

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 24 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

THE HONOURABLE LEE CHEUK-YAN

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

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

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

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

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:

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

THE HONOURABLE CHAN YUEN-HAN, J.P.

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

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

PUBLIC OFFICERS ATTENDING:

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

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

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

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

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

THE HONOURABLE DENISE YUE CHUNG-YEE, G.B.S., J.P.
SECRETARY FOR THE CIVIL SERVICE

CLERKS IN ATTENDANCE:

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

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Security and Guarding Services (Fees) (Amendment) Regulation 2006.....	104/2006
Protection of Endangered Species of Animals and Plants (Exemption for Appendix I Species) Order	105/2006
Protection of Endangered Species of Animals and Plants (Exemption for Appendices II and III Species) Order	106/2006
Deposit Protection Scheme Ordinance (Amendment of Schedules 1 and 4) Notice 2006.....	107/2006
Deposit Protection Scheme (Representation on Scheme Membership and Protection of Financial Products under Scheme) Rules	108/2006
Deposit Protection Scheme (Payment of Contributions, Late Payment Fees and Rebates) Rules	109/2006
Deposit Protection Scheme Ordinance (Commencement) Notice 2006.....	110/2006
Air Pollution Control (Vehicle Design Standards) (Emission) (Amendment) Regulation 2006.....	111/2006
Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) (Amendment) Regulation 2006.....	112/2006

Electoral Affairs Commission (Nominations Advisory Committees (Election Committee)) (Amendment) Regulation 2006	113/2006
Electoral Affairs Commission (Electoral Procedure) (Election Committee) (Amendment) Regulation 2006	114/2006
Airport Authority Ordinance (Map of Restricted Area) Order	115/2006
Registration of Persons (Invalidation of Identity Cards) Order 2006	116/2006
Securities and Futures (Financial Resources) (Amendment) Rules 2006	117/2006
Securities and Futures (Client Securities) (Amendment) Rules 2006.....	118/2006
Securities and Futures (Contract Notes, Statements of Account and Receipts) (Amendment) Rules 2006	119/2006
Factories and Industrial Undertakings (Loadshifting Machinery) Regulation (Commencement) Notice 2006	120/2006

Other Paper

Report of the Bills Committee on Construction Industry Council (No. 2)
Bill

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Preventing Conflict of Interests of Hong Kong Exchange and Clearing Limited Board Members

1. **MR SIN CHUNG-KAI** (in Cantonese): *Madam President, at the end of last month, the Financial Secretary appointed three persons to the Board of Directors of the Hong Kong Exchanges and Clearing Limited (HKEx). One of them, who was also a non-executive director (NED) of eight listed companies, was subsequently appointed Chairman by the Board, and the appointment has been approved by the Chief Executive. About the prevention of conflict of interest of HKEx Board members, will the Government inform this Council:*

- (a) *whether it will ask the proposed candidates about their offices in other listed companies and the relevant details before appointing them to the Board of HKEx; and whether it has ever asked such candidates to resign from their offices in the listed companies concerned first in order to avoid conflict of interest;*
- (b) *whether the Chief Executive had, before approving the appointment of the incumbent Chairman of HKEx, considered the fact that he was a NED of eight listed companies; if this fact had been considered, why he still approved the appointment; if not, of the reasons; and*
- (c) *whether it has assessed if there is any conflict of identity or interest in the situation that a person is concurrently a member of the Board of HKEx, which has the functions to regulate listed companies, and a NED of listed companies; and of the provisions under the existing legislation, Listing Rules and HKEx's Memorandum and Articles of Association which ensure that members of the Board of HKEx shall avoid conflict of interest and exercise due impartiality when dealing with matters involving the listed companies of which they are NEDs?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President,

- (a) The Board of Directors of HKEx comprises 13 members. These include six directors elected by the HKEx's shareholders, six directors appointed by the Financial Secretary, and the Chief Executive of the HKEx.

Section 77 of the Securities and Futures Ordinance (SFO), together with the HKEx's Articles of Association, empowers the Financial Secretary to appoint not more than six persons to be members of the Board of Directors of HKEx where the Financial Secretary is satisfied that it is appropriate to do so in the interest of the investing public or in the public interest.

Our policy is to appoint the best available persons to serve on the Board of HKEx. Each appointment is made on the basis of the merit of the individual concerned, taking into account the candidate's expertise and experience in the financial market, and his or her integrity and commitment to serve the public. All the HKEx directors, including those appointed by the Financial Secretary and those elected by the HKEx's shareholders, are not statute-barred from being NEDs of other companies. There are well established checks and balances adopted by the HKEx Board to deal with any conflict of interests. In general, appointment as NEDs of other companies is not a major factor for consideration in identifying suitable candidates for serving as the directors of the HKEx.

- (b) The power to appoint the chairman rests with the HKEx Board. Under section 69(1) of the SFO, the Government may approve the appointment made by the HKEx Board.

As stated in our reply to (a) above, all the HKEx directors including the Chairman, be they appointed by the Financial Secretary or elected, are not statute-barred from being the NEDs of other companies. In view of the comprehensive checks and balances on the HKEx Board and the members of the HKEx to address any real or perceived conflict of interests, there is no cogent reason for any party to require the chairman or any director of the HKEx to resign from the posts as NEDs of other listed companies.

- (c) There are comprehensive checks and balances on members of the HKEx Board to address any real or perceived conflict of interests. At the board level, such checks and balances include:

- Statutory provision: Section 63 of the SFO provides for the statutory obligations of the HKEx directors to act in the

interest of the public having regard to the interest of the investing public, and to ensure that the interest of the public prevails where it conflicts with the interests of the HKEx. The directors of HKEx also owe fiduciary duties to the company. The fiduciary duties are: to act *bona fide* for the benefit of the company; to exercise their powers for their proper purpose; and not to allow any conflict between their duties as directors and their personal interests.

