who has reasonable grounds for taking or defending a legal action in Hong Kong Courts is not prevented from doing so by lack of means. Therefore, examining the financial status of legal aid applicants is one of the two determining criteria for vetting and approving legal aid applications. We have to understand that, after all, we are using public funds and we have to strike an appropriate balance. Of course, the other criterion is the merit test which is out of the scope of discussion today.

We adjust the limits every year based on the Consumer Price Index, but it is not as simple as making a slight annual adjustment. We will conduct a review once every five years of the financial eligibility criterion of the applicants, which is a comprehensive review taking into account the current social and economic situations. Early this year, we expanded the scope of the deductible items and introduced some new ones.

I hold that our legal aid system is by no means inferior to that of many other overseas jurisdictions. Many of them have set an upper limit on legal aid expenditure, but we have not. Some jurisdictions even go so far as to set a limit on every individual case while we do not have such a limit.

Just as several Members have also mentioned just now, we also regard using the Comprehensive Social Security Assistance (CSSA) as the standard is too low and unfair, we thus have been using 35% of the household expenditure as the standard since the year 2000. Some Members still questioned that this is too low. As the economy of Hong Kong restructures and, depending on the

employment situation, we can certainly conduct reviews more frequently in this respect.

To date, we know that many overseas jurisdictions still link the amount of personal allowances of the applicant to that of the social security payments. This practice is rather behind the times and we no longer do so.

With regard to the deductible items mentioned by several Members earlier, just as I have said just now, we made amendments early this year to include new items as well as expand the scope of some items. The current Ordinary Legal Aid Scheme covers 55% of all households in Hong Kong, which is, I believe, not bad at all as compared with similar jurisdictions. As far as I know, at present, the corresponding figures in England and Wales are about 40%, while ours is 55%. We also have in place another self-financing Supplementary Scheme which can be said as unique to Hong Kong. Many countries or jurisdictions do not have this Supplementary Scheme which can cover more than 70% of all households in Hong Kong. Early this year, we have also lowered the proportion of contribution shouldered by aided persons under this Scheme so as to further refine or improve the operation of this system.

With regard to the deductible items of applicants, views from Members as to which item is outdated or needs review are most welcomed. For example, our existing deductible items cover household expenditure, rent, rates, salaries tax, pension, contributions to retirement schemes, expenses on taking care of dependents, alimony, mortgage loans of principal dwellings and the value of the property. If Members think that some other items should be included in the review list, they can certainly follow up the matter in Ms Margaret NG's Panel.

Several Members from the Labour sector mentioned just now that difficulties were encountered in handling incidents concerning labour law and wage defaults. To recover the wages is of course the ultimate goal and there are some legal channels which can help workers do so or they can even punish the unscrupulous employers through legal means. Because of the income requirement, many workers may not be able to satisfy the current criteria for application. However, many trade union leaders are probably aware that if the case involves a good number of or even a large group of workers, according to precedents and the usual practice, only one or two eligible workers are required

to apply for legal aid in order to instigate legal proceedings. As to those who are not eligible, they are not necessarily prevented from doing so because, after the judgement is delivered, they can still use the same means to arrive at the same treatment and thereby be protected by the law. As to where the line should be drawn, I believe there will always be disagreement over it. We have to take into consideration justifications from various sectors, economic and employment situations in society as well as government resources available in order to strike a balance among these aspects.

Basically, our mechanism has already included a review. The one conducted once a year only covers the consumer prices and I have to admit that it is only a slight adjustment. However, what constitutes the basic framework? That a review is conducted once every five years may still not be frequent enough. Can it be done more frequently? We can consider this.

Finally, with regard to the report of the Law Reform Commission (LRC) mentioned by Ms Margaret NG earlier, the Government has already submitted its views on the comments of the Report to the LRC. I believe we will definitely and unavoidably come to Ms NG's Panel for explanations on the report. It is just a question of time whence I believe there will be another round of discussion. We have already made our reply to the LRC.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Chief Secretary for Administration be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

MEMBERS' MOTION

PRESIDENT (in Cantonese): Members' motions. Two motions with no legislative effect.

First motion: The 4 June incident.

THE 4 JUNE INCIDENT

MR ALBERT HO (in Cantonese): This year marks the 17th anniversary of the 4 June incident. I will carry on the Legislative Council's tradition established by Mr SZETO Wah, Chairman of the Hong Kong Alliance in Support of Patriotic Democratic Movements of China (the Alliance), to move a motion debate to commemorate the 4 June incident.

Some say that, after the suppression of the 4 June incident, the Chinese Government has managed to maintain political stability and, at the same time, continued to implement policies to intensify its economic reforms. During the past 17 years, the economy of our country has made great strides, and the people's livelihood has also improved in general. Therefore, they said, we should not bring up controversial issues such as the 4 June incident to cause unrest in society. Instead, we should leave such historical issues to historians who would adopt long-term visions in making their judgement.

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

Deputy President, I strongly feel that the above viewpoint has distorted the logic of social development and avoided the issue of making judgement on whether the incident is right or wrong in history. The pro-democracy movement that took place 17 years ago was a democratic and patriotic movement with the purpose of opposing corruption and rotten practices in the Government and seeking to establish democracy and the rule of law. Even government officials then had openly said that the aspirations and ideals of the students were in line with the thinking of the national leaders. In fact, the Government should use democratic and legal means to resolve the disputes at that time. In addition, it should have adopted a tolerant mindset to absorb the progressive forces of the

people, so as to create opportunities for more intensified political and economic reforms, thus enabling different sides to jointly promote political and economic reforms. However, the leaders of the Central Authorities at that time were afraid that their ruling authority might be weakened, so they ruthlessly made the abrupt decision of adopting unconstitutional bloody measures to suppress the movement and resorting to employing tanks and guns to respond to the aspirations of the people. This wrote a most insulting page in the national history of China, created a gap beyond repair between the people and the Government as well as the permanent pains inflicted upon the deceased victims and their families.

We believe that economic prosperity cannot desensitize the people's hearts, material affluence will not eliminate individuals' social conscience, and improvement in the people's livelihood cannot wipe away the collective historical memories of the Chinese people. In the Mainland, the Tiananmen Mothers have been persistently exploring the historical truth of the 4 June incident and pursuing legal justice and political responsibility. Their actions have exactly reflected that, the judgement of the right or wrong of an historical incident is a major issue that cannot be avoided or wiped away. The people will never forget it. This year, the Tiananmen Mothers have organized the "Call of the Roses Campaign". Prof DING Zilin, representative of the Tiananmen Mothers, while suffering from the piercing pain of losing her beloved son, once again made a humble request to the Government. She said, "Let us freely mourn for our children and our families, without subjecting us to any inhuman treatments such as white terror, surveillance, pestering, blackmails, intimidation and punishment."

At the entrance of the Legislative Council Building, a group of supporters of the Tiananmen Mothers gave us a bouquet of roses, which were for Members of the Legislative Council. The roses stand for the spirit behind the "Call of the Roses Campaign". I hope all Members can join this campaign together. Regarding the details, I believe Members can check them out from the open letter we received from them.

Deputy President, the suppression of the 4 June incident had brought about transient stability, but it made the Chinese people pay a painful and heavy price in history. Apart from causing permanent historical wounds to many people, the people have also lost their trust in the Government and the Government has also abandoned its determination to implement political reforms out of fear of the

people. After the 4 June incident, while seeing the economy making rapid development, we witness a complete standstill in the progress of political reforms. This has resulted in the present social situation which is characterized by collusion between business and the officials, corruption and the wide disparity between the rich and the poor. The top echelon of the Communist Party and rich capitalists seem to have joined together to form a new class. Behind the economic prosperity and material affluence, there are many hidden miserable cases of extreme poverty, failure of patients to get medical treatment and inability of the aggrieved to seek redress of their grievances.

Deputy President, after the 4 June incident, democratic development seems to have no definite future at all; and political rights such as the freedoms of speech, publication, publishing newspapers, assembly, association, demonstration and forming political parties, and so on cannot be further promoted. Today, many grass-roots people can only concentrate their effort on protecting their most basic and most humble right, that is, the protection of their own personal properties as well as the rights to speak and to lodge complaints which are essential to protecting their own rights. Deputy President, many so-called civil rights movements have been triggered off in recent years. For example, residents of Dongzhou Village of Shanwei came forth to stage protests in order to protect their own residential homes from being resumed at unreasonably low premium; residents of Taishi Village of Panyu were violently suppressed by the Government for exercising their democratic rights to dismiss their village chief who had failed to speak for them. The Shanwei incident had become another crime committed by the Government as shots were fired to massacre the civilians to resolve problems, which was the first of such instances after the 4 June incident.

Deputy President, as the country has formulated the fundamental policy of governing the country in accordance with law, it is only reasonable for the Government to respect and faithfully implement the law enacted by it, and it should also respect the people's rights to lodge complaints in accordance with law. In recent years, a group of human rights lawyers have come forward to fight fearlessly for legal justice for aggrieved citizens whose rights have been encroached. But unfortunately, many local corrupt officials have collaborated with certain business groups to tackle human rights lawyers and activists by using triad practices. For example, the legal representative of villagers of the Taishi Village, GUO Feixiong, had been illegally detained for three months. During this period, he staged hunger strikes by refusing to take food and water.

After the incident, he was even openly beaten up, but public security officers nearby remained indifferent to such happenings. A blind lawyer CHEN Guangcheng, who had been fighting for the rights of Shandong residents in a most dedicated manner, was also assaulted when he was lodging a complaint. He had sustained severe physical injuries on multiple occasions, and he nearly lost his life during such attacks.

It is evident to all that the Government had been persecuting human rights lawyers. For example, a lawyer, ZHENG Enchong, had initiated legal proceedings against ZHOU Zhengyi, once the wealthiest man in Shanghai, on behalf of some Shanghai residents over an issue of land acquisition. But all of a sudden, he became a defendant, though previously he was the lawyer of the plaintiff. He was said to have committed the offence of leaking state secrets, and was sentenced to three years' imprisonment. The famous human rights lawyer, GAO Zhisheng, had conducted an investigation for a persecuted Falun Gong member and subsequently written an open letter to national leaders including President HU Jintao, and eventually his professional practice qualification was suspended for one year for an administrative error, which was, in effect, the fact that he had forgotten to report the change of address of his legal firm. During the past few months, he and his family members have repeatedly been pestered, intimidated and threatened by plain-clothes public security officers. Mr GAO Zhisheng has called on human rights activists, be they in China or overseas, to stage relay hunger strikes. I have taken part in this hunger strike since the beginning of this month. I have started a 24-hour hunger strike every Wednesday in the Legislative Council. Today, I am very thankful to my colleagues, Mr LEE Cheuk-yan and Mr CHEUNG Man-kwong, for supporting this hunger strike by fasting with me for the second time. In fact, if the country can deprive lawyers of their rights of carrying out the basic duties as well as their dignity, and suppress them, how can it govern the country in accordance with law?

As we review the past 17 years, we can see that the Government has resorted to political high-handedness in order to preserve its stable governance of the country. Within such a political framework, is "social harmony" advocated by HU Jintao now feasible? Can the grievances and angers of the people resulted from the suppression of the 4 June incident be wiped away and resolved altogether?

Recently, the Chengdu Government granted a "difficulty subsidy" to the family of Mr ZHOU Guocong, who died of torture while being detained for

having participated in 4 June incident. This may be a test attempt on the part of the Government to resolve the 4 June incident, while perhaps it understood the difficulty he was in. However, personally I find such an ambiguous attitude even worse and more undesirable than the attitude adopted by the Japanese Government in handling their war crimes in the Second World War. This has demonstrated the Government's lack of courage to face the historical facts and to distinguish between right and wrong. This has rendered it impossible for the Government to relieve itself of the heavy burden of the 4 June incident, thereby getting rid of its fear of the people and be able to move forward to carry out political reforms.

Finally, I would like to reiterate the following requests on behalf of the Alliance and tens of million of compatriots:

First, an independent commission of inquiry should be established to investigate into the 4 June incident, so as to find out the complete historical truth, vindicate the 4 June incident and rename the 1989 movement properly.

Secondly, reasonable compensations should be provided for the death of victims in the 4 June incident; written apologies should be delivered to such victims and their families; a 4 June incident museum should be established; history textbooks should be rewritten to educate the next generation with a view to enabling them to learn a lesson from this historical event.

Thirdly, the oppression of human rights activists or lawyers should be stopped; all the rights and freedoms of the people as stipulated in the Constitution should be respected. The country should strengthen its present work, expedite the establishment of the rule of law and launch comprehensive democratic reforms.

I so submit.

Mr Albert HO moved the following motion: (Translation)

"That this Council urges that: the 4 June incident be not forgotten and the 1989 pro-democracy movement be vindicated."

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

MR CHIM PUI-CHUNG (in Cantonese): Deputy President, today, I would like to use the term "deep-rooted conflicts" to describe my overall opinion.

Mr Albert HO raised the subject of the 4 June incident. We understand that, the 4 June incident had its origin in 1986, during which there was an ever-changing trend of opposing over-liberal ideas in the Mainland; the stepping down of HU Yaobang, then General Secretary of the Communist Party of China; and the eventual outbreak of the 4 June incident. Seventeen years have passed after the incident, but the memory of it is still very much fresh and vivid in the minds of people like us participants in politics. The incident was attributable to a lot of differences of opinions, and it was also caused by the long-standing struggles in the Communist Party on the Mainland.

The 4 June incident has been included into the four political doctrines (四個政治思想) and Four Cardinal Principles (四個堅持) of the Communist Party. At that time, had they not upheld these four principles, the entire China could have become disintegrated by now like the former USSR. Of course, China is different from the USSR in terms of their structures and ways of thinking. The USSR adopted the federal system, which eventually led to the division of the various regions. Although there are many different races and cultures in China, they are after all governed by the same government. That explains why the situation can be maintained as it is now. We can all see the present situation now. We cannot say that it is very advanced now, but the people's aspirations in various economic aspects can be answered. The assessment and comments made on them by people outside China is a deep-rooted conflict. I think it would be more practical for us to gain a more in-depth understanding of the situation at that time.

Deputy President, the second deep-rooted conflict is a problem with Hong Kong itself and it also involves the 4 June incident. To whom does Hong Kong belong? If Hong Kong belongs to Hong Kong people, then the 25 Members from the pro-democracy camp who claim that they have gone through the elections, in particular, the direction elections, have the support of about 61%-odd of the voters. They do have their aspirations in certain issues such as the 4 June incident, the dual elections by universal suffrage as well as the aspiration for greater democracy.

However, we must bear in mind that the British Government returned Hong Kong to the Government of the People's Republic of China, and the

Chinese Government then handed over its power to Hong Kong people and allowed "Hong Kong people ruling Hong Kong". Under such circumstances, we must deeply understand that the actual situation is, Hong Kong belongs to the Chinese Government and the 1.3 billion people of China. As such, all kinds of Hong Kong affairs must be decided by voting by all the 1.3 billion people of China in the form of universal suffrage. This seems to be more compatible with the practical circumstances. We hold different views on the 4 June incident. But the Chinese Government has time and again said that "river water will not interfere with well water." You may not agree with this, but we have to respect the aspiration of the 1.3 billion people of China. Although all along, Hong Kong people have always been arrogant, boasting that they are more superior with better education. But it is wrong for Hong Kong people to discriminate against the 1.3 billion people in China.

Therefore, this second deep-rooted conflict led to the interpretation of Article 23 of the Basic Law as well as the constitutional reform issue on 21 December 2005. Regarding this point, recently the Chief Secretary for Administration, Mr Rafael HUI, has boldly stood up to say that he is just an alternative employee, who is employed and conferred with the power to govern Hong Kong by the Central Government of the People's Republic of China. Although Mr Martin LEE of this Council may not agree with this idea, he should understand the actual constitution as he is a barrister — a Senior Counsel.

Deputy President, there is also the third deep-rooted conflict. Mr DENG Xiaoping made this remark in 1986, "If chaos break out in a place, it must be because the leaders there have not shown their leadership flag explicit enough or their attitude is not resolute enough." This has fully illustrated the situation in Hong Kong. Why are there so many disorders in many issues, and why is there mistrust of the Central Government? It is because the SAR Government's leadership flags are not explicit enough and the leaders are not resolute enough. Chief Executive Donald TSANG must admit that his power is conferred by the Central Government, instead of the Civil Service, as in the past. We must find out: Does Hong Kong belong to China or the British Hong Kong Government without the Union Jack (that is, the return of the British Hong Kong Government)? Does Hong Kong belong to Hong Kong people or the world? If all these are unclear, and if the Central Government is not resolute enough, then chaos will occur here. Mr DENG Xiaoping said that in 1986 already.

As Members of this Council, we should respect the views of our colleagues which are different. Most importantly, we must seek the recognition of the Central Government. Although some Honourable colleagues hold the passports of Britain or other foreign countries, this Council is after all a council of the SAR of Hong Kong of China. I very much hope that in future you will not say there is no reward for loving the country and Hong Kong, whereas you can find it beneficial to adopt the stance of opposing China. If you are thinking in this way, it is really bad luck for Hong Kong as far as its future prospects are concerned.

MR ALAN LEONG (in Cantonese): Deputy President, in comparison with the past few years, the debate on the 4 June incident has been scheduled for an earlier date. Some people may say that this earlier date is not opportune, but quite the contrary, I find it quite appropriate for us to hold the 4 June incident debate on 3 May, and it is very meaningful too.

Deputy President, talking about the significance of today, I shall first start with the month and the day. 3 May is one day before the anniversary of the May Fourth Movement. In my opinion, when compared with students of the Beijing University 70 years later, the students in 1919 were indeed much more "violent". By "violent", I am not referring to their acts in setting fire to the ZHAO's Mansion or in beating up the officials who betrayed the country. I am referring to the ideals they advocated at that time were democracy and science, and so on. Insofar as the social background at that time is concerned, what they had done was undoubtedly rather unusual, or even very unorthodox.

However, after 87 years, today, our historical judgement of the May Fourth Movement is very explicit and by means ambiguous — that it is a patriotic social movement with the purposes of opposing invasion and fighting for democracy. History will not have any sympathy for a diplomat who was assaulted for having been negligent in performing his official duties, nor will it cherish the residency of some high officials. Likewise, it will also not treasure the outdated political system and social customs and cultures which will eventually be abandoned by the people. The Chinese people have never adopted a neutral stance in our historical record of the May Fourth Movement. We have always held an explicit stance regarding this Movement — we praise what should be praised, and criticize what should be criticized.

Seventy years after the May Fourth Movement, the students of this generation made another more spectacular call for democracy. What they called for were objectives that were even agreed by the officials, namely, "opposing official profiteering" and "opposing corruption". The students insisted on solving the problems within the legitimate framework. They demanded that a National People's Congress emergency meeting be convened to resolve the controversies. They did not even set fire to anything. In comparison to the May Fourth Movement, can you say the students of 1989 were more destructive, had put forward more unacceptable demands and actions? Our Chinese history has already included the great chapter of the May Fourth Movement, why can this chapter of the 4 June incident not be accorded the same standards and treatment, so that these students of 17 years ago can be judged fairly?

Deputy President, as our discussion is drawn to the Chinese history, I would like to discuss the present — 2006. This year is the 40th anniversary of the outbreak of the Cultural Revolution, or the 30th anniversary of its termination. The Cultural Revolution has always been a taboo in the Mainland. Even though some of the major leaders and officials at that time have already passed away, the mainland authorities consistently stopped scholars and creative writers in the non-government sector from freely discussing or describing everything that happened during the Cultural Revolution, probably out of the fear that their official historical viewpoints might be challenged. They are still treating the Cultural Revolution this way, even though it took place such a long time ago. From this, we can envisage that, in the process of seeking the truth of the 4 June incident, we shall face much greater difficulties.

While the official clamp on historical discussion has yet to slacken, the non-government sector is brewing to gather the momentum to identify some flexibility in this issue. Some retired government officials and businessmen are planning to establish an unofficial museum to commemorate the Cultural Revolution. On the other hand, a former cadre of the Central Government has proposed to comprehensively conclude the lessons that can be learned from the Cultural Revolution. The Arts Festival in Beijing has even displayed some photos depicting the daily lives in the Cultural Revolution. With the emergence of a large quantity of Cultural Revolution resources over the Internet, the mainland society will gradually exert pressure on the Government to force it to open up the restricted areas in discussion and research, so that the historical truth of the Cultural Revolution, which will be different from the official version, can be unveiled before the eyes of the people.

As the Cultural Revolution is treated in this way, the 4 June incident is no exception. In particular, many aggrieved are still alive including those who personally experienced the incident or those who suffered the pain of losing their beloved ones. These people will definitely exhaust all channels such as media reports, assistance from non-government sector and legal litigations to make the Government disclose the development of events before and after the 4 June 1989, and they will make officials who committed mistakes to assume the responsibility. In an era of free flow of information, it is absolutely impossible for the Government to gag the people, nor is it possible for it to force all those who know the truth to remain silent forever. In the near future, a gigantic trend of exploring the truth will be formed among the people. It will not be possible for this trend to be stopped by any attempt to cover up the truth.

Deputy President, learning lessons from history will enable us to know better how to deal with the present. We Chinese must face the historical facts squarely, so as to prevent us from committing the same errors again. China is facing lots of social controversies such as the "sannong" crisis (related to agriculture, agricultural villages and farmers), reforms of state enterprises and land development rights, and so on. If we still cannot look at historical facts from a proper perspective, how can we draw conclusions from our past experience and learn lessons, thereby learning to adopt new mindsets to deal with social conflicts? If we cannot even make ourselves faithful to our own history, how can we confidently demand other countries to adopt a correct perspective in looking at the history of their invasion of our country?

Deputy President, it is an inevitable step we must take to review the past honestly if we intend to promote the unity of the Chinese people and enable our country to move forward in its development. With these remarks, Deputy President, I support the motion.

MR JAMES TIEN (in Cantonese): Deputy President, it has been 17 years since the outbreak of the 4 June incident. In the past, this motion was proposed by Mr SZETO Wah. But it has been proposed by Mr Albert HO since last year. Yet, no matter which Member proposes it, the stance of the Liberal Party remains the same as in previous years without any change.

I believe many Chinese will agree that the 4 June incident is a tragedy. Every patriotic Chinese will do everything within his ability to prevent the recurrence of such an incident. Regarding the causes and background of the incident, together with its eventual development into bloodshed, the Liberal Party firmly believes that it will eventually receive a fair treatment in history. What is most important for China now in development is to look ahead. Since the occurrence of the 4 June incident, our country has seized the opportunities to expedite the pace of opening up and development and has made spectacular achievement in many aspects which astounds the world. Since the consolidation of the political regime headed by HU Jintao and WEN Jiabao, a fresh style of governance and administration has been displayed, which deeply impresses many different countries.

In March this year, Premier WEN Jiabao disclosed in his working report that the Mainland's Gross Domestic Product (GDP) in 2005 had increased by 9.9% over the previous year. As 2006 is the first year in the 11th Five-Year Plan, so the Mainland's GDP will grow in the next five years, probably increasing substantially by 7.5%. The economic growth in the first quarter has already amounted to 10.2%, and this has led to the central bank's earlier introduction of a 0.27% increase in the interest rate for the purpose of cooling down the mildly over-heated economy. Judging from the circumstances in all aspects, the living standards of the people have been rising and the country has moved completely into the stage of heading towards a moderately affluent society.

According to the 11th Five-Year Plan, the country will promote the structural optimization of industries. Through comprehensively boosting the capabilities and introducing innovative ideas in production, we should upgrade the overall technical level of the industries, so as to strive to develop advanced manufacturing industries. At the same time, the mainland authorities will speed up the development of service industries, including information technology, finance, insurance, and logistics, and so on. From these, we can see that the mainland economy will continue developing steadily. I believe every Chinese will share my aspiration to witnessing the steady growth and strengthening of our country.

The Liberal Party thinks that, no matter what kind of reforms the country shall launch, the prerequisite is to have a steady political and economic environment as the foundation. Only on such a foundation can we establish a

democratic and prosperous society, thereby making our country stronger and richer and consequently the people's standards of living can enjoy greater protection. Deputy President, I so submit.

MR LEE WING-TAT (in Cantonese): I rise to speak in support of Mr Albert HO's motion.

Deputy President, recently, President HU Jintao visited the United States. In reply to a question raised by a reporter, he said that if there was no democracy, China would not be modernized. I can recall that when he replied the reporter's question, he said China had gradually developed its own democratic system, which included democratic supervision and democratic participation. Of course, on the surface, the reply was very positive — without democracy, there can be no modernization. But let us take a look at the development of our country during the past 10-odd years; if such development should match with what the national leader had said, then in effect we should be able to see the gradual development towards democratization.

First of all, in our country, the only election held with direct democratic participation is only at the village level. When it comes to the level of counties, there is already no direct election, nor any indirect democratic election. If, according to us, democracy does not only mean election, but it also refers to supervision, then first of all, we must take a good look at the present institutions of the country. What are the channels that allow the people to supervise those in power — be they the county magistrates, provincial governors, mayors, or even national leaders? There are very few channels available to the people, regardless of whether such channels are direct channels for lodging complaints. So what we see on the television or read from the newspapers are situations similar to what happened three to four decades ago or when I was a student. When villagers and workers are oppressed, when their wages are in arrears or when their lands are confiscated, the method they adopt is to go to Beijing to lodge their complaints with the Central Authorities. This is a very feudal system which means that there are inadequate channels at the local level for the poor farmers or workers with wages in arrears to reflect their grievances effectively. That explains why the decades-old method of lodging complaints to the Central Authorities is still adopted in our country. This has actually reflected that such a system is very inappropriate.

Secondly, as the science and technology of this day and age are very advanced, can the Internet be used by the people as a venue to express their dissatisfaction towards the policies or as a channel for lodging complaints? It is partly possible, but most of the websites involved in political discussion are deleted. It is estimated that there are tens of thousand so-called Internet policemen who keep searching in the cyberspace for websites involved in discussing political issues; tens of thousand Internet policemen are checking websites in the Internet to see if there are people discussing certain issues not allowed by the country.

Of course, the third channel is to exercise the people's rights to choose the representatives whom they think can act for their rights and interests. As I have just said, with the exception of representatives at the village level, all the representatives of counties, provinces, cities or even at the national level, and the delegates to the National People's Congress, are not elected by the people. As such, how can the people take part in democratic supervision and democratic elections?

When I once talked to a friend, I said no matter how hard working Premier WEN Jiabao was, no matter how kind-hearted he was, it was simply impossible for him to single-handedly supervise all the coal mines in the country which must number at tens of thousand. As a Chinese, I felt most miserable when I watched on the television the outbreaks of explosion or collapses or flooding of coal mines this week or last month, leading to the dozens or even hundreds of deaths. At the time of occurrence of the accidents, we would definitely see that some national leaders or Premier WEN come forward to say that they were saddened. However, this cannot solve the problems which exist in the system. No individual can supervise tens of thousands of coal mines. The only solution is to supervise the system through the people. The problem can only be tackled through the adoption of a power-sharing system. At present, the example we can see is: As far as coal mines are concerned, the local government is the licensing authority, and it may even be one of the shareholders. On top of these, the local government is also responsible for supervising the coal mines. And when an accident happens, the local government is also charged with the responsibility of conducting investigations.

Eighteen years ago, when a student movement emerged in Beijing, they advocated the ideals of opposing corruption and special privileges and demanded democratic supervision. They did possess great foresight. After a lapse of 18

years, some Honourable colleagues said that the economic development of the country is very good and stable now. However, as we take a good look at the situation, has the country acted like what we said in letting the people give full play to their rights during these 18 years? Do we have any channels for the people to exercise supervision? Do we have any labour unions that are liberally elected? Do we have the freedom of assembly? Absolutely not.

Even if we are not discussing some very political issues, if some incidents have not threatened the basic livelihood and the life and death of certain persons, very often, they will not rise in opposition. In recent years, we have seen many civic rights movements. Nearly all such movements were triggered off because the life and death of certain persons had been threatened. Or in some other cases, individual farmers, villagers and workers were made to stand up to resist because their private properties were confiscated. Many of such places with people rising in opposition are very close to Hong Kong. Therefore, such incidents are often reported in the press. I believe there are many more such cases of opposition in some more remote places when people put up resistance for the sake of their own rights, their livelihood and their life and death. However, the present system in our country does not allow these people to disclose such incidents very freely.

Therefore, no matter which country we are talking about, regardless of whether a democratic system is built up according to the principle of gradual and orderly progress, and regardless of how gradual it is, we must have an objective. We do not only aim at making our 1.3 billion compatriots say that our country is having very good economic development — some people say that when our mainland compatriots visit Paris, the shop they visit most is the LV boutique. Instead, we must be able to tell others how we should protect the interests of the powerless farmers (who must at least amount to 800 millions or 1 billion), or countless powerless workers who work in front-line production enterprises. It does not only involve their political rights, but also their lives and the right of enjoying their family life. Therefore, today, I am speaking in support of Mr Albert HO's motion.

Thank you, Deputy President.

MS MARGARET NG (in Cantonese): Deputy President, I would like to thank Mr Albert HO for proposing the motion urging us not to forget the 4 June

incident, so that this tradition can be carried forward in the Legislative Council, and that we can annually commemorate the most heroic pro-democracy movement in the contemporary history of China by way of moving a motion debate.

It has been 17 years since the outbreak of the 1989 pro-democracy movement. Seventeen years ago, I was working in *Ming Pao Daily*. I can vividly recall how the television closely connected the incident with the hearts of all the colleagues when the incident took place in Tiananmen Square. Through the television, the editorial department seemed bound up together with Tiananmen Square. At that time, we did not want to go to sleep, nor did we dare to take a rest. We simply worried that we might miss some eruptive changes that could happen anytime. Every night, after the final draft of the newspaper was cleared, we would keep faxing Hong Kong media reports to people we knew in different parts of the Mainland to let them know what had actually happened in Tiananmen Square. When the tragic incident finally broke out, our hearts seemed to have been struck by a heavy hammer and our minds seemed to have been scooped empty. During that period of time, we had plunged from the ecstasy of pride we felt for China to the deep abyss of sorrow we felt for China. Our demonstrations and countless articles all became historical footprints. If we have to forget the 4 June incident, it is like asking our left hand to forget the right.

The 1989 pro-democracy movement is a patriotic and democratic movement. It not just expressed the students' pure passion and loyalty towards our country, but it also made countless Chinese brought up in the colonial Hong Kong suddenly feel that "blood is thicker than water." No matter how much Western culture we have been subject to, we are all Chinese. Our realization of the sufferings of the Chinese people has triggered our identification with our own people and our lifelong commitment.

Deputy President, 17 years down the line, many great changes have taken place in mainland China. In particular, the economy of China has made great strides which have astounded the world. Gradually, such developments have brought about drastic changes in political attitudes and policies — at least great changes have taken place in the political rhetoric used. Recently, when President HU Jintao answered a question raised after delivering a speech in the Yale University, he said, "Without democracy, there cannot be any modernization." Mr LEE Wing-tat also mentioned this point earlier on.

However, what I wish to point out is: Is HU's proposition not exactly the same as what the student advocated 17 years ago?

Without any hesitation, President HU also said, "Today, as China proposes to build up a harmonious society, it is intending to build up a democratic society with the rule of law, justice and righteousness." Mr LEE Wing-tat questioned whether this claim tallies with what happens in reality. But anyway, is this claim not exactly the same as the ideal and aspiration of the democrats and students in Tiananmen Square? Were they not fighting for these when they bravely sacrificed their lives? Their only wrong-doing was advocating these 17 years ahead of the time! As the pioneers, they had to pay a price for their conviction. This is not surprising. But today, when all the facts have proved that they were right, why can we not do them justice and have the 4 June incident vindicated?

Seventeen years have passed, but memories of the scenes at Tiananmen Square are still very vivid in our minds. It seems that the angry and anxious shouting and yelling of students are still audible. Sounds of gunshots, shouts for help, the tears and blood are still so astonishingly real and close. Why do such young lives still bear the vicious blame of "creating riots" to this day, even though they did have the same ideal?

Deputy President, like other Honourable colleagues including Mr Albert HO, I have also received the letter from the Tiananmen Mothers which urges all righteous people to respond to calls of their conscience for the Tiananmen Mothers and families of the victims of the 4 June incident. I sincerely support this call and hope that more people can participate in the "Call of the Roses Campaign" to be held on 14 May. Seventeen years have lapsed, the Tiananmen Mothers have all become very old now. How long do they have to wait for the day when justice is done to their deceased children?

Some people advise Hong Kong people to set their eyes on the significant economic achievement made by China in recent years as well as the good prospects in future, and as such, we should put down the heavy burden of the 4 June incident from our shoulders. Deputy President, in my mind, the 4 June incident has never been a burden, but a precious estate inherited by us. For Chinese all over the world who have striven to fight for democracy in China, the 4 June incident is a constant encouragement and a continuous motivation.

On the contrary, to the Central Authorities, the 4 June incident is indeed a burden. In particular, when national leaders are facing the world demonstrating China's determination to build up a modern and democratic society governed by the rule of law, the 4 June incident is really a stumbling block. It will be shocking good news to the entire world if they can face up to history, unload the burden and vindicate the 4 June incident. By then, Chinese people all over the world will definitely be overjoyed.

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

MR CHEUNG MAN-KWONG (in Cantonese): Deputy President, this year will see the 17th anniversary of the 4 June incident. It has been many years since then, and time does fly! Some have made a U-turn, some have forgotten it; some remain silent; and some even make teasing remarks about it. But there are some who still find it unforgettable and pledge to keep the memory with them all their lives because, to them, forgetting history is tantamount to betrayal.

Many Honourable colleagues have mentioned the remark made by HU Jintao, "Without democracy, there cannot be modernization." However, HU Jintao and in particular, WEN Jiabao, do you still recall those young people who sacrificed their lives for the cause of democracy 17 years ago? Striving for a modern China, a country that will be without corruption, without official profiteering, without dictatorship, they staged peaceful demonstrations in Tiananmen Square. They were subject to the suppression by tanks and machine guns, using their blood as the sacrifice and using their lives to construct the Great Wall for a democratic China.

Members of the Legislative Council from the pro-democracy camp also have not forgotten the 4 June incident. In the past, Mr SZETO Wah would move a motion every year to call for the vindication of the 4 June incident. Now, this year, Mr LEE Cheuk-yan and Mr Albert HO have taken over the task of calling for the vindication of the 4 June incident. As long as there are pro-democracy Members in this Council, the vindication of the 4 June incident will continue to be China's conscience motion, which will test the moral courage and conscience of politicians.

Some recent press reports disclosed that, Ms TSANG Deying, mother of a victim ZHOU Guocong who died in the 4 June incident, was given RMB 70,000 yuan by the Government as a difficulty subsidy with the condition that she must agree to drop all the litigation actions. It was the first time that the Government had ever provided compensation to families of victims of the 4 June incident. But it had avoided the issue of the historical crime committed in the 4 June incident. This has demonstrated that, despite the pressurized political atmosphere in China, there are still people insisting on distinguishing the right from wrong in the 4 June incident as well as demanding compensation for those killed in it. Despite the lapse of 17 years, they have never regreted for what they have been pursuing. Eventually they have succeeded in breaking the long-standing political deadlock and having done justice to those killed in the 4 June incident.

Of course, the people know that the Government's provision of a subsidy does not mean that it has admitted it had done wrong because this is just a subsidy, not a formal compensation for the 4 June incident, less still a vindication of the incident. But anyway, it is an unstoppable force, and an unforgettable wound. It will eventually go from humanity to fairness, to historical fairness, and then to the vindication of the 4 June incident. This day will definitely come. How can a RMB 70,000 yuan difficulty subsidy stop the force of the conscience? How can it bury our historical judgement of the right and wrong? How can it turn the 4 June incident into a silent issue? We hope the Central Government can rename "the difficulty subsidy" for those killed in the pro-democracy movement into "the 4 June incident compensation", and apologize and provide compensation to the families of all the victims throughout the country, so as to heal the wounds in Chinese history and comfort the spirits of those who died in the incident.

We shall never forget the sacrifices of the deceased victims as it is necessary for the Government to accord better treatment to families of such victims. Stop isolating these families, stop keeping them under surveillance and stop oppressing them. Allow them openly mourn for the deceased victims in the 4 June incident and mourn for their beloved children. We will not forget overseas democracy fighters. They have been in exile for 17 years and cannot return to their own country. Some of them have died in overseas countries such as famous writers GE Yang and LIU Binyan, thus extending our national tragedy

indefinitely and seeing our the wounds of 4 June incident extended to overseas countries.

LIU Binyan had made a wish in his deathbed. He hoped that, the following line of words can be inscribed on his gravestone, "Here lies a Chinese who has done what he should do, and has said what he should say." By now, LIU Binyan's gravestone possibly has already been erected on the other side of the ocean. Shame on China. For a Chinese who died in an overseas country, no matter how beautiful that country is, it is ultimately not his native country. People must feel the solitude and sadness when they know that LIU Binyan had eventually died without being able or being allowed to return to China.

When HU Jintao talked about democracy in eloquence in the United States, why can he not allow democracy fighters to return to China? Why can dissidents' second allegiance not be allowed? Democracy is neither the decoration nor the tool of diplomacy, but it is a natural right of the people. When people in exile cannot return to China because of the dissident views they hold, when there are Chinese people losing their own lives due to their pursuit of democracy, when the 4 June incident is still a taboo and still cannot be vindicated, when families of those who died in the 4 June incident still have to live in humiliation, how much realistic sense does it make when HU Jintao said, "Without democracy, there cannot be modernization"?

Today, the Chinese Government stresses peace, reconciliation and harmony, and China has also taken onto the road of reform and opening and is rising in the international arena in a peaceful manner. However, reconciliation and harmony must first start with the people and the 4 June incident. I hope the Central Government can establish an independent commission of inquiry to conduct a thorough investigation and find out the truth of the 4 June incident, conduct open trials to pursue the criminal responsibility of all the officials, provide compensations to families of victims and tender open apologies to them, just as in the vindication of the 28 February incident in Taiwan.

The vindication of the 4 June incident is tantamount to bidding farewell to dictatorship and embracing democracy in harmony. This is the most powerful policy China should adopt for the purposes of pursuing the reunification with Taiwan and consolidating the support of the people. It can sooth the hearts of those who are still alive and comfort the spirits of those killed, thus enabling

history to heal wounds and walk away from darkness as well as leading to reconciliation and peace of the Chinese people.

With these remarks, Deputy President, I support the motion of conscience moved by Mr Albert HO.

MR MARTIN LEE (in Cantonese): Deputy President, a quorum is lacking now.

DEPUTY PRESIDENT (in Cantonese): Clerk, will you please do a head count of the Members who are present. If a quorum is not present, please ring the bell to summon Members back to the Chamber.

(When the summoning bell was ringing, THE PRESIDENT resumed the Chair)

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

PRESIDENT (in Cantonese): A quorum is now present. Let us continue with the meeting. Dr Fernando CHEUNG, you may speak now.