- The HKEx's Listing Rules: The HKEx has arranged for all of its powers and functions in respect of all listing matters including listing disciplinary matters to be discharged by the Listing Committee. The Listing Committee which is responsible for approving listing applications and disciplinary matters is independent from the HKEx Board. The Board is responsible for matters that have commercial and operational implications on the HKEx and is not involved in decisions relating to listing and disciplinary matters.
- Regulation by the Securities and Futures Commission (SFC): The HKEx is subject to the SFC's regulatory oversight.

As for individual HKEx directors, they are subject to the checks and balances set out in the HKEx's Director's Handbook. The Handbook sets out, among others, the guidelines to deal with potential conflict of interests on the part of the HKEx directors, including the Chairman. The guidelines include, among other things, the declaration of conflict of interests of the HKEx Chairman to the HKEx Board. If necessary, the Board may require the individual to withdraw from the Board meeting. The Chairman who fails to make the declaration of conflict of interests to the Board shall be liable to account to the HKEx for any profit made or benefit received from the failure. The HKEx's 2005 Annual Report provides detailed information on its practices for managing conflict of interests of directors.

The HKEx directors, including the Chairman, are defined as "public servants" for the purpose of section 4 of the Prevention of the Bribery Ordinance which deals with solicitation or acceptance of

advantage, and are hence subject to the relevant statutory provisions.

As demonstrated by the above, a number of checks and balances have been built into the system to ensure that the HKEx directors act in accordance with the interest of the public, including those of the investing public. Appointment to the Board, whether by government appointment or shareholders' election, is a heavy commitment. All directors of the HKEx Board are required to execute and deliver to the SFC a Declaration and Undertaking With Regard to Directors that they will, among others, comply to the best of their ability with the SFO.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, I would like to follow up part (a) of the question concerning the Government's appointment of the HKEx directors. I wish to quote Standard and Poor's criticism about the structure of the HKEx Board in connection with its reference to the 2004 report published by the HKEx: Of the four items being rated, the structure and efficiency of the HKEx Board got the lowest score of only 7+. It was even mentioned, and I quote: "Notwithstanding the company's attempt to have the government's identity, more expressive nomination criteria for the government appointed directors, there remains a clear lack of transparency about this process." How would the Secretary respond to Standard and Poor's criticism that the Government's appointment of HKEx directors is lack of transparency? The reference in the document coincides with the question raised in part (a) of the main question with respect to appointments to the HKEx.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, if my memory is correct, Standard and Poor's overall appraisal of the HKEx, as cited by Mr SIN earlier, was extremely high. Concerning the appointment procedures, as pointed out by me in the main reply, each appointed director must have a good knowledge, or participated in the regulation, of the financial market. In this respect, each appointment is made on the basis of the merits of the individual concerned. Starting from the year before last, the Government has reduced the number of appointees to six, which is comparable to the number of candidates elected by the HKEx. In our opinion,

the entire process is highly transparent. Moreover, it is evident to the public that the appointees are fit and proper.

MR JAMES TO (in Cantonese): *President, does the Government agree that the HKEx plays a major regulatory role? There will indeed be conflicts if its Chairman is also the director of a company regulated by the HKEx as an important regulator. Why did I make such a comment? Will the Government not agree that every director, even as a NED, has to act in his company's best interest? As a director, he will have to act in the best interest of his listed company. At the same time, however, he has to act in the best interest of the HKEx as a regulator. In the Government's detailed study, will conflicts arise between the two so that these factors have to be considered in making appointments? Even if the Government maintains that these are not the main factors for consideration, are they still among the factors for consideration? What other factors are considered?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Actually, I have no idea what Mr TO was referring to because he had not presented the specific details. First of all, as mentioned by me in the main reply, a sound mechanism has been built into the system for exercising checks and balances on conflict of interests. HKEx directors must take into account public interest without involving their personal interest. One of the most important checks and balances is the Listing Committee, which is responsible for examining listing or disciplinary matters. It is an excellent checking mechanism, as it comprises no members of the HKEx Board. Furthermore, as I mentioned in the main reply, all personnel of the HKEx, including members of the HKEx Board, are subject to the Prevention of the Bribery Ordinance. Under these circumstances, we truly consider the checks and balances on conflict of interests adequate.

MR JAMES TO (in Cantonese): *The Secretary has not answered my supplementary question. My supplementary question concerns the last statement in part (a) of the main reply in which it is pointed out that "In general, appointment as NEDs of other companies is not a major factor for consideration in identifying suitable candidates for serving as the directors of the Exchange."*

My question is: Even though this factor is not major, it is nevertheless one of these for consideration, so what actually will be considered?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, the factors for consideration are, precisely as I mentioned in the main reply, the candidates must be knowledgeable in finance, corporate governance and regulation. If Members look at the directors appointed by us, they will realize that all the directors meet these requirements. The several directors who have joined the HKEx Board are either knowledgeable in finance or have once participated in the work of the HKEx. They are certainly no laymen. Our prime factor for consideration is, therefore, the merits of the individual concerned. Besides their knowledge of the financial market, their integrity, and so on, will be considered as well.

MR JAMES TO (in Cantonese): *He has mistaken my point. I was not talking about other factors. I was referring to the last statement in part (a) of the main reply concerning whether a candidate is a NED of other companies is a factor for consideration too. If yes, what consideration will be made?*

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

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I wish to say that our most important considerations are the ones mentioned by me just now. All the HKEx directors, including its Chairman, are not statute-barred from being NEDs, or even executive directors, of other companies. Therefore, this is not our major consideration.

MR ALBERT HO (in Cantonese): *Hong Kong has always put great emphasis on the rule of law and expected good governance from companies, including regulators. Therefore, we must adopt stringent standards and ensure transparency in applying our principles to avoid conflict of interests by all means. My question is: Is Mr Ronald ARCULLI, albeit undoubtedly a talent, the only person who is fully capable of taking up the post? Has the Government not*

considered other competent candidates who can avoid possible conflicts of interests as well? Or it is because the Government, purely based on its policy of maintaining affinity differentiation, has to employ only people to its liking, whereas Mr ARCULLI is the only trustworthy candidate?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, "affinity differentiation" seems to have become a very popular slogan recently. However, as I pointed out earlier, the appointment of directors to the HKEx is made purely on the basis of the merits of the individual concerned, not employing only people to the Government's liking. It all depends on the candidate's capability, his ability to contribute to Hong Kong, his knowledge of the financial market, and so on. It has nothing to do with Mr HO's earlier argument of "affinity differentiation". Frankly speaking, I note from numerous reports that the appraisal of several HKEx Board members appointed by the Government has been positive. Therefore, politics is definitely not involved.

MR ALBERT HO (in Cantonese): *I also asked whether the Government had considered other competent candidates who can avoid possible conflicts of interests as well.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I have in the main reply actually answered Mr HO's supplementary question. The HKEx Chairman, Mr Ronald ARCULLI, was not appointed by the Government, but by the HKEx Board. The Chief Executive was responsible for giving approval only. In other words, even if the HKEx Board selects another person to be its Chairman, the Government will still be responsible for giving approval only, but not for the appointment.

PRESIDENT (in Cantonese): We have spent more than 17 minutes on this question. Last supplementary question.

MR CHAN KAM-LAM (in Cantonese): *President, I would like to ask the Secretary a question. As Members are aware, this question has merely*

mentioned the post of Chairman, but not specifically referred to Mr Ronald ARCULLI. However, the Secretary mentioned earlier that Mr ARCULLI was appointed by the HKEx Board, not appointed or recommended by the Government. In this connection, I would like to enquire about similar circumstances. Are there any Board members (not only the Chairman) who are also directors of other listed companies? Or, were there any previous Chairmen, including the former Chairman, who were also NEDs of other companies?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I had been director of the HKEx for a while. As far as I can remember, before the listing of the HKEx, its Chairmen also took up the posts as executive or non-executive directors of other listed companies. This was what happened before the HKEx became a listed company. The resignation of its former Chairman from all his offices was purely his personal decision. Nevertheless, such precedents could be found before the listing of the HKEx.

PRESIDENT (in Cantonese): Second question.

Monitoring Sale of Cough Medicine Containing Codeine

2. **DR KWOK KA-KI** (in Cantonese): *Madam President, some medical practitioners have reflected to me that local drug importers or wholesalers can reap more profits by selling cough medicine containing Codeine to pharmacies than selling it to doctors. These importers or wholesalers often propose unreasonable conditions and high prices on this ground when negotiating on the sale of the drugs concerned with family doctors. Besides, the number of reported abusers of cough medicine containing Codeine was on the rise in the past five years. In this connection, will the Government inform this Council:*

- (a) *whether the authorities have investigated if such practice of drug importers or manufacturers has caused the continuous rise in the number of abusers of cough medicine containing Codeine; if they have, of the investigation results and the follow-up actions taken by the authorities; and whether they will consider amending the law to require importers or manufacturers to report to the Department of*

Health (DH) information on the business units or institutions to which the relevant drugs are sold, and to empower the DH to step up the monitoring of and follow-up to the sale of drugs in Hong Kong;

- (b) of the numbers of test-purchases conducted and prosecutions instituted against the sale of cough medicine containing Codeine in each of the past five years; and whether it has assessed if test-purchases and prosecutions can effectively prevent cough medicine abuse; if it has, of the assessment results, and whether more measures will be adopted to prevent such abuse; and*
- (c) of the measures to ensure that family doctors can obtain adequate cough medicine for prescription to patients in need of it?*

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

Madam President, at present, the vast majority of cough medicines containing Codeine available in the market are produced by local manufacturers with imported Codeine materials. Codeine is a narcotic drug. Its import ceiling is strictly controlled by the United Nation's Single Convention on Narcotic Drugs. The primary aim of the Convention is to strike a proper balance between the global supply of narcotic drugs and their medical and scientific uses. In the past few years, Hong Kong imported about 1 600 kg of Codeine materials annually. We have not received any report that the supply of cough medicines containing Codeine in the local market is inadequate to meet the medical needs of patients.

In Hong Kong, pharmacies usually purchase medicines from drug manufacturers in small package (retail package) whereas medical practitioners and hospitals usually buy in bulk (wholesale package). This is also the case in respect of cough preparations containing Codeine: those ordered by pharmacies are generally packaged in 120mL bottles while those ordered by medical practitioners and hospitals are usually packaged in 3.6 litres bottles. In a free market, the price of a medicine, like many other consumer products, is usually lower in wholesale package than in retail package for the same volume. It is a business decision for medical practitioners or pharmacies to decide the type of package, price and sales targets of the medicine to be purchased. As health authorities, our duty is to ensure an adequate supply of effective medicines for public use. We do not intend to interfere with any business decisions.

My reply to the Dr KWOK Ka-ki's question is as follows:

- (a) Suppliers of medicines containing Codeine are required to hold a Wholesale Poisons Licence in accordance with the Pharmacy and Poisons Ordinance. Under the licensing requirements, the licensing authority (that is, the relevant licensing committee under the Pharmacy and Poisons Board) may, when the need arises, require a licensee to provide information on the sale of certain medicines locally for monitoring purpose. While the licensing committee does not seek such information on a regular basis, it obtained from the manufacturers in 2005 the following statistics on the distribution of medicines containing Codeine for 2002, 2003 and 2004:

<i>Year</i>	<i>2002</i>	<i>2003</i>	<i>2004</i>
Sale to pharmacies	51 %	56 %	53 %
Sale to medical practitioners/clinics	47 %	43 %	44 %
Sale to hospitals	2 %	1 %	3 %

At present, regulatory regimes are in place to regulate the import, manufacture and wholesale of medicines (including cough medicines containing Codeine) to pharmacies, clinics or hospitals respectively. These regulatory regimes are considered effective. According to experience, law enforcement and public education are effective measures to control drug abuse. We will monitor the situation and study actively how to further curb drug abuse through regulatory and other measures.