DR FERNANDO CHEUNG (in Cantonese): President, today is the eve of the 89th anniversary of the May Fourth Movement in 1919. Eight-seven years ago, the surging student movement led to the emergence of the Chinese Communist Party which always claims that it has inherited the May Fourth tradition. However, the two major themes advocated by the May Fourth students, namely "Science" and "Democracy", were never properly promoted. The real "May Fourth spirit" has always been made to facilitate the political expediencies of those in power over a long period of time. For example, under the rule of the Kuomintang, "Democracy" became the excuse for CHIANG Kai-Shek to enforce the "political tutelage stage" for a long period of time. Coming to the era of the Communist Party of China, "Democracy" became "the people's democratic dictatorship" pioneered by the proletariat. Today, even after reforms and opening up have been introduced for nearly three decades, the "May Fourth Spirit" is still being used as the political tool of those in power, and is interpreted

as "a great patriotic movement for safeguarding the reunification of the Motherland".

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

The May Fourth Movement that took place 87 years ago awakened the conscience of the intellectuals as well as the souls of the Chinese people. From the May Fourth Movement to the present, China has developed from feudalism to the civilization of socialism, the magnificent land of China has witnessed many democratic and patriotic movements, one after the other. Unfortunately, democratic politics has never taken root in China. There was a time when democracy was so close to us: In the summer of 1989, the Chinese people were determined to revive the socialist system which had become rotten under bureaucratic corruption 10 years into reforms and the opening up of the country. However, patriotic passion was met with the bloody massacre ordered by those in power in Beijing. Today, after 17 years, the modernization of China is still on the wrong track. Social conflicts, which naturally come with economic development, are not resolved through channels available in the open political system as well as the sound legal system. Instead, such conflicts are always suppressed by military force. The unscrupulous abuse of power by local officials and the ever accumulating conflicts between the officials and the people have sown the seeds of instability amidst the rapid economic growth in China. The substantial pent-up anger and grievances hidden in society of China may explode at any time.

In recent years, it is not uncommon for us to come across press reports filed by media outside China on massive demonstrations that took place in local districts. In fact, according to official statistics of China, annually there are some 60 000 demonstrations in various parts of China, that is, over 160 demonstrations per day on average. And such demonstrations are usually targeted at government organizations and cadres, reflecting that the corruption among government officials has escalated to an extent no longer tolerable to the people and the situation has aroused much public concern. One of the reasons for the outbreak of frequent conflicts between government officials and the people is the fact that the Beijing authorities or district governments are very keen to attract foreign investments. To achieve this purpose, they resume land

by force and drive away farmers from their original dwellings, in order to provide foreign investors with inexpensive land for launching investment projects. Such an incredible mode of development keeps taking place again and again in different parts of our country. Under the rule of the dictatorial regime, the interests of farmers are sacrificed due to the national development policy that is biased towards the coastal areas. It is unimaginable that even their most basic right, the right to housing, has not been given the least protection. Very obviously, such tragedies that happen to Chinese farmers can hardly happen in foreign countries with democratic systems.

If we leave the affluent coastal areas and proceed to the inland areas, the incomes of farmers there are growing very slowly. District officials join hands with local tyrants to exploit the poverty-stricken farmers with escalating malpractices. The empty slogan of "governing the country in accordance with law" used by those in power in Beijing cannot mask district officials' illegal acts of encroachment committed under the collusion between business and government officials. In recent years, a group of human rights lawyers have made use of their professional knowledge to uphold social justice. Through legal channels, they fight for the interests of the underprivileged. But they were oppressed by triad violence as district officials had collaborated with triad forces. Some human rights lawyers had been put under 24-hour surveillance by plain-clothes public security officers. Some were even ordered to close down their legal firms. If the deceased victims of the 4 June incident have the chance to see the treatment given to the civil rights lawyers now, they must find it a disgrace as those in power in Beijing have failed to learn the lessons from the tragedy in history. On the other hand, they must feel sad for the Chinese people who are still living under a dictatorial regime notorious for trampling on human rights.

The human rights lawyers are not afraid of people with influence and power. They make me think of the Tiananmen Mothers. They also display the same insistence on pursuing the truth, which has enabled this group of Tiananmen Mothers to rise from the deep trauma caused by the loss of their beloved children, to shoulder all sorts of historical burdens with unparalleled courage. For 17 years, they have refuted the lies invented by the Government one after the other. In the face all sorts of persecution like intimidation, arrest and detention, they have never given up their pursuit of justice. We hope that,

one day, they can stay away from the nightmares, so that they can freely and openly mourn for those who died in the 4 June incident and be able to accept the long overdue apologies from leaders of the Central Authorities.

The 4 June incident is not only a wound causing pain to families of the deceased victims, but to the Chinese people, it is also a historical wound. If the Chinese people have to really stand up proudly, the Chinese Government cannot only rely on its economic strength, but it must also have the courage to shoulder the historical responsibility. Very much like the post-war Germany which apologized to the people of the world for the Nazi atrocities, the Chinese Government must have the breadth of mind to admit its own historical mistakes before it can win the respect of the international community (including the Chinese people all over the world). Only in this way can it proudly face our future generation. Only in this way can it rebuild the mutual trust between the people and the Government.

Only when those in power in Beijing are willing to face their own history can we eventually unload our 4 June burden from our shoulders. Otherwise, the vindication of the 4 June incident should become the responsibility we shall pass from one generation to the next, and this is the unshirkable historical mission of Hong Kong. The Chinese people will only have hope on the arrival of the day when the 4 June incident is really vindicated.

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

MR MARTIN LEE (in Cantonese): Deputy President, a quorum is again lacking now.

DEPUTY PRESIDENT (in Cantonese): Clerk, please ring the summoning bell.

(When the summoning bell was ringing, THE PRESIDENT resumed the Chair)

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

PRESIDENT (in Cantonese): A quorum is now present. Let us continue with the meeting. Mr Andrew CHENG, you may speak now.

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

MR ANDREW CHENG (in Cantonese): Deputy President, every year we move a motion here to demand the vindication of the 4 June incident. Now we have come to the 17th year after the outbreak of the 4 June incident. Recently, more and more people are discussing the issue. As political parties in Hong Kong, should we continue bringing up the issue of demanding the vindication of the 4 June incident?

All along, right from the very beginning, the Democratic Party has resolutely supported Hong Kong's reunification with China, acknowledging the fact that Hong Kong is an inseparable part of China. Since Hong Kong people are members of the Chinese people, we have the right and responsibility to care about and take part in the affairs of China. It is the common aspiration of all Chinese people to see China progress towards democracy and the rule of law, respect human rights and freedoms and achieve economic prosperity, and such a development will also be extremely beneficial to the long-term development of Hong Kong. On this premise, we have been bringing up the significant issue of the vindication of the 4 June incident for many years, insisting that we must point out the mistakes made by the Government in the past, in the hope that the Central Government can face them squarely. In doing so, we are hoping that both our country and our people can make improvement in the process of modernization.

Deputy President, "Do not want to remember, but dare not forget" has been the slogan used by us for many years. We still move the motion annually not because we intend to embarrass those in power or to give them a hard time. We just want to show our respect for history, and accord justice and dignity to the victims and their families, and leave an unforgettable lesson to our next generation.

Today, many Honourable colleagues have quoted President HU Jintao's remark: "Without democracy, there cannot be modernization." And when President HU met former President of the Kuomintang (KMT) LIEN Chan, he

also said, "For a leader and for a political party, people's interests must be accorded the top priority at all times." Deputy President, from this we can see that the students and the people in the 4 June incident only wanted to express their dissatisfaction over corruption, official profiteering and rotten practices at that time, and they just wanted to draw everyone's attention to the Government's contempt for human rights and the rule of law, so that the people could be given some more freedom, and that society could have a set of regulations for implementing the rule of law.

Unfortunately, what they got in return was unjustified jail terms, lives in exile, unwarranted injuries or even the sacrifice of their lives. As members of political parties based in Hong Kong, all we intend to do in demanding the vindication of the 4 June incident is no more than doing justice to every wounded soul and their families, as well as building up the due dignity of a country.

We believe that it is not a disgrace for a government to admit the mistakes it made in implementing policies in the past. On the contrary, if it has the courage to admit its wrong-doings, and tries its best to soothe the historical wounds, it shall gain the respect of the people and win acclaims in the international community. Only in this way will it have no regrets before history. The more we demand the vindication of the 4 June incident, the less the price the country and society will have to pay. In admitting past wrong-doings and vindicating the aggrieved, the Government can help bringing about a major reconciliation in society. Only in this way can we build up a really harmonious society.

Deputy President, some may hold the view that if we insist on adhering to our own view of the 4 June incident and demanding the vindication of the 4 June incident, it will adversely effect our communication with leaders of the Central Government. Then, let us take a look at the case of the incumbent Chairman of the KMT, MA Ying-jeou. In the beginning of this year, right before he led a KMT economic and business delegation to visit the Mainland, he still repeatedly stressed his stance that "As long as the 4 June incident is not vindicated, there can never be any reunification talks". In spite of this, when Mr LIEN Chan of KMT led another delegation to the Mainland in April, the Central Government still adopted very high standards of formalities in receiving him. President HU Jintao met with the delegation in person and openly said that the Government would adopt a forward-looking and constructive attitude in conducting dialogues

and negotiations in order to solve some problems that existed between the two sides.

As the insistence by the KMT of Taiwan on their own view of the 4 June incident had not affected its negotiation with leaders of the Central Government, why should our communication with the Central Government be hampered if the Democratic Party or other political parties of Hong Kong demand the vindication of the 4 June incident? Very obviously, this is a matter of political reality. It is all about united front work, and the nature of the 4 June incident is not relevant at all.

We in the Alliance and the pro-democracy camp of Hong Kong have never doubted our identity as Chinese, and we sincerely hope that our country can surpass and walk out of its past mistakes and complexes. Unfortunately, we are denied access to our own country. Our applications for home visit permits are declined and we have been accused of having ulterior motives. This is really regrettable. In the eyes of our Taiwanese compatriots, this is not a good example at all. I hope leaders of the Central Government can have a better understanding of this issue.

During the past period of more than a decade, the conclusive view of the Central Government over the 4 June incident has changed from a turmoil, then a riot, a crisis and eventually to an incident. I believe, one day, the 4 June incident will be vindicated just like the Cultural Revolution. I deeply believe that, with our steady insistence, this day will not be too distant. By then, all those who now suffer from memory lapses, those who remain silent and those who have made U-turns will feel ashamed of themselves.

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

MR MARTIN LEE (in Cantonese): Deputy President, once again, a quorum is not present now.

DEPUTY PRESIDENT (in Cantonese): Clerk, please ring the bell to summon Members back to the Chamber.

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

DEPUTY PRESIDENT (in Cantonese): A quorum is now present. Let us continue with the meeting. Mr LEUNG Yiu-chung, you may speak now.

MR LEUNG YIU-CHUNG (in Cantonese): Deputy President, Members have got used to delivering their speeches while not too many people are present. But a handful of Members like Mr Martin LEE would insist that everyone should take part in the debate, which is why they keep reminding Members to come back to the meeting.

The same is true of the 4 June incident. Very often, people may feel that since history is a thing of the past, we should let bygones be bygones and stop pursuing the responsibility issue. Yet, there are always a handful of people who keep reminding us that we should face the past and take the matter seriously — in the past, we had Mr SZETO Wah, and now we have Mr Albert HO. This is why the issue of the 4 June incident is once again visited in this Council today.

Deputy President, 17 years have passed since the occurrence of the 4 June incident. Many people think: On the one hand, it was an incident of the past, and on the other, in view of the spectacular economic development China has achieved nowadays, is it really necessary to mention the 4 June incident again? Just now Mr James TIEN kept stressing one point: If we keep talking about the 4 June incident, will it jeopardize the development of China, particularly on the economic front?

Deputy President, the economic achievement of China today is certainly spectacular. The Chinese Government is full of confidence too. As they unveiled their 11th Five-Year Plan, they proclaimed in no uncertain terms that by the year 2010, the national income would increase one-fold as compared to year 2000. In layman terms, it will have doubled by that time.

As a matter of fact, in the face of such spectacular achievement, the people of China or even the people of the world would say: Why do you not spend more time and efforts on the economic aspect? Certainly I am not asking people to put a halt to their involvement in economic activities. Yet, apart from the economic aspect, is there nothing else that we should care about? Is it true that we no longer need to face our history squarely? Deputy President, naturally I

disagree with this point. In fact, I am not the only one who disagrees; even President HU Jintao disagrees too.

Deputy President, why did I say that? I remember in September last year, on the day marking the 60th anniversary of the Second World War, President HU Jintao made a remark. He stressed that we should remember history and learn from history; that we should set our sight on the future without forgetting the past; and that we should learn our lessons in order to avoid the recurrence of tragic incidents in history. Deputy President, this is the most significant part. We should avoid the recurrence of tragic incidents in history. We are not trying to reopen healed scars, nor are we trying to take out the skeleton from the closet. We talk about the 4 June incident again just because we hope that this historical incident will not repeat itself in future. Unfortunately, just at the time when we remind ourselves not to forget the past, as we look at the situation in the Mainland now, we do worry that the tragedy might recur.

As mentioned by many Honourable colleagues just now, the economy of China is undoubtedly ever developing, but what about the livelihood of the people? Several Honourable colleagues cited many examples just now, such as the movements for upholding civic rights. Why should there be such civic rights movements? It is because many basic rights of the people are not protected. In order to uphold their civic rights, they are forced to take part in the movements for upholding their rights. In the course of such movements, many people have sustained injuries or ended up in detention. We are worried that death, injuries and casual detention similar to what happened during the 4 June incident would recur. Therefore, we have to face history squarely. We cannot force ourselves to forget history.

Just as many Honourable colleagues have pointed out just now, the civic rights movements have come into being precisely because the civic rights of the people are unprotected and the Government does not take such rights seriously. As a matter of fact, after the Chinese Government had abandoned socialist principles, they concentrated on developing the economy, but they have accomplished virtually nothing in the political system, particularly in the areas of democratic political system and people's participation. So the people have no recourse to seek redress for their grievances. With all these pent-up grievances, it has resulted in many tragedies. Therefore, while China continues

to develop its economy, my view is that they can no longer afford not to develop a democratic system. The basic rights of the people can only be assured protection under a democratic system.

Today, while we are talking about democracy in China, we are actually living in Hong Kong. Therefore, some people argue that for a democratic system to be established in China, and for the 4 June incident to be vindicated, the people of China must stand up for these causes. Recently I read a column written by a scholar, who said that the vindication of the 4 June incident was a major cause affecting more than a billion Chinese people, and this could only be materialized when the people in the Mainland were mobilized. He said, if Hong Kong people remained insistent on their stance in the issue of the 4 June incident, they might, on the one hand, be trespassing into other people's pasture and play the role as the God of Democracy; and on the other hand, this might keep the democratic movement of Hong Kong forever frozen at the ethical level and prevent it from developing to a concrete and operational level.

Deputy President, this argument appears to have adopted the view of completely detaching Hong Kong people from the Chinese people. It seems to suggest that we have totally forgotten the element of "one country" in "one country, two systems". Do we really believe that Hong Kong can enjoy democracy when China is deprived of democracy? This is already evident as we examine the constitutional development of Hong Kong. In our quest for democracy, whenever China says no, then we cannot enjoy democracy. If we only care about ourselves and seek our own development with no regard to what happens in China, how can we build up a democratic system in Hong Kong after all? Today, when we commemorate the 4 June incident, we cannot afford to disregard the democratic development.

DEPUTY PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung, your speaking time is up. Dr YEUNG Sum.

MR MARTIN LEE (in Cantonese): Deputy President, a quorum is again not present.

DEPUTY PRESIDENT (in Cantonese): Clerk, please ring the summoning bell.

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

DEPUTY PRESIDENT (in Cantonese): A quorum is now present. Let us carry on with the meeting. Dr YEUNG Sum, you may speak now.

DR YEUNG SUM (in Cantonese): Deputy President, I would like to thank Mr Albert HO for moving this motion on the vindication of the 4 June incident, so that, apart from giving us an opportunity to express our opinions annually on this significant issue, we can also call on the people not to forget the 4 June incident.

Mr Andrew CHENG has discussed just now whether political parties in Hong Kong should bring up the issue of the 4 June incident. This reminds me of a past incident. It happened at a time when I first assumed the post of the Chairman of the Democratic Party. Some middlemen acting on behalf of Beijing talked to me on this issue on several occasions. They said, "YEUNG Sum, you should not mention the 4 June incident anymore. As the Chairman of the Democratic Party, you should seek to detach the Democratic Party from the Alliance. Otherwise, personally you will not have any future in politics." Many people have talked to me on different occasions to the effect that, if the Democratic Party does not separate itself from the Alliance, the entire Democratic Party will not have any future in politics.

Deputy President, you may recall that there had been a so-called reconciliation atmosphere at that time in Hong Kong, no wonder many scholars in political studies also joined in the call for the separation of the pro-democracy camp (particularly the Democratic Party) and the Alliance. However, we did not make any concession to such a call because we felt that the 4 June incident was basically a democratic and patriotic movement. At that time, a Beijing middleman told me that the 4 June movement was an anti-Communist Party and counter-revolutionary movement. He asked, "If the pro-democracy camp and the Democratic Party — including YEUNG Sum — supported this movement, does it mean that they support movements that are anti-Communist Party and counter-revolutionary?"

I stressed repeatedly that, to us, the 4 June pro-democracy movement was a democratic and patriotic movement. At that time, the student sought to oppose official profiteering and corruption and intended to build up a democratic China. I believe this is the common aspirations of all Chinese people. Recently, we had a chance to visit the Mainland. We also grasped the opportunity to put forward our request to Secretary of Guangdong Province ZHANG Dejiang (member of the Politburo) for the vindication of the 4 June incident. We also demanded the early release of CHENG Xiang. At that time, ZHANG Dejiang said that the Central Authorities had already a conclusive judgement of the incident, and he also said that we did not see eye to eye with each other in our discussion of the subject. Finally, he spent a lot of time reiterating the Central Authorities' conclusive judgement of the 4 June incident.

I feel that supporting the vindication of the 4 June incident and supporting the 1989 pro-democracy movement are in fact a cause of personal conscience. First of all, as intellectuals and people who love democracy, we definitely oppose the State using violence to suppress the people. Even if it was like what Mr CHIM Pui-chung has said, the stability of China was very much attributable to the Government's insistence on preserving "one-party dictatorship" and the adoption of such tactics to suppress the pro-democracy movement had really enabled China not to follow the footsteps of the former USSR. But anyway, I believe using violence to suppress the people was unforgivable and there could not be any reasons that were acceptable. Secondly, this is a cause of conscience. I believe all the Chinese people, be they in China or otherwise, will hope that China can develop towards democracy and become more open to the outside world. Among such Chinese, they must include President HU Jintao. I believe he will also hope to see that both Hong Kong and China can have the chance to move towards democracy and become more open to the world. Thirdly, I feel that it is necessary for those people or those leaders who suppressed the people to give an explanation to the people and assume their responsibility for the incident. I feel that these three points are sufficient for making us determined to demand the vindication of the 4 June incident and to continue supporting pro-democracy movements.

As for our personal future in politics or that of the political party, I believe they should not depend upon the abandonment of our fundamental stance of demanding the vindication of the 4 June incident. Of course, some Honourable colleagues may think that "river water should not interfere with well water";

since we claim to be "highly autonomous", then we should not interfere with what happened in the Mainland. However, after China's resumption of the sovereignty over Hong Kong, if we still say "river water should not interfere with well water", then it seems to suggest that Hong Kong and the Mainland are still separated from each other. In fact, the Mainland and Hong Kong are closely related to each other, and this can be illustrated by the Individual Visit Scheme, CEPA, and even the Central Authorities' recent attempt to veto our agenda of democratization through the interpretation of the Basic Law. So from the political, economic and cultural aspects to the religious incident which has occurred recently, we can see that the two sides are actually inseparable. Therefore, please do not think that as you are engaged in the political movements in Hong Kong, then you should not have anything to do with any affairs of China. I think the time and the setting have already changed.

In fact, our efforts in Hong Kong in fighting for the vindication of the 4 June incident and promoting the pro-democracy movements will have some subtle yet long-term, direct or indirect impact on the development of the Mainland. There is still another view. As Mr James TIEN has said, maybe we should take a forward view of the incident, and finally let us leave this tragedy to the fair judgement by history. I think this reflects a mentality with the emphasis on economic development, stressing that we should adopt a forward view or leave it to the fair judgement by history. Any person with such a mentality will care only about the immediate interests and tries to be worldly wise and play safe in order to protect himself. If we never have the courage to say what we think about the right or wrong of issues of principle or the mistakes made by China's national leaders, we are just having the mentality of trying to protect ourselves. If we just pursue immediate interests and feel that we should not openly say what think about the right or wrong of issues of principle, I think this country or this society will not have any future.

We can learn lessons from history only if we can face history squarely and have the courage to admit our own mistakes. Therefore, as long as the 4 June incident is not vindicated, Hong Kong people must go on supporting pro-democracy movements and we must continue holding such a debate on this motion in the Legislative Council. Thank you, Deputy President.

MR MARTIN LEE (in Cantonese): Deputy President, a quorum is not present again.

DEPUTY PRESIDENT (in Cantonese): Would the Clerk please ring the bell to summon Members back to the Chamber?

(THE PRESIDENT resumed the Chair while the summoning bell was ringing)

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

PRESIDENT (in Cantonese): A quorum is now present. Ms Audrey EU, you may now speak.

MS AUDREY EU (in Cantonese): President, first of all, I must thank Mr Albert HO for inheriting from Mr SZETO Wah the task of moving as a tradition such a significant motion on the eve of 4 June every year to remind Members not to forget the incident. As remarked by Mr Alan LEONG a moment ago, the motion this year has been moved a bit earlier than before. But I think the timing is just right because Mother's Day falls in May. Therefore, the moving of this motion today, that is, 3 May, can serve precisely to remind us that while we see all the publicity on Mother's Day in the streets of our city, we should do some serious reflection and try to understand the feelings of the Tiananmen Mothers. After the passage of 17 years, they are still waiting, still waiting for the vindication of their children. As the Tiananmen Mothers write in their letter to Legislative Council Members, their only hope is the fulfillment of a minimal and humble wish — being able to mourn their children and relatives at will and free from various forms of inhuman treatment such as white terror, surveillance, harassment, intimidation, threats and chastisement.

Two weeks ago, State President HU Jintao visited the United States. In the speech he delivered at Yale University, he said, "Coming to the Yale campus with its distinctive academic flavor and looking at the eager young faces in the audience, I cannot but recall my great experience studying at Qinghua University in Beijing 40 years ago."

After listening to President HU's speech, I cannot but think about the university students who extended the quest for liberty and democracy beyond their campuses and took to the streets in the 4 June incident. In the end, many young students sacrificed their short but valuable lives, rendered unable to

breathe any distinctive academic flavour and live the great experience of university life.

To forget history is to trample on history. For 17 years, 4 June has remained an albatross around the Chinese people's necks. Premier WEN Jiabao once said, to this effect, "However trivial a problem is, it will become a very great one when it is multiplied by 1.3 billion." We can easily imagine how great a historical wound will become when it is multiplied first by 1.3 billion and then by 17. The people cannot but sigh, wondering when the leaders will have the courage to face history. The 4 June incident is not only an albatross around the people's necks but also an obstacle to national progress and reunification. As mentioned by many Members, Taipei Mayor MA Ying-jeou once asserted to this effect, "No vindication of the 4 June incident, no talks on reunification."

Some argue that one should not be so intransigent, explaining that China is no longer the China we used to know and the Communist Party is no more the Communist Party in the past. Precisely because of this, I must say, we are more eager than ever before to see the early vindication of 4 June. In his speech, Mr James TIEN reminded us of the GDP growth of our country. All of us should indeed be proud of such a rate of growth. Statistics about wealth, about GDP growth, about the economy are of course important, but those about human casualties are no less significant. I hope that an official figure, that is, an official figure on the casualties in the 4 June incident, can be announced as early as possible. We can only learn from a website that DING Zilin, a Tiananmen Mother, has so far managed to gather the names of 150 deaths in the 4 June incident after 17 years of continuous search. But after so many years, we have not yet learnt of any official figure on casualties. This is a very fundamental duty of the State.

A period of 17 years has passed and the leadership has already changed. But many of those who were wronged and treated unfairly in the 4 June incident, such as ZHAO Ziyang and LIU Bianyan, could not live to see the vindication of 4 June and had to die much an aggrieved soul. A yet greater number of pro-democracy activists cannot even return to their country and have to go into *de facto* exile.

As I once remarked in this Chamber, every year when we move a motion on 4 June, we invariably hope that it will be the last time that we do so. We hope so because this will mean the vindication of 4 June. But year after year, we have been moving a motion on 4 June. In a way, the vindication of 4 June and the fight for democracy share one thing in common — in both cases, people

on the negative side do not dare to oppose the motion topic directly. They dare not admit that they oppose vindication, nor can they tell others that they are against democracy. They can only urge others to "wait", saying that as long as there is an impartial consensus, the day of vindication will surely come. As rightly pointed out by many Members, however, reticence and waiting are both accomplices.

Although 17 years have passed since the 4 June incident, the violation of human rights is still rampant in the Mainland. Members have dwelt on this at length, so I shall make no repetition here. Therefore, if we are to avoid the repetition of history and leave all the sorrow and melancholy behind us, we must establish some kind of institutional safeguard. What is meant by institutional safeguard? This means the building up of a China with democracy, liberty and the rule of law.

President, in memory of those who died in the 4 June incident, let me quote an elegy by LU Xun here:

"Gone, I thought, impassioned moods
like those of long ago:
Flowers blossomed, flowers fell —
and of their own they did so.
That tears would fall in southern rain
— how I was then to know
Our people's loss of a dauntless son
would plunge me again to woe?"¹

Thank you, President.

MR MARTIN LEE (in Cantonese): President, a quorum is not present again.

PRESIDENT (in Cantonese): Dr KWOK Ka-ki, Mr Martin LEE again wants a head count to check whether a quorum is present. Please sit down first and let me count the number of Members present.

(The Clerk counted the number of Members present)

¹ Translated by J.E. Kowallis, *Selected Classical Poems*, University of New South Wales.

PRESIDENT (in Cantonese): A quorum is not present. Would the Clerk please ring the summoning bell?

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

PRESIDENT (in Cantonese): A quorum is now present. Dr KWOK Ka-ki, you may now speak.

DR KWOK KA-KI (in Cantonese): Madam President, tomorrow will be the 87th anniversary of the May Fourth Movement, and one month later, it will be the 17th anniversary of the pro-democracy movement in 1989. The May Fourth Movement and the 4 June incident are both significant events in the history of China. All of us must keep them clearly in mind instead of obliterating our memories of them. However, in the Mainland, the May Fourth Movement is now a mere ritual called the Youth Day, which has nothing to do with the struggle for democracy and independent thinking. The 4 June incident, on the other hand, is a taboo, the remembrance and public mourning of which are prohibited. At seven o'clock this evening, a ceremony to commemorate the May Fourth Movement will be held in Chater Garden by people supporting the democratization of China and Hong Kong. But people in the Mainland may not be able to hold a ceremony like this.

I must also take this opportunity to thank Mr Albert HO for inheriting from Mr SZETO Wah the task of moving as a tradition a motion every year on not forgetting 4 June and the vindication of the pro-democracy movement in 1989. It has been 17 years and I believe all Chinese people must have formed their own judgements and perceptions of the 4 June incident. What we are asking for, as stated in the motion, is that people should not forget this incident. The only purpose is to vindicate and do justice to all those young people who sacrificed themselves for the democratization and future of our country 17 years ago.

Today, I find it most fortunate that we can hold this debate here and I also admire and respect the persistence of Members. I hope this opportunity can serve to recall all Chinese people's memories of the tragedy, urging them to remember history. We often say that there is no future for a country which

forgets history. Whenever we recall memories of World War II, we often compare two countries. One is Germany and the other Japan. After World War II, instead of erasing its invasion of foreign countries from historical records, Germany has been seeking to embed this part of history in the national memory. Consequently, the Germans can all learn from the mistake, forget the pains and persevere with their reforms. In the end, Germany has transformed into a great democracy. In contrast, Japan has been trying to sweep everything under the carpet since the end of World War II, refusing to admit the hard facts of its having invaded other Asian countries (including China). This explains why Japan has so far failed to command any respect in the political arena of the world or Asia. We do not want our Motherland to become a country like this, a country that forgets history.

We witnessed the history of 4 June. Many were killed by tanks or gun shots. I want to pray for all those souls of lost freedom. I also want to commiserate with the Tiananmen Mothers whose children were killed, in the hope of easing their pain and agony. The purpose of not forgetting 4 June is to fight against the obliteration of memories and persevere with our mourning. The purpose of vindicating the pro-democracy movement in 1989 is to say no to political suppression, to give recognition to the patriotism of this campaign for democracy and to assert a place for all those who died for the future of our country and its cause of democracy. Chinese people will never forget this historical incident. True to their conscience and the cause of justice, they want to commemorate 4 June openly. They refuse to accept any lies. They want the truth. They want the authorities to admit culpability, promptly rectify the mistake committed years ago and allow the people to mourn the victims openly. It is only in this way that the 4 June incident can be vindicated, that China can take a stride in the direction of democratization.

LU Decheng from Hunan, who hurled an egg at the portrait of MAO Zedong in Tiananmen Square as a young man during the pro-democracy movement in 1989, arrived at Vancouver last month as a refugee after long years of imprisonment in China. He remarked at a press conference that the Chinese Communist authorities have never ceased suppressing the free expression of opinions, and that since the Communist Party of China was wholly responsible for the 4 June incident, it would be a "joke" to ever expect Beijing to vindicate the incident of its own accord. I certainly do not hope that such an expectation will really become a joke. I instead hope that our country can take a stride forward by learning a lesson from the 4 June incident and the pro-democracy

movement in 1989. But without a faithful, unambiguous and fair appraisal of what happened in history, how can we ever expect our country to embark on the course of democratization?

Those in exile overseas may feel completely helpless about Beijing and requests for the vindication of 4 June may even sound like mere wishful thinking. All this makes me very sad because those who have suffered for 17 years are not only the imprisoned pro-democracy activists but also all the Tiananmen Mothers who are left languishing in pain, in endless sleepless nights. And, there are still many human rights lawyers and all those dissidents who may still be hounded despite their being overseas.

The vindication of 4 June is something only fair and natural, for it makes the patriotic demands for democracy loud and clear, serving to remind the Chinese Government that it must act according to its conscience and uphold the natural course of justice.

Recently, in Jinjiang County, Chengdu, Sichuan, a hardship assistance of RMB 70,000 yuan was paid as compensation to the family of ZHOU Guocong, a boy killed in the pro-democracy movement in 1989. However, since his family members were requested to sign an undertaking of no further litigation, the public may well think that it was just an attempt to make people forget 4 June or to avoid giving a proper appraisal of the incident.

I believe that debates on this very topic in the Legislative Council will not cease in the future. But I hope that all such debates can eventually bring forth the true vindication of 4 June and the pro-democracy movement in 1989 and also lead to the fair treatment of democracy advocates in China.

I so submit. Thank you, Madam President.

PRESIDENT (in Cantonese): Dr KWOK Ka-ki, time is up. You may now sit down. Mr Albert CHAN.

MR MARTIN LEE (in Cantonese): President, once again, a quorum is not present.

PRESIDENT (in Cantonese): Mr Martin LEE, please be seated first. A quorum is not present, as only 23 Members are present. Will the Clerk please ring the summoning bell?

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

PRESIDENT (in Cantonese): A quorum is now present. Mr Albert CHAN, you may now speak.

MR ALBERT CHAN (in Cantonese): Many thanks to Mr Martin LEE for summoning Members back to the Chamber for me. However, I suppose these Members are just physically present but mentally absent. Their souls are elsewhere. Therefore, it is pointless for them to be here. When their souls are befuddled, befuddled by money and power, even the chimes of God may not recall them. When they no longer have any conscience, no exhortation, however persuasive, and no oration, however rhetorical, can possibly change their attitude.

Mr Albert HO's budget today (*laughter*) It should be Albert HO's motion on the 4 June incident — maybe, I am still dissatisfied with the Democratic Party's support for the Budget, so, Madam President, my mind is still on the Budget.

I am very grateful to the Financial (*laughter*) I am very grateful to Mr Albert HO for moving the motion today. Mr Albert HO's moving of the motion is probably the continuation of a tradition handed down by Mr SZETO Wah. But there is always something unique to Mr Albert HO's personal style — the problem of wrong timing. Anyway, being too early is after all better than being late, for Members can still have an opportunity to speak on this topic.

President, many people have referred to the "The 64 roses — We call for Justice!", a campaign started by the Tiananmen Mothers. By mere coincidence, the emblem of the League of Social Democrats (the League) recently established by us also features a rose. Actually, we do share many things in common. In Hong Kong, underprivileged social groups still abound, and injustices and

inequalities are also very common. We must therefore make our voices clearly heard, in very much the same way as how the Tiananmen Mothers pursue concern, justice and solidarity.

Several points are mentioned in the draft manifesto of the League which we published on 1 May and I quote, "Between spring and summer in 1989, there occurred in China a patriotic pro-democracy movement on a magnificent scale, but it was quelled by bloody suppression in the end. For 17 years, all of us living in a place that is comparatively free have not dared to forget this incident in all conscience. We firmly believe that the Communist Party of China will have to disclose the truth of the 4 June tragedy, ascertain culpability and offer compensation to the victims' family members. This is a law of history and the irresistible current of the times." When we discussed this draft, no such compensation had ever been paid in the vast territory of our country. Recently, however, compensation was paid for the first time in the form of hardship assistance.

There were actually numerous tragedies under totalitarian rule in China. The 4 June incident and the 2-28 Incident in Taiwan were two examples of such tragedies. In no time at all, more than half a century has passed since the occurrence of the 2-28 Incident. And, the vindication of the incident has come only after the passage of half a century. The Kuomintang has at long last extended its apology and paid compensation. But this is possible only because CHIANG Kai-shek has been dead for several decades, only because the democratization of Taiwan has reached the stage of party politics. With party politics, it is now impossible to perpetuate one-party dictatorship. And, it is precisely for this reason that the Kuomintang has become the opposition and finds it possible to extend an apology. I believe, if the Kuomintang is still the ruling party, it may not necessarily extend any apology and change its position. It is therefore very obvious that how a political organization or government is to determine the nature of a political incident will very often depend on political expediency. Therefore, in regard to the eventual vindication of 4 June and the payment of compensation to the victims, I believe that as long as the existing political system in the Mainland remains unchanged, it will be very difficult for us to expect the ruling regime and any leaders to reverse their position.

It took more than half of a century before the 2-28 Incident was vindicated and compensation paid. This year marks the 17th anniversary of 4 June. With

the opening of the Mainland and all the possibilities of its political development, I do not think that we will have to wait 10 or 20 years more. Nor do I think that we will have to wait more than half of a century, as in the case of the 2-28 Tragedy, for the vindication and a new interpretation of 4 June.

Surely, many of the Members present today — I have been saying so year after year — are in fact very supportive of this motion, but under the evil sway of political pressure, their conscience has been eclipsed by the dark sides of their minds. This is indeed a great misery for the Legislative Council, something we should be ashamed of. As a result, while I support Mr Albert HO's motion, I must at the same time condemn such behaviour.

MR MARTIN LEE (in Cantonese): President, it appears that a quorum is not present again.

MR LEE CHEUK-YAN (in Cantonese): Yes, I was in fact waiting for your reminder on this. *(Laughter)*

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber?

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

PRESIDENT (in Cantonese): A quorum is now present. Mr LEE Cheuk-yan, you may now speak.

MR LEE CHEUK-YAN (in Cantonese): President, I am convinced that as long as 4 June is not vindicated, a motion on its vindication will continue to be moved in the Legislative Council every year, and Mr Martin LEE must continue to count the number of Members present year after year during such motion debates.

President, what I find most disgusting is that very often, when discussing a motion topic on the vindication of 4 June, many people will argue that we had

better dislodge the baggage of 4 June, and that there is no point in talking about things of the past when China has made so much progress now. If 4 June is not regarded as a baggage of our consciences, then where are Members' conscience? It is a baggage, definitely a baggage. This is quite similar to the case of the Nanjing Massacre, which is described by many as a baggage of all Chinese people. Why is it that on the one hand, our leaders want us to learn from history and continue to bear the baggage of the Nanjing Massacre, but on the other, they forbid us to bear the baggage of 4 June?

Therefore, I hope when Members talk about 4 June being a baggage, they can recall what they were thinking about during the pro-democracy movement in 1989. Recently, when President HU Jintao visited the United States, he tried to appear liberal-minded, and one of the remarks he made arouses mixed feelings in me. He said, to this effect, "China has always maintained that without democracy, there will be no modernization." Do Members find this remark somewhat familiar? It was a remark first made by Mr WEI Jingseng. President HU Jintao simply borrowed the remark from Mr WEI Jingseng. Mr WEI Jingseng once remarked that in addition to the four modernizations, China must still need a fifth modernization. President HU Jintao said, "China has always maintained" But 30 years ago, Mr WEI Jingseng already said so. It is therefore correct to use the word "always". Only that Mr WEI Jingseng could not speak on behalf of China. But that again, is President HU Jintao qualified to do so?

Therefore, it is just the very same remark, but the identity of the one who utters it really makes a whole world of difference. President HU Jintao still made one more remark: China has launched not only economic reforms but also political restructuring. I for one fail to see what political reforms President HU has implemented so far. It is clear that there have never been any political reforms in China, including Hong Kong, over the past 17 years. President HU Jintao once claimed that he was a follower of materialism who believed that once economic development reached a certain stage and conflicts emerged, political reforms would be inevitable.

But has there been any political reform after such a long period of economic development in China? There has been no political reform at all. But I do not think that President HU Jintao is a follower of materialism. The Communist Party of China believes in materialism. They believe that the ends will always justify the means, so any means will be a good one as long as it can

preserve their power. Power is everything and its preservation is of paramount importance. But, President, because of this emphasis on preserving power, the overall situation of human rights and liberties in China has remained grim over the past decade or so.

Mr Abert HO has recently been championing a human rights movement. The very need for such a movement is itself something very deplorable. Human rights and liberties are actually guaranteed under the Constitution of our country. But the masses now find it necessary to defend such constitutional rights. It is indeed true that the people must always seek to safeguard their own human rights. But what has been happening is that lawyers themselves are harassed or even thrown into prison when they represent their clients in defending their rights. Mr Albert HO mentioned the case of Mr ZHENG Enchong earlier. All Mr ZHENG did was just to discuss the land reform of Shanghai. Every attempt has been made to suppress the human rights movement. When workers want to recover their wages in arrears, some of them are arrested. When peasants who have been unlawfully deprived of their lands put up resistance, some of them are again arrested. What kind of political regime is this? Why do they always want to deprive the people of their rights?

It is certainly right to say that China has achieved some economic progress. However, the deplorable thing is that men are not pure economic animals. They also long for dignity, human rights and liberties. Sadly, we cannot observe any progress in all these respects. In addition to the vindication of 4 June, we also have one fundamental demand: the democratization of China.

Something very saddening has recently occurred: the appearance of "4 June incident" on an official receipt after the passage of 17 years. Mr ZHOU Guocong was beaten to death by police officers (then called public security officers) in a Sichuan detention centre. This occurred 17 years ago, and after 17 years, his mother, TANG Deying was asked to acknowledge receipt of RMB 70,000 yuan as hardship assistance for the 4 June incident. She received this sum of RMB 70,000 yuan only after 17 years. We frankly do not know why the 4 June incident was suddenly mentioned in the receipt. What did this mean? Did it mean the vindication of 4 June? I for one am not so optimistic. The money was probably just meant to "silence" the family members of the victim, to make them talk less. It is such a great pity that even after the passage of 17 years, the family members of victims are still required to wait.