- (b) The numbers of test-purchases of cough preparations (targeting at cough preparations containing Codeine) conducted by the DH and prosecutions instituted between 2001 and March 2006 are set out as follows:

<i>Year</i>	<i>2001</i>	<i>2002</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i> <i>(January to March)</i>
Test-purchase	1 638	1 173	433	679	867	610
Prosecution	7	2	5	11	16	0

Test-purchases impose a certain degree of deterrence. A pharmacy in breach of the law will be prosecuted. Upon conviction, the pharmacy and the registered pharmacist involved in the case will be subject to disciplinary inquiry by the Pharmacy and Poisons Board. This may result in a warning to the pharmacy or even cancellation of its licence, while the pharmacist involved may be censured or suspended from practice.

We amended the Pharmacy and Poisons Regulations in November last year to reclassify substances containing not less than 0.2% of Codeine as prescription drugs and to provide that their sale must be with the support of prescription of a medical practitioner under the supervision of a registered pharmacist. The DH also stepped up the frequency of test-purchases during the time but no pharmacies were found to be in breach of the law in the 610 test-purchases carried out in the first quarter of this year. The Administration and the Pharmacy and Poisons Board will continue to monitor the situation of drug abuse and will review the existing measures where necessary.

In addition to enforcement actions, the Administration will continue to adopt a multi-modality approach in combating drug abuse (including abuse of cough syrups).

As regards general preventive education, the Administration will continue to work closely with the Action Committee Against Narcotics and other non-governmental organizations to promote a positive attitude towards life among members of the public and enhance their awareness of the harmful effects of drug abuse through various channels such as school courses and publicity programmes like anti-drug talks, promotional pamphlets and announcements of public interest. To further promote a correct understanding and appropriate attitude towards drugs among youngsters, the Administration has stepped up its anti-drug education for parents and teachers. Through enhancing their understanding of the problems related to drug abuse, we hope to empower them to disseminate anti-drugs messages to our younger generation.

We also draw reference from the research findings of academia and other institutions on cough syrup abuse, and incorporate the relevant information into our publicity and education materials. Such information has been shared with front-line anti-drug workers, social workers and health care personnel so as to enrich their understanding of cough syrup abuse and equip them to handle cases of cough syrup abuse.

- (c) Regarding the supply of cough medicines, we consider it of the utmost importance to ensure that there is generally an adequate supply of medicines in the market for patients' use. As mentioned above, we have not received any report that the supply of cough medicines containing Codeine in the local market is inadequate to meet the medical needs of patients. At present, apart from clinics, patients can also buy medicines in their community with the support of prescriptions. If they deem it necessary, family doctors may prescribe medicines for their patients who could in turn purchase them from community pharmacies.

DR KWOK KA-KI (in Cantonese): *Madam President, I am a bit disappointed with the main reply given by the Secretary. He said that he had not received any report that the supply of cough medicines containing Codeine in the local market was inadequate. This remark is made despite the repeated efforts made by the medical profession and I myself to the Director of Health to point out the problem and it was surprising to hear that he said that no such report had been received. I think the Secretary need to talk with the Director about this. Anyone who talks to any front-line social worker will find out that an overwhelming majority of young people can purchase medicines containing Codeine in many pharmacies with no difficulty at all.*

I would like to ask the Secretary a question about the statistics on the distribution of medicines containing Codeine. It can be seen from the figures that sale of such medicines to pharmacies accounts for 53% of the total. In other words, more than 800 kg of Codeine materials are sold to pharmacies each year. This means that tens of thousand litres of medicines containing Codeine liable to abuse can be purchased at the community pharmacies. Does the Secretary think that given this situation, the problem or the figures are all right and should not be regarded as a cause of concern?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, if we just look at the situation over the past three years, that is, in 2002, 2003 and 2004 of the sale of medicines containing Codeine by distributors to the pharmacies, the figures are 51%, 56% and then it goes down to 53% again. And during these three years, Hong Kong imported about 1 600 kg of Codeine materials annually. From this it can be seen that the increase is not a continuous trend. In November 2005, we reclassified substances containing not less than 0.2% of Codeine as prescription drugs and required that their sale must be under the supervision of a pharmacist.

In addition, we have stepped up the frequency of inspections this year but for the time being, no pharmacies were found to have breached the law. We hope that this situation can be maintained and that there would not be an excessive sale of this kind of medicines in the market. Of course, we will continue to keep a close watch on the overall situation. On the other hand, we will step up our monitoring of the sale of this kind of medicines in the pharmacies to see which pharmacies or places people like to go to purchase such medicines or with the greatest number of such customers. We will follow up these pharmacies with a view to knowing more about their customer profile.

MR LI KWOK-YING (in Cantonese): *President, the Secretary in part (a) of the main reply states that there are regulatory regimes in place to regulate the wholesale of medicines to pharmacies and these regulatory regimes are considered effective. But in part (b) of the main reply, it can be seen that the number of prosecutions instituted between 2002 and 2005 has risen. May I ask the Secretary, about the so-called effective regulatory regimes mentioned by him, apart from prosecutions and test-purchases, if there would be any need for a review?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): The kind of regulation we carry out at present is on the one hand dependent on the integrity of pharmacies or the manufacturers of medicines, as well as on whether there is any problem in their products. We have a set of specific procedures to assess these pharmacies and manufacturers.

For pharmacies, any excessive sale of such medicines can be detected in our test-purchases. Of course, such actions may not be 100% successful. But

if we do not take any action, there would be no way for us to know. That is why we have stepped up the frequency of our test-purchases after stricter control was imposed on such medicines last November. Now with respect to these two aspects, that is, monitoring the drug manufacturers and pharmacies, more actions have been taken. So in my opinion, the problem can be dealt with by our present efforts. However, I wish to remind Members that drug abuse is not merely a problem of supply, it would also involve many aspects in our society, especially the education of young people. There should also be matching measures in other areas.