Recently, just before Mother's Day, the Tiananmen Mothers launched a campaign called the "The 64 roses — We call for Justice!". The objective of this campaign is in fact very humble, as they only ask for the freedom of mourning their own family members. But even now, 17 years after the incident, they are still denied such a right. The Tiananmen Mothers have chosen to use roses as the symbol of the campaign, explaining that the white roses stand for purity, thus the hearts of the young victims, while the red ones symbolize blood and zeal. Urged by pure and sincere motives, many young students and Beijing citizens sacrificed themselves for the country during the 4 June incident. Their blood finally turned the pure, white roses red.

I hope Members will not forget them. Thank you, President.

MR MARTIN LEE (in Cantonese): President, the number of Members present in the Chamber seems to be getting less and less.

PRESIDENT (in Cantonese): Mr Frederick FUNG, please sit down first and let me do a head count.

(The Clerk counted the number of Members present)

PRESIDENT (in Cantonese): A quorum is not present. Will the Clerk please ring the bell to summon Members back to the Chamber?

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

PRESIDENT (in Cantonese): A quorum is now present. Mr Frederick FUNG, you may speak now.

MR FREDERICK FUNG (in Cantonese): President, over the past 17 years, the world situation has undergone drastic and rapid changes beyond the control and extrapolation of mankind. But the 4 June incident has continued to be described as a "riot" and a "political turmoil" between spring and summer. President,

some are of the view that the interpretation of historical events is the exclusive right of those in power, or even a tool of propaganda for the victorious. As a matter of fact, owing to their different educational backgrounds, cultures and perspectives, historians will inevitably have different interpretations of the same historical incident. But this is precisely the valuable essence of academic freedom, something which enables all research findings and conclusions to be arrayed before the public eyes. That way, academics can scrutinize every detail "through a magnifier" and put forward justifications to support their critiques. As debates go on, the truth may become increasingly apparent in the end, thus bringing forth conclusions that are closer to the facts and the truth itself.

If those in power permit only one school of thoughts, if they allow only one definitive interpretation of history and forbid any queries, or if they even resort to the definitive interpretation of a historical incident as a means to a political end, ignoring all the historical facts and stifling all freedom of thinking and academic pursuit, then the people will never be able to draw any lesson from the historical truth and avoid the repetition of past nightmares and mistakes.

President, it is a great pity that the situation mentioned above is a precise manifestation of the Chinese Government's attitude towards history. The interpretation of historical incidents is basically the exclusive right of the Government. The nature of the 4 June incident, in particular, has been so unreasonably defined that the truth in this historical incident will forever be obliterated. A more recent example was the order issued by the Central Propaganda Department early this year before the Spring Festival to close down *Freezing Point*, a weekly supplement to *China Youth Daily*. One of the reasons for closure was the publication in *Freezing Point* of an article entitled "Modernization and Historical Textbooks" written by Prof YUAN Weishi of Zhongshan University. If the President and Members have read this article, they will know that what are found in this article by Prof YUAN are just a pragmatic and well-justified critique of the historical perspective adopted by history textbooks in the Mainland and a mere attempt to unveil the authorities' approach of using history as a means of propagating nationalism. The article also indirectly praises history textbooks in Hong Kong for being more faithful to historical facts.

When commenting on China's opposition to the revision of Japanese history textbooks, Rana MITTER, an Oxford scholar of Chinese history and

politics, said to the effect that the Chinese Government itself was trying to use history as a means of meeting its political needs of the time. President, I cannot but ask, "While we cry out so loudly against the attempts by Japan to doctor history, demanding it to apologize for its past aggression, how are we going to look at our own history? Have the Members who oppose this motion chosen to dislodge the so-called baggage of 4 June in order to suit the needs of political circumstances? Do they actually want to tone down the incident or even rewrite the relevant historical record? Are they adopting double standards? This is a bit absurd, isn't it?"

"Remember the 4 June incident and vindicate the pro-democracy movement in 1989". If we do not give proper treatment to this historical wound, we will let our children down. The 4 June incident manifested how a political regime sought to strengthen and maintain its power in the name of stability, justifying brutal suppression as only natural and totally ignoring the intrinsic values and rights of man. In such a country, where the historical truth and blunders are all denied, we will never know how to draw lessons from history. When political expediency supersedes all considerations, the people's freedom will be at stake, and they will easily become the victims of political expediency.

I hope those Legislative Council Members who oppose this motion can realize that the veneer of economic affluence in China nowadays is built only on quagmire. How long can this veneer of prosperity last? Are our senses already befuddled by this veneer of prosperity, such that we can no longer notice all the hidden social crises and inequalities? To foster social stability and harmony, we must pursue economic progress, but at the same time, we must also improve the people's livelihood and let them know our history and roots. And, based on an understanding of our history and roots, we can then pursue further progress, seek to implement institutional changes and improvements and eventually establish a democratic system based on the rule of law and marked by the upholding of equity and justice, a concern for the disadvantaged, the tolerance of dissidents and an emphasis on environmentalism. This is the only way in which China can enjoy long-term peace and prosperity.

President, "remember the 4 June incident and vindicate the pro-democracy movement in 1989". With these remarks, I support the motion.

PRESIDENT (in Cantonese): Mr LEUNG, please sit down. A quorum is not present now. Will the Clerk please ring the bell to summon Members back to the Chamber?

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

PRESIDENT (in Cantonese): A quorum is now present. Mr LEUNG Kwok-hung, you may now speak.

MR LEUNG KWOK-HUNG (in Cantonese): President, Ms Audrey EU cited a poem of Mr LU Xun in her speech just now. The poem was written in mourning of YANG Quan, a Communist martyr.

The Communist Party seized power after the revolution, but then it also started to kill people. Mr LU Xun wrote many laments, one of which was about the murder of a Communist Party member by the Kuomintang. The poem reads, "Leaves fallen by Tung-ting Lake, the Chu Sky lies high overhead. The blackened brows have stained war suits with blood's bright red. / On the lake shore a man wishes to sing but can't; Amid wide-wallowing autumn waves is lost the 'Li sao' chant."² He gave a very in-depth description of his feelings in this poem. And, at that time, people might be killed merely for expressing their own feelings, so many people could only brush aside their conscience, reluctantly refraining from saying anything at all. Is the situation today just the same? Maybe, it is.

President, I wish to tell another story as an illustration. In the Ming Dynasty, following a series of intrigues among the royal brothers, the Prince of Yan, ZHU Di, became Emperor Chengzu. For fear of being criticized for usurping the throne, he paid a visit to FANG Xiaoru (then known as the most moral of all scholars). The Emperor asked FANG Xiaoru, "Do you think what I did was correct?" FANG Xiaoru replied unequivocally that what he did was wrong. Hearing this, the Emperor went on to ask FANG, "Are you not afraid of the extermination of your nine agnates?" Can Members guess how FANG Xiaoru responded? He replied, "Never mind nine agnates. Just go ahead with

² David Y. Chen, Lu Hsun: Complete Poems — A Translation with Introduction and Annotation (Centre for Asian Studies/Arizona State University, 1988)

10 agnates and I will still say so." In the end, there occurred the first case of "exterminating 10 agnates" in history — even the pupils of FANG Xiaoru were executed.

Even something like this could happen during a feudal dynasty. Even a pedantic scholar could say something like this. There could have been only one reason: facts are facts, no matter what. The internal rivalries of the ZHU royal family are of no significance; nor is the question of who killed who in the end. But the conscience of men is very important. It is only when we can distinguish between right and wrong that human society can accumulate experience and achieve progress.

Many people argue that 4 June was all about democracy, something that happened long ago. They say that it should not be mentioned anymore because it is really a burden. But these people are wrong. The most important point about 4 June was not democracy, but human rights. Should any person be murdered? Or, should any group of people be killed for that matter? These questions are especially fitting when the group of people only wanted to recover their legitimate rights, only wanted to build up a system guaranteeing the equal participation and fundamental human rights of all. But all these people were slaughtered in the end. The incident highlighted precisely the significance of human rights and dignity.

In ancient times, there were slaves, and people often ask, "What were slaves?" Slaves were animals that could talk. Should we Chinese people become animals that can talk? I really hope that somebody can stand up and say something on this. I really hope that somebody can give us some opinions.

I maintain that the bloody suppression of 4 June must not be forgiven. The reason is that if we do so, we will be condoning the sins and evils of those in power years back, or even those in power now. Lawyers may be arrested and beaten up; miners may die for no good reason. All this is caused by corruption. Peasants who do not want to surrender their lands at cheap prices may be shot to death. All this is similar to what happened during the 4 June incident. If one condones the acts of open murder committed by a government in the capital city, I just wonder whether there is still anything that this particular government will stop short of doing. What else can we still say? Therefore, all is nothing but a question of dignity and human rights.

In nearby Gwangju, there was also a massacre. Parachute troops, American parachute troops, were dispatched and tanks were deployed to

suppress the people. But the incident has now been vindicated and Korea has achieved very sound progress. In the 2-28 Incident of Taiwan, the Kuomintang slaughtered many people, but the incident has similarly been vindicated and the Taiwanese are getting on just fine. The massacre in Hungary was even worse than that in Beijing, but the Hungarians have already vindicated the whole incident and even rewritten their historical record on it. And, there was also the Prague Spring of Czechoslovakia. In all these incidents, we can see human progress in history. APEL once said, "A lie told a thousand times does indeed become the truth." APEL was indeed very cunning, as he realized that some people would succumb to fate and go silent, while others could still sound bold and assured after telling a lie a thousand times. I want to tell Members today that he was telling a lie. The 4 June incident was a massacre, the result of one-party dictatorship and a crime committed to defend their totalitarian rule and privileges. The culpability must be ascertained.

President, when I was sworn in, I made my position very clear. Once again, I have this wreath with me today. People in the Chamber may not be able to see the words on it. The words are: The Butcher Regime will be cursed forever; the people's heroes will remain immortal". The second sentence was from MAO Zedong, and the first one is my creation. Yes, a political regime that acts like a butcher will certainly be cursed forever, cursed like the Prince of Yan, who killed his father and younger brother. He did kill his younger brother. I hope that all can remember this: The Butcher Regime will be cursed forever; the people's heroes will remain immortal. Long live democracy. Long live freedom. Long live people power. The vindication of the 4 June incident is the wish of all Chinese people.

Thank you, President.

MR MARTIN LEE (in Cantonese): President, a quorum is not present again.

PRESIDENT (in Cantonese): Ms Emily LAU, I am sorry. Please sit down first. Will the Clerk please ring the bell to summon Members back to the Chamber?

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

PRESIDENT (in Cantonese): A quorum is now present. Ms Emily LAU, you may now speak.

MS EMILY LAU (in Cantonese): I rise to speak in support of Mr Albert HO's motion.

From whatever angle we look at Mr Albert HO, he surely looks not a bit like Uncle Wah. But he has taken over from Uncle Wah the task of moving this motion. President, the 4 June mourning this year will take place on the coming Sunday. I hope that hundreds of thousands of people will turn up in Victoria Park this Sunday evening to mourn the Beijing Massacre. I believe that the people of Hong Kong and even many people all over the world will not forget the Beijing Massacre. Therefore, I must thank Mr Albert HO for moving such a motion again, so that we can do some reflections and find out what is happening now.

In the debate just now, many Members said that the economic prospects of China were bright, and that the country was stable. President, I do not know whether you are aware of the press reports on a certain meeting held in Beijing on 4 March. The meeting was convened by the China Society of Economic Reform under the State Council. As many as 40 people, presumably the elites of Beijing, were invited to the meeting. These participants were all legists, experts and government officials, and they were asked to discuss the topic of economic reform. They were the think-tank of the State Council, and their aim was to offer some advice to Premier WEN Jiabao.

The meeting was held in Xinglin Villa, Shanxi (sic), Beijing before the Fourth Session of the Tenth National People's Congress. It was therefore a very important meeting. It was reported that they had wanted to forge a consensus to show the Beijing authorities' commitment to reform. When I first read such reports, I was in Washington and I learnt about this meeting from the public broadcasting service. Since there was no media coverage of this meeting, all participants could speak freely. But then, several days later, all the contents of the meeting were uploaded onto the Internet, thus exposing the whole meeting. So, the Internet is really wonderful, as it can break open the closed system of China. The record of meeting showed that there had been a heated debate among these elites on the future direction of economic reform in China.

The record of meeting highlighted their vastly different views on economic and judicial reform in the future.

President, since the meeting had been exposed, the Central Authorities subsequently found it necessary to issue a press release. As can be expected, the press release evaded some of the issues, but it still touched upon quite a number of other topics. What kinds of concerns were indicated in the record of meeting? First, they were concerned about how the ever-widening wealth gap could be narrowed. They also wanted to find out how the unrest in rural villages could be placated, how the problem of internal corruption could be solved and how the problems related to environmental pollution could be dealt with.

President, at that meeting, some academics pointed out that what China needed was no longer economic reform but political reform. Some academics even urged on the importance of introducing party politics in the Mainland to implement genuine democracy and liberty. Some experts also argued that the one-party political system led by the Communist Party was in breach of the Constitution. They recommended the splitting of the Communist Party into two or more factions. President, some of these views were censored by the authorities, but they can still be found on the Internet now.

Prof HE Weifang from the Department of Law of the Beijing University was also present at the meeting. What did he say? President, some of his comments were even recorded as quotes. He said, "I clearly state that I hope the Communist Party will form two factions, that the army will be nationalized." The professor added that it was necessary to sort out the relationship among the Communist Party, the legislature, the judiciary and the Government. He went on to say, "Our Party has never legally registeredI have been a member over 20 years, but it is not legally registered. This is very problematic, because under these conditions the power it exercises is extra-legal. This is a serious violation of the law." He also said, "Our objectives (it may not be the right time to make known these objectives now, but that is the direction we must eventually follow) are a multi-party system, press freedom, and so on."

President, I am very glad that such a meeting, such an important meeting, was held in Beijing. President, some government officials even pointed out at the meeting that there were unprecedented controversies and differences among the elites of China. They also said that in foreign countries, the Beijing

consensus was often mentioned. What is this consensus? The consensus is that the mode of development in China has won the applause of all and become a means through which poor nations can become affluent. Who made comments on this consensus at the meeting? Well, even his name was recorded. It was SHI Xiaomin, Vice Chairman and Secretary General of this society (think-tank). He said, "Over the past two years, the media have been mentioning the Beijing consensus. But this does not exist in reality. There is certainly a consensus on what we have been doing over the past 20 years in China, but we have not reached any consensus on our future development."

President, I am very delighted to learn from the Internet that after all, there was still a heated debate in our country on its future development. Something like this also took place 17 years ago, but it led to the Beijing Massacre in the end. As for the debate this time around, I have learnt from media reports that some people are beginning to accuse others of subversion and stirring up trouble, trying to put labels on others. I hope that China has really changed for the better after the passage of 17 years. I hope that the victims of the massacre 17 years ago can now be vindicated. I hope that there can be democracy and liberty in our country, including Hong Kong, as soon as possible. I so submit.

MR MARTIN LEE (in Cantonese): President, a quorum is not present.

PRESIDENT (in Cantonese): I think the Clerk will have to ring the bell again.

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

PRESIDENT (in Cantonese): A quorum is now present. Mr SIN Chung-kai, you may now speak.

MR SIN CHUNG-KAI (in Cantonese): President, Ms Emily LAU has mentioned the Internet. But I am not going to look at the Internet from the same perspective of hers. I certainly agree to the merits of the Internet mentioned by Ms Emily LAU. However, I must also point out that China has been handling

the dissemination of information on the Internet with quite a different approach. For instance, when Mr SITU, a mainland journalist, attempted to open an email account with a major email service provider, he was accused of divulging confidential state information. Invoking the regulations on using the Internet, the mainland authorities demanded the email service provider to provide information to the law-enforcement agencies. In the end, the service provider could only comply. After ascertaining the identity of Mr SITU, the mainland authorities brought against Mr SITU a charge of illegally divulging state secrets to foreign institutions. And, he was sentenced to 10 years' imprisonment. Ms Emily LAU talked about the disclosure of the contents of the meeting. I do not know how many people will have to be jailed because of that. But an even greater pity is that such information can only be found on the Internet outside China. It cannot be found on the Internet inside China.

These days, when people search for entries such as "no re-interpretation of the Basic Law", "4 June incident" and "1989 pro-democracy movement" on Google China, they will find, for example, that there are only some 2 500 entries for "1989 pro-democracy movement". And, most of these entries contain information on how the incident is viewed from the perspectives of local laws and policies. Some information cannot be accessed, and even if access is possible, all one can see are nothing but criticisms against the pro-democracy movement in 1989. In contrast, when one turns to the Hong Kong or the international version of the Internet, one will easily find hundreds and thousands of such entries. This can show the seriousness of Internet information censorship in the Mainland.

President, I hope that our country can adopt a more open and liberal attitude towards history. I think serious planning and research and the vindication of 4 June are the only ways of bringing prosperity to our country.

However, I still want to say a few words on the media reports mentioned by Ms Emily LAU. I also read a report in US Today at that time. But I was not very delighted, mainly because of the high frequency of such so-called think-tank meetings in the Mainland. What is more, whenever 4 June is mentioned, people will invariably think of ZHAO Ziyang. The reason for ZHAO Ziyang's ascendancy was the stepping down of HU Yaobang. HU Yaobang had to step down because he failed to tackle bourgeois liberalization well enough. As a result, ZHAO Ziyang came to power. And, during the period immediately before his stepping down, he wanted to launch political

reforms. The political reforms which he wanted to launch but which failed to materialize were even more radical than those mentioned in the think-tank meeting. That was nearly 20 years, however. I really do not know whether we will have to wait 10 or 20 years more before the suggestions raised in the think-tank meeting can be materialized.

Having said that, President, I still think that once such objective circumstances have emerged in society, the vindication of the pro-democracy movement in 1989 will naturally come sooner or later. The State has recently been making continuous attempts to upgrade the image of the country. For instance, during their overseas visits, our leaders will invariably offer huge monetary benefits to buy goodwill. But we must at the same time note that the economic development in the Mainland is frequently marked by collusion between business and the government, coal mine accidents, and so on. Some friends of mine in the Mainland have tried to explain to me why there have been many more coal mine accidents than before. The reason is that in the past, leaders were required to copy the example of LEI Feng, so they must labour alongside workers in coal mines. Owing to the presence of leaders, coal mines were of course safe to work in. These days, however, the emphasis is placed on enhancing productivity and achieving targets to meet the needs of economic development, so human lives are simply ignored.

Clashes between government authorities and the people are not uncommon and there have been many such incidents recently. The most shocking example was the clash in Dongzhou Village of Shanwei that occurred at the end of last year. The local armed police even adopted the tactic of suppression in the 4 June incident and shot at the villagers who protested against the unreasonable compensation offered to them for the expropriation of their lands. According to state-run media in the Mainland, only three villagers died in the incident. This reminds of Mr YUAN Mu. Villagers of Dongzhou Village, however, told other media that as many as 20 people had died. When the top echelons of the government (the leaders, in other words) say something like this, local governments will follow suit. If we do not vindicate 4 June, similar incidents may occur in all provinces and cities one after another. If we do not rectify the mistake, the progress of our country will be hindered.

President, after the passage of 17 years, there has no doubt been some improvement to the material conditions of living in the Mainland, but when compared with the situation 17 years ago, there has not been too much

improvement to human rights, freedom of speech, and so on. We must therefore continue to fight for the vindication of the 4 June incident and the pro-democracy movement in 1989, because this part of our history is filled with the blood and tears of all those who struggled for democracy, freedom and human rights years back.

With these remarks, I support Mr Albert HO's motion.

MR MARTIN LEE (in Cantonese): President, a quorum is lacking now.

PRESIDENT (in Cantonese): Mr Ronny TONG, I am sorry, for you must sit down first. Will the Clerk please ring the bell to summon Members back to the Chamber?

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

PRESIDENT (in Cantonese): A quorum is now present. Mr Ronny TONG, you may now speak.

MR RONNY TONG (in Cantonese): President, many peoples and nations have their respective painful historical past. Both Germany and Japan bear the heavy burdens from the World War II. Many citizens of these countries still consider it a taboo that cannot be discussed. As many Honourable colleagues have said, Japan has made many attempts to doctor history.

A nation can only break its shackles and taboos and turn a new page if it can really face its own history and give it a fair assessment. Premier WEN Jiabao made this remark on Japan's moves to doctor the historical facts in the World War II, to this effect, "A country can win the trust of the peoples of most Asian countries and the world and be able to undertake greater responsibility in the international community only if it respects history and assumes the responsibility for its past history." President HU Jintao also made similar comments last year, to this effect, "We should pragmatically learn the lessons from history and face the future. We should have a proper understanding and treatment of history and our reflection should be complemented by actions."

What President HU and Premier WEN highlighted is the fact that every country should adopt the attitude of facing history in a proper manner.

The Cultural Revolution has been over for exactly three decades. Initially, the Cultural Revolution was a taboo in any discussion in the Mainland. Everyone was unwilling to discuss the painful memory of this page of Chinese history. People were unwilling to touch this unhealed wound. However, with the opening up and the progress of the country, the historical taboo of the Cultural Revolution was eventually torn down. Last year, the Shantou Museum of Cultural Revolution was officially opened, rightly highlighting this significant piece of history. A retired cadre responsible for planning of the construction of this museum said, to this effect, "The purpose of constructing this museum is to leave a venue of alarm for the Chinese people, and such a venue will facilitate our future generations in learning the lessons from history and to reflect on the painful experience of the Cultural Revolution." The construction of this museum on the theme of the Cultural Revolution has exactly demonstrated what our national leaders said about learning lessons from history and complementing our reflection by actions.

In comparison, as far as the 4 June incident is concerned, 17 years have passed since 1989. In the modern history of China, the 1989 pro-democracy movement has now taken the place of the Cultural Revolution in being the greatest taboo of discussion among the people in the Mainland. The 4 June incident is the most painful incident in the contemporary history of China. I believe we can never forget many of such scenes: Mr ZHAO Ziyang's late-night visit to Tiananmen Square; an unarmed man standing in the way of a column of tanks; the moment of the collapse of the statue of the Goddess of Democracy. They are all unforgettable to us.

For many years, the taboo of the 4 June incident has never been relaxed in the Mainland. From time to time, I have tried in vain to search for either "4 June" or "1989" on the Internet, and the result has always been zero. For an entire period of 17 years, this tumultuous pro-democracy movement has been a complete blank page. Up till now, what have been buried under such historical blankness are the grievances of countless victims who were either killed or forced to be in exile in overseas countries with the pain of being unable to return to their homeland.

The blood and tears of the Tiananmen Mothers make us share their sorrow and misery in having lost their beloved children. The restrictions they are subject to in their daily life should be relaxed. Today, our country has become more open and progressive. Time and again, our national leaders have said that democratization is the most significant task of China now. From the May Fourth Movement to the 4 June incident and up to the present, it has been a process of democratization of China. The 1989 Movement must be fairly assessed and those died in it must be vindicated, so as to enable their surviving families to lead a normal life — this is a route we must take in our move towards democratization. Some Honourable colleagues mentioned earlier that a case had taken place for the first time in which the family of a victim of the 4 June incident had been given compensation. The Jinjiang district government of Chengdu, Sichuan has recently provided some financial assistance in the form of "a difficulty subsidy" to the family of a young man named ZHOU Guocong, who died in the 1989 pro-democracy movement. Although this case was not officially handled for the purpose of providing compensation to the family of a victim killed in the 4 June incident, it is still considered a small breakthrough 17 years after the incident. It carries great significance as a gradual step in the course of striving for attaining the long-term goal of vindicating the 4 June incident. I hope one day the democrats who have been forced into exile overseas for so many years can go proudly back to their homeland. I hope the families of victims of the 4 June incident who have been fighting for the vindication through lodging complaints to various levels of the Central Government should no longer be subject to enormous pressure. I hope within the territory of China, a "4 June incident Museum" similar to the Cultural Revolution Museum can be established. I hope one day, the sadness in the hearts of the people of the whole country can be gradually released and that the several words of "the 4 June incident" will no longer be a taboo or shackles.

President, history will never vanish. While we should look ahead to the future, we should also reflect on past events. Today is the eve of May Fourth. I am very glad that we can see a ray of hope today in breaking the taboo of the 4 June incident. I sincerely hope that in future, through the efforts of people of the entire country, we can achieve the goal of soothing the people's pain caused by the 4 June incident. Let us hope that the Chinese people can unite together to turn a new page in future. Thank you

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

DR LUI MING-WAH (in Cantonese): As in the past few years, today a Member from the Democratic Party once again moved a motion on the vindication of the 4 June incident at a time close to 4 June of this year. For 17 years, the vindication of the 4 June incident has become a seasonal motion moved annually. I admire the Democratic Party for such a spirit of perseverance, but I am puzzled by their misuse of the precious time of this Council.

This is because the 1989 pro-democracy movement took place under very special social circumstances at that time, and the occurrence of the 4 June incident was a tragedy

MR MARTIN LEE (in Cantonese): President, I am sorry, a quorum is again not present now.

PRESIDENT (in Cantonese): Dr LUI Ming-wah, I am sorry, please sit down first. Clerk, will you please ring the bell to summon Members back to the Chamber.

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

PRESIDENT (in Cantonese): A quorum is now present. Dr LUI Ming-wah, you may continue.

DR LUI MING-WAH (in Cantonese): Should I continue with my speech or should I start all over again?

PRESIDENT (in Cantonese): Please continue with your speech. I am sorry.

DR LUI MING-WAH (in Cantonese): The Central Government has already drawn a conclusion on the 4 June incident. It serves no practical purpose at all for us to hold an annual discussion on this subject here. It is actually a waste of time. Although the families of those who died in the 4 June

incident and certain people do not agree with the conclusion and treatment of the incident, and I also have great sympathy for the "4 June mothers", it should be the best option for us now to leave the evaluation of the 4 June incident to historians.

Political parties and organizations that are established recently no longer include the vindication of the 4 June incident into their platform. This shows that, though the 4 June incident is a significant historical event, it involves decisions of the Central Government. It is indeed unnecessary for any political parties in the SAR to be too insistent in this aspect. They would find themselves more welcome to Hong Kong people if such political parties can focus their attention on the local economic and political developments.

Chairman of the Civic Party Prof KUAN Hsin-chi said, to this effect, "The democratic development of any place must have its root implanted in the community to which it belongs. If the focus of democratic development lies in the struggle for political power, it will make us overlook other factors that may facilitate democratic development." Similarly, the insistence upheld by Hong Kong's pro-democracy camp on the 4 June incident will also obstruct or dilute the local pro-democracy movement, impeding Hong Kong's democratization process. Therefore, on the premise of understanding the positioning of Hong Kong, instead of wasting time on discussing historical issues that are beyond the jurisdiction of Hong Kong, we should devote our energy to handling local livelihood issues and economic development, thereby bringing greater vitality and momentum to our society and benefiting Hong Kong people. This should prove to be a more pragmatic approach. Thank you, President.

MR MARTIN LEE (in Cantonese): President, it seems a quorum is again not present now.

PRESIDENT (in Cantonese): Clerk, is a quorum not present now? Please ring the bell to summon Members back to the Chamber.

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

PRESIDENT (in Cantonese): Mr Martin LEE, please deliver your speech now.

MR MARTIN LEE (in Cantonese): President, on 4 June of 17 years ago, I was the Deputy Chairman of the Hong Kong Alliance in Support of Patriotic Democratic Movements of China (the Alliance). In the evening before that day, that is, in the evening of 3 June, I switched off the telephone in my bedroom when I went to sleep. That explains why I could not listen to the report made by my fellow colleagues from the Alliance over the telephone in the morning of the 4 June that the massacre had already taken place.

When I learnt of the incident, they told me that the Alliance was holding a gathering in a public venue in Happy Valley and asked me to go and attend it immediately. When I arrived, the Chairman of the Alliance, Mr SZETO Wah, told me that he had instructed Mr LAU Chin-shek to buy a coffin. I asked him what it was for. He replied that he worried the people's emotions might become out of control on that day, so he intended to terminate as soon as possible the gathering held in the afternoon of that day in Happy Valley and then lead the people to stage a mass demonstration to Central and then had it dismissed there; otherwise, the situation might become out of hand. I asked him why it was necessary to buy the coffin. "Uncle Wah" said it was because they wanted to carry the coffin when they were leading the procession. I raised objection because I felt it was very dangerous to do so — the people could become too agitated and emotional. After a prolonged discussion, it was suggested to give up the idea of carrying the coffin in the procession; instead, the coffin could then be placed outside the main entrance of the Xinhua News Agency. However, I objected to this idea as well, feeling that it was still very dangerous to do so because Xinhua's main door was made of glass. I said, even if the people could not find any stone, they would still break the glass door by using their shoes. If that happened, what should we do? Finally, "Uncle Wah" said perhaps we should stop Chin-shek from buying the coffin.

In the afternoon of that day, when speeches were delivered, we heard the news that Mr Louis CHA and Archbishop KWONG Gwon-git had resigned from the Basic Law Drafting Committee (BLDC) with immediate effect. Both "Uncle Wah" and I decided that, as long as DENG Xiaoping, LI Peng and YANG Shangkun were still in power, we would not attend any meetings of the BLDC. In that evening, I heard that many Hong Kong reporters stranded in Beijing were worried about their own safety. Many of them were on on-pay

leave. It was because they were unwilling to return to Hong Kong and had chosen to stay with the students in Tiananmen Square even though their respective newspaper managements had recalled them. After the Square had been cleared, they felt very worried. When they called up the British Consulate, they just asked them to wait at the hotels and not to go out. They only offered protection to British subjects.

In the evening of 4 June, I called up Helmut SOHMEN because he was a Member of the Legislative Council at that time. Helmut owned the Dragonair. I asked him whether he could find a plane to bring these reporters home. He said yes, but as it was already very late then, he told me to call him at 7.00 am the following morning. Then I called him at 7.00 am the following morning. He said everything should be alright and he could send a plane there. I asked him at what time the plane could arrive. He said it should be 12 o'clock. I asked him whether he could make it earlier. He said I had to give him at least two hours. I asked him why. He said it would take at least the time for the plane to fly there. I asked him how much it would cost approximately because I thought such a sum would most likely be shouldered by me. He said he would not make a single cent of profit out of this, meaning that he would only charge me at cost, which would be about one hundred and several tens thousand dollars. I said alright, I could afford that, and he said he would send the plane there as soon as possible.

At about 5.00 pm of that afternoon, I received a call from the Dragonair, informing me that the plane had arrived there and then taken off already. However, the call did bring me one bad piece of news — that LEE Cheuk-yan was carried off the plane by public security officers even though he had already boarded it. They did not know what had happened. I immediately made a phone call to the Alliance and eventually an announcement was made over the radio to urge the people to march to Government House to seek assistance from the Governor. But I had to go to the office of the BBC to do an interview with them. When I arrived, about eight to 10 Legislative Council Members were already there. Not only Members from the democratic camp had come as I recalled that Mr TAM Yiu-chung was there too. We worried about the safety of LEE Cheuk-yan and we requested the Governor to extend his helping hand.

The Governor went outside for about 10 minutes. When he returned, he said he had sent two telex messages to London: one to the Ministry of Foreign

Affairs, and one to Mrs Margaret THATCHER, asking them to do their best in providing assistance — I am sorry, actually he said that he was going to send two telex messages — and said that we might leave then. I declined to leave and remained seated in the sofa. On seeing my refusal to leave, other Members also refused to leave. The Governor asked us why we did not leave as he was already prepared to send the telex messages. I said, "With so many people sitting outside on the lawn, what should I tell them if I went out now?" If I told them that the Governor would send telex messages to London, I believe they might not accept it. If he did not mind, I said, I would leave after he had sent the telex messages. He went out unhappily to send the telex messages. Later, he told me he had already sent the telex messages, so all of us left the place. The Governor brought me to a quiet corner and asked me whether I could bring the crowd of people away. I said I would do my best. Once outside, I told the people through a loudhailer that the Governor had already done his best and we might now march to Xinhua, in the hope that they might provide us with assistance. Then, I led the whole crowd to march to Xinhua. The crowd arrived at Xinhua, and LEE Cheuk-yan eventually boarded a plane and flew back to Hong Kong.

President, why did I recap the incident all over again? It is because I worry that I may forget. I hope that, after having narrated the incident today, such an account will be put down in the official record of proceedings of the Legislative Council. So, even when I became so old that I might suffer from dementia, I could still get hold of such a memory. I absolutely do not think that we should forget the 4 June incident. The 4 June incident will definitely be vindicated. In future, we shall celebrate the arrival of this moment. Our memory can give us enormous strength to fight for democracy. I hope we can recall what they did on 4 June. Thank you.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now invite Mr Albert HO to reply. You have two minutes 36 seconds.

MR ALBERT HO (in Cantonese): President, Mr James TIEN, as usual, uses the economic development of the Mainland as the reason for establishing their conclusion of the 4 June incident. This seems to suggest that you may redeem your sin of having murdered someone by your economic achievement. It is simply unacceptable.

Basing on this logic, the Japanese Government can offer a lot of excuses for itself by saying that it has played the role of a peacemaker after the War, and has been generally respected by the world. They may claim that they have donated a lot of money and provided a lot of low-interest loans to our country. Can all these enable Japan to deny the Nanjing Massacre? Can these enable it to deny having committed the various kinds of atrocities in its invasion of Asia, including our country?

If one of our family members was unfortunately killed in the 4 June incident, will we accept Mr James TIEN's logic and consider it a reply? If one of our family members is unfortunately killed by a villain who has committed some other crimes, is it possible for that villain to say that he can pay some money to the victim or society, and the payment so made will replace the justice that should be done to the deceased's family? We will not use such an absurd standard in considering the issue. We should reflect upon this issue and decide whether this is reasonable, and whether this can pass the test of our conscience.

As usual, both the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) and the Hong Kong Federation of Trade Unions (FTU) have not delivered any speeches on this motion. I do not wish to describe them by using the expression of "maintaining silence is tantamount to acting as an accomplice". But, as "Uncle Wah" said, shutting up is better than telling lies. Of course, the fact that they do not deliver any speeches today does not necessarily mean that they have done some soul-searching and that their conscience is at work. I have no idea. However, at least, each one of them must be doing some thinking about one thing, that is, they know for sure that the 4 June incident will definitely be vindicated. Their silence today is probably maintained for minimizing the damage that will be done to them when the 4 June incident is eventually vindicated. However, anyway, I feel that their silence today will generate a lot of doubts and queries about them in the minds of many people.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Albert HO 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 HO rose to claim a division.

PRESIDENT (in Cantonese): Mr Albert HO has claimed a division. The division bell will ring for three minutes, after which the division will begin.

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:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG and Miss TAM Heung-man voted for the motion.

Dr LUI Ming-wah, Dr Philip WONG, Mr WONG Yung-kan, Mr Abraham SHEK, Mr WONG Kwok-hing, Mr WONG Ting-kwong and Mr KWONG Chi-kin voted against the motion.

Mrs Sophie LEUNG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM and Mr Andrew LEUNG abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr James TO, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Ms Emily LAU, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Ronny TONG and Mr Albert CHENG voted for the motion.

Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung and Mr LI Kwok-ying voted against the motion.

Mr James TIEN and Mrs Selina CHOW abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, seven were in favour of the motion, seven against it and nine abstained; while among the Members returned by geographical constituencies through direct elections, 26 were present, 16 were in favour of the motion, seven against it and two abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

PRESIDENT (in Cantonese): Second motion: Maintaining the competitive edge of Hong Kong.

MAINTAINING THE COMPETITIVE EDGE OF HONG KONG

MISS TAM HEUNG-MAN (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

The Chief Secretary for Administration, Mr Rafael HUI, and the Chief Executive of the Hong Kong Monetary Authority, Mr Joseph YAM, have both put forward the view that Hong Kong will be marginalized. They hold this view due to the concern about the narrowing of the existing competitive edge of Hong Kong to such extent that Hong Kong's status will be replaced by other mainland cities. From this we can see that we must further enhance the competitiveness of Hong Kong and endeavour to maintain the competitive edge of Hong Kong, in order to ensure continuous development of society and the economy of Hong Kong. This is why I have particularly proposed this motion.

Before we discuss what we should do to enhance the competitiveness of Hong Kong, we should first understand the competitive advantages and hidden worries of Hong Kong before we can take appropriate measures to tackle the problem. According to the 2006 Report on the Survey of Competitiveness of Cities in China recently published by the Chinese Academy of Social Sciences, Hong Kong is ranked first among the 200 cities in the four places on both sides of the strait in terms of the overall competitiveness and also in terms of competitiveness in eight specific areas, including talents, enterprises, business environment, social environment and innovation, and Hong Kong is ranked second in respect of industries and public departments. But in respect of the living environment, Hong Kong's ranking has even slid out of the top three and is ranked fourth.

At a glance, Hong Kong has performed quite well indeed, and we seem to have good reasons to feel complacent about the existing competitive edge of Hong Kong. But if we further look at the ranking in terms of growth momentum in the same report, we may come to another view. In terms of growth momentum, Hong Kong is ranked third last of the 200 cities. That is, the report considered that the growth of the competitive edge of Hong Kong compares less favourably with a great majority of the cities in the four places on both sides of the strait.

As an old saying goes, "Learning is like sailing against the current. Either you keep progressing or you keep falling behind." This can, in fact, apply to our competitiveness, and the principle is just the same. It is necessary to continuously enhance the competitiveness of Hong Kong. Otherwise, we would only be like the hare in the story of "The Tortoise And The Hare" and be overtaken. In this connection, the authorities must not treat this lightly, and it is necessary to draw up policies to maintain our advantages in areas where we have

an edge over others, whereas in areas where our competitiveness slightly lags behind others', actions should be taken to make improvement.

There are indeed many measures for enhancing the competitiveness of Hong Kong. I have only chosen a number of more important macroscopic policy directions. Now, I will briefly explain the various policy proposals that I have made, and I will express my views on expediting the taxation review and also the professional liability reform in the accountancy profession. Later, other Members of the Civic Party will give a more detailed account of various policy proposals to enhance the competitiveness of Hong Kong.

Madam President, first of all, it is necessary for Hong Kong to build a harmonious society in order to further enhance our competitiveness. As pointed out by the Chief Executive in the policy address last year, a level playing field is vital to sustaining the vitality and harmony of society. The Civic Party considers that in order to ensure a favourable environment for economic competition, the most effective way is to enact a cross-sector fair competition law and set up a fair competition commission with statutory powers to enforce legislation on competition. The enactment of a cross-sector fair competition law is necessary because there is a chance for monopolization and price manipulation to emerge in every market. In our view, the formulation of sector specific fair competition policies is not the best option. We understand that a committee is already established to conduct studies on the development of a fair competition policy. We hope that after the committee completed its work in the middle of the year, the authorities can expeditiously embark on the enactment of a fair competition law.