We therefore think that the key lies in the source. In other words, apart from controlling the drugs at source, work should also be done in education and professional monitoring.

DR YEUNG SUM (in Cantonese): *The Secretary is very much concerned about cough syrup abuse among the young people and members of the public. In part (b) of the main reply, the Secretary states that reference would be drawn from the research findings of academia. I would like to ask the Secretary: Is there some sort of relationship between the increase in the number of cough syrup abusers and the fact that cough syrups are readily accessible?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, as far as I know, we have always been concerned about drug abuse in Hong Kong. All sorts of relevant information are stored in the Central Registry of Drug Abuse.

We can see that, insofar as the overall drug abuse figures are concerned, there has been a slight decrease during the past 10 years. In 1996, the number of drug abusers was 18 628 and in 2005, it was 13 892. However, we can also see that the decrease came mainly from those who abuse heroin. As for other kinds of abuse, such as abuse of psychotropic drugs and even cough syrups which I have just referred to, as well as ketamine or "ice", there is a slight increase in the number of abusers. Moreover, some abusers do not take just one kind of drug, but a few kinds of drugs. We will keep a close watch on the problem and we will pay special attention to the situation among the young people. In my opinion, there is a slight increase in the number of young drug

abusers, especially in schools and certain venues which hold activities that young people take part. This should be a cause for concern.

DR YEUNG SUM (in Cantonese): *President, my supplementary question is: Is there any direct relationship between increasing prevalence of cough syrup abuse among the young people and the fact that cough syrups are readily accessible?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I think one of the factors is ready access. Of course, we should also compare how easily accessible are cough syrups as opposed to other kinds of medicine. Besides, we can also see that at present, especially after more stringent control has been imposed on the purchase of such medicines in the pharmacies, more time, say one or two years, would be needed to observe the situation before we can get a clear picture of the trend.

PRESIDENT (in Cantonese): We have spent more than 15 minutes on this question. Last supplementary question.

MISS TAM HEUNG-MAN (in Cantonese): *Madam President, in the main reply given by the Secretary, I can see that the Government has done a lot of work, like the measures taken on pharmacies in breach of the law as mentioned in the middle of part (b) of the main reply, and prosecution may be instituted against these pharmacies. In addition, the authorities amended the relevant legislation last November to provide that the sale of such medicines must be supported by prescription from a medical practitioner. May I ask the Secretary whether the Government will consider imposing stricter control through the relevant laws in order that the problem of abuse can be alleviated?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, first of all, I would like to make a clarification and that is, our amendments to the Ordinance are not limited to prescriptions by medical practitioners. With respect to pharmacies, this kind of medicine can be purchased under the supervision of a registered pharmacist. However, the

name of the purchaser and the reason for purchase must be recorded. In this way, we can know which pharmacies sell this kind of medicine in greater quantities and we can take action to follow up their customers. We will certainly keep a close watch on this.

As to whether or not there is any need to do more in other aspects or if this kind of medicine should only be sold with prescription from a medical practitioner or if other considerations should be made, we need to see how things are going for a couple of years or so after these regulations were amended last year, then we will make a decision on that.

PRESIDENT (in Cantonese): Third question.

Buildings Access Catering for People with Disabilities

3. **DR FERNANDO CHEUNG** (in Cantonese): *The "Design Manual: Barrier Free Access" (the Design Manual) promulgated by the Government in 1997 sets out the requirements for the design of access in buildings to cater for the needs of people with disabilities. The Design Manual is being revised by the Government now and will be finalized after public consultation. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of the buildings currently providing government and public services, and those of the Housing Society (HS) or the Housing Authority (HA), that fully meet the existing requirements and recommendations of the Design Manual, as well as the respective percentages of these two figures in the total number of buildings of their category;*
- (b) *as the Buildings Department (BD) has, after inspecting 66 large-scale shopping arcades or commercial buildings, found irregularities in some of the facilities designated for use by the disabled in these buildings, and issued 66 advisory letters over the past 10 years, of the estimated time required by the authorities to complete inspection of all shopping arcades or commercial buildings in Hong Kong to ascertain whether the access and facilities in those places are barrier-free, and the concrete plans to strengthen the*

monitoring and prosecution of shopping arcades and commercial buildings that fail to meet the requirements; and

- (c) *of the concrete plans and implementation timetable to reassess, on the basis of the requirements stipulated in the revised Design Manual, the buildings currently providing government and public services, as well as buildings, large-scale shopping arcades and commercial buildings of the HS or HA, to ensure that they meet the relevant requirements?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese):
Madam President, my reply to the triple-barrelled question is as follows:

- (a) All government buildings and buildings of the HS and HA constructed after 1997 fully meet the requirements stipulated in the Design Manual. Relevant figures are:
- (i) about 60 government buildings (for use or access by the general public);
 - (ii) 16 buildings under the HS; and
 - (iii) 314 buildings under the HA.

The government policy is to provide people with disabilities with barrier-free access and facilities, to enable their full integration into society. The Government has been committed to improving the accessibility of government buildings (for use and access by the general public) constructed before 1997. In fact, improvement works have been done in accordance with the Design Manual as far as possible to most of these buildings, where technically feasible. The Government will continue to upgrade the standard of accessibility of the remaining few.

- (b) The BD adopts a two-pronged approach to ensure that the facilities provided for people with disabilities in accordance with the requirements of the law will remain available after the completion of a private building. On the one hand, the BD will select target

shopping arcades and commercial buildings for focused inspections and follow-up actions. On the other hand, the BD will also actively follow up cases of irregularities reported in complaints from the public.

Since 1997, the BD has been taking the initiative to select a number of large-scale private shopping arcades and commercial buildings for focused inspection each year. The inspections aim to ascertain whether any of the access and facilities provided in accordance with the law designated for use by people with disabilities in the buildings inspected have been removed, or illegally altered, or obstructed by other additional works. In case of discovery of any irregularities, the BD will take enforcement actions under the Buildings Ordinance. Since 2004, the BD has increased the number of its target buildings for annual inspection from five to 15.