The policy on talents is also an important factor affecting the competitiveness of Hong Kong. Without adequate professionals, it will be difficult to sustain economic development in the future. In recent years, the shortage of talents has been very serious in Hong Kong. Take the accountancy profession as an example. Given that the economy was in the doldrums in the past few years, many accountancy firms had frozen their establishment and this has resulted in the existing manpower gap. In the short run, the admission criteria for overseas talents should be relaxed to fill the shortage of talents. But in the long run, a comprehensive policy on the training of talents must be formulated in Hong Kong, in order to train up more local talents. Many members of the accountancy profession have reflected to me the need to upgrade the language proficiency and professional knowledge of graduates in Hong

Kong, in order to meet the demands in the labour market. In this connection, to enhance the quality of local talents, it is necessary to improve the policies on tertiary education and language education, so as to avoid a mismatch of talents, and it is all the more necessary to improve their professional skills and language proficiency in tandem.

To attract overseas talents to come to Hong Kong, a good living environment is indispensable. According to a survey conducted by an international human resources consultancy, the ranking of Hong Kong's attractiveness to overseas talents dropped from the 20th in 2004 to the 32nd last year. The report made assessments in such areas as weather, health risks, and so on. The ranking of Hong Kong has dropped mainly because of deteriorated air quality in recent years. Moreover, an expatriate professional marathon runner who has lived in Hong Kong for years decided to leave Hong Kong after the end of the Hong Kong International Marathon this year because of deplorable air quality in Hong Kong which had affected his training. From this, we can see that in order to maintain the competitiveness of Hong Kong, it is indeed necessary to direct efforts to the policy on pollution management. Besides, poor air quality in Hong Kong will seriously affect the health of Hong Kong people and hence their productivity. Therefore, resolving the pollution problem is meant not only to attract overseas talents to Hong Kong, but also maintain the quality productivity of Hong Kong. Good productivity is also part and parcel to maintaining our competitiveness.

A well-established rule of law system, a clean society, and the freedoms and basic human rights enjoyed by Hong Kong people in various aspects are important factors contributing to Hong Kong's competitive advantages over the neighbouring regions. Therefore, to maintain Hong Kong's freedoms and rule of law.....

MRS SELINA CHOW (in Cantonese): President, it seems that a quorum is again lacking now.

PRESIDENT (in Cantonese): Miss TAM Heung-man, please pause for a moment. Clerk, please ring the bell to summon Members back to the Chamber.

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

PRESIDENT (in Cantonese): Miss TAM Heung-man, you may continue.

MISS TAM HEUNG-MAN (in Cantonese): Thank you, Madam President. Therefore, maintaining the freedoms and the rule of law in Hong Kong will definitely enable Hong Kong to maintain its competitiveness edge. Investors, businessmen and workers can all benefit from a society where freedom and the rule of law prevail. To businessmen and investors, a society underpinned by the rule of law can provide adequate protection to their private property and intellectual property. To workers, a society with the rule of law and freedoms can prevent them from falling victims to all forms of exploitation. Meanwhile, a free society where the rule of law prevails will also be a society with a relatively stable political environment, which is very important to business operators. Therefore, the authorities must endeavour to maintain the freedoms and the rule of law in Hong Kong and do everything it can to expedite the pace of democratization in Hong Kong, so as to make Hong Kong freer and more competitive.

Madam President, next, I would like to discuss my views on the review of the taxation law. I have, for more than once in this Chamber, called on the authorities to expedite the progress of the review of the taxation law in Hong Kong. However, the authorities invariably responded by saying that the low and simple tax regime of Hong Kong is already very competitive and that they will continue to review the taxation law in accordance with the actual needs. It is true that according to the report published by the World Economic Forum last year, the competitiveness of Hong Kong's tax system was still among the top in the globe. However, it is still an unshirkable duty of the authorities concerned to keep on perfecting the taxation law in Hong Kong.

According to the authorities, they will conduct a review of the taxation law when necessary. But the actual situation is that when the profession and the commercial and industrial sector have been putting forward their opinions on the taxation law in Hong Kong, the review of the taxation law has still been making very slow progress. Many accountants have reflected to me that disputes between local enterprises and the authorities occur every day due to discrepancies in the understanding of the Inland Revenue Ordinance or unclear tax assessment procedures and criteria of the Inland Revenue Department. Many members of the commercial and industrial sector also hope that the authorities can more actively study the provision of more tax concessions to

counter competition from the neighbouring regions, such as Singapore. The advantage of Hong Kong in terms of its tax regime will not exist forever. The authorities should give a better response to the aspirations of various sectors of the community on the tax regime of Hong Kong, with a view to enhancing the competitiveness of Hong Kong.

Apart from the review of the taxation law, I also wish to reflect to the authorities the concern of the accountancy profession over the reform of the professional liability system as well as the relationship between this reform and enhancing the competitiveness of the accountancy profession in Hong Kong. Under the existing professional liability system, the local accountancy profession and in particular, accountants engaging in audit business are subject to enormous professional liability risks. These risks have deterred many accountants from becoming auditors and seriously affected the development of auditing services in Hong Kong. Auditing is a very important component of the services of the accountancy profession. If its development is put in jeopardy, it would impact on the competitiveness of the entire profession. In other developed economies, such as Britain, Belgium, Australia, and so on, reforms have been made to the professional liability system. Hong Kong can follow suit, in order to upgrade the competitiveness of Hong Kong. I hope that the authorities will appreciate the problems faced by the accountancy profession and propose viable policy directions, in order to balance the reasonable interests between auditors and other stakeholders.

Madam President, enhancing the competitiveness of Hong Kong is a very pressing issue. As the Chief Executive has said, we can only devote every effort without delay. The competitors of Hong Kong will not start forging ahead to catch up with us only when we have enhanced our competitiveness. I hope that the authorities can listen very carefully to the views expressed by all Members today and respond by drawing up suitable policies. As long as there is close co-operation among the Government, the business community, the profession and the public, the competitiveness of Hong Kong can certainly be enhanced and by then, we need not worry about competition from other places, let alone fears of being marginalized. I hope Members will support my motion. With these remarks, I beg to move. Thank you, Madam President.

Miss TAM Heung-man moved the following motion: (Translation)

"That, as a report on the competitiveness of Chinese cities published earlier indicates that although Hong Kong's overall competitiveness still

ranks first within China, its competitive edge is dwindling, this Council urges the Government to face up to this trend and to:

- (a) expeditiously enact a cross-sector fair competition law and set up an independent fair competition commission with real powers to enforce the law;
- (b) formulate a comprehensive manpower policy to attract overseas talents to Hong Kong; and to enhance the quality of education in such areas as tertiary education and language education, so as to train up more local professionals with a view to alleviating the pressure of shortage of talents in Hong Kong;
- (c) perfect the policy on pollution management with a view to improving the air quality and environment in the territory;
- (d) expedite the review of Hong Kong's taxation policy; and
- (e) endeavour to protect Hong Kong people's freedoms in various aspects and uphold the rule of law in Hong Kong,

so as to further enhance Hong Kong's competitiveness and maintain its competitive edge."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Miss TAM Heung-man be passed.

PRESIDENT (in Cantonese): Miss CHAN Yuen-han, Mr Andrew LEUNG, Dr YEUNG Sum and Mr CHAN Kam-lam will move amendments to this motion respectively. Mr SIN Chung-kai will move an amendment to Mr Andrew LEUNG's amendment. The motion and the amendments will now be debated together in a joint debate.

I will call upon Miss CHAN Yuen-han to speak first, to be followed by Mr Andrew LEUNG, Dr YEUNG Sum, Mr CHAN Kam-lam and Mr SIN Chung-kai; but no amendments are to be moved at this stage.

MR LAU KONG-WAH (in Cantonese): President, it seems that a quorum is lacking now.

PRESIDENT (in Cantonese): Sorry, Miss CHAN Yuen-han, please sit down first. The Clerk has already rung the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber.)

PRESIDENT (in Cantonese): We have a quorum now. Miss CHAN Yuen-han, you may now speak.

MISS CHAN YUEN-HAN (in Cantonese): Madam President, in March, the Chinese Academy of Social Sciences (CASS) published the 2006 Blue Book on Competitiveness of Cities: Report on Competitiveness of Chinese Cities (the Report), pointing out that the competitiveness of Hong Kong ranks first among the 200 cities in the four places on both sides of the strait. The reasons are that we have talents of a high quality, an ideal environment for business operation, and so on. This is very much consistent with the advantages of Hong Kong often stressed by the Government, such as a sound legal system, a simple tax regime, an ideal business environment, and so on.

However, many Members and academics have reminded the Government that these advantages are not permanent, because regional competition is keen and it is not difficult for us to be overtaken by the neighbouring regions. Government officials, of course, refused to take on board this view, and they know only to hoist the banner of high degree of non-intervention, refusing to map out plans for the future of Hong Kong.

This Report of the CASS has given recognition to the existing advantages of Hong Kong, while pointing out at the same time that the growth momentum of the Hong Kong economy is extremely bad, as we rank the 198th, third last of the 200 cities. This, I think, is a head-on blow to the SAR Government. It also sounds an alarm for the Government, that it should not just hold fast to our

so-called existing advantages and it should not use them as a shield to cover up the Government's shortcoming of doing nothing at all.

Why is the growth momentum of Hong Kong so bad? The academics who compiled the Report pointed out that Hong Kong has hidden worries in respect of technological innovation. The commercial sector is keen to reap quick profits and as technological innovation cannot generate instant benefits, there is not adequate investment and this has seriously undermined the long-term competitiveness of Hong Kong as an international metropolis.

It so happened that the Chief Secretary for Administration also said on the same day that Hong Kong would be marginalized, but he did not say how this undesirable trend can be reversed. They know only too well that there is this problem and yet, they have reacted as if there is no problem at all. They have no motivation, and they have done just nothing. Such being the case, how can we reverse the trend of dwindling economic growth momentum? Yet, the Government has said nothing at all.

Why is Hong Kong's economic growth momentum so bad? Why will we be marginalized? If we can take a further look at the problems concerning the four pillar industries which are often mentioned by the Government, I believe we can find the reasons. The Hong Kong Government has often mentioned the four pillar industries, including financial services, tourism, trade and logistics, and producer and professional services, holding that they are already adequate to support the economy of Hong Kong. But can these four pillar industries create sufficient impetus for economic growth in Hong Kong? Can they provide adequate employment opportunities for workers in Hong Kong?

In fact, while the tourism industry has the support of the Individual Visit Scheme, there are still hidden worries such as a lack of tourist spots, expensive hotel rates, poor air quality, and so on, and these problems have impacted more and more seriously on the future of the tourism industry. The situation during the last "golden week" has reflected this point, and a decline in the number of visitors has also reflected the situation. While producer and professional services still maintain their edge for the time being, many operators have been pursuing development in the Mainland because of more promising development opportunities in the Mainland under the auspices of CEPA. The logistics industry has also started to lose its advantages. Last year, Hong Kong's No. 1 world ranking in terms of container throughput was overtaken, and as Yantian

port in Shenzhen is catching up with us more and more closely, the local logistics industry is obviously in crisis. Even for the financial services industry in which Hong Kong takes the greatest pride, the Chief Executive of the Hong Kong Monetary Authority has also pointed out that Hong Kong faces the possibility of being marginalized.

The manufacturing sector of Hong Kong started to fade gradually in the '90s. The service industry is all that has been left now, and it can no longer create a large number of job opportunities as it did back in those years. The four pillar industries nowadays cannot in the least provide adequate employment opportunities, and the problem can be reflected by the declining wages of hundreds of thousand of grass-roots workers. Under the globalization of the world economy, the number of jobs in Hong Kong will continue to decline. Therefore, we can see that despite an economic upturn in Hong Kong, the unemployment problem which has bothered Hong Kong for years remains unresolved as unemployment is still hovering at above 5%.

The lack of employment opportunities for grass-roots workers has led to many social problems. Even though the workers have jobs, they still face such problems as salary cuts and increasingly keen competition. Competition between taxis and light goods vehicles recently is a case in point. Taxis and light goods vehicles used to operate separately and do business in different fields as taxis carried passengers while light goods vehicles transported goods. But as the manufacturing sector no longer exists, there is no goods for light goods vehicles to transport and in order to make a living, light goods vehicle operators are forced to compete for passengers with taxis, causing the two trades to point their fingers at each other and resulting in a series of actions. Moreover, owing to an imbalanced industrial structure and the lack of employment opportunities, grass-roots workers are facing unreasonable treatment, including low wages and long working hours. Working poverty has led to a series of social problems too, such as family tragedies, domestic violence, abuse of the elderly, youth problems, and poverty among the young people. All these show that the problem has become very serious, with a tendency of deterioration.

To create economic growth momentum for Hong Kong, it is necessary to, as the first step, respond to the views put forward by the CASS academics by targeting actions at the weakness of Hong Kong, that is, lacking investment in innovation and technology, and making use of innovative technologies to facilitate the development of a manufacturing sector which suits the Hong Kong

conditions. Madam President, investment in research and development has always been less than enormous in Hong Kong, and even in 2002, the total expenditure on research and development in Hong Kong accounted for only 0.6% of the Gross Domestic Product (GDP). Quite on the contrary, if we look at the neighbouring regions, we can see that in order to enhance their competitiveness, they have attached far more importance to investment in research and development. In 2003, the funding for research and development in Guangzhou accounted for 1.6% of its GDP. In Singapore, it is stated in the budget this year that HK\$9.48 billion will be earmarked as subsidies for universities in the next five years and that about HK\$23.7 billion will also be provided in the next five years for establishing a Research and Development Fund. The more one sows, the more he reaps. If Hong Kong remains stagnant, the neighbouring regions will very quickly catch up with us. The situation is like the sprint race between the tortoise and the hare.

Madam President, the manufacturing sector aside, Hong Kong is a melting pot of Chinese and Western cultures. Cultural development with local characteristics can also add colour to the economy of Hong Kong. In recent years, the Government seems to have attached great importance to the cultural and creative industries and considered these industries a way out in the development of knowledge-based economy. Development in these areas was covered in the policy addresses and budgets in the past few years. But in this year's policy address and Budget, I do not know why the creative industries are crossed out, and this has made people ask whether the Government is just doing "window-dressing" work?

In fact, over the past few years, what the Government has done in promoting cultural and creative industries is often "all thunder but no rain". Take the provision of financial support as an example. Except for a fund known as "DesignSmart Initiative" currently operated by the Government to support the design industry, no financial support is given to other sectors of the creative industries. In fact, many brilliant local inventors and artists of a high standard are forced to give up their creation and invention due to their practical financial needs. If the Government can provide more assistance in this respect, not only will the local economy develop in the direction of high value-addedness and diversification, the quality of the people can also be upgraded at the same time and the competitiveness of Hong Kong will hence be enhanced.

Madam President, faced with fierce competition from the neighbouring countries and cities, Hong Kong must develop diversified industries before we can enhance our competitiveness, take the economy forward and achieve full employment. However, a major stumbling block to Hong Kong in developing a diversified economy is the policy on property development. Land in Hong Kong is all used for property development, while major property developers will channel their funds for investment in other parts of the world to generate profits, rather than spending the money on Hong Kong. Their reluctance to make long-term investments in Hong Kong has confined the room for manoeuvre in our policies. This is a major problem faced by Hong Kong now. While waters can keep a boat afloat, they can also overturn it. Real estate development had brought transient development to Hong Kong, but its excessive expansion has created bubbles. The ordeal of 1997 did throw Hong Kong into a deep abyss of suffering.

Madam President, now that Hong Kong has developed to the present state and is caught in difficulties, if the Government does not address the problem squarely and identify the root of the problem, this Pearl of the Orient will vanish amidst competition. To solve the problem, the Government must turn to community forces in identifying a solution. A few years ago, some economists in the academia already suggested the establishment of a community-led commission on economy and employment to draw on collective wisdom in formulating a long-term economic strategy with the support of government policies. While there are similar committees or commissions, such as the Commission on Strategic Development and the Economic and Employment Council, they are merely "decorative vases". The Government has not sincerely taken on board public opinions extensively. Does Hong Kong wish to remain as No. 1 or to gradually slide down to the bottom last? It really depends on the determination and capability of the Government.

Madam President, I have made these points in a rush, now I would like to spend some time expressing more of my feelings.

In recent years, I have made many visits all over the territory, and I have seen that in Hong Kong, not only the grassroots are facing problems, in fact, clerical workers also face great difficulties in employment. What does this reflect? It precisely reflects that the economy has failed to provide the impetus to take forward the development of Hong Kong as a whole, which includes providing for the living of the millions of people in Hong Kong. Faced with the

globalization of the world economy, if the Government only aims at maintaining the *status quo*, honestly speaking, with regard to this place of Hong Kong, a place which used to be in the forefront of the Asian Pacific Region, I believe many people would feel unhappy. I have for many times participated in seminars on many places held by The Hong Kong Polytechnic University. Many academics pointed out that if Hong Kong does not learn from the bitter lesson and strive to reverse today's scenario in which we merely take on a passive role, and in other words, if the Government does not make certain adjustments to the industrial structure or if it does not strive for the development of a diversified economy, Hong Kong will eventually have no part to play. Hong Kong had provided the Mainland with plenty of assistance in the several post-war decades but today, some people in the Mainland have said that Hong Kong is still running like a tortoise. Of course, they did not say this openly, but some people did ask me a lot of questions in private.

Madam President, I, being CHAN Yuen-han of Hong Kong, hope that the Government will really cease to sit by with folded arms, for this would cause Hong Kong to lose its competitiveness. Thank you, Madam President.

MR JEFFREY LAM (in Cantonese): President, a quorum is lacking.

PRESIDENT (in Cantonese): Mr Andrew LEUNG, please sit down first. The Clerk has rung the bell to summon Members back to the Chamber.

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

PRESIDENT (in Cantonese): We have a quorum now. Mr Andrew LEUNG, you may now speak.

MR ANDREW LEUNG (in Cantonese): Madam President, the topic under discussion today is maintaining the competitive edge of Hong Kong. I do not know how efficient Members will be in this discussion today. Will we reach some agreement in our discussion of this topic?

In fact, enhancing the competitive edge of Hong Kong is what the Liberal Party has all along been working for, as we understand that so long as we can keep the economy in a good shape, all Hong Kong people will benefit from it. However, we cannot deny that nowadays, faced with the economic development worldwide and challenges from neighbouring regions in Asia, especially given the rapid economic development in mainland cities, the competitive edge of Hong Kong will be greatly undermined as the advantages of these places are enhanced while ours have waned.

Earlier on two Members mentioned the details of a survey report, and I am not going to repeat the points here. According to that report, we can see that the competitiveness of Hong Kong now faces increasingly severe challenges, and it is because of this reason that my amendment urges the Government to adopt the measures that the Liberal Party will be proposing today, in order to enhance the competitive edge of Hong Kong.

My amendment proposes to establish a regional policy focusing on enhancing Hong Kong's competitiveness and strengthen the resource integration with the Pearl River Delta (PRD) and the entire country. I think Members all know that Hong Kong and the Mainland, especially the PRD, are interdependent and mutually complementary. According to a study report of the Federation of Hong Kong Industries, the close partnership between Guangdong and Hong Kong has resulted in a high degree of economic integration in the Greater PRD Region. Therefore, in view of the growing trend of globalization of the world economy and regional integration, enhancing our competitiveness should be an objective of Hong Kong and to this end, we should first establish a comprehensive regional policy to consolidate the position of Hong Kong as a major financial hub in the Asian Pacific Region and also as a window for the Mainland in reaching out to the rest of the world.

Hong Kong is very closely linked to the economic and trade development in the PRD. Most of the core production processes of the local manufacturing sector have been relocated to Guangdong Province, while the local service industry provides diversified services for these core processes. This new trend of "Hong Kong focusing on service and Guangdong on manufacturing" has strengthened our ties and resource integration with the PRD, and it also helps facilitate the integration of Hong Kong into the "regional economic core". Close co-operation between Guangdong and Hong Kong is conducive to value adding in the regional economy which will, in turn, expedite regional economic integration.

In my amendment I have mentioned perfecting the environment as well as such services as medical, education, and so on. We consider that the Government must strike a balance between service users and social expenditure when effecting increases in public medical fees in the future. The Government should also take steps to develop our medical and health care services into an industry capable of creating foreign exchange earnings.

On the education front, the Liberal Party hopes to see more active development of diversified quality education which is student-based, and with the support of soft skill, emphasis should be placed on whole person development and the room for learning should also be expanded.

In my amendment, I have also mentioned encouraging enterprises to develop creative industries as well as new and high technology, with a view to enhancing the competitiveness of the local manufacturing sector. The Liberal Party considers that the Government should take the lead to upgrade the industrial structure of Hong Kong and formulate anew an industrial policy to develop a new "locomotive", such as auto parts, the green industry, and so on, with a view to facilitating local production and encouraging traditional industries capable of creating foreign exchange earnings to become high value-added.

We have all along called on the Government to adopt more measures to encourage the development of creative industries. Vigorous efforts should be made to attract international scientific research companies to invest in Hong Kong, set up research and development centres, and also attract more talents to join this high value-adding industry through the cultivation of an innovation and technology culture in Hong Kong, thereby encouraging product design and research and development projects in Hong Kong, establishing and promoting the unique brand name of "Made in Hong Kong", and providing three-fold tax concession for the design and research and development expenditure of enterprises. The Government should introduce a "through train" policy to enhance the training of talents, so as to provide a large pool of creative and innovative young talents, with a view to enhancing the competitiveness of the manufacturing sector. This all-win proposal can facilitate the development of creative industries as well as new and high technology and also train up more scientific research talents, thus providing an ideal channel for the Government to create jobs.

Recently, I am very glad to see that the five research and development centres set up by the SAR Government have provided Hong Kong businessmen in the PRD with "one-stop" service to assist industries to move in the direction of high value-addedness. Moreover, the Hong Kong Design Institute, which is planned to be constructed, will endeavour to train design talents and hence take forward the development of creative industries as well as high technology.

My amendment also mentioned endeavouring to maintain Hong Kong's simple and low tax regime. Hong Kong has a simple tax regime with low tax rates. This, coupled with the abolition of the estate duty, is conducive to business operation and also to attracting foreign investments. Our simple and low tax regime has even been followed by European, American as well as Asian countries. It shows that this regime, which has been operating effectively, is worth preserving.

My amendment proposes to expeditiously enact a civil fair competition law. The Liberal Party considers that any fair competition law should be civil in nature, which means that a fine be imposed according to the degree of severity. In enacting a fair competition law, we must ensure that the law itself does not intervene with the operation of the market and that free trade be maintained under this principle. The role of the Government is merely to provide a fair platform to enable various trades and industries to achieve full development.

Madam President, I am very grateful to Miss TAM Heung-man for proposing this motion, which gives us an opportunity to rethink how the competitiveness of Hong Kong can be enhanced. Having said that, however, if we just carry out the five main areas of work as suggested in Miss TAM's original motion, will it be enough to maintain the competitive edge of Hong Kong? I think Members already know the answer. Madam President, judging from the circumstances nowadays, it is inadequate simply to maintain the competitiveness of Hong Kong. We must actively enhance the competitiveness of Hong Kong. For this reason, considering the actual situation of Hong Kong in the regional economy and the direction of industrial development, the Liberal Party has put forward a comprehensive set of proposals. My colleagues will speak on the other aspects one by one later.

Both the amendments proposed by Miss CHAN Yuen-han and Mr CHAN Kam-lam call for efforts to enhance the local manufacturing sector and

encourage creative industries. This is precisely an objective consistently advocated by the Liberal Party. In her amendment Miss CHAN Yuen-han also mentioned the problem of marginalization. The Liberal Party considers that the development of Hong Kong and that of the Motherland are inextricably linked. As long as we continue to maintain close co-operation with the Mainland, we can certainly complement each other. In his amendment Mr CHAN Kam-lam mentioned the need to extensively consult various sectors of the community before conducting studies of a fair competition law. In our view, it is certainly a good thing to conduct consultation, but if a fair competition law is already devised before consultation and if it will slant towards a particular side, that would be inappropriate.

As regards Dr YEUNG Sum's proposal in his amendment of integrating pre-school education into subsidized education, the Liberal Party agrees with it and hopes that this can improve the quality of education. As for small-class teaching, the Liberal Party also agrees to improving the standard of teaching by way of small-class teaching. This is good, but we cannot just cut the class size purely for the sake of small-class teaching.

As for the call for a democratic political system and universal suffrage in the amendment, the Liberal Party holds that these proposals are made in good faith but should be dealt with separately, and these should not be made preconditions for creating a level playing field which is conducive to the overall development of society. For this reason, we have reservations about this point.

Madam President, that Hong Kong has developed from a small fishing port into an international financial centre today is indeed attributed to the concerted efforts of the Government, the business sector and members of the public. Although Hong Kong faces many challenges from all sides today, if we can join hands and work in one mind, Hong Kong can definitely turn crises into opportunities and will continue to shine with dazzling splendor. The legend of Hong Kong will surely go on.

I so submit.

DR YEUNG SUM (in Cantonese): President, Miss TAM Heung-man's motion mentioned a report on the competitiveness of Chinese cities, and it is also mentioned that we rank first among all the places in China, but our competitive

edge is gradually shrinking. My amendment cited the Growth Competitiveness Index published by the World Economic Forum in September last year, in which Hong Kong's ranking has plunged from the 21st in 2004 to the 28th. In fact, we have been overtaken by Taiwan, South Korea, Japan, Singapore and even Malaysia. So, this plunge in our ranking is, indeed, astonishing.

Generally, the Democratic Party supports the motion proposed by Miss TAM Heung-man, but I wish to propose an amendment to it and make two points in particular concerning democratic political system and investment in education and manpower. It is because, according to the study of the World Economic Forum, they are more concerned about collusion between business and the Government and the bloated bureaucracy in Hong Kong. Therefore, apart from throwing weight behind Miss TAM Heung-man's original motion, we also proposed some amendments focusing on this point by putting particular emphasis on the importance of a democratic political system and of education and manpower.

Insofar as Miss TAM's motion is concerned, we basically agree that the most important advantages of Hong Kong are a level playing field, the freedoms of speech and information, and a low and simple tax regime and the rule of law system. But I wish to point out in particular that it is necessary to ensure that the implementation and formulation of these policies are fair and compatible with the overall interest of Hong Kong, rather than they being used by the Government to satisfy the interest of people and consortiums with close ties with the top echelon of the Government. The Government must be accountable to all Hong Kong people, rather than just the small-circle Election Committee. Let me cite an example. We all know very clearly that the West Kowloon Cultural District definitely has a positive impact on cultural development in Hong Kong. But the Government, when actually working on this development, adopted the single-tender approach only, and what happened in the end? Everyone will agree that this has almost become a property development project for transferring benefits.

In respect of a fair competition law, the Democratic Party has since 1993 called on the Government to draw up policies on fair trade, and we even called on the Government to enact a fair competition law in 1997 but this is still in the stage of discussion. Singapore is ahead of us in this regard, for a fair competition law is already in place in Singapore.

Insofar as a fair competition law is concerned, the situation is still one of much talk but no action. But when the Chief Executive is returned by a small circle of 800 members, and when some major consortiums can, through their subsidiary companies, directly or indirectly exert an influence on or even control some members of the Election Committee, and when these consortiums can definitely influence quite strongly the candidates of the Chief Executive, including the incumbent Chief Executive who will be seeking a re-election, no wonder a fair competition law has yet been implemented in Hong Kong against this backdrop.

As for the review and reform of the tax regime, in early 2003, the Government effected tax increases to tackle the fiscal deficit. As a result, the actual tax rate for many middle-class and grass-roots people increased by 30% or more, whereas the actual tax rate for people with a high income paying tax at the standard rate and companies recording a profit only increased by less than 7%. In 2004, the Government said that public finance was not yet stable, but the fact was that the financial conditions had been greatly improved and yet, the Government still ignored the aspiration of the community for a reduction of salaries tax. This year, the Government has seriously underestimated the surplus by \$9.9 billion, as the actual surplus is recorded at \$14 billion which is 3.4 times of the projection of \$4.1 billion as announced in the Budget. The Government's miscalculation in the projection of the surplus is astonishing. Even in the Budget, the Government still refused to respond to the community's strong aspiration for tax reduction, making only nominal adjustments to the marginal tax rate. It also turned a blind eye to the reality that the wealth gap problem is becoming more and more serious; poverty alleviation measures are like a dragonfly skimming the surface of water; and using consultation as a shield, it even plans to introduce a sales tax which is unfavourable to the grassroots. Had a democratic system been put in place in Hong Kong, the Financial Secretary could have been impeached for such astonishing miscalculation in the budget, let alone his neglect of the aspiration for tax reduction to return wealth to the people, which is almost a consensus in the community.

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

In respect of the freedom of information, Members will recall that the SAR Government had almost succeeded in forcing through the legislation on

Article 23 of the Basic Law which could almost strip Hong Kong of the most valuable freedoms of speech and of information. On the contrary, the Legislative Council passed a motion proposed by Mr James TO early last year urging the Government to enact legislation on freedom of information, with a view to protecting the freedoms of press and information in Hong Kong. But this Government, which is returned by a small circle, has merely given lukewarm response to it.

This Government, which is not returned by democratic elections, has thrice sought interpretations of the Basic Law from the Central Authorities, taking the lead to shatter the rule of law spirit in Hong Kong. In order to win the throne of the Chief Executive, Chief Executive Donald TSANG supported the Central Government's decision to change the unequivocal five-year term of office of the Chief Executive to two years. As evident in these examples, we have failed in calling on an undemocratic government not to take the lead to wreck the rule of law. Any expectation for this Government to defend the rule of law is almost wishful thinking.

Deputy President, every social policy, especially one involving the economy, will have a bearing on the interests of various types of business organizations. Any slight negligence in policy formulation may turn the policy into the enemy of the people, however well-intentioned the policy may be. Legislation may also become a tool of the Government to control the people.

So, generally speaking, Deputy President, the Democratic Party considers that apart from promoting policies conducive to enhancing the competitiveness of Hong Kong, it is also necessary for the Government to expeditiously implement a democratic political system whereby all Hong Kong people can elect the Chief Executive and all Members of the Legislative Council, hence ensuring that the Government will take care of the overall interest of society and be accountable and responsible to the people, and also ensuring that the Legislative Council will become a publicly elected parliamentary assembly capable of monitoring the Government effectively. A democratic political system and suitable policies are equally important to maintaining the competitive edge of Hong Kong.

Apart from improving the policy as explained by colleagues earlier on, we consider that a democratic system can also respond to excessive bureaucracy and collusion between business and the Government as pointed out by the World Economic Forum. It will be a very effective cure to the ills.

As for the training of talents, apart from stressing the training of various professionals, the quality of basic education, which is given less attention especially by the Government, also warrants our concern. If efforts are made solely to promote tertiary and professional education to the neglect of basic education, it would be like building castles on a quagmire, and there would not be firm support. Hong Kong is an international metropolis which requires a large number of professional talents and all-rounders. But in our schools, there are still as many as 40 students in a class, which is suitable only for the "spoon-fed" mode of education. Such being the case, how can we nurture talents with creativity? As pre-school education has not yet been integrated into subsidized education, how can we provide quality education for our next generation at an early stage?

Deputy President, the Democratic Party considers that the provision of quality basic education, which will give suitable room for development to local talents in the future, is very important to maintaining and enhancing the competitiveness of Hong Kong and enabling Hong Kong to remain a cosmopolitan and an international financial centre. In this connection, the Democratic Party urges the Government to implement the two measures conducive to enhancing the quality of basic education as soon as possible, namely, small-class teaching and the integration of early childhood education into subsidized education.

Deputy President, I so submit.

MR CHAN KAM-LAM (in Cantonese): Deputy President, with regard to the contents of the "11th Five-Year Plan" and the report on the competitiveness of Chinese cities published by the Chinese Academy of Social Sciences, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) has long expressed concern about them, and during the Budget debate at the end of last month, we also expressed the concern of the DAB about the lack of economic growth momentum in Hong Kong as well as our dwindling competitive edge. A few days ago, the Director of the Institute of Hong Kong and Macao Affairs, Mr ZHU Yucheng, said candidly in his speech that following an increasing trend of globalization of the world economy and regional economic integration, coupled with rapid economic development in mainland China, the position of Hong Kong as an international business and trade centre in the Asian Pacific Region is facing critical challenges, as the competitive edge of the pillar

industries is being undermined and the economic structure of Hong Kong undergoing new adjustments. These remarks have once again proven that our concerns are neither unwarranted nor alarmist talk. To resolve the crisis of being marginalized, the Government must lead and promote the development of new industries, maintain a diversified economy and foster new points of growth in Hong Kong economy.

The Government has all along attached little importance to industries, and this attitude, which has long been criticized, has resulted in the hollowing out of the local industries and an imbalanced industrial structure. As for innovation and technology which are vigorously promoted by the Government, the lack of support for industries has prevented scientific research results from being industrialized and for this reason, the development has been far from ideal. All these have reflected the reality that industries are indispensable to Hong Kong. As the development into a world power in technology is now the Mainland's long-term development objective, this has created a favourable opportunity for the development of new industries in Hong Kong. Whether we look at it from the actual circumstances or from the timing or geographical advantages, the development of new industries has already become a new way out for the future development of Hong Kong. The SAR Government should grasp the new trend of development of our country and formulate new industrial policies for Hong Kong. This will only enhance Hong Kong's ability in autonomous innovation and ensure a smoother path in identifying its new position, and the SAR ruling team can then prove by action that they clearly know the situation and will seize the opportunity, and that they have the ability to lead Hong Kong out of economic woes.

To encourage the development of new industries in Hong Kong, the Government must give up the short-sighted measures in the past and set out short-, medium- and long-term objectives and strategies for the development of industries in the long run. The Government should, in the short run, attract multinational conglomerates to invest in new industries in Hong Kong and build industrial clusters. In the medium term, it should make it an objective to create a dozen famous brand names for products of new industries overseas. In the long term, efforts should be made to enhance Hong Kong's ability in scientific research on innovation and technology, such as setting up 10 research agencies qualified for inclusion in the top 100 in the international community. We believe that only when a new, comprehensive industrial policy is formulated to clearly outline the direction of future development and to show Hong Kong's

commitment in administrative and policy support will investor confidence be fostered in making investments in Hong Kong and the competitive edge of Hong Kong be maintained.

The DAB has all along advocated that the Government should change its outdated mentality in managing the economy and adopt supportive policies and measures. For example, in respect of land and factory plants, the Government should comprehensively develop the border closed area into a new industrial park zone, and relax the restrictions on the use of factory buildings, so that they can be used for the development of new industries. This will indeed achieve the same effect as that of the proposal in an amendment of creating an environment in terms of the land policy for various industries to enjoy development opportunities in Hong Kong.

Another amendment proposed to enhance the division of work and co-ordination with the Mainland, and this happens to coincide with the DAB's principle of endeavouring to enhance Hong Kong's economic and trade ties with the Mainland. With regard to such issues as the deepening of the CEPA, comprehensive development of the border closed area, and active promotion of "Nine plus Two" co-operation between Hong Kong and the Pan-Pearl River Delta Region, the DAB has organized many seminars and exchange sessions/meetings and published many research reports and articles. I will not go into the details here, but I sincerely hope that government officials can listen to and take on board the proposals that we have made.

Next, Deputy President, I will express our views on the enactment of a cross-sector fair competition law. The Government has appointed the fair competition review committee to review the policy on competition in Hong Kong. The results of the review will be published in June. The DAB welcomes the conduct of this review by the Government. As long as competition in the market can be promoted and protection of consumer interests enhanced, the DAB will consider all measures to be worthy of consideration. The key is that there must be extensive consultation and careful consideration in the process of consideration, and it is also necessary for a consensus to be reached among all sectors of the community.

Given that a sweeping cross-sector fair competition law will involve a wide range of aspects in society, and that it will have a bearing on the business environment in Hong Kong and involve the interests of general consumers, it is, therefore, all the more necessary to listen to the opinions of various strata as

compared with other policy issues. Some people may consider that consultation may be time-consuming and legislation should be enacted as soon as possible. However, instead of arousing strong reverberations in society after a decision is made on legislation, which could affect the administration of the Government, it is better to properly consult public opinions extensively beforehand, and it is inappropriate to make a decision hastily.

In fact, the discussion on whether or not a cross-sector fair competition law should be enacted has been continuing for years in the community, and I trust we already know very well the merits and demerits of legislation and yet, controversies still have not ceased. Whether in social organizations or among experts and academics, those who support the proposal and those who are against it have remained evenly-matched in strength. This shows that insofar as a sweeping fair competition law is concerned, the needs and concerns of various sectors of the community are indeed different. In order not to affect social harmony and stability, we consider that whether or not a cross-sector fair competition law will be enacted is of secondary importance, because it is imperative to conduct a feasibility study on the basis of extensive consultation among all sectors of the community to ensure that the results of the study have already considered the aspirations of different people.

In proposing a review of the policy on competition, the Government aims to ensure that public interest will be persistently met and to provide an environment conducive to business operation. We consider that the review of the taxation policy in Hong Kong should also ensure that the policy will progress with the times and improve the business environment in Hong Kong. Particularly, the past few decades have seen earth-shaking political and economic changes in places surrounding Hong Kong. The problem of double taxation as a result of Hong Kong people travelling to and from the Mainland and residing in the two places, and the economic and trade co-operation following the signing of the CEPA between Hong Kong and the Mainland and the "Nine plus Two", are indeed new issues difficult to be dealt with the old taxation system, and it is necessary to conduct a flexible review in accordance with the changes in the economic environment.

The low and simple tax regime of Hong Kong is a critical factor attracting investors from all parts of the world to set up a base in Hong Kong. We agree that the tax regime of Hong Kong must continue along this line while regular review of the taxation system is warranted, in order to continuously perfect the

system. For example, consideration can be given to allowing the "group loss relief" arrangement, which is a proposal worthy of consideration and studies. Experienced accountants have pointed out that if a group is not allowed to offset corporate losses in tax assessments, which means that companies belonging to the same group are required to pay tax separately, it would force the group to find its own solution, in order to transfer or divert the losses of its companies here and there. For this reason, allowing the "group loss relief" arrangement can be a solution to the problem, and it is also a direction for developing a stable tax regime.

Moreover, the Government should consider providing tax concessions to specified industries and review the "Avoidance of Double Taxation" arrangement and also those stipulations in the taxation system requiring further clarification by, among other things, clearly defining the "source of profits", simplifying the definition of "offshore income", and clarifying the taxation arrangements of "processing and assembling with customers' materials" and "processing and assembling with imported materials" in the Mainland, with a view to making the business environment of Hong Kong more attractive.

With these remarks, Deputy President, I propose my amendment.

MR SIN CHUNG-KAI (in Cantonese): Deputy President, to enhance the competitiveness of Hong Kong, I think the first step is to enhance the ability of the accountable officials in Hong Kong, especially the ability of officials responsible for financial affairs. In response to Members' questions in March after the release of the Budget, Secretary Frederick MA was still criticizing market players for failing to get hold of accurate data which resulted in their overestimation or overprojection of the fiscal surplus. But less than two months later, as we all know, the latest statistics published last week showed that a surplus of \$14 billion had been recorded by the Government in the last financial year, which means that the projection in the Budget is \$9.9 billion short of the actual surplus. This is a very big shortfall.

A shortfall is actually not a big problem. But he is in a position to access more detailed data than others and yet his projection is even less accurate than that of market players. This is what we find to be disappointing. Deputy President, the financial officials are duty-bound and required to tell Hong Kong

people the information obtained by the Government in a most accurate way, rather than just walking away like an ostrich. Deputy President, the government official is not even in this Chamber to give a reply. Do we need to wait for him to come back before proceeding with the debate?