In selecting shopping arcades and commercial buildings for inspection, the BD will take into account the flow of visitors of the buildings and irregularities identified, having regard to the suggestions or investigation reports provided by various non-governmental organizations (including the Rehabilitation Alliance Hong Kong, the Joint Council for the Physically and Mentally Disabled, and so on). The organizations concerned will normally conduct investigations to ascertain the existence of irregularities in the shopping arcades or commercial buildings concerned before putting forward their suggestions to the BD. Through this arrangement, we select those shopping arcades and commercial buildings with more serious problems for follow-up actions.

Our past experience shows that focused inspection is an effective and efficient way to address the irregularities in question. Since not all large-scale private shopping arcades and commercial buildings have irregularities, we consider that inspection of all private shopping arcades and buildings throughout the territory is neither the most efficient nor the most cost-effective way. Therefore, the BD will continue its efforts in this area through focused inspections.

At the same time, the BD also conducts investigations in accordance with complaints. Since December 2005, the BD has accorded priority to unauthorized building works involving illegal removal of or alteration to access or facilities designated for use by people with disabilities. It has pledged to complete the investigation within 50 days from the receipt of a complaint from the public. Once a case of violation of the law is established, an order will be issued by the BD requiring the owner to carry out rectification works. The BD will take legal action, including prosecution, against owners concerned who fail to comply with the orders.

In addition, in order to step up efforts to combat non-compliance with removal orders issued by the BD in respect of unauthorized building works, the Buildings Ordinance was amended in 2004 to raise the penalty for such non-compliance. The relevant penalty has been increased from \$50,000 to \$200,000 and the fine for each day during which it is found that the offence has continued has been raised from \$5,000 to \$20,000. Offenders may also be liable to one year's imprisonment.

- (c) To make sustained improvement to the quality of life of people with disabilities, the Administration has conducted timely revision to the design requirements on access facilities of buildings in tandem with the continuous advancement in building technology. The last revision was completed in September 1997. We are now conducting a six-month public consultation on a new round of revision before starting the legislative process. Upon the enactment of the legislation, all newly constructed buildings will be required to comply with the new design requirements, and all buildings should comply with the new design requirements by providing access and facilities when undergoing substantial alteration or renovation.

All government buildings constructed, altered or renovated after 1997 have complied with the requirements stipulated in the Design Manual. In addition, the Administration has been taking continuous measures to improve access to and facilities of government buildings and public housing constructed before 1997 in accordance with the Design Manual. These measures include:

- (i) allocating funds to individual government departments for carrying out modification works in their buildings;
- (ii) running a modification project in collaboration with the Sub-committee on Access of the Rehabilitation Advisory Committee to make improvements to government buildings that are frequently visited by people with disabilities as a matter of priority; and
- (iii) carrying out a wide range of modification works for public housing by the HA.

All these are ongoing measures. The HS will also continue to improve access and facilities of its buildings in compliance with the requirements of the Design Manual as far as technically feasible.

Upon the completion of the legislative process for the new Design Manual, the Administration will explore the technical feasibility, identify the resources involved and set the order of priorities. Through the above measures, the Administration will continue to improve access and facilities of government buildings and public housing in accordance with the new design requirements.

DR FERNANDO CHEUNG (in Cantonese): *President, my main question is about the respective numbers of buildings currently providing government and public services, and those of the HS or the HA, that comply with the Design Manual promulgated in 1997. It is pointed out in the main reply that all the government buildings and buildings of the HS and the HA constructed after 1997 can fully meet the requirements stipulated in the Design Manual. It is indeed a "shrewd" answer because while my question is about all buildings, the Government talks about the buildings constructed after 1997 only. The number of government buildings (for use and access by the general public) and those providing public services should be far larger than 66, right?*

So much for that, President. Let me put this aside for the time being. Recently, the Wan Chai District Council and a number of organizations (such as the Hong Kong Federation of Handicapped Youth) conducted a "barrier-free" survey during which various buildings in Wan Chai such as the Immigration

Tower, the Wan Chai Post Office, the Hong Kong Central Library, hospitals and markets were inspected. It was found that the actual situation was vastly different from the description given in the main reply. According to the main reply, all buildings can meet the requirements stipulated in the Design Manual and there are no problems. But as indicated by the survey findings, hundreds of buildings do not meet the required standards. This survey was based on the Design Manual promulgated in 1997 and I cannot possibly quote all the findings here. President,

PRESIDENT (in Cantonese): Please state your supplementary question.

DR FERNANDO CHEUNG (in Cantonese): *There are serious violations of the required standards in all those buildings found to have problems. President, may I ask whether the Government would conduct similar "barrier-free" surveys in all districts? Surveys of this kind were once conducted in Central and hundreds of facilities were found to be substandard and in need of improvements, or even immediate improvements. Will the Government take any follow-up actions?*

PRESIDENT (in Cantonese): Which Secretary is going to reply? Secretary for Health, Welfare and Food.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, let me clarify one point first. As mentioned in my main reply, all buildings constructed after 1997 meet the requirements stipulated in the Design Manual. As for those constructed before 1997, we will make alterations step by step. In the case of some buildings, it may be possible to comply fully with the Design Manual promulgated in 1997. But in other cases, it may not be possible to meet all the requirements due to structural constraints or other physical factors. But as long as something can still be done, the Government will do its utmost. In this connection, we will certainly continue with our efforts, and most importantly, we will revise the Design Manual in 2006. Our aim is to improve the buildings constructed before 2006 step by step. In other words, the task before us is a continuous one. I hope Members can understand

that the task cannot possibly be completed in one go. It must be undertaken in separate stages according to priorities determined by actual needs.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Maybe, I should add a few words here.