DEPUTY PRESIDENT (in Cantonese): You may go on.

MR SIN CHUNG-KAI (in Cantonese): Deputy President, in this motion debate today, Dr YEUNG Sum already proposed an amendment for us. I propose an amendment to amendment mainly because of the amendments proposed by Mr CHAN Kam-lam, Mr Andrew LEUNG, and so on. In fact, most of the points made in their amendments are acceptable to me. As regards Mr Andrew LEUNG's amendment, I can also accept most of the points in it, except item (h) of the amendment: "expeditiously enacting a civil fair competition law". In the vote to be taken today, it is most likely for all the four amendments to be negated. But if colleagues of the Liberal Party can accept the small amendment proposed by me to amend item (h) as "expeditiously enacting a cross-sector fair competition law", I believe that with the support of the Democratic Party, the amendment proposed by Mr Andrew LEUNG of the Liberal Party will stand a chance to be passed. So, I urge Mr Andrew LEUNG and his colleagues in the Liberal Party to consider the enactment of a cross-sector fair competition law at this stage.

In fact, a cross-sector fair competition law is enacted in many advanced and developed countries where the economy is well-established. It is by no means a horrifying beast. Certainly, as regards its contents, we have yet discussed what specific contents will be included in this cross-sector competition law upon its enactment. In this regard, and as suggested by Mr Andrew LEUNG earlier, perhaps consultation should be conducted and after the publication of the relevant document, the provisions of the law will be set out specifically and the details can then be discussed. I hope that the Government, Mr Andrew LEUNG and his colleagues can look into this proposal in more detail and support it.

Deputy President, many rating agencies in Hong Kong have rated the competitiveness of Hong Kong before. In this connection, two indices are

worth mentioning. One is the Growth Competitiveness Index of the World Economic Forum. Insofar as this index is concerned, the World Economic Forum had ranked Hong Kong as the 17th in the world in 2002, but in 2005 — this is the latest ranking — our ranking already dropped to the 28th. The other one is the Business Competitiveness Index and according to the statistics available, the ranking of Hong Kong has dropped from the 10th in 2000 to the 20th. These two indices have sounded the alarm for us and in fact, it is necessary for us to face this. Moreover, we can also look at another study report on competitiveness. In the report on global business environment of the World Bank, we ranked the 5th in 2004 and dropped two places to the 7th in 2006. All these do give cause for concern.

Deputy President, over the years, the Democratic Party has hoped that the Government can pay attention to our competitiveness. That is why in the budget that we submitted to the Government in the past, we had particularly listed out the rankings of our competitiveness in these indices, hoping that the Government could pay greater attention. In particular, I very much agree that there is one point in common in these ratings, which is a criticism about Hong Kong and that is, Hong Kong is doing rather badly in scientific research and so, this area does warrant our attention.

On the other hand, in the last couple of years, colleagues of the Democratic Party and I have had the opportunity to discuss with various foreign chambers of commerce the problems faced by Hong Kong. Disregarding the background of these foreign businessmen, most of these foreign businessmen working in Hong Kong share one common concern and that is, the first problem they raised was that they were concerned about the impact of air pollution on the competitiveness of Hong Kong which might cause them to suffer. Many international businessmen are already unwilling to come to work in Hong Kong. Nor are they willing to come to Hong Kong to do business. It is not because the environment is unfavourable to them, but the air is polluted in Hong Kong. It is because of the natural environment, not the business environment. Certainly, they do have other concerns about the business environment. So, Deputy President, apart from addressing the problems in respect of technology, it is, in fact, also imperative to solve the air pollution problem, in order to improve or enhance the competitiveness of Hong Kong.

With these remarks, I support Dr YEUNG Sum's amendment.

MR FREDERICK FUNG (in Cantonese): Deputy President, in a seminar on China's "11th Five-Year Plan" in March this year, Chief Secretary Rafael HUI made remarks cautioning the so-called marginalization of Hong Kong, which immediately aroused extensive discussion in society. Many political figures in Hong Kong and the Mainland, who, of course, include Members of the Legislative Council, have expressed their views on these remarks. Everyone has expressed their views freely, and this precisely reflects how valuable the freedom of speech is in Hong Kong. But from all these opinions expressed, it is not difficult to notice that when it comes to the competitiveness of Hong Kong, it is always easy to fall into two blind spots or "areas of mistake". These opinions showed repeated wrong focusing and as a result, no solution can be identified to address the problem.

Deputy President, what are these two "areas of mistake"?

First, the vision is too narrow. When we draw a comparison on the advantages, emphasis is often put on comparison with major cities in the Mainland, and the conclusion thus drawn will invariably assume that Hong Kong will soon be overtaken by other cities and ultimately become a negligible, unknown city of China. In fact, there is a reason for this perception, and it is due to the economic depression that had persisted in Hong Kong for years after 1997, which has greatly undermined the self-confidence of Hong Kong people whose vision has suddenly become obscured while losing the sense of orientation. However, the Mainland was on the contrary making great progress while we were falling behind, as the Mainland had entered the golden era of economic development. As a result, Hong Kong people have excessively confined their focus of attention on the mainland economy to the neglect of the reality of globalization. Deputy President, the Hong Kong Association for Democracy and the People's Livelihood (ADPL) has all along stressed that economic development, infrastructure development, and so on, in Hong Kong have reached first-class standard in the world. We cannot compare ourselves with mainland cities only. The real focus should be what role should Hong Kong play in the development of globalization of the world economy? What is our position? How can we enhance our competitiveness as an international metropolis? How can our advantages co-ordinate and compete better with those of various major cities in the world? These are the areas on which the Government should focus its vision.

Deputy President, with regard to the second "area of mistake", there are always people in the community who think that insofar as the competitive edge of Hong Kong is concerned, the focus should be put only on the economy, and the utmost effort should be made to develop the economy while putting aside all political rows. Such fragmented mentality is an eye-opener indeed. It is like suggesting that the economy stands for everything or the competitive advantage of Hong Kong lies only in economic development and has nothing to do with other aspects. Is that true in reality? In fact, politics and the economy are inseparable. Politics, as defined by Dr SUN Yat-sen, is something that concerns all the people. The Government's attitude and position on any of its policy, including economic policy, are political in nature, for it requires the people's consent and support and is formulated through consultation with the public and parliamentary assemblies, and it is in essence a political process. Deputy President, it is most ironic that people who put forth this fragmented mentality have a hidden political motive behind them and that is, to divert the public's focus away the aspiration for constitutional development. As we still recall vividly, whenever Hong Kong people express a strong aspiration for universal suffrage or when some political issues become the focus of public attention, such as the 1 July march, the question of universal suffrage, and so on, some political figures will come forth and tell us that Hong Kong should make the utmost effort to develop the economy and that the position of Hong Kong should be a city focusing only on economic development and allowing no room for political reform.

Deputy President, we must get rid of these two "areas of mistake" before we can clearly see the true facts. Only in this way can our comments and vision be comprehensive enough while having regard to the development in all aspects. Only in this way can the competitive edge of Hong Kong be enhanced for the benefit of the overall development of society.

Deputy President, the motion proposed by Miss TAM Heung-man today has put forward multi-faceted measures, including the enactment of a fair competition law, improving the policies on education and manpower, protecting freedom and maintaining the rule of law, and the call for environmental protection, and so on, with a view to maintaining the competitive edge of Hong Kong. This, together with the amendments of Miss CHAN Yuen-han and Dr YEUNG Sum which proposed a diversified economy and the development of a democratic political system, is in line with the proposals consistently made by the ADPL to the Government.

We consider that the Hong Kong economy must develop in the direction of diversification. The Government should formulate a diversified industrial development strategy on, for instance, developing cultural and creative industries, innovation and technology, and so on. Moreover, it is necessary to redevelop labour-intensive industries, such as the environmental industry which has seen rapid development in all parts of the world. In relation to the Budgets over the years, the ADPL has consistently urged the Government to consider providing tax and land lease concessions and setting up loan funds and seeds fund, for purposes of nurturing the development of these industries. I must stress that diversified economic development will not only enhance the competitive edge of Hong Kong, but also disperse the risks of possible economic recession and enhance the resilience of Hong Kong people against economic adversities. More importantly, it will provide various employment opportunities for low-skilled workers and improve the lot of the socially disadvantaged groups. This will help alleviate poverty and is indeed the one and only way to build a harmonious and stable society.

Deputy President, I believe nobody would disagree that a stable and harmonious society is the prerequisite for maintaining the competitive edge of a society. But how will harmony and stability be maintained in society? Apart from helping the socially disadvantaged groups as I mentioned earlier, it is necessary to rely on a fair and just political system, so that the Government's powers will be duly checked and balanced and public opinions reflected in the policies of the Government, while political parties will be made responsible for consolidating public interests and aspirations, taking forward their policy proposals and further implementing them within the establishment through mutual monitoring and fair competition among political parties. Through this civilized and peaceful approach, the wish of the people will be conveyed clearly, and this is the only way to truly maintain peace and stability in society in the long term, which will greatly enhance our competitiveness.

With these remarks, Deputy President, I support today's original motion and the two amendments proposed by Miss CHAN Yuen-han and Dr YEUNG Sum respectively.

MR ALAN LEONG (in Cantonese): Deputy President, when this Council discusses how to maintain the competitive edge of Hong Kong, the newspapers seem to be packed with good news, such as the stock market having surged by

206 points, tax revenue in the last financial year hitting an all-time high, and so on. By all appearances, the debate today is somewhat untimely.

In any mature society, some preparation should be made for the rainy day and it is more so the case when the booming economy we see is in fact latent with dangers, so great that it may even make us indifferent to the crisis right before our eyes. Thus we must be wary. It is fortunate that Members are not blinded by the booming economy and they are putting forward constructive suggestions on how to maintain the competitive edge of Hong Kong. I would first like to thank Miss TAM Heung-man who has proposed the motion and the five Honourable colleagues who have proposed amendments.

Deputy President, the original motion and the numerous amendments all share a common concern and that is, the gap between the competitiveness of Hong Kong and that of places on the Mainland is narrowing all the time. In a certain sense, this is the result of the socio-economic development in Hong Kong and on the Mainland. Many critics have often described the economic miracle that we have worked as a "comprador economy", for the reason that the long-standing closed door policy of the Mainland has made Hong Kong the only window of the Mainland to the world. While we owe it to the hard work and efforts made by the people of Hong Kong for our success, events in history and social changes which have taken place in Hong Kong and the Mainland have likewise provided the momentum for our economic take-off.

Deputy President, the two most important occasions of economic restructuring which took place in Hong Kong are all linked to the Mainland factor. In the 1940s and 1950s, with the change in government on the Mainland, there was a massive influx of refugees, businessmen and capital into Hong Kong. Industries then mushroomed in the territory. In the 1970s and 1980s, as the Mainland opened up to the world, with efficient transportation and a liberal economy, Hong Kong became the springboard for mainland enterprises venturing out to the world and the stepping stone for overseas enterprises intent on entering China. Hong Kong then transformed into a hub for service industries and logistics. In the 1960s, people from all walks of life in Hong Kong struggled and toiled to make a living. There were backyard factories that operated on small capital, stalls that littered the streets and alleys, and small businesses that thrived on the patronage of residents of public housing estates. Though tiny in scale, these businesses served to meet the daily needs of the

people. They became the means with which people earned a living and improved their lot. It was then common belief that with hard work, people could carve out a career for themselves. The spirit of the times was such that people strove to be successful and they worked very hard.

Deputy President, today the small and medium enterprises (SMEs) are still the lynchpin of the Hong Kong economy, taking up as much as 98% of the number of businesses in Hong Kong. Employers and employees in SMEs take up 60% of the workforce. But with the gradual shift of the Hong Kong economy to the investment and property sectors, the small businessmen have to face soaring rentals and big businesses which dominate and dwarf them. Thus there are vast differences between the business environment now and that of some 20 years ago. Most if not all of these SMEs have to struggle hard for survival.

Formerly the shopping malls in the public housing estates were places with a marked concentration of SMEs. The inexpensive rentals helped many aspiring people to start their businesses. But when these shopping malls and car parks in the public housing estates are handed over to The Link Management Limited, people get upset. They are worried that from now on the shopping malls in public housing estates would be operated purely according to commercial principles and there are fears of an enormous hike in rentals. There are recent reports about a bistro cafe in the shopping mall of Hoi Fu Court close to the Olympic Station having been asked to pay a new rent of some \$110,000, as opposed to the present rent of less than \$80,000. It is therefore very doubtful that these shopping malls in public housing estates would continue to serve as an ideal cradle for business ventures and the enterprising.

Deputy President, despite the grim prospects ahead, there is still some encouraging news. We are seeing the proposed framework of the law on fair competition in its embryonic form. All along we have been waiting fervently for a comprehensive fair competition policy and now it is better late than never. We hope that this fair competition law will only target anti-competitive conduct that intends to cause damage, and it will never become a scourge for those with a flourishing business. It is my belief that the expeditious formulation of a regulatory framework for fair competition will help create a level playing field for SMEs.

Deputy President, apart from anti-trust regulation, the Government should also maintain a sharp acumen and be sensitive to the present business environment. It should put in more efforts to meet the real needs of the operators of SMEs. Last year, the Government suspended the SME Training Fund which was immensely popular, with perfect knowledge that SMEs attached great importance to training. This is indeed baffling. If the Government is to revive the enterprising spirit in Hong Kong and beef up its competitiveness, then it must stop formulating policies behind closed doors and being indifferent to the hardships faced by SMEs in their day-to-day operation.

Deputy President, I so submit.

MS LI FUNG-YING (in Cantonese): Deputy President, recent discussions on the competitive edge of Hong Kong are mostly sparked off by two news reports in March. One from a report on the ranking of 200 cities in four different places on both sides of the strait compiled by the Chinese Academy of Social Sciences, saying that Hong Kong ranks number one overall but the third last on the list in terms of momentum for economic growth. The other is when the Chief Secretary for Administration spoke in a seminar on the 11th Five-Year Plan in China, he stated that the problem of Hong Kong being marginalized had to be addressed.

There are bound to be losers and winners in a match and whenever there is a centre, there is bound to be periphery. When Hong Kong loses its competitiveness, it will become a loser in the market economy and hence it will be marginalized. This is an argument of the zero sum game and it is an argument most easily cited by those with vested interest. I am most familiar with such arguments as I have been engaged in unionist activities for over three decades. Ever since the 1970s when the Government launched universal education and formulated labour laws, up to the present when the labour sector is still fighting for minimum wage and standard working hours, those with vested interest would raise their objection by arguing that the competitiveness of Hong Kong would be undermined. For many of these holders of vested interest, any demand for improvement in employee benefit would be viewed as a crime undermining the competitiveness of Hong Kong. Therefore, the labour sector is wary of any topic on how to maintain the competitiveness of Hong Kong. Despite such wariness, there is no intention to oppose to the contents of the motion today. The labour sector thinks that improving the rights and benefits of

the employees does not contradict any attempt to enhance the competitiveness of Hong Kong and maintain its competitive edge. On the other hand, these are mutually complementary.

To illustrate, in the motion and the amendments today, Members think that a solution to the problem of manpower shortage can be found in formulating a sound manpower policy to attract overseas talents to Hong Kong. However, what can be a better and more effective way than to foster a favourable environment for employees to engage in lifelong learning? Moreover, we all know that employees in Hong Kong work very long hours. So how can we expect one who works six or seven days a week, and more than 10 hours a day, to engage in any further studies or lifelong learning to make himself more competitive?

To foster an environment conducive to pursuit of lifelong learning by the employees, the labour market should have an effective mechanism in place so that a balance can be struck between work, learning and rest. The reason the labour sector proposes that standard working hours should be imposed is to ensure that a balance can be struck among these competing needs. I have no intention to provoke any heated debate here on minimum wage and standard working hours, but that is how they are closely related. If there is no minimum wage, standard working hours would be like non-existent and it will be impossible to create an environment where an employee can strike a balance between work, learning and rest, and one which is conducive to lifelong learning. It is regrettable to note that opponents say the greatest crime of implementing standard working hours and minimum wage is eroding the competitiveness of Hong Kong.

Hong Kong has an extremely low birth rate and this will surely impact into our future competitiveness, the implication being so great that the Government has to initiate in the Commission on Strategic Development a discussion on encouraging child raising. But while it is encouraging the people to raise more children, nothing is done to encourage parents to stay at home to care for their children. Housewives are excluded from our retirement protection schemes. Our Employment Ordinance does not regulate standard working hours and seek to balance work and family life for employees. Given such a self-contradictory policy, how can people be encouraged to raise more children? How can such a policy hope to boost our competitiveness and maintain our edge?

Deputy President, in the debate today, Members have put forward many opinions, I would like to stress one point and that is, it is very risky to approach the issue of competitiveness just from the perspective of economic growth. It is because growth in the economy in the medium and short run may imply very high social costs. It is economic growth that will be put at risk in the end and hence competitiveness will suffer. Premier WEN Jiabao said that deep-rooted problems in Hong Kong had yet to be resolved. And one such problem is that in the past Hong Kong only approached the issue from the perspective of economic growth. To boost our competitiveness and maintain our competitive edge, the ultimate question remains: How can sustainable development be enabled in Hong Kong? If our social policy, economic policy and environmental policy are all able to meet the requirements of sustainable development, this will lead to social justice and overall progress. We will then need not fear of ceasing to be competitive and being marginalized.

Deputy President, I so submit.

MR VINCENT FANG (in Cantonese): Deputy President, the fact that Hong Kong has made excellent achievements in the international economic arena over the past 50 years is the combined result of the favourable macro environment, geographical advantages and an enterprising population. Located in the heart of Asia, Hong Kong has a superior geographical location. Being a free trading port, goods, capitals as well as talented people can move in and out of Hong Kong with great freedom. The business environment of Hong Kong is good and convenient. In addition, its tax regime is simple and Hong Kong people are innovative and prepared to take up challenges.

As far as the macro environment is concerned, the opening up and reforms in the Mainland provided a way out for Hong Kong which badly needed a transformation of its economy by allowing Hong Kong's manufacturers, who by then had already lost their competitive edge, to relocate their production lines to the Mainland. Instead of reducing Hong Kong's competitiveness, this move successfully transformed Hong Kong's economy into service industries with high value-added contents.

These advantages have contributed to developing Hong Kong into a transportation hub of the region. We have the busiest container terminals and international freight centres in the world. We are also the financial centre of

Asia and the most active trading centre for mainland enterprises to get listed on our stock market. We are the service centre of Asia, as well as the top choice city for multinational enterprises in setting up their regional headquarters.

Today, we are holding a discussion on how we can maintain our competitive edge. In my opinion, at a time when our competitors keep gathering strength, Hong Kong has to reinforce itself in order to stay ahead. Among our competitive edges, the most important one is our simple and low tax regime, which is the most attractive point in Hong Kong's business environment.

Therefore, this explains why I am opposing so vehemently the Government's plan of introducing the Goods and Services Tax (GST). This new tax will not only jeopardize our retail industry, it will also affect our efforts in transforming Hong Kong from a manufacturing centre into a service centre during all these years. The area where our competitive edge dwindles most evidently is our pricing advantage. If this new tax is introduced, it will add to our cost and further erode our competitiveness.

The Government has repeatedly stressed that the plan of introducing the GST aims at broadening our tax base. However, according to the statistics released by the Inland Revenue Department yesterday, the tax revenue for the year 2004-05 has hit a new height, whereas 1.84 million copies of tax return form for the year 2005-06 have been sent out today, representing an increase of 80 000 copies over the previous year. The reason is simple: As the economy makes improvement, so do corporate earnings; as the number of working people increases, coupled with a general increase in wages, the number of taxpayers increases as well.

The fact before us cannot be clearer. As long as the economy keeps doing well, the number of taxpayers will keep increasing too. If the people make more money, they will have to pay more tax, and I believe they are most willing and happy to do so. This is very much different from the case of the GST, which will undermine Hong Kong's competitive edge before our tax base is broadened.

If the Government insists on pressing ahead with this plan, our economy will be adversely affected. I sincerely hope that the Government can take into account our overall economic situation when it considers the option of introducing the GST.

Another pride of Hong Kong is our free and convenient business environment. Today, many Honourable colleagues are demanding the Government to expeditiously enact a fair competition law, because it is highly possible that collusive price fixing may take place in the local vehicle fuel market, and on the other hand, the situation of small companies being bullied by large corporations also exists.

There are large corporations as well as small enterprises in the wholesale and retail industries, which I represent. In this regard, I have consulted many small enterprises. They said even if a fair competition law was in place, would anybody take actions against a major client? The answer is in the negative, because if a company takes such an action, it may lose the client.

Some Honourable colleagues argue that they aim at ensuring a fair treatment for small enterprises, but please listen to their voices first. Instead, they hope that the Government would not always ignore the aspirations of the industries and stop imposing restrictions on different industries, be it the introduction of nutrition labels, the collection of a packaging tax, the regulation of cosmetic apparatuses, or the levy of GST, and so on. These are all hindrances to the business environment in general and, particularly, to small enterprises. Yet, before you know it, the Government says that it intends to protect them by introducing a fair competition law.

They would rather the Government not make so much fuss. All they need is an environment where there is a sound legal system, a comprehensive transport and communication network, the conditions for doing business freely, continuous and ample business opportunities, a good environment for educating and training up a high-calibre workforce, as well as a harmonious society.

The last thing that we want to see is Hong Kong being marginalized. Therefore, we have to adopt a broader vision than that of our neighbouring regions. In this connection, I support the proposal put forward by Mr Andrew LEUNG, that the Government should encourage the development of creative industries as well as new technologies with a view to enhancing the competitiveness of the local manufacturing sector. Let us take the garment industry as an example. It was called a sunset industry three to two decades ago, but this industry continues to generate enormous economic returns as well as a great number of job opportunities for Hong Kong to date. Their production

mode may remain traditional, but their creativity is limitless. The same is true of The Hong Kong Polytechnic University. After having invented a wrinkle-free fabric a few years ago, they studied the application of the nano technology to clothing and garments. They have won many awards in international exhibitions, and these are efforts that keep upgrading the otherwise traditional garment industry (*The buzzer sounded*)

DEPUTY PRESIDENT (in Cantonese): Mr Vincent FANG, the speaking time is up.

MR WONG TING-KWONG (in Cantonese): Deputy President, one often hears the term "marginalization" these days and all of us do not want to be marginalized. XU Lin, the deputy head of the Department of Development Planning in the National Development and Reform Commission did not think that developments on the Mainland would lead to Hong Kong being marginalized, for Hong Kong had a lot of edges beyond comparison on the Mainland. Then Premier WEN Jiabao also stated that Hong Kong's economic development would not be marginalized, but he reminded Hong Kong people to strive to enhance the internal vitality for economic development and to turn Hong Kong into a modern, advanced and competitive hub. So while we should maintain our existing competitive edges, we should also foster new points of economic growth, develop new types of industries and take matching actions for the 11th Five-Year Plan as promulgated by the Mainland. We should take the initiative to stress autonomous and innovative developments in the industrial, agricultural and service sectors. This will help emerging industries with potentials for development.

On helping emerging industries to grow in Hong Kong, the DAB in February proposed some recommendations on developing emerging industries in Hong Kong. The first recommendation suggests the Government to promote new industries, offer concessions to emerging trades, encourage investment and technology transfer in Hong Kong. Incentives proposed include offering remissions in profits tax for 10 years, tax rebate or cash subsidy for expenditure on R&D facilities, training personnel and technology transfer for enterprises in those emerging industries which are highly technical and innovative in nature. The depreciation rate for the factories and machines invested in the new industries should be raised. Encouragement should be given to enhance

collaboration between the new industrial enterprises and their contractors by offering tax concessions, low-interest loans, loan guarantees or discount loans to cover expenditure on raising the capacity of their contractors in R&D, management and productivity.

To boost the development of new industries in Hong Kong, we can model on the practices in other places and countries which give assistance of various kinds in tax, capital, land, manpower, R&D and marketing matters. In places like Taiwan, South Korea and Singapore, investments made in high and innovative technologies may be given remissions in profits tax for five to 10 years. The Government of South Korea has set up a start-up fund worth US\$300 million for small and medium enterprises (SMEs). The Taiwanese Government engages in equity participation in the hi-tech and R&D projects, with a percentage as high as 49% of the stakes. The Taiwanese Government also offers low-interest loans. Likewise, the Mainland in attracting investment has great flexibilities in offering concessions to investors.

With respect to providing land and plants, the Hong Kong SAR Government should take active steps to launch a study on the comprehensive opening up of the border area to provide affordable land. Apart from developing new industrial parks, I stress that the vacant industrial buildings should be put to better use. According to A Report on the Updated Area Assessments of Industrial Use in the Territory released by the Planning Department in March this year, the vacant floor area in the factory buildings now amounts to 3.92 million sq ft. That is equivalent to 20 blocks of Two International Finance Centre in Central. Just imagine what a waste this is! Instead of leaving the factory buildings idle, we had better put them to good use. I mentioned in the Budget debate in March that to complement economic development, the SAR Government should adopt measures to lift the restrictions on factory buildings, increase their uses and actual usable area, encourage SMEs to start business there and assist in the development of new industries.

Specifically, if the emerging industries are to be housed in the factory buildings, an application should be made to alter the uses of these buildings. We suggest that the meaning of industrial use in the legislation should be widened to include the telecommunications, information technology, product design and creative industries. Other emerging industries like media production, logistics and research may also be allowed to operate in the existing factory buildings. As the scope of uses of these buildings is extended, the

value-adding potential of these vacant buildings may be enhanced. In turn, this will show that the Government has given support to the development of new industries in terms of land and plants.

Mention should also be made of Hong Kong leveraging on its geopolitical edge of proximity to the Motherland when it develops new industries. Hong Kong can capitalize on the low cost of production on the Mainland to carry out some of the non-core production procedures of our emerging industries in the Pearl River Delta. Or we may make use of the scientific achievements of the Mainland and forge partnerships in R&D. This will lead to mutual complement of the edges of both places in an in-depth manner. As the regional economy powers ahead in unison, this will prove to be most effective in raising the global competitiveness of products manufactured by these new industries in Hong Kong. With this integration with the Mainland on all fronts, the development of Hong Kong will not be confined to Hong Kong alone but will spread all over the Pearl River Delta and then extend to the rest of the world.

Deputy President, I so submit.

MR CHEUNG MAN-KWONG (in Cantonese): Deputy President, there are three major issues of contention in education and they serve to undermine Hong Kong's competitiveness. They are namely, training of kindergarten teachers, small-class teaching in primary and secondary schools and prospects of graduates of associate degree programmes in furthering their studies in universities.

Teacher training for kindergartens in Hong Kong lags way behind our neighbours. In Macao, currently 25% of the kindergarten teachers there are university graduates and all the remaining ones have diploma qualifications. But here in Hong Kong, only 23.8% of the kindergarten teachers hold diploma qualifications and only a tiny fraction of them are university graduates.

The reason for this backward state in kindergarten teacher training is on one hand due to the reluctance on the part of the Government to fully subsidize kindergarten teachers to enrol in diploma courses in post-secondary institutions, and on the other, even if kindergarten teachers possess diploma qualifications, they cannot get a salary, rank and job security commensurate with their qualification. For some of them, they are out of work once they graduate. This is a terrible waste of efforts spent in studies.

As kindergarten teachers are the first mentor of the children, their qualifications and quality are of utmost importance. The Government has recently proposed to subsidize child education. In my opinion, resources should be used where they are due, and this means there should be a coupling of subsidies and the qualifications of kindergarten teachers.

I would propose the following: to achieve better quality in child education, the Government should provide subsidies on a pro-rata basis according to the size of enrolment or number of classes to enable serving kindergarten teachers to upgrade their qualification to diploma level. On the other hand, the Government should set up a salary scale for diploma and degree kindergarten teachers and offer subsidies to parents to pay the tuition fees which will be increased as the qualification of kindergarten teachers is upgraded. This will ensure that no additional tuition fees are paid by parents while the children can enjoy quality child education. Hence this will build a solid foundation for the competitiveness of the school children.

It is a consensus among parents and teachers that there should be small-class teaching in primary and secondary schools. The Democratic Party has lately conducted a fine study on Hong Kong population and strategies for sustainable development. It is pointed out in the study that there are three sets of vital statistics concerning the macro trend in birth rate in the SAR. First, of every 1 000 women of child-bearing age in the SAR, the total fertility rate is only 927. This is even lower than places with low fertility rates like Japan and Sweden. Second, for the period from 2001 to 2005, the number of babies born in the SAR each year for five years in a row, after deducting the number of babies born from non-Hong Kong residents, was somewhere between 44 000 and 48 000. This means the number of babies born in the SAR each year has levelled off after an initial drastic drop from the some 80 000 during the peak years to some 40 000. Third, after taking into account the experience in Denmark, the Census and Statistics Department forecast that the birth rate in Hong Kong will rise again in 2011. The Democratic Party has this query: Since there are marked socio-economic differences between Denmark and Hong Kong, how can the Department make any forecast on the future population of Hong Kong based simply on the experience of just one country?

In the past, the Education and Manpower Bureau acted in a most rigid manner when it relied on the population projections made by the Census and Statistics Department to formulate policies on school construction, teacher

training and class size. This results in waves after waves of school closures, the chaos of redundant teachers as well as the anomalies in the education reform and deviation from its professed aims. Now the Democratic Party wants to point out that the extent of the drop in population in Hong Kong, owing to factors like late marriage and contraception, would imply much worse proportions that found in the projections made by the Census and Statistics Department. The Education and Manpower Bureau must try to avert a similar planning blunder which implies a renewed wave of school closures in 2011.

The Democratic Party has worked out four projections of great significance. First, during the four years from 2006 to 2010, primary school enrolment will fall by 11%. Given the same class size, the surplus in school places would continue. Second, starting from 2009, there will be a sustained oversupply of secondary school places. Third, starting from 2016, there would be an oversupply of university places as well. The figure would exceed the present rate of 18%. Fourth, if no small-class teaching is implemented and if the number of teachers trained remains the same, there would be an oversupply of teachers.

In future, as population in society continues to age and as birth rate drops, when the minority young people have to take care of the vast number of old people, we will need education which is of a higher quality to face stiff competition of this world and the heavy burden of the aged population. This proposal to implement small-class teaching to improve the quality of the students will meet the needs of sustainable development of Hong Kong and the challenges of global competition.

Given this falling trend in youth population, there should an equal emphasis on quantity and quality in higher education in Hong Kong. Associate degree programmes should be subsidized to upgrade quality. This will make the aim of having a 60% age participation rate truly live up to its name and help boost the competitiveness of Hong Kong. Besides, the cap of having only 14 500 subsidized degree places a year which has remained the same for the past 12 years must be changed. This will ease the bottleneck effect as associate degree holders try to further their studies in the universities. This is also a most powerful breakthrough to upgrade manpower quality.

Deputy President, enhancing the qualifications of kindergarten teachers, implementing small-class teaching and making degree places prevalent are the

fundamentals of a full-scale uplifting of quality in kindergarten, primary, secondary and university education as well as enhancing the competitiveness of Hong Kong. This is a vision and commitment for the SAR Government and it affects the long-term welfare of parents and students in Hong Kong alike. I ask the Education and Manpower Bureau to think hard on it. I also ask Donald TSANG to give serious thoughts to it as well.

MR LI KWOK-YING (in Cantonese): Given the trend of globalization of the world economy, quality talents will be the best guarantee for maintaining competitiveness. In both developing countries or economic powers, there is always a keen demand for talents to facilitate economic development. For example, in such economic powers as the United States, Germany and Japan, despite them being the world's largest economies, they still have to engage in a tug-of-war with other countries to actively vie for talents as they are plagued by the problem of an ageing population. In this small place of Hong Kong, we also face the challenge of an ageing population. This, coupled with rapid development in neighbouring cities, has made our situation even more critical. To prevent us from being gradually marginalized, measures should be formulated expeditiously to enhance our competitive edge.

In the short term, the admission of professional talents from overseas is indeed the one and only way to maintain our competitive edge at the moment. In recent years, the SAR Government has already noted the challenges brought by changes in the demographic structure and formulated corresponding policies on the admission of professional talents, including the Admission Scheme for Mainland Talents and Professionals, Capital Investment Entrant Scheme, and so on, with a view to attracting quality talents from the Mainland to pursue development in Hong Kong. However, these initiatives are handicapped by inherent problems, such as a limited number of professional talents, and the fact that these talents are only engaged in short-term jobs, which have greatly constrained the actual assistance that these professionals could otherwise provide to Hong Kong. More importantly, there are two major difficulties in the admission of professional talents and that is, the public's attitude towards professional talents from the Mainland and the retention of these professional talents in Hong Kong. All these will have to be resolved by the Government expeditiously.

Even though we understand that the solution to the problem of reduced competitiveness of Hong Kong very much hinges on the admission of talents, some people still hold a suspicious and negative attitude towards the admission of professional talents, for they are worried that these professionals will affect the employment opportunities of local "wage earners". Certainly, the professional talents to be admitted are not the general working class, and their admission should not constitute any competition with the "wage earners" in general. However, the SAR Government should pay close attention to this strong sense of protectionism among the public because this will, to a certain extent, impede the further integration of China and Hong Kong and dampen the desire of these professional talents of staying in Hong Kong for permanent settlement. Imagine: If these professionals are cold-shouldered when they work in Hong Kong, how will they be interested in coming to Hong Kong to make contribution and make Hong Kong their home?

For these reasons, I believe the Government must make great efforts to enhance the public's knowledge and understanding of our comrades in the Mainland. On the other hand, it is also necessary to enhance the support facilities for these professionals coming to work in Hong Kong, so as to create an ideal living environment for the professionals and their family. In fact, in order to attract talents, the attitude of many provinces and municipalities in the Mainland is far more active than Hong Kong in formulating the relevant support measures. Take Shanghai as an example. Expatriates are provided with "one-stop" services, including support measures for their living in Shanghai, in order to meet the needs of the professionals and their family. In neighbouring Shenzhen, in order to attract local and overseas talents in scientific research, professionals are provided with hardware support in scientific research and what is more, it has even dug into its own pockets to provide subsidies to enterprises for the employment of professionals. Given the limited supply of talents *vis-a-vis* an unlimited demand for them, the SAR Government cannot just cling to its past advantages and slacken its effort in the competition for talents. Only in this way will Hong Kong be in a position to compete with other cities for talents both within and outside the country.

In fact, the overall living environment and air quality are other key factors considered by professionals in deciding whether or not to come to Hong Kong for development or settlement. The serious air pollution problem in Hong

Kong has long aroused discontent among overseas investors. At the end of last year, the American Chamber of Commerce issued a statement on its position, stressing that whether or not Hong Kong could maintain its position as a financial centre would, to a very large extent, depend on a high quality of living in Hong Kong, but adding that air pollution had already created an adverse impact on the quality of living in Hong Kong. It is imaginable that the air pollution problem is inextricably linked with the desire of overseas businessmen to make investments in Hong Kong, and even foreign investors are now concerned that their investment in Hong Kong would adversely affect their health. If the SAR Government does not take steps to solve the air pollution problem early, this smoggy Pearl of the Orient would only scare off the top-notch talents.

As I mentioned earlier, the admission of professional talents is a short-term measure to enhance the competitiveness of Hong Kong. In the long term, we must nurture our own pool of talents. Only in this way can we tie in with the principle of stable and sustainable development. In this connection, the first and foremost task of the Government is to resolve the problem of a low birth rate. Generally speaking, financial burden and the problems with education are the concerns and obstacles faced by Hong Kong people in childbirth. Women often have to sacrifice a lot for childbirth. According to a survey conducted by the DAB before, over half of the women interviewed had given up their career in order to take care of their children, which had subsequently increased the financial burden. With regard to the difficulties faced by parents in bringing up their children, what assistance can be provided by the Government? Some countries choose to encourage childbirth by providing financial incentives, such as a childbirth allowance, whereas others provide support measures for childbirth, such as nurseries, paternity leave, and so on, to enable women to join the workforce as early as possible after giving birth to a child. Disregarding whether money will be dished out or not, in order to encourage childbirth, the authorities can draw up family-friendly measures, such as considering the introduction of family leave and flexible working hours, so that women can take care of their family and career at the same time without having to quit their jobs.

All in all, the future economic development will be a fierce battle in which everyone will be competing for talents. To claim a place in the international arena, the SAR Government should adopt contingency measures. It should, on the one hand, actively absorb talents to come to Hong Kong, while endeavouring

to encourage childbirth among local people on the other, with a view to actively nurturing local talents who will truly take root in Hong Kong.

Deputy President, I so submit.

MS AUDREY EU (in Cantonese): Deputy President, Hong Kong is a tiny place with scanty natural resources, our most precious resources are in fact human talents. For this reason, the two Members who have just spoken, that is, Mr CHEUNG Man-kwong and Mr LI Kwok-ying, both talked about human talents when they discussed the issue of Hong Kong's competitive edge. I wish to approach the issue of Hong Kong's competitive edge from two areas of concern to me, that is, the environment and education.

In the past when we saw pictures of Hong Kong, we would say that Hong Kong was the Pearl of the Orient. And the night scenery here was glamorous and spectacular. Now when we look at pictures of Hong Kong, we would often see a diminutive Victoria Harbour nothing more than the size of a river, with tall buildings that cram and soar like pencils into the sky on both sides the harbour. The sky is a gloomy haze with nothing visible in it. This is how Hong Kong looks like and it is really sad to see it has come to this.

Of late there have been disputes centred on the Government's plan to build a Central Government Complex at the Tamar site. Many experts were invited to the Legislative Council for this reason. They told us that the building method being contemplated did not comply with sustainable development requirements. It was because air circulation would be affected. Even the Gaussian model used did not take into account the buildings on both sides of the harbour and consequently, the canyon effect was not considered. The Government did not pay attention to this at all. The experts were all given a cold shoulder. Officials said that there would be no point for discussion with these experts since they held a different view. But actually these experts do not have the time to oppose the Government. They hold no grudges against it. They are not from the opposition party. Why does the Government not listen to their views? What these experts said were based on hard facts and data. They explained to the Government why such a construction method is not one of sustainable development. If reclamation is to go on, after the completion of the Central Government Complex at the Tamar site, the existing Government Central Offices may have to be pulled down to make way for the construction of

skyscrapers. Can this be called sustainable development as such? When the Government turns a deaf ear to these views, is it not undermining its own competitive edge?

What I have pointed out are problems with respect to the environment. If this is allowed to go on, not only would foreign talents not be attracted to come here, but there would also be a problem of retaining our own talents. Findings of a survey released today show that the greatest concern to Hong Kong people is the environment. If the environment remains this way, close to 40% of the people would be leaving Hong Kong. I was very surprised when I heard this, for I could not believe that so many people would be leaving Hong Kong because of this reason. The survey also points out that there are many places on the Mainland with a better environment than Hong Kong. Previously, many Hong Kong people would emigrate to Australia and Canada, but now they are emigrating to the Mainland. So we should be on alert against this. I hope the Government can re-examine the Tamar site project again.

Then there is the question of education. In 2005, the International Institute for Management Development published the World Competitiveness Yearbook. It is stated *inter alia* that in terms of the percentage of people aged between 25 to 34 years with a tertiary education against the entire population, Hong Kong ranks the 15th in the world and fifth in Asia. It can be seen that our human resource capital (people with tertiary education) accounts for a lower percentage in the population than other world-class cities. If a comparison is made of the age of degree holders, according to a recent report compiled by Prof SIU Fung-har, Helen and Prof WONG Yue-chim, Richard, it is pointed out that in 2001, as compared to New York, the percentage of people aged 25 or above in Hong Kong with a university degree is 12.3% as opposed to 30.2% in New York. In terms of the workforce, in 2001, as compared to London, the percentage of degree holders in Hong Kong is 14.6%, whereas it is 22.9% in London. As a matter of fact, the number of degree holders in Hong Kong has all along been falling because the number of degree places has not increased, but the number of university age people has all along been rising. Although the number of associate degree places has reached the target or even surpassed it, the prospects of graduates of associate degrees are still bleak. Then there is the problem of cuts in university funding. We can see from newspaper reports that some university professors are finding it both physically and mentally exhausted when they have to raise funds all the time. They want to be given a break. So

university presidents have to engage in fund-raising all the time instead of in university education matters.

As for primary and secondary schools, despite claims of quality education and fun in learning, as Mr CHEUNG Man-kwong said, though the education sector, just parents and primary school pupils are calling for small-class teaching, the Education and Manpower Bureau still says that a period of three years is needed to carry out a study, after which the result would be known. And there would be no interim report on this. However, other places like Shanghai have practised small-class teaching for many years.

In terms of child education, Mr CHEUNG Man-kwong has just talked about the training of kindergarten teachers. The Hong Kong Institute of Education has been doing a good job in the training of kindergarten teachers, but its funding has been cut. Kindergarten teachers came to this Council and complained in tears, saying that they would very much like to receive training, but since the number of places in the programmes has been cut and the programmes have become self-financing, these teachers do not have the money to enrol in these programmes given their meagre salary. So when we talk about competition, we should look at our basic conditions first. We have not done well in the environment and education. Hong Kong wants to become bilingual and trilliterate, but how many people in Hong Kong are effectively bilingual and trilliterate? On the subject of English, the standard of English here has been falling all the time. There is a close to 50% wastage rate of NET teachers. This is simply shocking. If we cannot deal with these problems properly, Deputy President, we are just eroding deeper and deeper into our competitiveness.

With these remarks, Deputy President, I support the original motion.

MR WONG KWOK-HING (in Cantonese): The motion topic today is in fact a common concern for all government departments and it is unfortunate to see only Secretary Frederick MA attending this debate alone, and all by himself. Other Directors of Bureau are absent. This is most regrettable. Earlier the week, Mr HUI, the Chief Secretary for Administration, said that Hong Kong was in a crisis and that was it was being marginalized. Actually, Mr HUI was really telling the truth and he was really sounding an alarm.

Today many bells were sounded in this Council. I would like to say that those were alarms sounded for the SAR Government and the people of Hong Kong. Our economic development may be marginalized. If the SAR Government does not face up to this squarely, it is marginalizing itself. I would like to cite a few examples to illustrate this point. First, those small businessmen who run their business on a small capital, how are they marginalized by the Government? We can see that a bakery in Central called Tai Cheung has been forced to close down. It is a famous shop run on a small capital and it has been in business for a long time. It was forced to close down because of high rents. Do government policies only favour real estate development or financial services? How is the Government going to help the SMEs and the small businesses?

There is a recent example. It is about the some 100 tenants of the factory buildings in Tai Wo Hau. They were forced to move. These small manufacturers have for a few generations worked hard in Hong Kong. They offered their services to Hong Kong. One such service is embroidering trademarks. This is very much in need in Hong Kong. They brought their skill from Jiangsu and Zhejiang. Other examples are machine repairs and coffins finishing. What the Housing Department is doing is to provide only 18 sites for these some 100 tenants to bid. Then what will happen to the other some 100 tenants? They will only be driven out of business. The Government is killing these small business undertakings and it is marginalizing these thriving operations. No wonder the Government itself will be marginalized in the end. This is the first example.

The second example is the individual operators. In the Mainland they are called "individually-owned businesses". In Hong Kong they are called hawkers. It has been 33 years since Hong Kong stopped issuing hawker licences. Now those who hold an itinerant hawker licence are at least 60 years old on average. Such licences cannot be passed on to the next generation. These hawkers who run their business on a very small capital and being self-reliant are helping the Government to find a solution to the unemployment problem. Such hawker licences have fed many months. These people want to be self-reliant and they do not want to ask for handouts from the Government. They do not want to be on CSSA. Why can the Government not consider issuing these licences so that these hawkers can run their business legally?

It has now been 33 years since the Government stopped issuing hawker licences in 1973 and no attempt has been made to conduct any review. I think the SAR Government has the responsibility to conduct a review of this issue. Looking around at places and countries nearby, these small businessmen are allowed to make a living. Recently, I have a chance to go to the Myungdong area in Seoul. It is a famous shopping area and hawkers selling dried goods or foodstuffs can all run their business in an orderly and legal manner there. This attracts tourists and helps boost the business of the nearby merchants. This is only one example. In fact, in countries in Southeast Asia and even on the Mainland, these individually-owned businesses are helping the governments there to solve the problem of unemployment. The societies in these countries have become prosperous. The only exception is Hong Kong where this way out is not considered. It is denying itself of this way out. This is the second example. I hope very much that the Government will conduct a speedy review of the licensing and regulation policies for hawkers. The case of a hawker called PANG Tung-ni is a tragedy and this tragic event should have aroused the Government's concern. It must not bury its head in the sand like an ostrich and it must never pretend that the problem is not there.

The third example is a green group has recently brought to public attention the vegetables and fruits on sale at the two major supermarket chains contained a lot of residual pesticides which are dangerous to the human body. But what we see the Food and Environmental Hygiene Department (FEHD) doing is that it does not act according to the law and demand an explanation from the supermarkets as to the sources of these fruits and vegetables. To everyone's surprise, the FEHD says there is nothing it can do. How can this be possible? In contrast, the FEHD requires the backyard vegetable growers in the New Territories to register and these people are just growing a very small amount of vegetables. What the Government is doing is that it would turn a blind eye on what the consortia and monopolies are doing and it does not enforce the law on them. There is a labelling system for vegetables, but the FEHD does not enforce it. On the other hand, it is requiring those people who grow vegetables on tiny plots of land in the New Territories to register. This kind of bias is not helping those who run small businesses. The Government is favouring the giant consortia and defending their interest. It is being biased and unfair. The policy address makes it a point that studies should be conducted on a fair competition law. I hope that with respect to this issue, the SAR Government will not keep on shouting slogans and making vague appeals, but that it will take action to place relevant legislation on its agenda. Only by doing so will Hong

Kong not be marginalized. I hope the many occasions on which the bell was sounded in this Council today had been wake-up calls for the Government.

(THE PRESIDENT resumed the Chair)

Thank you, President.

DR RAYMOND HO (in Cantonese): Madam President, some time ago the Chinese Academy of Social Sciences published a report on the competitiveness of 200 cities in four places on both sides of the strait. While Hong Kong is ranked number one in terms of overall competitiveness, the momentum for economic growth in Hong Kong is placed in the third last position. Moreover, according to the Global Competitiveness Report compiled by the World Economic Forum, Hong Kong has plunged from the third position in 1999 to the 28th position in 2005. Though these reports have led to different responses and interpretations in society and regardless of whether or not we agree with the ranking and comments made in these reports, we must take actions to raise our competitiveness to address the challenges brought about by globalization.

To meet such challenges, Hong Kong should avoid wasting too much time on political arguments and instead it should focus on economic development. At the same time, Hong Kong should capitalize on the edge of "one country, two systems" and take the initiative to forge economic collaboration with the Mainland, especially the Pearl River Delta Region, in the spirit of mutual benefits, thereby achieving the mutual aim of wealth creation. We cannot act like what we used to do at the beginning of the reunification when we indulged in the dream of a "great Hong Kong" and drew a clear-cut line between ourselves and the Mainland. At that time, we did not undertake any active planning and response to calls for stronger economic collaboration with the Mainland, thus letting the golden opportunities slip through our fingers.

Luckily, the SAR Government is now acting in a more proactive manner than before. But more efforts should be put. To illustrate, it is evident that cross-boundary infrastructure cannot catch up with the ever-increasing demand posed by passenger and cargo flows between the territory and the Mainland.

But for reasons unknown, the Hong Kong-Zhuhai-Macao Bridge which has been under discussion for a long time is still not yet finalized. As for the Guangzhou-Shenzhen-Hong Kong Express Rail Link, although the Guangzhou-Shenzhen section is in progress, we are still at an initial stage of conducting studies. Plans which are to everyone's surprise and great disappointment are even put forward, namely to link up the inter-city express rail with a section of the slower inner city West Rail. This is proof that the thinking of officials of the SAR Government lags behind the requirements of the model of global development.

Apart from cross-boundary infrastructure, there is a need for Hong Kong to enhance its domestic infrastructure. As we have been in an economic downturn after the reunification, many infrastructural projects have become victims of stringent public finances. Now with marked improvements in public finance, the Government should make greater investments in infrastructural projects, such as those on mass transit networks like railways, matching transport links with the tourist spots, a cruise terminal, and so on. These will hopefully boost our long-term competitiveness.

Besides, Hong Kong should enhance its training of local talents. Over the past few years, the Government has vigorously promoted associate degree programmes and the popularity rate of higher education in Hong Kong has risen greatly. But it is equally important that the standard of local post-secondary students should meet the needs of a modern society like ours. So as the Government wants to push up the age participation rate of higher education in Hong Kong, it must seek to ensure student quality will not be compromised. For many years I have urged the Government to allow more overseas students to come to study in our institutes of higher learning as this will raise our academic standard and the status of these institutes. For local students, as they can learn in an international environment, they will become more competitive when they want to further their studies or look for a job. Although the Government has responded to my suggestion and increased the percentage of secondary school students who can enrol in post-secondary institutions from 4% to 8%, and even 10% now, this is still lagging behind the size of the overseas student population in the famous universities in other advanced countries.

Improving the business environment is also one of the areas which require priority attention from the SAR Government. In last September when the World Bank announced the ranking of the best place to do business, Hong Kong

ranked seventh out of a total number of 155 places and countries in the world. This is a drop by three places as compared to 2004. One of the causes for this is the cumbersome licensing procedures here. When it comes to rankings in other items related to the business environment, Hong Kong takes up a rather low position in registration of properties and cross-boundary trade. I hope the Financial Secretary can address these problems in the Business Facilitation Advisory Committee formed in January this year and make recommendations on how the business environment in Hong Kong can be made better.

Another item that should be accorded priority action from the SAR Government is the pollution problem, especially on the ever-worsening air quality. It is reported that the air quality in Hong Kong has put off many executives of multinational companies from coming to work in Hong Kong. And the local chambers of commerce, trade associations and related organizations for foreign businesses are constantly expressing concern about the problem. The Government must therefore take positive measures such as forging closer links with Guangdong Province to solve the problem of air pollution in the Pearl River Delta Region. As for Hong Kong itself, the SAR Government should offer reasonable incentives instead of employing high-handed tactics to encourage local power companies to launch emission reduction projects. To achieve a greater use of natural gas in power generation, the SAR Government should offer assistance to the power companies such as granting approval to natural gas reception terminals, and so on. Apart from these, the Government should adopt effective measures to further reduce emissions from vehicles, thereby improving roadside air quality.

Madam President, irrespective of our position in the ranking in regional or global competitiveness, we should strive to upgrade our potentials and strive for excellence. It is only by doing so that we can rise up to the great challenges in the present-day economic environment characterized by stiff and relentless competition.

I so submit. Thank you, Madam President.

MISS CHOY SO-YUK (in Cantonese): President, Mr WONG Kwok-hing has referred to the small and medium enterprises (SMEs) in his speech, especially the hardship they faced. Originally, this issue is not covered in my speech draft,

but as Mr WONG's speech has struck a responsive chord in me, so now I would like to talk about this issue.

He has just mentioned markets in Myungdong, Namdaemun and Dongdaemun in Seoul. These places are also packed with tourists and they are really hot spots for tourists. But in Hong Kong, markets like these are constantly disappearing because the Government is killing them. There is a recent case of a market in Wan Chai, the one between Cross Street and Tai Yuen Street, which is a favourite spot for tourists and it is praised by many people on the Internet. Now the Food and Environmental Hygiene Department (FEHD) is asking the stall owners to move their stalls into a building. This is outrageous and if this happens, it will mean the end of one of the very small number of market places on Hong Kong Island. Now as we are talking about the fact that the number of tourists from the Mainland is hitting new highs time and again, I implore Secretary Frederick MA to go and talk to the relevant departments, especially those under Secretary Dr York CHOW and relay our hope that these tourist spots which are fast disappearing should be preserved for the sake of the growth of the economy and tourism in Hong Kong.

President, Hong Kong does not have any natural resources and our edge or the so-called key to our success is nothing but talents. Where can talents come from? It is vital that talents be nurtured locally. But given the intense global competition nowadays, it would simply not work if we just rely on locally produced talents, for no matter how hard we try and no matter what edges we may possess, these cannot be sustainable. And soon other places will catch up. The only way to make Hong Kong stay competitive is to foster a favourable environment and play an active part in this scramble for talents.

All along Hong Kong has positioned itself as an international financial and investment centre and an international services centre. Such a positioning is very accurate, for these are our most competitive areas and our position in these trades is very difficult for our neighbours to replace. As we all know, the multinational companies which control the lifeline in our economy are concerned not only about a liberal economy and business environment, they would also value highly the quality of living of a place. In other words, there is a need for the SAR Government to do something solid in these areas so that these factors which attract talents to stay here will not be undermined in any way. It is a pity that this city of ours is fraught with problems like bad air quality and a paucity of

cultural and artistic life. This is common knowledge and there can be no denying of it.

As with many other Honourable colleagues who have spoken earlier, I am very concerned about environmental protection in Hong Kong, especially the problem of air pollution which has deprived us of our edge. One still sees pea-soup smog blocking the harbour lasting for long periods, to such an unbearable extent that the American Chamber of Commerce has issued a number of statements criticizing the lack of achievements in our efforts to improve air quality. A warning is even sounded to the effect that given the current state of affairs, Hong Kong is now placed in a very vulnerable position in our competition with other cities in Asia.

Many people would blame this absence of a blue sky in Hong Kong on the rapid industrial development in Guangdong Province which brings polluted air to Hong Kong. This argument sounds convincing from the perspective of the total emission of pollutants. But we will recall that even when the factories on the Mainland were all closed down for the Chinese New Year, air quality recorded in Hong Kong was still very bad. This shows that the Hong Kong Government's putting the blame on other people is in fact very subjective. Moreover, analysed from another angle, the area of Hong Kong is only less than 3% of the total area of the Pearl River Delta, but the pollutants emitted account for 5% of emissions in the entire region. Therefore, it can be seen that emissions in Hong Kong are likewise more than the standards acceptable.

The culprits of emissions in Hong Kong are the power companies. Each year the two power companies emit 90% of the sulphur dioxide in Hong Kong, 60% of the nitrogen oxides and more than 40% of the respirable suspended particulates. In view of this, we stress again that the Government must not compromise and the two power companies must be compelled to meet in the year 2010 the emissions reduction targets agreed by Hong Kong and Guangdong. Should the two power companies fail to meet these targets, the Government must consider resorting to its deadliest weapon and, that is, to slash their permitted rate of return as a punitive measure.

As for cultural and arts life, Hong Kong is admittedly no match for economic and financial hubs like London and New York. Though there are some cultural and arts hardware in Hong Kong, the Government has all along

adopted a very mercenary attitude towards culture and the arts, treating them as nothing but a means to make money. This explains why the SAR Government strives to erect landmarks and build museums one after another. These buildings are used to attract tourists and generate foreign exchange earnings in the name of culture and the arts. But behind the impressive facade, these buildings are nothing but a hollow sham. There is a serious shortage of soil that can breed and nurture young artists. Put it simply, these young artists do not have a testing ground to cultivate their talents. It is not that we do not have such hardware, the problem is that most of them are run under commercial principles. The exorbitant rentals are beyond the affordability of the young people or amateurs. Since they have a problem with even the most basic things like training venues, it would be quite beyond their wildest imagination if they want breaks in performance. Given such conditions, how could our young cultural and arts workers grow up to maturity?

Another thing is that culture in Hong Kong is only a product of constant borrowings from other places. With government policy adding fuel to flames as it suppresses and stifles the creative milieu and growth potentials of local culture, no wonder the standard of culture and the arts in Hong Kong is always at a deplorably low level. How then can we talk about a rich life of culture and the arts? President, I so submit.

MR BERNARD CHAN: Madam President, we hear a lot about competitiveness. But it is a very vague concept. The best way I can think of describing it is — "doing things better than anyone else".

Clearly, Hong Kong is not competitive as a centre for low-value manufacturing. But that is a sign of progress and prosperity on this side of the border. Most of our factories have moved to the Mainland, because costs are so much lower there. The costs are lower because, to put it bluntly, the people there are poorer.

At the same time, we are obviously very competitive as a centre for managing and servicing investment and trade. Nowhere on the Mainland can offer the skills, or the legal and financial infrastructure that we have. These services are expensive. But they add value, and the services today are our most successful exports.

As this motion suggests, there are many different types of competitiveness. Are we competitive in terms of the skills of our younger people joining the work force? Are we competitive in terms of the quality of life we offer?

Would a comprehensive competition policy help us become more competitive? I would say probably — if it reduced barriers to investment and gave consumers better value and choice. But if it created more bureaucracy and regulatory burdens, the answer is "no".

Would tax reform make us more competitive? Again, it probably would — if the system became broader-based and simple to administer and continued to impose a light burden. But if we ended up with a more complex tax code or heavier taxes, the answer again must be "no".

Our current economic performance indicates that we probably are competitive — at the moment — in all these areas. But we must accept that other cities on the Mainland are developing fast. They are starting from a low level. But they want to narrow the gap, and in some respects they are doing so.

The areas mentioned in this motion may or may not be important in keeping Hong Kong ahead. To some industries, they may be vital. To others, they may not even be relevant.

Either way, the Government is not — at the end of the day — in charge of a thing called "competitiveness". The Government cannot decide what Hong Kong will do better than anyone else in the future. Obviously, officials must maintain an environment that encourages economic activity in general. But in the end, market forces will decide where our competitive edge lies.

Our real competitiveness will come from the decisions made by private-sector investors and entrepreneurs, and 3 million people working hard to get ahead in life. Thank you.

MR JEFFREY LAM (in Cantonese): Madam President, Premier WEN Jiabao mentioned earlier that one of the emphases of state planning this year is the accelerated development of the Pearl River Delta (PRD) as a means of boosting the development of Hong Kong. As a matter of fact, Hong Kong possesses a great advantage: It can leverage on the Motherland while engaging itself

globally. At a time when cities in the Mainland are fast developing, it is especially necessary for Hong Kong to actively enhance its connections with Guangdong Province, the PRD and even the entire country, with a view to establishing a mutually beneficial and complementary partnership. That way, Hong Kong can upgrade its competitiveness.

Transport and logistics improvements are the most practical ways of fostering integration with the PRD. The provision of simple and convenient clearance procedures will speed up the flows of goods and people and help upgrade our competitiveness. Zhuhai and Shenzhen have joined hands to implement interoperability for Lo Wu and Gongbei, with a view to facilitating the automated clearance of Hong Kong and Macao residents. At the end of last year, Guangzhou also commenced studies on developing electronic clearance.

As early as three years ago, Hong Kong already implemented 24-hour clearance at Lok Ma Chau. Recently, 24-hour automated passenger clearance systems, also called "e-channels", have also been installed. Round-the-clock and electronic clearance has already become an unavoidable trend. I hold that the Hong Kong Government should explore the possibility of implementing interoperability for the several land boundary checkpoints, so as to enhance the effect of 24-hour clearance and facilitate the flows of people and goods.

A well-developed transport network is an indispensable infrastructure facility for Hong Kong as a trade and shipping centre. We are pleased to note that the Shenzhen Western Corridor (SWC) will be completed late this year or early the next. But it must also be pointed out that the SWC will still be unable to cope with the transport demands in Guangdong and Hong Kong. All people are very concerned about the construction of the Hong Kong-Zhuhai-Macao Bridge, but just when will it be completed? It seems that the governments of the three places have not yet been able to reach any agreement on such practical problems as financing and the implementation or otherwise of a unified regime for clearance. Madam President, I hope that the Government can take the proactive step of initiating discussions with mainland officials, so as to make sure that there will be no further delay in allowing this very important bridge in the PRD to play its role.

Actually, if we can increase Hong Kong's appeal, we will be able to upgrade its competitiveness. The Liberal Party has repeatedly pointed out that the Government should promptly simplify the formalities and procedures for

mainland enterprises wishing to invest in Hong Kong, so as to expand Hong Kong's investment market. One example is the provision of one-stop services to streamline application formalities and shorten the approval period. That way more mainland capitals can be attracted to Hong Kong.

When it comes to upgrading our competitiveness, the problem of air pollution must be mentioned. In recent years, air pollution has become one of the important factors considered by foreign investors contemplating investments in Hong Kong. Many foreign investors have openly expressed their concern about the air quality in Hong Kong. The Liberal Party is likewise very concerned about this problem and has repeatedly advised the Government that incentives must be offered to the industries to introduce environmentally-friendly vehicles. But the Government has so far failed to make up its mind. The Environmental Protection Department (EPD) has disclosed that its most important task this year will be improving the air quality of Hong Kong. I hope that the EPD can demonstrate its determination by taking actions. In particular, it must co-operate actively with Guangdong, so as to prevent the further deterioration of the air quality in Hong Kong and the PRD and achieve the targets of emission reduction ahead of schedule, before 2010.

Talents are also very important to the development of Hong Kong. Besides upgrading the quality of tertiary education, the Government should also implement an open-door policy to attract talents from all parts of the world to Hong Kong.

Hong Kong of course possesses many other admirable advantages that can attract inward investments. Its established systems, its clean society, its rule of law and its high degree of autonomy have all won international acclaim. All this has created a fair, open and sound investment environment in Hong Kong. Such is the success of Hong Kong, an advantage that cannot be eroded easily. The Government must continue to make efforts to sustain this advantage, so as to give assurance to foreign businesses and mainland enterprises in making investments here.

Finally, it must be pointed out that Hong Kong's simple and low tax regime is also an attraction to foreign businesses and mainland enterprises. Many neighbouring places are trying to boost inward investments by offering tax concessions, but I think that even without introducing any drastic measures, Hong Kong can still remain attractive. Therefore, I maintain that all taxation changes must first satisfy the condition of maintaining the simple and low tax

regime currently in place. It is only in this way that we can maintain the competitiveness of Hong Kong.

Madam President, I so submit.

MR RONNY TONG (in Cantonese): President, before the reunification when after the former governor Chris PATTEN announced in his first policy address that he had the intention to formulate a comprehensive policy on competition, debates on a competition law have ever since been going on in this society for almost 15 years. Fifteen years have passed and the number of countries that have enacted a competition law has reached about 100 or even more. Many of these countries began to practise a market economy only at the beginning of the 1990s. Why does Hong Kong lag so much behind the international community in this respect? Why are we still stuck in the debate stage while we can do nothing about the economic edge that we used to own in the region is being undermined with each passing day?

As we all know, in a market economy, competition will bring in the greatest amount of wealth and economic benefits to society as a whole. The international competitiveness of the entire economy will be enhanced as a result. The aim of a competition law is to facilitate and promote competition and ensure the effective operation of the market mechanism.

The Civic Party suggests such a mechanism should be set up but we are definitely not advocating government intervention in the operation of the free market or to impose any restrictions on the freedom of enterprises to do business or to protect certain competitors. Our focus is those obvious and prevalent acts of commercial fraud which are anti-competitive, acts such as price manipulation, conspiracy in tender, market partitioning, imposing terms and conditions unrelated to the transaction in an unreasonable manner, such as forced bundled sales. We hope that the most basic rules of the game can be drawn up to ensure a level playing field for all companies irrespective of their size.

The anti-competitive acts which I have listed will deprive the trades of their vitality, thus enabling market leaders to reap huge profits in the absence of competition. In this way, they will cease to be ambitious and the price of products will rise while their quality will fall. For the economy as a whole, as

almost every goods or service will eventually become a factor of production for the other trades, such factors being raw materials, supply of products, electricity, petrol, transportation costs and wages, and so on, under a chain reaction, the costs of doing business in the entire economy will be raised. Hence the economy will become less competitive in the region. Earlier on, the public concern about the high power tariffs and oil prices is the best example. The only difference is energy is a cost item which all companies and citizens will have to face and so in this respect, the people are united and their goal is very clear. However, in other trades, the people and the SMEs may have to bear silently such unfair competition.

In terms of institutional frameworks, we suggest that a commission on competitiveness should be set up. The commission should be an independent body with investigative and punitive powers. It is to be tasked with investigation and law enforcement. The findings of a report on the vehicular fuel market by a consultancy firm commissioned by the Government show again that in the absence of some basic statutory powers of investigation, there is no way for us to determine whether or not anti-competitive acts such as collusive pricing really exist. However, when that commission exercises these powers, it must be subject to sufficient supervision and checks, such as in the confidentiality of the investigation findings, the setting up of transparent procedures for effective monitoring by the public, the establishment of an appeal mechanism and monitoring by the Courts.

To pre-empt the emergence of a great number of lawsuits, we suggest that the more flexible practice in the European Union, Britain and Singapore be adopted. If a *prima facie* case is established after investigation, it should be handed over to the commission for a ruling. This applies to complaint cases involving technical issues. When necessary, punishment can be meted out by way of an administrative order. In this way, though the form of the trial is more flexible and the focus is not on the formalities, the trial in its entirety will still conform to the basic principles of justice, such as giving ample opportunities to the respondent to state his case or to put up a defence, and setting up an appeal channel.

According to overseas experience, the law is in itself the most powerful deterrent. Only a small number of cases need to be tried and with penalty imposed. Thus the interference or inconvenience caused to the business operators would be minimal. We can look at the British example. The Office

of Fair Trading in Britain received a total of 1 173 complaints in 2004-05. Only 178 cases needed to be handled. In the end, trials and penalties were required in only four cases, and that applies to the whole country. Likewise, the European Commission handled 391 anti-competitive conduct cases in 2004 and only 28 of them had to be resolved by law. And the figure applies to the whole European Union, that is, all the countries in it.

So we can see that with globalization intensifying and the further economic integration of Hong Kong with the Mainland, we should make our business environment more attractive to foreign businessmen so as to consolidate our competitive edge in the region. To establish a fair business environment so that all market players can compete in a level playing field is entirely in line with the conviction held by the Civic Party, that all persons should be given a fair opportunity to strive to realize his personal ideal.

It is an indisputable fact that the competition policy as presently practised by the SAR Government is no effective guarantee for fair competition. We believe it is time we took a solid step forward to formulate a fair competition mechanism which is practicable and in line with the business environment of Hong Kong, one that will conform to international practices.

With these remarks, President, I support Miss TAM Heung-man's motion.

MS MIRIAM LAU (in Cantonese): Madam President, a few Honourable colleagues speaking before me have referred to a report on competitiveness released last month. The subjects of the survey are 200 cities in China. According to this report, the economic growth potentials of Hong Kong rank number 198, or the third from the bottom. This is of course a distress signal for Hong Kong. As a matter of fact, the growth in the throughput of our container terminals also reflects this weak growth potential of Hong Kong economy. Over the past few years, the growth in container throughput has been in a very low single-digit scale. By contrast, the Shenzhen port nearby has seen double-digit growth every year and even high double digits. Since Hong Kong and Shenzhen share the same source of cargo, growth in one place would mean decline in the other. Consequently, prospects for container throughput in Hong Kong are bleak.

What is more worrying is that the bonded logistics park in Yantian port in Shenzhen has recently been commissioned. As mainland cargoes entering the

park would be regarded as exports and hence given a tax rebate for exports, therefore, more consignors on the Mainland will use the Yantian port direct and their goods will not be exported from Hong Kong. According to estimates from Shenzhen, during the first two years since the commissioning of the logistics park, the annual throughput in Yantian port would increase by an additional 500 000 to 800 000 TEUs on the strength of the logistics park factor alone. Of these 800 000 TEUs, a significant number will definitely have preferred Yantian to Hong Kong.

With this sluggish growth in container throughput in Hong Kong, the impact will be directly felt by the shipping industry and people employed in the logistics trade. However, as seen from the supply chain as a whole, the shipping industry is an indispensable link in the service industries of Hong Kong, hence the upstream industries like trading and the downstream industries like law, accounting and finance which are closely related to the shipping industry will all be affected. If the Government continues to neglect this sluggish growth in container throughput in the ports of Hong Kong and if it does not devise any remedial policies and measures, not only will the employees working in the shipping and logistics industries be affected, the hundreds of thousand employees in the upstream and downstream industries will likewise be affected. This will in turn affect the economic development of Hong Kong.

Despite the inclusion of Hong Kong into the national planning in the 11th Five-Year Plan as passed by the National People's Congress in which support is given to the further development of Hong Kong as a logistics hub, the SAR Government must do more than obtaining support from the Mainland. In the face of severe competition from mainland ports, Hong Kong must seize the initiative and take actions to match mainland developments to raise the competitiveness of our logistics industry. For if not, there is no way we can maintain the growth potentials and competitiveness of our ports and our position as the hub of the south China region will be undermined gradually. By then, Hong Kong will not only be located at the southern edge of China in a geographical sense, it will really be marginalized.

To pre-empt marginalization, the first thing we must do is to forge closer links with the Mainland. But the fact is our most important infrastructural project — the Hong Kong-Zhuhai-Macao Bridge (HKZMB) — is still not yet finalized because of problems like financing and the co-location of customs and immigration clearance in the three places concerned. As we all know, the

HKZMB is a major trunk opening up the transport links between Hong Kong, Zhuhai, Macao and the western bank of the Pearl River Delta. It is an excellent way to upgrade our logistics position. As we look around China, in Hangzhou Bay in the Yangtze River Delta which is seen as a rival for Hong Kong, the East Sea Bridge was completed last year and the Hangzhou Bridge will be completed next year. The result of these developments is a great boost in logistics capacity. Although the Pearl River Delta and the Yangtze River Delta have their different roles to play in the grand design for China's economic development, as infrastructure there improves and as no progress is made here in the HKZMB, the situation is worrying. To preserve our position as a logistics hub, a vital issue in the collaboration between the SAR Government and the Guangdong Provincial Government is to ensure that the HKZMB project will soon commence.

Apart from this, the Hong Kong-Shenzhen Express Rail Link (ERL) is also an important topic which is of equal importance to the future link between Hong Kong and the Mainland. This is because under the Pan-Pearl River Delta "Nine plus Two" Agreement, regional co-operation would be extended to Sichuan Province. For this reason, a sound railway network is very much in need. Although the SAR Government has made recommendations on the Hong Kong section of the ERL, there is still a lack of forward-looking strategies in this respect. It is suggested that initially the West Rail should be used to form the Hong Kong section of the ERL, while the construction of a specific rail for the ERL would be considered should future developments warrant it. As recommended by the Government, the average speed in the Hong Kong section would only be 80 km to 120 km and this is far lower than that on the Mainland. No wonder it is said that the growth potentials of Hong Kong are way behind that of the big cities on the Mainland. As I have just said, even if there is support from the Mainland, the Government of the Hong Kong SAR should take the initiative to work with the Mainland and boost the competitiveness of the logistics industry. When a truly express rail is in place on the Mainland, Hong Kong should take matching steps to make its rail truly an express rail. I therefore hope that the SAR Government can take up a macro perspective and rethink the alignment of the ERL.

Another target which the Government must take action is the high oil prices. I think the Secretary is well versed in this. I have pointed out many times that if the problem of freight costs is not dealt with, the ports in Hong Kong will not be made more competitive irrespective of whatever many measures there

may be. This problem of high gasoline prices has infested the local logistics industry for a long time. This is because high oil prices will increase the overland freight transportation cost and hence further undermine the competitiveness of our ports.

Some time ago the Government hired a consultancy to study the retail market for vehicle fuels. The consultancy has released the report concerned. It is stated *inter alia* that nothing can be done about the situation. I am very disappointed with the findings of the report as not only can it not do anything to lower the oil prices but it also thinks that nothing can be done about the problem of price hikes by oil companies. I am much more disappointed with the Government because it is still reluctant to face up to this problem. It refuses to admit that high oil prices are caused by it and that the main cause leading to oil prices scaling new heights is the land premium plus the diesel duty.

If the oil companies should not be blamed for the high oil prices and if there is no room to reduce oil prices, there is a need for the Government to reduce or waive diesel duty. It is only when the problem of high oil prices is solved that the logistics industry in Hong Kong can have the ability to face up to competition. Then the economy of Hong Kong can develop steadily, free of the threat of marginalization.

Madam President, I so submit.

MS MARGARET NG (in Cantonese): Madam President, I am very interested in this motion proposed by Miss TAM Heung-man today because, in many a discussion on politics, we can often hear the Chief Executive telling us to focus our attention on working for a better economy. But how can a better economy be achieved? After listening for such a long time, we have no idea how a better economy can ever be achieved. It seems that the economy will become better when no one talks about politics anymore.

In fact, Hong Kong has a real problem. What are our economic ills? Actually they are the topic under debate today — how can our competitiveness be enhanced? Matters like these will make Hong Kong more prosperous, more successful and more opportunities can be given to the Hong Kong people. These are truly positive and constructive matters, not asking people to stop

talking about anything and only talk about how to make Hong Kong more competitive.

So when other matters are discussed, such as when the universal retirement protection plan was discussed last week, some people said that if Hong Kong was to maintain its competitiveness, there should not be so many welfare systems. Is this true? I think views like this seem to have been put forward only to oppose some other matters. That is why the topic of competitiveness is brought up. This is not a scientific approach to take at all.

What we are here today discussing the issue of competitiveness in a rather positive manner. If only we can be truly objective and look well enough into this topic, it would really be helpful to Hong Kong. I have been in the Council for a long time and I agree also that Hong Kong is very backward. The main reason for this is because our backward mentality, our closed thinking, and our complacency for we would be overjoyed to hear others say that ours is the most liberal economy. As Dr YEUNG Sum says in his amendment, as seen in some competitiveness indices, the ranking of Hong Kong has plunged from the 21st to the 28th. And we have been overtaken by Malaysia and South Korea. In circumstances like these, should we not wake up?

We must rise to this wake up call. When we talk about competition with the cities in China, as many Honourable colleagues have said, the alarm has actually been sounded. I do not think I need to repeat this now. However, there is something which I think is very important and Members should pay special attention to it. When we talk about competitiveness, the Government must factor in the overall competitiveness of Hong Kong in devising public policies. We cannot say subjectively that we think this and that way, for the question is how other people will look at this issue of competitiveness and what constitutes competitiveness.

Today, I have listened very carefully to Dr YEUNG Sum when he explained his amendment. He talked about the competitiveness index of the World Economic Forum. He says it can be divided into two parts. The first is macroscopic, that is, the indices of development competitiveness or growth competitiveness. The other is microscopic that is, on commercial competitiveness. What actually is being macroscopic? It is about the extent of prosperity that a society can achieve and that is what the targets of prosperity in society are. As for the microscopic perspective, it is the attraction to business

undertakings. In the short run, is the place attractive enough to investors? We can therefore see that all indices, be they large or small, are all very important.

Members know that I know nothing about doing business and economics. But I am interested to know what other people will say on what elements constitute greater competitiveness and what will undermine our competitiveness. It turns out that research has to be done on these. For a competitive place, why is its competitiveness index related to its business-friendly index? A society with potential growth and prosperity will be more attractive to those who want to do business.

We can see that there are many factors on the macro front, such as those belonging to the overall economic system. These are concerned with questions like: Can the Government keep a distance from the private sector companies? How well does it govern, especially in terms of financial discipline? Given the competition under globalization, does it invest the funds gained from the economy and taxes on education and manpower training? What are its public institutions, statutes and organizations? In the case of Finland which was number one in 2005, why could it top the list? It is because it has got innovation in its business environment and one can feel a force of innovation in it.

Secretary Frederick MA is now here. I have been most disappointed. Because the legal and accounting professions have proposed a somewhat innovative form of practice called limited liability partnership and pointed out this is the global trend and a more flexible form of professional practice. But the response we got was that this proposal would not be considered during the remainder term of Chief Executive Donald TSANG. If politics is allowed to override innovation in business or professional practice, I do not see how Hong Kong can stay being competitive.

Let us look at another kind of conditions. We already know the conditions in environmental protection, but the institutional milieu is also very important. Finland has such a good environment. In places like the Mainland, why is it that despite its phenomenal economic growth, its competitiveness is still quite low? One of the reasons is precisely because its systems and institutions are not as good as those of other places. It must work hard to catch up. Why has our competitiveness made such a plunge? Dr YEUNG Sum has pointed out earlier that this is because our Government keeps a distance from the private

sector companies. No matter whether this is true or not, or whether this is merely the impression of other people, the fact is they have such an impression that we have not been doing as well as before. And we should give serious thoughts to these factors just listed by me. Thank you, Madam President.

MR PATRICK LAU (in Cantonese): President, I agree with what other Honourable colleagues have said, that the competitive edge of Hong Kong is declining persistently. To avert this crisis, the Government must take the initiative to spearhead efforts to boost Hong Kong's competitiveness. So I support the major principle espoused in the motion, that the competitive edge of Hong Kong should be maintained. Although many of the details mentioned by Miss TAM and other Members may require further study, I think that we should make use of our vast amount of resources and reserves to invest in construction and such efforts should begin with urban development that is in line with the conditions on the Mainland.

Sound planning is essential to urban development and sustainable development should begin with infrastructure construction, community facilities, urban renewal, culture conservation, greening and improvement of air quality and such aspects. The aim is to build a place where the people can live comfortably and maintain the momentum of economic development. If this is done well and if ideal conditions in a community are available, this will boost business activities and tourism, attract investments, spur economic growth, create employment and improve people's livelihood. On the other hand, if this is not done well, the social conditions will deteriorate, and this will scare investors away and capital will flow to other countries. In such circumstances, the competitive edge will be undermined. This is precisely the big problem confronting Hong Kong at present.

Put it simply, the situation is like a sprint race between a tortoise and a hare. If either one is not making progress, it is like declining. Hong Kong is like the hare which is sleeping, and if it does not wake up and catch up, it will be overtaken by neighbouring rivals. In the end it will become a big loser.

President, I do not object to the strong governance of Chief Executive Donald TSANG, but I think he should do more and take one more step to set a faster pace in the Government to put various policies into practice. This applies

especially to improving the business environment and we should be faster than others in this.

In the Question and Answer Session of the Chief Executive, I said that while there was a gradual economic recovery and an increase in construction projects, many professionals had complained to me that the Government had imposed too many hurdles in vetting building and construction applications. This has impeded routine operation and added to the costs. Ever since the Grande Promenade incident, the vetting and approval procedures can be best described as hair-splitting and fault-finding. Many professionals are put in a difficult position and delay is caused to many projects, resulting in huge financial losses.

Actually, Mr TUNG, the former Chief Executive, undertook in his policy address to remove the obstacles and hurdles and speed up the pace of various works projects. But to date, not only has no improvement been made but there are even signs of retrogression. I do not see how the Government can say one thing but do the other. Since Mr TSANG wants to get rid of this impression of dallying over things, why does he not work more on this to prove his capabilities?