In respect of public housing, as mentioned by Secretary Dr York CHOW just now, all the buildings constructed after 1997 certainly meet the requirements stipulated in the Design Manual. As for those constructed before 1997, we have also been carrying out an improvement project since 2001. We have identified 160 out of all these buildings as in need of improvement works. Currently, the first phase of the improvement project is already underway in 50 public housing estates and the works being undertaken include the provision of main staircases with suitable gradients and the installation of necessary railings and tactile notices. Other improvement works cover the provision of ramps, kerbs and tactile warnings at main junctions and the installation of passageways and direction boards for people with disabilities. We will surely install all these facilities wherever possible. However, in the case of some buildings, the installation of such facilities is not possible due to physical constraints. In such cases, we will still consider other alternatives to meet demands as much as possible. Anyway, we expect to see the completion of the first phase before next year. And, following this, we will launch the second phase as a continued programme.

DR FERNANDO CHEUNG (in Cantonese): *Secretary Dr York CHOW has not answered my supplementary question. My supplementary question is very clear: Will any actions be taken to follow up the findings of the survey concerned? And, will a similar survey be conducted in each district?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, the Sub-committee for Access under the Rehabilitation Advisory Committee will decide how to follow up the various issues on the basis of the information collected from different sides. As for whether a survey should be conducted in every district or whether any actions should be taken, it will be for the Sub-committee for Access to make its recommendations. We will take follow-up actions after it has done so.

MR JASPER TSANG (in Cantonese): *President, the buildings mentioned in the Secretary's main reply are those buildings providing government and public services constructed after 1997 with barrier-free access in strict accordance with the Design Manual and also those constructed before 1997 that have been fitted with such facilities after improvement. Are schools included in these buildings? What is the proportion of schools with barrier-free access for people with disabilities in the total number of schools in Hong Kong?*

PRESIDENT (in Cantonese): Which Secretary is going to reply? Secretary for Health, Welfare and Food.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I do not have the required information to hand. Perhaps, I shall give a written reply to this supplementary question later on. (Appendix I)

MR JASPER TSANG (in Cantonese): *Will the Secretary first tell us whether schools are included in the buildings he has been mentioned?*

PRESIDENT (in Cantonese): Secretary, can you clarify whether schools are included?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, schools are currently not included specifically in the said public facilities. I was once a member of the Sub-committee for Access in the 1980s, and as I already observed at that time, it may not necessarily be possible for many schools to provide such facilities overnight. When special needs arise, schools enrolling students with disabilities will provide specially designed facilities. But I do think that in the long run, schools should be barrier-free buildings.

MR JASPER TSANG (in Cantonese): *President, the relevant information will be provided later on, right?*

PRESIDENT (in Cantonese): Secretary Dr York CHOW, will you provide a written reply?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Yes. I have already said so.

MR PATRICK LAU (in Cantonese): *President, I have also taken part in drawing up the Design Manual. One of the greatest problems concerns shops at grade. Since heavy rain is not uncommon in Hong Kong, pavements are usually one step higher than carriageways. Access to such shops for people with disabilities therefore presents the greatest problem. May I ask the two Secretaries what the solutions are?*

PRESIDENT (in Cantonese): Which Secretary is going to reply?

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, as far as I know, we have been conducting exchanges on this problem with the management of many commercial buildings. In the case of old streets and buildings, the problem is indeed a very difficult one. But in the case of newly completed commercial buildings or those undergoing large-scale renovation, we will require them to construct ramps for wheelchair-bound people. Of course, if a tiny shop is to be fitted with a high ramp of very deep gradient, in which case the whole setting will become even more dangerous afterwards, we will certainly consider the construction of the ramp inappropriate. All in all, since the constraints imposed by relief are especially strong in Hong Kong and there is a marked abundance of steep roads and old narrow streets, it is very difficult to carry out such works. However, I believe that in the case of buildings and shopping arcades, the Government has already stepped up its efforts, requiring all new buildings and those undergoing large-scale renovation works to meet the standards.

MR FRED LI (in Cantonese): *President, I hope that Secretary Michael SUEN can answer my supplementary question. In the case of some public housing estates which I am familiar with, and which were constructed after 1997, the*

Housing Department (HD) still failed to design any access to shopping arcades for wheelchair-bound people when planning the construction of shopping centres and housing blocks. Wheelchair-bound people thus have to route via the steep roads outside. This is very dangerous. Has the HD ever conducted any review? The buildings I am talking about are those mentioned in the main reply, that is, they were all constructed after 1997. But there is still such a violation of the principle of barrier-free access.

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

Madam President, I think we must distinguish between what is attainable and what is not. I have already explained that in some cases, there are design problems and we are constrained by geographical factors. The Design Manual was promulgated in 1997. Buildings constructed after 1997 must therefore comply with it. But we must not forget the buildings designed around 1997. In the case of these buildings, there were no such requirements at the time of design, but subsequently, in the course of actual construction, these requirements were imposed. Therefore, these buildings are very much unlike the new buildings these days in terms of overall planning, because in the case of the latter, there is a fresh start for everything and it is thus easier to cater for the relevant needs, not to speak of the fact that in many cases, special attempts can also be made to suit the relief of the sites. In brief, we could only do as much as possible for those buildings designed during that period of time. As rightly pointed out by the Honourable Member, people may have to make a detour. But this does not mean that they cannot get to their destinations. Only that the routes are not direct. Since this factor was taken into account at a rather late stage of the planning process, all these problems have resulted.

PRESIDENT (in Cantonese): We have spent more than 18 minutes on this question. Last supplementary question.