President, I made a study tour recently and visited mainland cities like Guangzhou and Dongguan, as well as faraway places like Balboa in Spain and Dubai in the Middle East. All these cities attach great importance to urban development, especially in the greening of their environment. They even consider this as the most important development project for purposes of boosting their competitiveness. In these cities, the vetting and approval of building and construction applications would just take a few weeks, whereas in Hong Kong, an application has to go through three hurdles, that is, the town planning, lands and housing authorities, with each one having their own bureaucratic red tape and cumbersome practices. In practice, it is like repeating the same procedures from start to finish three times. The time taken will not be three weeks but very likely six months or a few years. In my opinion, since the application has undergone vetting and approval in the planning authorities, there should not be any more hurdles in the lands and housing authorities. This will only waste resources and impede the progress of projects.

While cities in various parts of the world are fast developing, in comparison, Hong Kong is receding and falling behind. I hope the Government can soon review the policy of requiring applications to pass three hurdles and

give serious thoughts to a "three-in-one" proposal. This would mean a one-stop service of having vetting and approval work in the town planning, lands and housing authorities all merged together. It is expected that the construction period of the works projects would be greatly reduced, and project management and deployment of resources would become cost-effective. Hence the goals of improving the environment, speeding up urban development and boosting competitiveness can all be achieved.

President, if conditions in a community are made better, when coupled with proper planning and construction, this would certainly establish Hong Kong as a hub in Southeast Asia for higher learning. As mentioned by a few Members earlier, more talents would be attracted to Hong Kong, the linguistic competency of our students would be enhanced and these would create more favourable conditions for our economic development.

A tax regime has a very significant impact on the economy. About the review in this respect, I think that the Government may draw reference from the practices in other countries. I know that in Dubai, service charges are collected to cover administrative costs and the country practises a policy of zero income tax and profits tax. Many investors have been attracted to the country as even auditor's fees can be saved. Though Miss TAM may not agree with my view, I hope she can at least examine it.

President, if Mr TSANG is eager to show his achievements as soon as possible, the most effective thing is to raise Hong Kong's competitiveness. This is because the most pressing problem is to speed up urban development so that problems in the construction industry and the unemployment of workers can all be solved. As a cosmopolitan city where East meets West, Hong Kong is characterized by diversity and this has become its leading edge as well. One can find in Hong Kong architectures of diverse styles, exotic cultures from around the world and an incredibly wide range of products. It does not matter if the mainland visitors will go on a shopping spree of the name brands or if overseas tourists will settle for a good luck charm, Hong Kong should try its best to meet their needs by developing our city, our shops and hotels. This can give full play to this advantage and make Hong Kong more competitive. This is something we should do.

Thank you, President.

MRS SELINA CHOW (in Cantonese): President, a free economy has always been the cornerstone of our success. It is this factor that accounts for the prosperity and advancement of Hong Kong. We should therefore hold on to this dearly.

Some Honourable colleagues have once again mentioned that Hong Kong should enact a cross-sector fair competition law with the aim of upholding the level playing field in Hong Kong. However, we must ask, "Can we expect this cross-sector fair competition law alone to boost our competitiveness and protect our free economy?" The Liberal Party has all along been very concerned about a level playing field and we are determined to uphold it. We have proposed long ago that the Government should take the initiative to monitor competition situation of the oil companies, the electricity market and the supermarkets, thus enabling the application of trade-specific fair competition law *a la* that of the telecommunications and television broadcasting in these trades, enabling their healthy growth. The fact that the public can enjoy lower telephone tariffs and more pay TV programmes is proof that trade-specific fair competition law in telecommunications and television broadcasting is commendable.

It is undeniable that there is very little transparency in the fixing of prices in the oil industries, with prices from different companies going up or down almost at the same time and it is often noticed that prices would rise easily but very difficult to go down. In the Legislative Council meeting held in last January, I moved a motion on introducing a fair competition law to the oil industries. The motion was supported by Members and passed. The response from the Government at that time was positive. It stated that a review would be conducted of the state of competition in the fuel market and likewise a review would be conducted of the functions and roles of the Competition Policy Advisory Group. The consultancy report on the fuel market released last month also suggested that some specific law might be made to regulate the fuel industry. This would prevent monopolization or price manipulation. Signs of oligopoly in the oil industries appeared as early as some 20 to 30 years ago. During the time when I was the Chairman of the Consumer Council, I had pointed out repeatedly that there seemed to be problems with the oil prices. But the Government could not do anything to exert control, though it might have the intention to do so. A few years ago, the Government hoped to use administrative measures to encourage new entrants to the market, such as by altering the tender model for petrol filling stations. Two new operators have joined since then but not much improvement can be seen.

The position of the Liberal Party is that if legislation can rectify some problems and the public may benefit from it, then this can be justified. However, the legislation should be lenient and it should be used sparingly to avoid being excessively draconian. Do we need to follow what the motion suggests and adopt a sweeping approach and enact a fair competition law and include all sectors and trades into it? Would the problem go after this? We should really think carefully. What we worry most about is that this sweeping fair competition law would be excessively regulatory in nature. If all trades and industries are to be covered by this law, it should not be too regulatory. For if not, it will not be able to accommodate the unique features of various trades and industries as they all require different forms of regulation and investigation. Moreover, the trades and industries have their own specific activities and such a law cannot be applicable to all of them. If the scope of the law is too wide or if it is too rigid, or if powers vested in it are excessive, this would damage our free economy. An example is the motion proposal of setting up a statutory and independent fair competition commission with real powers of enforcement and investigation. Many people from the business sector have expressed their fears to us. In other words, this is a commission which is very large in scale and has great powers. Its powers are so great that it can demand account books from private companies and check its internal operations at any time. Anything deemed as a breach of the rules and regulations would be investigated and punished. If investigations can be initiated so casually, the result would just be unthinkable. Would this not mean too much interference with the business environment?

Overseas experience teaches us the lesson that if a cross-sector fair competition law is not handled properly, this would lead to a lot of undesirable effects and hence great hardships for business operators and even society as a whole. For example, would the law be used to attack business rivals? Would other trades and industries which do not require regulation have to bear the risk and costs of regulation which are after all, not necessary? Would the law eventually become a scourge that punishes those successful operators? Would big companies be compelled to split up into smaller companies, hence making themselves no longer competitive?

President, last week I joined a seminar organized by some manufacturers. The experience reminded me of a seminar held by a foreign chamber of commerce that I had attended a few months ago. Incidentally, most members of

these two groups of businessmen — one local and one foreign — all expressed their great reservations about a sweeping fair competition law. Of course, the law sounds like fair competition would be protected and I think there is a strong consensus about this major premise. But should a sweeping fair competition law be used to achieve this aim? What we hear often is some sort of argument which smacks like a slogan, claiming that this law would put an end to the problem. But if we think carefully, we will find out that things may not be like we want them to be. We have heard voices from people in the business and industrial sectors as well as from various other sectors. They may want a solution to different problems. If the law is sweeping, it may lead to very harmful consequences. Therefore, the Liberal Party has great reservation about a sweeping cross-sector competition law. But it does not mean that we will not do our best to uphold fair competition. Thank you, President.

MR ALBERT CHAN (in Cantonese): President, some time ago, Chief Secretary for Administration Rafael HUI mentioned the problem of marginalization faced by Hong Kong. When I heard his observations and comments, I immediately told myself that there would be a way out for Hong Kong because a government official had finally shown the courage to face the reality, unlike all those people who will only sing the king's praises for his new coat, not realizing that he is in fact naked.

Unfortunately, however, no other government officials echoed the Chief Secretary for Administration's remarks. On the other hand, high-ranking Central Government officials, especially Premier WEN Jiabao, all hastened to stress that Hong Kong would not be marginalized, or had never been marginalized. Hearing this, all in the Hong Kong Government immediately "shut up". In this way, a very real problem faced by Hong Kong is likely to be "buried". Insights can only be expressed by people who have the courage to point out the problem and seek solutions.

I think the Chief Secretary for Administration was certainly right in saying that Hong Kong is facing a very real problem of marginalization. The reason is very simple. Cities and towns in the Mainland, especially those in the Pearl River Delta (PRD), have all taken off. But Hong Kong has not only been marking time in many respects; it has even started to face the problem of contraction and retrogression. One of the most acute problems lies in the

structure of our overall economy. Structurally speaking, the Hong Kong economy is much too dependent on large property developers who control practically all trades and industries in Hong Kong. Let us take a look at the economic structure of Hong Kong. During the period between 2000 and 2005, the expenditure on housing occupied as high as 29% of the total expenditure of Hong Kong people. And, in the case of bank loans, the proportion of mortgages and property development loans in the total amount of loans extended by local banks also increased from 41% in 1997 to 51% in 2005. This means more than 50% of the total amount of bank loans in the period. In actual dollar terms, there was an increase from \$669.6 billion in 1997 to \$963.4 billion. All this can show us that the financial industries in Hong Kong are extremely reliant, or even over-reliant, on the real estate sector, supported only by the hard-earned money of the people.

Furthermore, we have also noticed a very astounding figure — the economic efficiency of the real estate sector has been dropping and its contribution to the Gross Domestic Product (GDP) is also decreasing. This poses a crisis. There are these figures to note: in 1997, the real estate sector represented 9.56% of our GDP, but the most recent percentage is just 4.18%. Although the rate of decrease has not yet brought about any disastrous consequences, it has nonetheless affected the survival of many trades and industries and even the employment opportunities of many employees in Hong Kong. While real estate developers control the property and financial industries, their subsidiary enterprises also control various other trades and industries, including telecommunications, public transport, power supply and property management. This is already a well-known fact. One example is their control of supermarket chains, as a result of which many small and medium enterprises in Hong Kong have been driven into near extinction.

Despite this problem, the Liberal Party still opposes the enactment of a comprehensive competition law. But they are on the other hand unable to offer any good solution to the problem of monopolization by one single corporation or family. Maybe, many people must rely on these consortia. Some political parties too may also have to depend on these consortia. Well, after receiving financial support, they must protect the interests of their patrons. This explains why it is necessary to enact a political party law as early as possible. Such a law will enable us to find out the sources of financial support for political parties.

It will also enable us to understand why some political parties are so willing to speak for various consortia in the Legislative Council.

The dictates of bureaucrats are another reason for the problem of economic marginalization faced by us. The Hong Kong Government frequently talks about its adherence to the "small government, big market" principle. But in many ways, "small market, big government" is actually the case in reality. The tourism industry is a fine example. The decision to construct the Hong Kong Disneyland was made solely by the Government. The Hong Kong Tourism Board (HKTb) incurs the highest expenditure among all public bodies, spending as much as \$700 million a year. It is also led by the Government. If we look at this spendthrift known as the HKTb, we will certainly be stunned. Its expenditure, believe it or not, is nearly two times that of Radio Television Hong Kong (RTHK). I believe that if we ask Hong Kong people to choose between RTHK and the HKTb, 99% of them will support the former instead of the latter. But then, the expenditure of the HKTb is so enormous.

Let me come back to the HKTb. It claims that it is very effective. But let us look at the relevant figures. Regarding visitors, the number of those from Japan has been dropping, recording a decrease of 12.7% between 2002 and 2005. The number of visitors from Taiwan has likewise dropped 11%. The HKTb spends as much as \$700 million — I mean \$700 million a year — but the numbers of visitors from these two traditional sources of visitors have both dropped drastically. Therefore, I really think that this spendthrift must be axed as soon as possible. Maybe, this may give a ray of hope to the Hong Kong tourism industry.

I have recommended many development projects to the Government. I have repeated these projects many times, to the extent that even I myself find any further repetition very boring. These development projects are related to the Cheung Po Tsai Cave, a night bazaar on Cheung Chau, the Silver Mine Cave on Lantau and a volleyball resort at Cheung Sha. All these recommended projects can certainly boost the survival and development of the local community economies and increase job opportunities. But what has the Government done so far? The HKTb simply organized several exhibitions in Mui Wo and the outlying islands pier. They are really "crazy". Anyone having arrived at the pier will certainly know how to get to Cheung Chau, right? What is the point of

spending all this money on publicity at the pier? If the Government really wants to help the various local communities to survive and develop, it must do something at the community level.

It is a great pity that the Chief Secretary for Administration, Mr Rafael HUI, cannot attend the meeting today. I hope that he can really identify the causes and tackle the structural problems faced by Hong Kong, so as to improve the livelihood of Hong Kong people.

Thank you, President.

DR LUI MING-WAH (in Cantonese): In a recent research report published by the Chinese Academy of Social Sciences, the integrated competitiveness of Hong Kong is ranked top in the whole country. However, when it comes to the momentum of economic growth, the position of Hong Kong is the 198th, indicating that its competitive edge is on the decline. This is a powerful warning that should give us a strong sense of crisis.

Because of globalization, all places in the world have to compete with one another for a share of the global market. They all fear that once they lag behind, they may be out-competed altogether. Therefore, all countries in the world are making incessant efforts to upgrade their competitiveness and open up new areas of development, so as to make sure that they can preserve their vitality and maintain their status. Consequently, the enhancement of integrated competitiveness to meet challenges has become a very formidable task facing governments all over the world.

In the case of Hong Kong, the combination of special historical factors and opportunities has led to the formation of a comparatively unique socio-economic system largely responsible for its admirable economic achievements. Hong Kong possesses many advantages to the envy of many cities: sound legal and financial systems, outstanding talents, a liberal economic system and satisfactory infrastructure facilities. If we look at Hong Kong's *per capita* GDP, size of foreign exchange reserves, foreign trade volume and also the total value of its four pillar industries, we will notice that the Hong Kong economy is still occupying a leading position in the world and playing a significant role in the Asia-Pacific Region.

However, due to long years of recession and economic restructuring, there has been a relative decline in Hong Kong's competitiveness. For instance, the logistics industry, one of the four pillar industries of Hong Kong, is now facing challenges from the emergent Pearl River Delta (PRD). Its competitive edge is diminishing continuously and the medium- and long-term prospects are by no means bright. As for the tourism industry, due to the constraints imposed by Hong Kong's geographical location, infrastructure facilities and transport conditions, it cannot possibly go on handling an ever-expanding volume of foreign visitors, so its growth potentials are limited. The poor business condition during the past Golden Week of 1 May is already a warning sign that warrants our deep reflections. The financial services industry no doubt still enjoys an advantage, but one single industry will not be strong enough to support the economic development of Hong Kong.

Over the years, the governments in neighbouring regions have been making active efforts to assist enterprises in technological transformation and upgrading, with a view to enhancing their competitiveness. In contrast, the Hong Kong SAR Government has been behaving like a bystander, complacent with the *status quo*. It has failed to prepare for adversities in the good times. It has never been keen on formulating any long-term economic policies and development plans. The people of Hong Kong thus feel that while others are progressing, they themselves are regressing. They even sense the danger of being marginalized. This is no alarmist talk but a real threat before our very eyes.

Hong Kong is an externally-oriented economy. If we are to maintain Hong Kong's competitive edge and promote its sustainable economic development, we must take pre-emptive actions in the new round of international competition. Miss TAM Heung-man's proposal on formulating a cross-sector competition law will only serve the purpose of adjusting the rules of the game for the domestic market. The proposal focuses only on the internal consumption market and cannot in any way help upgrade Hong Kong's external competitiveness, nor can it help Hong Kong explore other areas of economic development. Any concept on enacting a domestic competition law to upgrade the economic competitiveness of Hong Kong in the world is erroneous.

During a seminar on the Basic Law, ZHU Yucheng, Director of the Institute of Hong Kong and Macao Affairs under the State Council's Development Research Center, pointed out that Hong Kong's status as an

international trading and commercial centre in the Asia-Pacific Region was faced with serious challenges and being put under the test of many practical and potential problems. He added that it was necessary for Hong Kong and Macao to increase their sense of urgency and crisis awareness, concentrate on economic development and promote economic restructuring. These are all sincere remarks, and both the SAR Government and Hong Kong people must consider them carefully. If the Government wants to upgrade Hong Kong's competitiveness and reverse the present unfavourable situation, it must implement an active economic policy, perfect the existing economic structure by promoting new industries and increase the initiative and vitality of our economy. All this will require the Government to adopt a new mindset and set down new objectives and policies for economic development. It is only in this way that Hong Kong can fundamentally upgrade its competitiveness and effectively take forward its sustainable economic development.

I so submit. Thank you, President.

DR FERNANDO CHEUNG (in Cantonese): President, the motion topic today is on competitiveness and education is a vital element in it. Earlier in the debate, Mr CHEUNG Man-kwong and Ms Audrey EU have talked a lot on this and I agree very much with them. Now I would like to speak on the following three points.

The general view shared by people is that competition is good, for it can unleash energy, inspire imagination and spur a fighting spirit. It is like those concept and design competitions organized by the Government for the construction of some large-scale public facilities like libraries, cultural centres, and so on. The aim is to use competitions to attract good designs. On the idea that a society must be competitive, I think a very important element is to know how to position itself and there must be a sound direction of development. In other words, there must be an ability to devise sound policies. If sound policies are to be devised, there must of course be policy research of a high quality. But that is only the technical element, while a deeper and structural element which is more important is an environment cum system that is conducive to the fostering of outstanding policies.

President, policy formulation is the main function of a government. With respect to the formulation of these policies, do we have the conditions and the systems that are conducive to the fostering and development of excellent

policies? I am afraid the answer is no. This is because with respect to the selection of government, we have never advocated competition and matches. We are shying away from them as if they are monsters. President, what I mean is the political system which forms our government. This Chief Executive we have become the Chief Executive without even holding one public debate. Then our Government, that is, the coterie of top officials tasked with policy formulation, is handpicked by this Chief Executive. Why does a competition need to be held for the design of a library? But how can a government, whose task is to map out the direction of future development in our society and formulate our policies, have assumed power so easily without undergoing the gruelling process of comparing and contrasting different concepts of governance and policy agendas, with the best one being selected among them? Why are competition and competitiveness which we have been talking so much about not found in our political system? This Chief Executive and his Government came into power in the absence of competition. They see divergence of views and beliefs as nothing but irritating noise. All they know is to govern in a most autocratic manner. How can they ever hope to prevent substandard policies from turning into deep-seated and structural factors that will rock and erode our competitiveness? This is certainly food for thought for Hong Kong people.

President, the second point I wish to make is about how competitiveness is assessed. Often when we talk about competitiveness, we would rely heavily on trade and financial data, such as the size of the economy, growth in trade and total wealth in society, and so on. All these are superficial and short-sighted. In my opinion, the competitiveness of a society should in the long run be built on the quality of the population and social institutions that will facilitate the development of personal potentials. Currently there is an acute disparity between the rich and the poor in society and our Gini Coefficient is indeed competitive in the sense that it ranks as one of the highest in the world. Hundreds of thousand of our citizens are still living on the verge of abject poverty. Working poverty is commonplace. Most wage earners work long hours and this is detrimental to their personal health and family. Most people of the workforce in this society are constantly under pressure and overwhelmed by fatigue. In contrast, some labour force which could be quite considerable is left untapped, always seen as the underdog and whose potentials cannot be unleashed in the absence of a fair platform of competition. Such potentials are simply wasted. How then can this society stay competitive in the long term? When faced with the challenge of economic restructuring, all our government knows is

to offer concessions to woo imported workers and expatriates. It has adopted a mercenary, short-sighted and alienating attitude to both active and potential labour force of the locals. Just think what kind a sense of belonging and commitment these imported workers and expatriates have for Hong Kong? Can we talk about the long-term competitiveness of Hong Kong without acknowledging the competitiveness of our own workforce?

Third, I would now turn to the core values of Hong Kong. Core values are the most important assets of our society. They are fairness, justice and integrity. But unfortunately, these core values are gradually losing their lustre after the reunification. As they decline, our competitive edge is rocked. I am most worried that the competitive edge we have now will soon be lost.

The Hong Kong Government favours the business magnates and this leads to a destruction of the level playing field. In incidents like the Cyberport, Hung Hom Peninsula, Grand Promenade, the West Kowloon Cultural District, and so on, it can be seen that the Government is favouring big businesses and the giant consortia, thus violating the principle of fair competition. Another example is while the Food and Environmental Hygiene Department prosecutes hawkers for obstruction of public place, the stalls of those telecommunications companies have filled up the busiest spots in town but no action is taken to remove them. Is this fair? The shops in the markets are cornered by the supermarkets and being driven out of business, but the Housing Department is launching a points deduction scheme in its markets. This is adding to the hardship of these small businessmen. I very much want to know why the Government wants to drive these small businesses out of existence and why they are denied a chance of survival. Why can a more flexible approach not be taken?

The interpretation of the Basic Law on three occasions has left our rule of law in shambles and there is no justice in it. The rule of law is a very important competitive edge of Hong Kong and a sound judicial system will give investors confidence. But with the interpretation of the Basic Law by the Central Government on three occasions after the reunification, the rule of law has turned into the rule of man. The judicial system of Hong Kong is battered and mutilated. Two weeks ago, WONG Yan-lung, the Secretary for Justice, went to Beijing to meet the national leaders and the judicial authorities on the Mainland. To our surprise, he had not talked to the Central Authorities about his remark about him trying his best to avoid interpretations of the Basic Law

again. I doubt very much that the SAR Government has the confidence to uphold the rule of law in Hong Kong.

Even our Chief Executive does not have any integrity. In his bid to push through the political reform proposals, he went as far to distort figures from opinion polls. In his bid to gain public support for the plan to build the Central Government Complex at the Tamar site, he misled the public and said that the plan had the support of the Legislative Council. As a matter of fact, the Finance Committee of this Council has never voted on this matter. When the selection for the next Chief Executive is about to begin, he tries to win the support of some political parties and even states clearly that there is a difference between those who are close to or distant from him. He speeds up the vetting and approval process of small houses in the New Territories..... *(the buzzer sounded)*

PRESIDENT (in Cantonese): Speaking time is up.

DR FERNANDO CHEUNG (in Cantonese): We must maintain our competitive edge and uphold our core values. Thank you, President.

MR LEUNG KWOK-HUNG (in Cantonese): Chief Executive Donald TSANG has a well-known remark and that is, he would stick close to those who support him and shun the rest. This is the core concept of his governance. This means those who are close to him will have the lucky star shine on them while those who are not close to him will be haunted by bad luck.

Actually, the other side of the coin is also true. He is a fox wearing the skin of a tiger and he belittles Members of the Council, saying that they are nothing but minor characters. He will come when he feels like it. He will pay a visit to the DAB because he likes the party. He shuns other parties which he does not like. But he is not practising this when it comes to the rich. His remark takes on a different shade of meaning when it is applied to the rich. It means he will prostrate at the feet of those rich people who are more powerful than others. I have seen it many times. After he had become the Chief Executive, he went to banquets with the rich and powerful, savouring abalones without the slightest twinge of conscience. Tonight when this important motion

topic has been raised, I am not sure if Mr Rafael HUI, the Chief Secretary for Administration, is now in the race course practising affinity theory. Someone just told me he had been spotted in the race course, but that I am not sure.

In politics, there should never be such an attitude of affinity. This is like inbreeding — or crossing with close relatives. This explains why so many aristocrats in Europe are idiots or mentally retarded. This is due to inbreeding. They think they are aristocrats and they should only marry members of their own class. This is marrying close relatives. The result is a mess. We can see from history that many incredible tyrants appeared and unthinkable atrocities were committed because of inbreeding. This is related to the idea of affinity.

What then is meant by competitiveness as the Chief Executive sees it? It means only the rich people will stay competitive, and that is all. Let me just talk a little bit on this subject. I know nothing about economics. I have never been in business, except once when I was a hawker selling snake soup and I got arrested many times for that. In logistics, LI Ka-shing controls the container terminals in Hong Kong and the handling charges for each container here are much higher than that in other places. But he still wants to go on charging high fees. He does not want to build any new container terminals. He is permitted to run his business like this while truck drivers and consignors are being taken advantage of. What kind of competitiveness can we talk about in these circumstances? We would rather want to build many bridges and roads to provide links to ship cargo but why do we still permit the container terminals to charge exorbitant fees? Why do we not have the courage to stand up to LI Ka-shing? The reason is simple. LI Ka-shing has invested in the container terminals in Yantian and Rotterdam and he does not care about the Hong Kong market.

Now let us talk about finance. The financial sector is booming because of active speculations in the property market. But such a kind of activity will soon spend itself. Mr Albert CHAN has said just now that although there are many people who borrow money to speculate in the property market and this forms part of the money that backs up the financial sector, as the property market is too bearish, even with deliberate shots in the arm, such activities are still contributing less and less to the GDP of Hong Kong. Then people think of listing. And so H shares, A shares, B shares — I have no idea how many types of stocks there are — all come to Hong Kong for listing. Now the share index

has reached 18 000 points. Many people are overjoyed. But will this help boost the income of the grassroots? Will it help create more jobs? No.

We have been included in the 11th Five-Year Plan. The implications are simple enough. TUNG Chee-hwa wanted to divert public discontent. And so the Disneyland theme park was built. Shanghai will soon build another one and it is joining the race. Shanghai is more competitive than us. For us, before the green light is given, every one of our development projects will be examined by the syndicates formed by bureaucrats in Guangdong and members of the "royal household", that is, the group of children and relatives of the Chinese leaders, to see if they can reap any profits from them. Now they are listing their assets in Hong Kong. Apart from producing the wealth effect, dividing the profits among themselves and then going away, I do not see any good that can come out of this.

But this Government of ours is not contented with this state of affairs. It is trying to turn things public into private hands. It is trying to sell away wealth that belongs to society, that is, things owned by the Government and should be enjoyed by everyone and which can help develop Hong Kong and the potentials of the people. When it comes to social services and education funding, the Government is mean with every cent and these are cut instead of being increased. Nothing is done to consider the global trend and increase these services. This is how things are like in Hong Kong right now.

After witnessing the speedy privatization of The Link REIT, in no time we are seeing the two railways trying to strike a merger deal. This is another chance of privatization. We see how unfair competition in Hong Kong is. We can see more than 1 million people here have been impoverished. There are upwards of 400 000 people who, despite their having a job, are still making an income that falls short of one of the standards used by the international community to draw the poverty line. They are the working poor. Our economic development can only benefit a very small number of people. Our capital, this includes our social capital, and our wages, are falling all the time. They are transferred to other people's pockets and they have fallen into the black hole. How can we ever be competitive? Political rewards and inbreeding within the small circle will only produce idiots and simpletons.

I heard someone from the business sector speak earlier. I found that the person being spoken about is ZHU Yucheng. I do not know who this person is.

He said that we were all ignorant. I did not know what he was talking about. The situation now is very simple. There should be a thorough understanding of the future manpower resources and there should be a lot of investments to meet the needs of future economic development and this should be invested in manpower resources. Second, the Government should offer concessions to boost the development of the leading businesses. This will enable some of those businesses which can help solve our unemployment problem and which are high value-added to come here for development. These are two hard truths. As for the logistics industry, the monopolization by LI Ka-shing should be shattered. Likewise, monopolization in retail and wholesale should be shattered as well. This will enable Hong Kong people to have money in their pockets for spending and hence invigorate our domestic market.

Thank you, President.

MR MARTIN LEE (in Cantonese): Madam President, I recall when it was before 1997, the American Chamber of Commerce conducted a survey and questionnaires were sent to American businessmen in Hong Kong asking them when they would consider leaving Hong Kong. The answer given was simple enough. They would leave or at least consider leaving under these two circumstances: first, when air pollution in Hong Kong continues to worsen; second, when the rule of law is no longer found in Hong Kong. Now I would like to talk about air pollution first.

In fact, Members all agree that this is a big problem. But how much money has our Government spent on addressing it? At least half a year ago, I already spoke in a panel meeting here that we should single out air pollution as the number one public enemy of Hong Kong. The Government should make such a public announcement. What has the Government done? Who is in charge of environmental protection affairs? It is Dr Sarah LIAO, the Secretary for the Environment, Transport and Works. Apart from environmental issues, she is also in charge of transport and public works. How can a person ever hope to handle so many things? Is the Government sincere about addressing the air pollution problem?

I recall soon after I was returned to the former Legislative Council, a piece of legislation was passed and it imposed very strict control on the emission of sulphur dioxide by our factories. Then our factories relocated northwards to

the Mainland. After the relocation, the air quality seemed to get better. But when the northerly wind blows, the pollutants will return to Hong Kong again. This is a problem we all know now. How should we solve it? The standards used in Guangdong Province and in Hong Kong, especially those about air pollution, should be uniform. But how are we going to persuade those factories set up on the Mainland by Hong Kong people to reduce air pollution? Of course, one of the factors is electricity. Many factories generate their own electricity. The Democratic Party has pointed out that if the Hong Kong businessmen are paying such great attention to this problem, then can they set aside some money so that the Government can match it? This is to say, if the businessmen can raise \$10 million, the Government will also inject \$10 million. Then we will have a matching fund. Then we can go about trying to persuade those Hong Kong manufacturers on the Mainland not to be so selfish. We may allocate funds to help them ease the problem of air pollution. This will prevent pollutants from being blown over to Hong Kong when there is a northerly wind. This is only an idea put forward by the Democratic Party and there must be collaboration from all parties concerned before it can materialize.

Now I would like to turn to the rule of law. I often say that Hong Kong cannot hope to export its spirit of the rule of law to the Mainland. It would be just a matter of time before the problem of corruption on the Mainland would in turn be imported into Hong Kong. Hong Kong has spent a lot of time dealing with the problem of corruption. It can be said that we have been quite successful in this and many countries have come to learn from us as well. Our friends and Members of this Council from the business and industrial sectors often say that the spirit of the rule of law is very important. But when our rule of law is under attack, do our Members from the business and industrial sectors come to its defence? How did they vote on the interpretation of the Basic Law? This is something we all know. They say that they value and cherish the rule of law, but when they have to press the button and vote, they will simply destroy the rule of law. How then can we maintain this rule of law?

Madam President, as we look at this issue, I can fairly say that the greatest worry is Hong Kong people will lose their confidence. I recall Hong Kong people were very confident before the reunification. They knew that our country was taking forward the Four Modernizations and Hong Kong would be the engine of growth, assuming a leading position in the process. However, after so many years since the reunification, it seems that Hong Kong is relying on the Mainland in virtually everything. Our present Chief Executive, Mr

TSANG, always talks about strong leadership and strong governance. But we all know that he is no more than a puppet. Can he make decisions by himself? When the Joint Declaration was promulgated, we had an impression that apart from matters like national defence and foreign affairs which would be handled by the Central Authorities, everything would be left in the hands of Hong Kong people under the principles of a high degree of autonomy and Hong Kong people ruling Hong Kong. And we could be our own masters. But can we be our own masters now? Even when it comes to the issue of when we can have an election — and some people considered this a big issue and therefore the Central Authorities should be consulted — why can Hong Kong not decide by itself?

When faced with matters like these, honestly, we are very pessimistic. But personally I am an optimist, for I still think that there is hope for Hong Kong. However, the Central Authorities must come and help and they must trust Hong Kong people. If the Central Authorities do not trust in us, how can we trust ourselves? The Central Authorities must adopt a "let go" policy in two aspects concerning Hong Kong. First, they must let go of their worries. Then they must let go and stop meddling and exerting control. They must let go of their worries because none of us would want to fight for independence. They must let go because this would truly materialize the principles of "Hong Kong people ruling Hong Kong and a high degree of autonomy". The people of Hong Kong want democracy, please do not do anything to impede the progress of democracy here. Let us have democracy. If confidence can be restored among Hong Kong people, and given the many advantages which Hong Kong possesses, there would be no cause for worry. There would be no need for control by the Central Authorities in everything. Every city on the Mainland belongs to the nation, why should Hong Kong be given such special treatment? Why can other cities not be given a favour by the Central Authorities like Hong Kong? The people of Hong Kong should have confidence in themselves. But the Central Authorities must have confidence in us as well and let us handle our internal affairs. Thank you, Madam President.

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

MR JAMES TO (in Cantonese): President, I had not intended to speak originally, but after listening to Dr Fernando CHEUNG's speech, I do share his feelings.

I find his points extremely well put. He has given a very lucid elucidation on democracy and competitiveness, as well as on how the democratic system can make use of the policies advocated by more talented people to contribute to running a society well and enhancing its competitiveness. We have never had such a clear analysis in this Council before.

Maybe I can supplement some ideas here, which are very important as well. In some other places, for example, when a think-tank manages to secure great support from the business sector, different teams will be formed, and their members, through elections, may (become leaders and) put into practice their ideas for running the economy and other aspects of society well.

But what is the present situation in Hong Kong now? Of course, it seems that Chief Executive Donald TSANG has brought into being a so-called Bauhinia Foundation. Regardless of whether his policy proposals are very well conceived, we cannot say that his policies are the only set of policy proposals we have. Society needs another set of policy proposals, or another set that is the best. For example, if the League of Social Democrats can also secure the support of the business sector, or if the trade unions can secure enough support of some powerful bodies, they might be able to come up with their own individual set of policy proposals or political platforms. In that case, competition would emerge, and different sides would debate on the merits of the policy proposals of each other. If there is a more in-depth discussion, Hong Kong people and society as a whole will be able to see for themselves what kind of policy proposals are more feasible, or to determine if they are willing to cast their votes in elections in a particular time and space. The people will see a candidate not only as an individual, or his individual capability, or whether they have confidence in him. Instead, they may observe this candidate, his team and the people who share his convictions in the longer run, as well as their complete ideology, be it political, social or economic. This particular candidate may have already put forward countless proposals for the public to choose, such as how medical and health care policies should be formulated, how the housing policy should be drafted, and so on, simply because he has been preparing (for running for the election) for a very long time.

Now, in retrospect, how did we fare in our elections for the Chief Executive? Simply put, in the first Chief Executive election, when Mr TUNG ran for the election, frankly speaking, (all he had said) was that if Hong Kong fares well, China will also fare well; and if China fares well, Hong Kong will

also fare well. But what exactly were his policy proposals? As far as his team is concerned, and frankly speaking, we must be fair to him, his team was utterly rotten. Why is that so? It is because those people were chosen by different ministerial authorities of the Central Authorities. When an official was picked by this somebody and another official was picked by that somebody, everyone was just checking on each other, and how was it possible for them to work out some good policies? When it was time for the second Chief Executive election, same as before, everything was to remain unchanged. Next we had the third election — or maybe not the third, but the second and a half election — and our Mr Donald TSANG assumed the office of the Chief Executive. He had taken up this post on an ad-hoc basis, so he could not introduce changes that were too drastic. It is common knowledge that Chief Executive Donald TSANG could have some totally contradictory views with certain Directors of Bureaux. He may even go so far as to bang on the table and scold them. But still, he has to put up with them. If these people are not doing well, do they have anything to do with Chief Executive Donald TSANG? But there are things best left unsaid. If we are so frank as to reveal the naked truth, what is it actually? That brings us to the second point I am going to discuss.

But what have we done to deserve all these? Just as Mr Martin LEE pointed out earlier, the Central Authorities should bear a large share of the responsibility. Why? It is because the Central Authorities once indicated that it was they, instead of Hong Kong people, who would choose (the Chief Executive); that the Chief Executive was not to be elected by Hong Kong people democratically, but completely selected by the Central Authorities. In the second election, Mr TUNG, who had already made a mess in his first term as the Chief Executive, was again handpicked. In fact, we never know whether the Central Authorities knew Mr TUNG was no good for the job, nor do I know whether Mr JIANG Zemin was aware of that. Anyway, in short, due to all kinds of reasons, the Central Authorities selected him for a second term all the same. As a result, hundreds of people cast votes of confidence in favour of him, which was a way of saying that they supported him, and they believed he could do the job well. Of course, some of them later admitted that they had acted against their conscience, that they had deceived us for seven years, that it was not their original intention at all, and it was nothing but a lie — Dr HO once said he had lied. Badly enough, the truth was: Everybody had to lie, simply because the whole system was predetermined by the Central Authorities. If the Central Authorities say he is good for the job, everybody would have to say he is good for it, even though in their hearts they thought that all his policy proposals

were sheer nonsense, absolutely would not work at all. Nobody thought he was good for the job, yet everybody was forced to say he could do it. When the Central Authorities handpicked Mr TUNG to be the Chief Executive for the second term, they were, in an insinuated way, telling Hong Kong people that they had to act according to his policies. As a result, all the talented people in Hong Kong could not put their ideas into reality through the elections.

On the other hand, the Secretary sitting opposite to me was selected by Mr TUNG himself. Can you tell me whether Mr TUNG fully understood how Secretary Frederick MA would implement his ideas in financial services? Maybe he did, but we generally believe that he mainly relied on the recommendation made by the Financial Secretary, Mr Antony LEUNG, right? He trusted Financial Secretary Antony LEUNG, but Mr LEUNG soon resigned. Subsequently, when Mr Donald TSANG took up the post of the Chief Executive, once again, all officials were allowed to stay.

All in all, if this continues to be the case, if Hong Kong people cannot make their choice through elections, good proposals will never be introduced through the advocacy of the talented people or think-tanks. And this applies not just to Hong Kong, but probably to the entire world. Without a good democratic environment, there is no way that diversified good proposals can make their way to the government level. Of course, even if the candidate was handpicked by the Central Authorities, we may still expect the person thus chosen can have the breadth of mind to adopt other proposals if they are good. If so, even if he was handpicked by the Central Authorities, would he still be good?

If somebody asks: Why do we not place our bet on this one? If you ask me what I think of Chief Executive Donald TSANG based on how he has been doing so far, what would I say? I do not know how you feel about him, but judging from his magnanimity, I feel that it would be rather difficult to expect him to accept more extensive policy proposals. This is particularly so when he upholds the affinity theory, one which judges the background of the people making the proposal to see whether they are a close ally of his. If they are not a close ally, the policy proposals, no matter how good they are, will not be accepted. This happened too in the past when Mr TUNG was the Chief Executive. There were cases when Members from the Democratic Party had put forward policy proposals that even Mr TUNG said that they could be good

policies, but since they were not proposed by other political parties, he would say: If I accepted your proposals, would I not be giving you credits? When a judgement is made according to the degree of affinity, how can one expect that there are scientific and objective discussions and debates?

If there was an environment of party politics, and with years of preparation, your political party had already built up a solid ideological basis, supported by studies and researches, you know what the future will be like, and once the people vote for you, you can move forward in the set direction. In that case, you would have the solid base for putting forward the theory of affinity, because the public have chosen your set of social policies, and they would expect you to implement your policies in the next four years. In other words, it is the people who have chosen their close allies in the political arena, instead of an individual choosing his close allies purely by picking people who support his political ideas.

I believe that this kind of democracy and policies, as well as how good policies can be integrated, will be the way out for reviving Hong Kong. This is a question of whether democracy and policies can find room for development.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I shall call on Miss TAM Heung-man to speak on the amendments. She has up to five minutes to speak.

MISS TAM HEUNG-MAN (in Cantonese): Madam President, I am very grateful to the four Honourable colleagues, namely, Miss CHAN Yuen-han, Mr Andrew LEUNG, Dr YEUNG Sum and Mr CHAN Kam-lam for proposing amendments in different aspects to my motion. This demonstrates that the various political parties and groupings in the Legislative Council all attach great significance to the issue of Hong Kong's competitiveness. Now I would like to respond to the various amendments.

Miss CHAN Yuen-han's amendment calls on the Government to develop multi-faceted industries and improve the industrial structure of Hong Kong. These are the correct directions for boosting Hong Kong's competitiveness. At the same time, the authorities are requested to amend the existing land policy so as not to make the public misunderstand that the authorities' policy is completely for taking care of the interests of property developers. On the other hand, the authorities should also make use of the land policy to assist the development of other industries. All these proposed measures deserve our support. Besides, since the operating costs in Hong Kong are higher than those of our neighbouring regions, so our economy may find a way out by increasing investment in innovation and technology. Innovation could be a new growth area for promoting Hong Kong's competitiveness. The suggestions put forward in Miss CHAN Yuen-han's amendment in this aspect are very good. Therefore, I shall support Miss CHAN Yuen-han's amendment.

On the contrary, I have great reservation about Mr Andrew LEUNG's amendment. The proposals put forward by Mr Andrew LEUNG, such as conducting a comprehensive study on Hong Kong's competitiveness, strengthening the links with the Pearl River Delta and even the entire country, and improving policies in areas like medical services, education, housing and transport, and so on, as well as strengthening the development of creative industries, do merit support. I also believe that these proposals can effectively boost Hong Kong's competitiveness. However, I really do not understand why it is necessary for Mr Andrew LEUNG to delete the part on enacting a cross-sector fair competition law on the one hand, and propose to enact a civil fair competition law on the other. What actually is a civil fair competition law? Is he saying that a cross-sector fair competition law is not civil at all?

Meanwhile, Mr Andrew LEUNG deletes the part on urging the authorities to expeditiously review Hong Kong's taxation policy. Instead, he replaces it with "endeavouring to maintain Hong Kong's low tax regime". I agree that the low tax regime is an important element of Hong Kong's competitive edge. However, we absolutely cannot ignore the need to conduct reviews of other taxation policies. Is Mr Andrew LEUNG thinking that, as long as Hong Kong maintains its low tax regime, Hong Kong's taxation system is perfect without any flaws? Therefore, I really cannot support Mr Andrew LEUNG's amendment. While amending Mr Andrew LEUNG's amendment, Mr SIN Chung-kai's

amendment restores the request of enacting a cross-sector fair competition law. I think it should be supported.

Madam President, in his amendment Dr YEUNG Sum mainly puts forward concrete suggestions on education policies. In addition, he has even specifically requested that the pace of democratization in Hong Kong should be speeded up. The Civic Party supports these proposals. Therefore, I very much support Dr YEUNG Sum's amendment.

With regard to Mr CHAN Kam-lam's amendment, he has made a lot of precious and constructive suggestions in many aspects. However, I think the part with specific reference to a fair competitiveness law is really too conservative. We should proactively enact a cross-sector fair competition law and then conduct a public consultation on it, instead of only deciding whether it is necessary to enact the law after conducting the public consultation. Therefore, I really cannot support the amendment.

As such, I hope Honourable colleagues will support the amendments proposed by Miss CHAN Yuen-han, Dr YEUNG Sum and Mr SIN Chung-kai, and oppose the amendments proposed by Mr Andrew LEUNG and Mr CHAN Kam-lam.

I so submit. Thank you, Madam President.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I believe that the motion topic today, "Maintaining the competitive edge of Hong Kong", is an issue of great concern among all Hong Kong people. I am very grateful to the 20-odd Members who have spoken, and my reply is as follows.

The competitive edge of a place or lack of it can in fact be reflected in several practical respects: whether it is a place of investments chosen by international investors; whether it is chosen as a place of operating businesses; and, whether it is selected as a place of settlement and work by talents from all parts of the world.

Regarding these respects, I wish to share some actual statistics with Members. The volume of direct inward investments into Hong Kong recorded

a 270% increase between 2002 and 2005, rising from US\$9.7 billion to US\$35.9 billion (These are just tentative figures). It is thus evident that Hong Kong continues to be the prime destination for direct inward investments. According to the World Investment Report 2005 published by the Conference on Trade and Development under the United Nations, Hong Kong was the second largest centre of direct inward investments in Asia, second only to China. Globally, Hong Kong was the 7th largest venue of inward investments in 2004. What is more, in the same period, the capital-raising volume of the Hong Kong stock market increased from some \$110 billion to more than \$300 billion. In this regard, we ranked the fourth in the world and second in Asia, surpassing Japan. Just this day, the total value of our stock market has exceeded \$10,000 billion. This is very good news and Hong Kong people should be proud of such a figure. As for the number of regional headquarters and offices set up by foreign organizations in Hong Kong, there was also an increase from 4 867 to 6 272 during the same period. All this shows that the attraction of Hong Kong to international investors has in fact been rising all the time. Instead of declining, our competitiveness has actually been increasing.

When selecting places of investments or establishing businesses, investors will consider a number of major factors, all of which have been mentioned by Members today. First, there must be firm adherence to the rule of law, a clean and efficient government and other well-established systems. All these are very significant because they can ensure a safe, stable, fair and liberal investment environment. Second, there must be ample business opportunities. The third factor is operating costs. And, fourth, there must be enough talents, as mentioned by many Members just now.

In respect of the first factor, the advantage of Hong Kong is beyond any question. We possess an independent Judiciary and we adhere firmly to the rule of law. We respect and protect private property ownership and the spirit of contract. Our government is clean and efficient, upholding a policy of economic freedom. We respect entrepreneurial freedom, free trade, market freedom and openness. There are no restrictions on trade and the movements of foreign exchange and capitals. We have also put in place sound supervisory mechanisms. In the financial industry, for example, our corporate governance requirements and regulatory regimes for accounting practices and financial activities are all in line with internationally recognized standards. All these are essential, meant to protect the interests of investors.

In respect of the second factor, I must say that there are unlimited business opportunities in Hong Kong because it is an economic centre situated at the heart of Asia, a hub of international finance, logistics and trade in the region. In addition, with the Mainland as our hinterland, we see very broad and bright economic prospects before us. The economy of the Mainland has been progressing rapidly in recent years, displaying huge potentials of development. Hong Kong is not only one of the major sources of direct inward investments for the Mainland but also a base for foreign organizations intent on establishing their presence in the mainland market.

Our world-class experience in financial activities and marketing, our technical expertise and sound infrastructure facilities can cater for the needs arising from the rapid development of the Mainland's manufacturing and services industries, thus creating a win-win situation for both places. The Mainland is now the biggest trade partner of Hong Kong. Numerous international corporations engaged in China trade have chosen to establish a foothold in Hong Kong for further expansion into the Mainland.

Hong Kong possesses the advantage of being able to "leverage on the Motherland and engage itself globally". This brings numerous business opportunities to Hong Kong and in turn becomes a major factor attracting foreign investors.

In respect of the third factor, that is, operating costs, it must be pointed out that a simple and low tax regime is certainly a major advantage enjoyed by Hong Kong. Our rates of profits tax and salaries tax are among the lowest in the world. And, our tax regime is also very simple. For instance, we do not impose any tax on capital gains, interests and dividends. Consequently, operating costs and investment costs are significantly lowered. This is essential to the maintenance of Hong Kong's competitiveness. What is more, Hong Kong also possesses world-class infrastructure facilities, such as an advanced international airport, a well-developed transport network, world-class financial infrastructure and state of the art information systems. All these are also very important to the enhancement of operating efficiency and reduction of costs.

It is of course not enough to possess only the three advantages mentioned above because whether or not an investor will choose to make investments in

Hong Kong will also depend on the availability of talents. Many Members have also mentioned this point. Besides nurturing local talents, we must also offer incentives to induce experts and management talents from all parts of the world to live and work in Hong Kong. And, whether local talents are willing to stay and whether expatriate talents can be induced to live and work in Hong Kong will in turn depend largely on our ability to uphold the rule of law, maintain a satisfactory living environment, foster social harmony and provide ample opportunities of development. I believe that Hong Kong still possesses an advantage in all these respects. But I also agree with Members that we must allow no complacency and must work hard to strengthen ourselves, so as to maintain and enhance our advantages.

As a matter of fact, the Government has been making many efforts over the years to ensure that Hong Kong can maintain its competitive edge in terms of its systems, business environment and ability to attract talents.

First, I wish to talk about our ties and co-operation with the Mainland. Hong Kong and the Mainland are interdependent. The rapid development of the Mainland means that there are more opportunities for Hong Kong. On this premise, we should seek to entrench our advantages on the one hand and complement the development of mainland cities on the other. It is only in this way that we can complement one another and bring forth a mutually beneficial and win-win situation.

In 2003, the Central People's Government and the Hong Kong Special Administrative Region Government signed the Mainland/Hong Kong Closer Economic Partnership Agreement (CEPA), which came into full operation on 1 January 2004. Under the framework of CEPA, qualified Hong Kong or foreign enterprises are accorded priority access to the mainland market and these enterprises can also enjoy tariff relief and other concessions for all exports of products and services covered by CEPA. This further consolidates Hong Kong's status as the ideal place of doing business with the Mainland and highlights its significant position as an international trading and commercial centre.

In addition, the Government has also been working actively with the Mainland to promote regional co-operation. Efforts have been made to promote, for example, Hong Kong's co-operation with Guangdong and the

Pan-Pearl River Delta, with a view to enhancing our co-ordination and co-operation with mainland places, in particular the Pan-Pearl River Delta and nearby provinces. In order to further consolidate our co-operation with the Mainland, the Constitutional Affairs Bureau established the Mainland Affairs Liaison Office in April this year. The Government is making preparations for establishing new Economic and Trade Offices in Chengdu and Shanghai in the second half of this, so as to enhance our ties with eastern China and the southwestern provinces.

At the recent session of the National People's Congress, Premier WEN Jiabao announced the outline of the 11th Five-Year Plan, in which Hong Kong is included for the first time in the overall development framework of the country. From the perspectives of the national economy and long-term social planning, emphasis is placed on supporting the development of Hong Kong's financial, logistics, tourism and information industries and maintaining its status as a centre of international finance, trade and shipping. Grateful to the State for its support, we will grasp the opportunity to upgrade our competitiveness in the world and work actively to facilitate the development of the country (including the Pan-Pearl River Delta Region).

Mr Martin LEE discussed the rule of law just now. The rule of law is indeed an important pillar of Hong Kong's prosperity. The Government has time and again stated its strong determination to uphold the rule of law. We fully understand that in order to induce foreign investors and businessmen to come to Hong Kong, and in order to enable the local people to live and work happily here, we must rely on our long-standing rule of law. With the rule of law, people can know that even if they encounter any disputes in their business operation or personal life, such disputes can all be settled eventually by an independent and impartial Judiciary in accordance with established principles of law.

Constitutionally, our judicial independence is established by the Basic Law. And, as a matter of fact, the Government has been making strenuous efforts to uphold judicial independence. There is no doubt about the Government's determination. The Government will continue to uphold judicial independence in Hong Kong with the utmost resolution and to the best of its ability, so as to let all people know that they can live in Hong Kong happily and invest in it without any worries.

The taxation policy is very important to the economic development of a society. In this connection, Hong Kong always takes pride in its simple and low tax regime, from which it has benefited so much. Miss TAM Heung-man advises the Government to speed up its review of Hong Kong's taxation policy. As a matter of fact, the Government has all along been conducting reviews of our tax regime, and the taxation policy has time and again been adjusted in response to changes in economic circumstances and modes of business operation. A few months ago, we enacted the legislative amendments necessary for abolishing estate duty and exempting offshore funds from profits tax. All this will upgrade the competitiveness of Hong Kong as an international financial centre. Therefore, Miss TAM Heung-man can rest assured that we will continue to make further improvements.

Besides conducting sustained reviews of the taxation policy, the Government has also been conducting in-depth examination of several other taxation issues over the past few years.

The taxation policy is an integral part of public financial management. We must therefore conduct in-depth and thorough studies from macro economic perspectives. The Government will put the taxation policy under continuous review and make timely and appropriate adjustments in response to actual needs. In the process of review, the Government will consult the various social sectors and strata through different channels. Later this year, we shall conduct, as part of the ongoing review of the taxation policy, an extensive and detailed consultation exercise on a Goods and Services Tax (No decision has yet been made and it will just be a consultation exercise). Recommendations will then be made for the consideration of the next Government.

Many Members talked about the enactment of a fair competition law just now and put forward many valuable opinions. Like Members, the Government supports fair competition. It hopes that competition can enhance economic efficiency, promote free trade and in turn benefit consumers. The Chief Executive stated in his policy address last year that a level playing field that allows enterprising people to start and run their own businesses is important to sustaining the vitality and harmony of society. There can be no doubt about the Government's efforts and determination to uphold a level playing field for business operation.

In June last year, the Government set up the Competition Policy Review Committee, an independent organization led by an unofficial chairman with members drawn from different social sectors. The function of the Committee is to examine the efficacy of the existing competition policy. The Committee will study the experience of other countries and actively consider whether there is a need for a comprehensive, cross-sector competition law in Hong Kong. It will also consider the scope and application of such a law.

In the middle of this year, the Committee will submit to the Government its recommendations on the future direction of Hong Kong's competition policy. After the completion of the Committee's review, the Government will report to the Legislative Council and the public on all the findings.

Many Members also talked about talents just now. The Government very much agrees that talents are the linchpin of sustainable social development. The policy of the Government in this respect is to nurture and attract talents. The mobility of talents all over the world is very high these days. With a view to inducing the best talents from all parts of the world to live and work in Hong Kong, we will launch the Quality Migrant Admission Scheme in the middle of this year. Our targets are those people who have already made achievements in their respective careers or professions and who are still capable of making further progress. This new Scheme will help promote the economic development of Hong Kong and enhance our competitiveness in the international market. In addition, since the beginning of this academic year, we have further relaxed immigration control and increased the categories of institutions and courses that can admit non-local students. And, non-local students are also allowed to stay behind for employment after graduation.

As for the nurturing of local talents, the Government will take actions in two directions. First, it will provide more education opportunities by expanding senior secondary and tertiary education. Working adults will also be offered opportunities of further studies and the resources required, with a view to upgrading the overall education levels of the workforce. In addition, school education will be improved to lay greater emphasis on students' values and attitudes as well as their communication competence and faculty of thinking, so as to suit the needs of overall social development. The quality of learning and teaching will also be improved (by, for example, fully implementing whole-day primary schooling, upgrading the professional standards of teachers, increasing the "teacher to student" ratio in primary schools to implement teaching by

subject specialists and promoting language education). A greater variety of learning opportunities and articulation paths will at the same time be provided to suit the needs of individual students, in the hope that all young people can give full play to their potentials. And, the Government has also established a qualifications framework to encourage lifelong learning.

Apart from the abovementioned measures, the Government has also been making great efforts to provide the local workforce with training, so as to improve its quality. The Skills Upgrading Scheme implemented in 2001 provides targeted in-service training to employees in different trades and industries. In 2002, the Continuing Education Fund was also set up to provide assistance to people who want to enrol on continuing education and training programmes related to specified economic activities, trades and skills.

As for air quality and the environment, the Chief Executive has made it very clear in his policy address that Hong Kong as Asia's world city must never tolerate air pollution. The Government is determined to improve air quality and it has already formulated a strategy and concrete plan for the cause.

With a view to improving air quality in the whole Pearl River Delta, Hong Kong and Guangdong already signed an agreement as early as 2002, which sets down the targets of reducing the emission of various air pollutants before 2010. We have also stepped up our liaison and co-operation with the Guangdong Provincial Government. The Governments of the two places will continue to phase in the various enhanced preventive measures under the Pearl River Delta Regional Air Quality Management Plan. Efforts will be made continuously to perfect the Plan, so as to make sure that the targets of emission reduction agreed by both sides can be attained by 2010 as scheduled.

Electricity generation is the main source of air pollutants in Hong Kong. The Government has designated the reduction of electricity generation-related pollution as its main task in the future. The policy of the Government is very clear — the total emission ceilings for the power companies must be lowered over time to ensure that the targets of emission reduction can be achieved by 2010. Besides, we will also adopt a number of other emission reduction measures. These are the adoption of Euro IV emission standards for newly registered vehicles and the implementation of new regulations to control the emission of volatile organic compounds used in coating, printing ink and consumer goods.

The Chief Executive has outlined his policy objective of fostering social harmony in the policy address. The realization of this ideal must depend on the joint efforts of the Government, the public and Members. Honourable Members do play a very important role. Let me just cite a positive example and Members will know what I mean. Several months ago, Mr James TIEN was the Chairman of the Bills Committee on Revenue (Profits Tax Exemption for Offshore Funds) Bill 2005. Under his chairmanship, the Bill was passed in March. This Bill is very important to Hong Kong because on 13 April, the Central Authorities announced the measure of QDII. The Bill can enable us to tie in with the QDII measure. In this way, more capitals will flow to Hong Kong, much to our benefit. I therefore think that if Members can co-operate wholeheartedly with the Government under the leadership of the President of the Legislative Council, we will be able to do a much better job. Unfortunately, however, some Members cannot even quote the correct figures. Just now, a Member said that the Hang Seng index now is 18 000. Sorry, I do not want members of the public to be misled. I must clarify that the Hang Seng Index now is just around 17 000, not yet as high as 18 000. To enhance our competitiveness, we must foster social harmony and solidarity. It is only in this way that Hong Kong can maintain its existing advantages, thus enabling us all to grasp all opportunities and meet all challenges with full confidence.

Madam President, the efforts made by all Hong Kong people in the past have gradually led to the emergence of Hong Kong's present competitive edge. We are thus able to maintain our status as Asia's world city. Over all these years, every time after emerging from a challenge, Hong Kong has always succeeded in treading a new path. We do not fear competition, for competition is precisely the way in which Hong Kong can manifest its strength.

Despite our competitive edge in many areas, we must allow no complacency. We must also keep a lookout for present and future challenges and always seek to strengthen the fundamentals of our success. We should look at the rapidly rising competitiveness of mainland cities with a positive attitude. The Government will certainly capitalize on the sound foundation and exert its utmost to make further progress. It will seek to create a better business environment and a more satisfactory working environment, so that Hong Kong can have broader development prospects. But, more importantly, all social sectors in Hong Kong must join hands to consolidate and strengthen our competitive edge.

Mr WONG Kwok-hing said that I was like a lone figure. But he does not need to worry about anything. I will certainly relay Members' valuable opinions to my colleagues responsible for other policy areas. I will certainly relay Members' opinions to them for consideration.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now call upon Miss CHAN Yuen-han to move her amendment to the motion.

MISS CHAN YUEN-HAN (in Cantonese): Madam President, I move that Miss TAM Heung-man's motion be amended.

Miss CHAN Yuen-han moved the following amendment: (Translation)

"To add "there are recent concerns that Hong Kong may be marginalized, and" after "That, as"; to add "formulate a multi-faceted strategy for the development of industries and, in addition to developing the financial, tourism and logistics industries, promote other industries that are suitable for development in Hong Kong, such as the manufacturing, agricultural and fisheries, and cultural and creative industries; (b) enhance various measures to encourage the industrial and commercial sectors to increase their investment in innovation and technology; (c) abandon the land policy that over-relies on real estate, so as to create an environment in which various industries can enjoy equal development opportunities in Hong Kong; (d)" after "(a)"; to delete the original "(b)" and substitute with "(e)"; to delete the original "(c)" and substitute with "(f)"; to delete the original "(d)" and substitute with "(g)"; and to delete the original "(e)" and substitute with "(h)"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Miss CHAN Yuen-han to Miss TAM Heung-man's motion, be passed.

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.

(Members raised their hands)

Miss CHAN Yuen-han rose to claim a division.

PRESIDENT (in Cantonese): Miss CHAN Yuen-han has claimed a division. The division bell will ring for three minutes, after which the division will begin.

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:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr Patrick LAU voted against the amendment.

Mr WONG Ting-kwong abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Ronny TONG and Mr Albert CHENG voted for the amendment.

Mr James TIEN and Mrs Selina CHOW voted against the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung and Mr LI Kwok-ying abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, 10 were in favour of the amendment, 13 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 24 were present, 16 were in favour of the amendment, two against it and five abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

MS MIRIAM LAU (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Maintaining the competitive edge of Hong Kong" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms Miriam LAU be passed.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members who are present. I declare the motion passed.

I order that in the event of further divisions being claimed in respect of the motion on "Maintaining the competitive edge of Hong Kong" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Mr Andrew LEUNG, you may move your amendment now.

MR ANDREW LEUNG (in Cantonese): President, I move that Miss TAM Heung-man's motion be amended.

Mr Andrew LEUNG moved the following amendment: (Translation)

"To delete "its competitive edge is dwindling" after "still ranks first within China," and substitute with "its capacity for economic growth is obviously inadequate among 200 cities in China, and the rapid development of

mainland cities has also brought about a series of challenges to Hong Kong; to enhance competitiveness"; to delete "face up to this trend and to" after "this Council urges the Government to" and substitute with "adopt the following measures"; to delete "(a) expeditiously enact a cross-sector fair competition law and set up an independent fair competition commission with real powers to enforce the law;" and substitute with "(a) establishing a regional policy focusing on enhancing Hong Kong's competitiveness, and stepping up the studies on global and national competitiveness and the implementation of relevant policies; (b) strengthening the links and resources integration with the Pearl River Delta and the entire country, including enhancing the division of work and coordination with neighbouring areas; (c) improving the air quality, and perfecting the environment as well as such services as medical, education, housing and transport, and related facilities;"; to delete the original "(b)" and substitute with "(d)"; to delete "formulate" before "a comprehensive manpower policy" and substitute with "formulating"; to delete "overseas talents to" after "to attract" and substitute with "talents from outside"; to delete "to enhance" after "Hong Kong; and" and substitute with "enhancing"; to delete "(c) perfect the policy on pollution management with a view to improving the air quality and environment in the territory; (d) expedite the review of Hong Kong's taxation policy; and" and substitute with "(e) encouraging enterprises to develop creative industries as well as new and high technology, with a view to enhancing the competitiveness of the local manufacturing industry;"; to delete the original "(e)" and substitute with "(f)"; to delete "endeavour to protect" before "Hong Kong people's freedoms" and substitute with "continuing to give play to Hong Kong's original competitive edge, including maintaining a clean and highly efficient government, protecting"; to delete "and uphold" after "in various aspects" and substitute with ", upholding"; and to add "and ensuring social harmony and stability; (g) endeavouring to maintain Hong Kong's simple and low tax regime; and (h) expeditiously enacting a civil fair competition law, and setting up an independent fair competition commission with real powers to enforce the law" after "the rule of law in Hong Kong". "

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Andrew LEUNG to Miss TAM Heung-man's motion, be passed.

PRESIDENT (in Cantonese): I now call on Mr SIN Chung-kai to move his amendment to Mr Andrew LEUNG's amendment.

MR SIN CHUNG-KAI (in Cantonese): President, I move that Mr Andrew LEUNG's amendment be amended.

Mr SIN Chung-kai moved the following amendment to Mr Andrew LEUNG's amendment: (Translation)

"To delete "civil" after "(h) expeditiously enacting a" and substitute with "cross-sector". "

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

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.

(Members raised their hands)

Mr SIN Chung-kai rose to claim a division.

PRESIDENT (in Cantonese): Mr SIN Chung-kai has claimed a division. The division bell will ring for one minute, after which the division will begin.

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

PRESIDENT (in Cantonese): Will Members please check their votes. Ms Miriam LAU, do you have any problem?

MS MIRIAM LAU (in Cantonese): I have pressed the wrong button.

PRESIDENT (in Cantonese): How would you like to vote?

MS MIRIAM LAU (in Cantonese): I want to vote against it.

PRESIDENT (in Cantonese): Fine, Clerk, please put this on record.

MR SIN CHUNG-KAI (in Cantonese): President, it seems there is some confusion. Can we all press the buttons all over again?

PRESIDENT (in Cantonese): Why should it be confusing? Everything is fine now? Good. Does any other Member have any problem?

(No Members indicated that they had any problem)

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

Functional Constituencies:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Ms Miriam LAU, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Mr Howard YOUNG, Mr Timothy FOK, Mr Tommy CHEUNG, Mr Vincent

FANG, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr Patrick LAU voted against the amendment.

Mr WONG Ting-kwong abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Ronny TONG and Mr Albert CHENG voted for the amendment.

Mr James TIEN and Mrs Selina CHOW voted against the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung and Mr LI Kwok-ying abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, 11 were in favour of the amendment, 12 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 24 were present, 16 were in favour of the amendment, two against it and five abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negated.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr Andrew LEUNG to Miss TAM Heung-man's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Andrew LEUNG rose to claim a division.

PRESIDENT (in Cantonese): Mr Andrew LEUNG has claimed a division. The division bell will ring for one minute, after which the division will begin.

(During the period of time when the division bell was ringing)

PRESIDENT (in Cantonese): Ms Miriam LAU, I would like to tell you that, the computer shows that you voted for the amendment just now, but as you had notified me beforehand that you intended to vote against it, we shall amend the voting result accordingly. Although this would affect the numbers of votes Members have cast, it would not affect the voting result. (Appendix 1)

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

(The computer screen failed to display the voting result)

PRESIDENT (in Cantonese): Has the computer stopped working? It is fine now. You may check your votes now.

(Mr Ronny TONG raised his hand to indicate a wish to speak)

PRESIDENT (in Cantonese): Mr Ronny TONG, how do you intend to vote?

MR RONNY TONG (in Cantonese): I have pressed the wrong button.
(Laughter)

PRESIDENT (in Cantonese): That is alright.

CLERK (in Cantonese): Which button has he pressed?

MR RONNY TONG (in Cantonese): I have pressed the "for" button. But I am against the amendment.

PRESIDENT (in Cantonese): You mean you are actually against it, right?

MR RONNY TONG (in Cantonese): Ms LAU was just too lonely. (*Laughter*)

PRESIDENT (in Cantonese): Mr Ronny TONG, please say it clearly again.

MR RONNY TONG (in Cantonese): I pressed the "for" button, but I am against the amendment.

PRESIDENT (in Cantonese): I see. You want to vote against the amendment, right?

MR RONNY TONG (in Cantonese): Yes.

PRESIDENT (in Cantonese): I see. Does any other Member have any problem?

(No Members indicated that they had any problem)

PRESIDENT (in Cantonese): If no Member other than Mr Ronny TONG spots any errors after checking, we will now display the result.

Functional Constituencies:

Dr Raymond HO, Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr Patrick LAU voted for the amendment.

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Mr WONG Kwok-hing, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr KWONG Chi-kin and Miss TAM Heung-man voted against the amendment.

Ms LI Fung-ying and Mr WONG Ting-kwong abstained.

Geographical Constituencies:

Mr James TIEN, Mrs Selina CHOW and Mr Ronny TONG voted for the amendment.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr LEUNG Kwok-hung and Mr Albert CHENG voted against the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Miss CHOY So-yuk and Mr LI Kwok-ying abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, 13 were in favour of the amendment, nine against it and two abstained; while among the Members returned by geographical

constituencies through direct elections, 24 were present, three were in favour of the amendment, 15 against it and five abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negated.

PRESIDENT (in Cantonese): Dr YEUNG Sum, you may move your amendment.

DR YEUNG SUM (in Cantonese): President, I move that Miss TAM Heung-man's motion be amended.

Dr YEUNG Sum moved the following amendment: (Translation)

"To add ", and according to the Growth Competitiveness Index rankings published by the World Economic Forum in September last year, Hong Kong's ranking has plunged from the 21st in 2004 to the 28th" after "its competitive edge is dwindling"; to add ", expeditiously implement small class teaching, integrate pre-school education into subsidized education with a view to improving the quality of basic education" after "overseas talents to Hong Kong" ; to add "high-quality" after "train up more"; to delete "and" after "taxation policy"; and to add "; and (f) expeditiously introduce a democratic political system under which the Chief Executive and all Members of the Legislative Council are returned by universal suffrage, in order to ensure that the Government will pay heed to public opinions and take forward the above policies, thereby creating a business environment that is fair and conducive to the overall development of the community" after "rule of law in Hong Kong". "

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Dr YEUNG Sum's amendment to Miss TAM Heung-man's motion be passed.

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.

(Members raised their hands)

Mr SIN Chung-kai rose to claim a division.

PRESIDENT (in Cantonese): Mr SIN Chung-kai has claimed a division. The division bell will ring for one minute, after which the division will begin.

(While the division bell was ringing)

PRESIDENT (in Cantonese): I shall take this opportunity to clarify the situation with Mr Ronny TONG. As indicated by the computer record, you did vote in favour of the amendment. But we have amended the record to show your negative vote. Therefore, the result of voting will not be affected. (Appendix 2)

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:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, Mr Tommy

CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr Patrick LAU voted against the amendment.

Mr WONG Ting-kwong abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Ronny TONG and Mr Albert CHENG voted for the amendment.

Mr James TIEN and Mrs Selina CHOW voted against the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung and Mr LI Kwok-ying abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, 10 were in favour of the amendment, 13 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 24 were present, 16 were in favour of the amendment, two against it and five abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam, you may now move your amendment.

MR CHAN KAM-LAM (in Cantonese): President, I move that Miss TAM Heung-man's motion be amended.

Mr CHAN Kam-lam moved the following amendment: (Translation)

"To add "enhance Hong Kong's ability in autonomous innovation and draw up new industrial policies to guide and promote the development of new industries with good potentials, so as to cultivate new areas of growth for Hong Kong's economy; (b)" after "(a)"; to delete "enact" after "expeditiously" and substitute with "study the feasibility of enacting"; to delete "set" after "a cross-sector fair competition law and" and substitute with "setting"; to delete "to enforce the law" after "with real powers" and substitute with "based on extensive consultation with various sectors of the community"; to delete the original "(b)" and substitute with "(c)"; to delete the original "(c)" and substitute with "(d)"; to add "and green conservation" after "perfect the policy on pollution management"; to delete the original "(d)" and substitute with "(e)"; to add "with a view to improving the business environment in the territory" after "Hong Kong's taxation policy"; and to delete the original "(e)" and substitute with "(f)". "

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr CHAN Kam-lam's amendment to Miss TAM Heung-man's motion be passed.

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.

(Members raised their hands)

PRESIDENT (in Cantonese): I think the question is not 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, who are present. I declare the amendment negatived.

PRESIDENT (in Cantonese): Miss TAM Heung-man, you may now reply. You have up to three minutes 23 seconds.

MISS TAM HEUNG-MAN (in Cantonese): Madam President, first of all, I must thank the five Members for their amendments to the motion and other Members for their remarks on the question. This enthusiastic debate is testimony to Members' great concern about the competitive edge of Hong Kong. The debate today has filled me with confidence in the future of Hong Kong, because all Members, regardless of their party affiliations, have expressed support for the broad principle that Hong Kong must further upgrade its competitiveness and maintain its competitive edge.

In this motion debate, Members from different sectors and social strata have put forward many specific policy proposals. I understand that Secretary Frederick MA may be unable to respond to these proposals one by one. But I believe that not only Secretary Frederick MA but also other government officials present now or even those who are not here should all have heard the aspirations of Members. I do not know how the motion may look like after passage. I do not know what will happen to its wording, or we may even end up in a "four no's" situation. But I still hope that the authorities can carefully consider each proposal. This is the only way in which the competitive edge of Hong Kong can scale new heights.

Regarding Secretary Frederick MA's reply to my request for speeding up the review of our taxation legislation, I must repeat that the Government does not quite realize that Hong Kong's competitive edge in relation to taxation has already declined. Singapore is an example. After introducing various tax concessions, its tax regime has gradually caught up with that of Hong Kong in terms of attraction.

Mr CHAN Kam-lam offered lots of valuable and professional advice on the various taxation proposals. The authorities should study his advice carefully. Mr CHAN aside, many other Members also put forward many

taxation proposals. Secretary Frederick MA must not be so "slack" again. He must act quickly and follow up all these proposals. But I will definitely continue to work closely with Secretary Frederick MA on topics related to the tax regime and other financial matters, so as to do something for the maintenance of Hong Kong's competitive edge.

Lastly, I wish to add that the task of maintaining Hong Kong's competitive edge will be a long and formidable one. All social sectors must work with one heart before we can withstand the impacts produced by the competition from other economies.

I so submit. Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Miss TAM Heung-man be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr CHAN Kam-lam rose to claim a division.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam has claimed a division. The division bell will ring for one minute, after which the division will begin.

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:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, , Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the motion.

Dr Raymond HO, Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr Patrick LAU voted against the motion.

Mr WONG Ting-kwong abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr LEUNG Kwok-hung and Mr Ronny TONG voted for the motion.

Mr James TIEN and Mrs Selina CHOW voted against the motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung and Mr LI Kwok-ying abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, 10 were in favour of the motion, 13 against it

and one abstained; while among the Members returned by geographical constituencies through direct elections, 23 were present, 15 were in favour of the motion, two against it and five abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 11.00 am on Wednesday, 10 May 2006.

Adjourned accordingly at one minute past Eleven o'clock.

Annex I

ST. STEPHEN'S COLLEGE INCORPORATION (CHANGE OF NAME OF
THE COUNCIL OF ST. STEPHEN'S COLLEGE AND
GENERAL AMENDMENTS) BILL 2005

COMMITTEE STAGE

Amendments to be moved by the Secretary for
Education and Manpower

<u>Clause</u>	<u>Amendment Proposed</u>
New	By adding immediately after clause 1 – “1A. Commencement This Ordinance shall come into operation on a day to be appointed by the Secretary for Education and Manpower by notice published in the Gazette.”.
6	(a) In the proposed section 3(a), by deleting “, namely, of” and substituting “by”. (b) In the proposed section 3(c), by adding “or the incorporated management committee” after “committee”.
10	(a) In the proposed section 6B(1)(c), by deleting “and addresses” where it twice appears. (b) By deleting the proposed section 6D and substituting – “6D. Change of name does not affect identity

For the avoidance of doubt, the identity of the body corporate incorporated under section 2 shall not be affected by the commencement of the St. Stephen's College Incorporation (Change of Name of the Council of St. Stephen's College and General Amendments) Ordinance 2006 (of 2006).”.

11 By deleting the clause.

Annex II

BIRTHS, DEATHS AND MARRIAGES (DIGITAL IMAGE) BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for SecurityClauseAmendment Proposed

5

- (a) In the proposed section 3 –
- (i) in subsection (4)(a), in the Chinese text, by deleting “已載入航空生死登記冊” and substituting “備存於航空生死登記冊內”;
- (ii) in subsection (6), in the Chinese text, by deleting “已載入航空生死登記簿” and substituting “存檔於航空生死登記簿內”.
- (b) In the proposed section 4 –
- (i) in the heading, in the Chinese text, by deleting “已載入航空生死登記簿” and substituting “存檔於航空生死登記簿內”;
- (ii) in paragraph (a), in the Chinese text, by deleting “已載入航空生死登記簿” and substituting “存檔於航空生死登記簿內”.

New

By adding –

“13A. Official seal

Section 24 is amended by adding –

- “(3) In this section, a reference to a certified copy of any entry in a register includes a reference to such a

certified copy that is produced by using the information recorded in the computer record.”.”.

48

- (a) In the proposed section 121A –
 - (i) in subsection (4)(a), in the Chinese text, by deleting “已載入海上生死登記冊” and substituting “備存於海上生死登記冊內”;
 - (ii) in subsection (6), in the Chinese text, by deleting “已載入海上生死登記簿” and substituting “存檔於海上生死登記簿內”.
- (b) In the proposed section 121B –
 - (i) in the heading, in the Chinese text, by deleting “已載入海上生死登記簿” and substituting “存檔於海上生死登記簿內”;
 - (ii) in paragraph (a), in the Chinese text, by deleting “已載入海上生死登記簿” and substituting “存檔於海上生死登記簿內”.

Annex III

PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) BILL 2005

COMMITTEE STAGEAmendments to be moved by the Secretary for
Health, Welfare and Food

<u>Clause</u>	<u>Amendment Proposed</u>
2(a)	In the Chinese text, in the definition of “有關處所的負責人”, by deleting “包括任何建築地盤” and substituting “由任何建築地盤組成”.
2(d)	<p>In the proposed subsection (2B) (a) –</p> <p>(a) in subparagraph (ii), by deleting “and”;</p> <p>(b) by adding –</p> <p>“(iia) take such other action as he considers necessary to prevent the existence of larvae or pupae of mosquitoes on the premises; and”;</p> <p>(c) in subparagraph (iii), by deleting “or (ii)” and substituting “, (ii) or (iia)”.</p>

2(e)

- (a) By renumbering the proposed subsections (3) and (3A) as proposed subsections (3A) and (3) respectively.
- (b) In the proposed subsection (3), by deleting everything before “, the appointed contractor” and substituting –

“(3) If any larvae or pupae of mosquitoes are found on any premises consisting of a building site of which there is the appointed contractor”.
- (c) In the proposed subsection (3A)(a), by adding “other than those mentioned in subsection (3)” after “premises”.

Appendix 1

AMENDMENT TO VOTING RESULT

The voting result on Mr SIN Chung-kai's amendment to Mr Andrew LEUNG 's amendment was amended as follows:

Functional Constituencies:

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr Patrick LAU voted against the amendment.

Mr WONG Ting-kwong abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Ronny TONG and Mr Albert CHENG voted for the amendment.

Mr James TIEN and Mrs Selina CHOW voted against the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung and Mr LI Kwok-ying abstained.

AMENDMENT TO VOTING RESULT — *Continued*

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, 10 were in favour of the amendment, 13 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 24 were present, 16 were in favour of the amendment, two against it and five abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

Appendix 2

AMENDMENT TO VOTING RESULT

The voting result on Mr Andrew LEUNG's amendment to Miss TAM Heung-man's motion was amended as follows:

Functional Constituencies:

Dr Raymond HO, Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Mr Howard YOUNG, Ms Miriam LAU, Mr Timothy FOK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr Patrick LAU voted for the amendment.

Ms Margaret NG, Mr CHEUNG Man-kwong, MR SIN Chung-kai, Mr WONG Kwok-hing, Dr Joseph LEE, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr KWONG Chi-kin and Miss TAM Heung-man voted against the amendment.

Ms LI Fung-ying and Mr WONG Ting-kwong abstained.

Geographical Constituencies:

Mr James TIEN and Mrs Selina CHOW voted for the amendment.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Ronny TONG and Mr Albert CHENG voted against the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung and Mr LI Kwok-ying abstained.

AMENDMENT TO VOTING RESULT — *Continued*

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, 13 were in favour of the amendment, nine against it and two abstained; while among the Members returned by geographical constituencies through direct elections, 24 were present, two were in favour of the amendment, 16 against it and five abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

Appendix I

WRITTEN ANSWER

Written answer by the Secretary for Housing, Planning and Lands to Ms Audrey EU's supplementary question to Question 5

From 2003 to April 2006, the Lands Department issued summons in respect of four cases for unauthorized occupation of government land by skips. As all four cases were successfully convicted, there were no unsuccessful cases. Because of the difficulties in identifying the parties who are responsible for the unauthorized placing of skips and their failure to turn up to remove the skips upon expiry of the notices posted in accordance with the requirements under the Land (Miscellaneous Provisions) Ordinance, only a few cases could be prosecuted.

The number of cases where notices were posted and the skips remained after expiry of such notices since 2003 is as follows:

<i>Year</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006 (January to April)</i>
No. of cases	1	7	8	2

These skips were subsequently removed by the Government. The reason for no prosecution is explained above.