MR LEUNG YIU-CHUNG (in Cantonese): *President, part of Dr Fernando CHEUNG's main question is about what the Government has said: "as the Buildings Department (BD) has, after inspecting 66 large-scale shopping arcades or commercial buildings, over the past 10 years,". And, part (b) of the Secretary's main reply says, "Since 2004, the BD has increased the*

number of its target buildings for annual inspection from five to 15." But despite the increase to 15, we are still very surprised. Why was the number so small? Only 66 commercial buildings and large-scale shopping arcades were inspected in the past 10 years. May I ask the Secretary why the number was so small? Was that because there were manpower problems or other difficulties, such that the Government could only inspect such a small number of commercial buildings and large-scale shopping arcades and could not increase the number of target buildings drastically? What difficulties did the Government encounter in trying to increase the number? Why was the number so small?

PRESIDENT (in Cantonese): Which Secretary is going to reply? Secretary for Housing, Planning and Lands.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): As I have mentioned in the main reply, the BD adopts a two-pronged approach. I have already explained that we rely mainly on the information gathered from complaints lodged with relevant organizations and the surveys conducted by them. In this way, with our limited manpower resources, we can carry out the task in a focused and effective manner. The present approach can enable us to deal with related problems in a focused manner, so we are able to do the job with relatively limited manpower resources. We do face manpower constraints and we cannot possibly deploy unlimited manpower for the task. The outdoor duties of the staff of the BD include inspection of illegal structures and many other tasks. One of them is related to the problem under discussion now. We hold that the approach mentioned by me, that is, the approach whereby focused actions are taken in response to complaints and investigation outcomes, is highly effective.

MR LEUNG YIU-CHUNG (in Cantonese): *President, my question to the Secretary was on the deployment of manpower and material resources. Can the Secretary tell us how much manpower, material resources and time are required for inspection of shopping arcades? Why have they set such a small number of target buildings? Why is it impossible to increase the number?*

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

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): President, I do not have the required information to hand. I shall check whether we have such information after this meeting. If yes, I shall submit a written reply. (Appendix II)

PRESIDENT (in Cantonese): Fourth question.

Disciplinary Proceedings for Civil Servants

4. **MS AUDREY EU** (in Cantonese): *President, the disciplinary proceedings surrounding the Harbour Fest case conducted by the Civil Service Bureau earlier on have been completed. The government officer concerned appealed in October last year to the Chief Executive against the outcome of the proceedings. It has been reported that there is no requirement regarding the time limit for the Chief Executive to deal with the relevant appeals, and the average time taken in the past was three to four months. In this connection, will the Government inform this Council:*

- (a) *of the commencement and completion dates of the above disciplinary proceedings, and the number of hearings conducted;*
- (b) *of the numbers of cases in which disciplinary proceedings were instituted by the Civil Service Bureau and those in which appeals were made to the Chief Executive by the government officers concerned, and the time taken for the Chief Executive to process such appeals in each of the past three years; and*
- (c) *whether it has considered establishing a mechanism to provide for a reasonable time limit for the Chief Executive to deal with the appeals lodged by government officers against the outcome of disciplinary proceedings; if it has, of the details of the mechanism; if not, the reasons for that?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): President, with regard to part (a) of the question, the disciplinary proceedings surrounding the Harbour Fest case commenced on 28 September 2004 and were concluded on

3 October 2005. During the proceedings, the inquiry committee had conducted a hearing made up of 12 (half-day) sessions.

When notified of the decisions made by the Secretary for the Civil Service on the outcome of the proceedings, the officer concerned appealed to the Chief Executive under section 20 of the Public Service (Administration) Order (PS(A)O) against the Secretary's decisions. The appeal is being dealt with. The Administration will give an account of the outcome of the disciplinary proceedings to the Legislative Council after the appeal has been disposed of.

With regard to part (b) of the question, in the three years ending March 2006, under the PS(A)O, the relevant authority ruled on a total of 874 disciplinary cases following completion of the necessary process (including hearings) by the Secretariat on Civil Service Discipline, made up of 342 disciplinary cases in 2003-2004; 297 cases in 2004-2005; and 235 cases in 2005-2006. Out of these cases, 35 appeals were lodged with the Chief Executive against the rulings made (including the verdict and the level of punishment awarded), made up of nine appeals in 2003-2004; 15 appeals in 2004-2005; and 11 appeals in 2005-2006. The average span of time taken to process the appeals amounted to 2.1 months in 2003-2004; 2.9 months in 2004-2005; and two months in 2005-2006 calculated on the basis of the seven appeals that had been disposed of. The remaining four appeals lodged to the Chief Executive in 2005-2006 are still being processed. On average, it took the Administration two to three months to process one appeal^(Note) over the last three years.

With regard to part (c) of the question, the Administration has laid down internal administrative guidelines on the timeframe for dealing with appeals to the Chief Executive. In general, the guidelines state that for non-statutory appeals to the Chief Executive (these include appeals lodged against rulings made in disciplinary cases under the PS(A)O), the Administration should give a reply within two weeks in simple cases, or four weeks in more complicated cases. Where the case is extremely complicated, the Administration should furnish an interim reply within the above timeframe and give a substantive reply as soon as possible. As far as practicable, the Administration has endeavoured to provide replies within the specified timeframe laid down in the administrative guidelines.

(Note) For certain categories of officers in the disciplined services departments, their disciplinary cases are processed under statutory provisions in the relevant disciplined service legislation (as opposed to the non-statutory provisions prescribed in the PS(A)O). These cases and the appeals arising therefrom have not been included in the foregoing figures.

MS AUDREY EU (in Cantonese): *President, I would like to request you to make a ruling. The Secretary has not answered a part of my question in the main reply. Can you let me pursue with the unanswered part before I follow up the question?*

PRESIDENT (in Cantonese): Ms Audrey EU, I am sorry. I made a similar ruling in the past, that is, you have to ask the question in a supplementary question.

MS AUDREY EU (in Cantonese): *Really? Then I shall have no way of pursuing part (c) of the question, which she has not answered yet. Then she can easily get away with it. (Laughter) President, so I can only raise a supplementary question. President, my supplementary question is about part (b), which is related to the issue of civil servants involved in the Harbour Fest. According to the reply of the Government, the disciplinary proceedings commenced in September 2004 and were concluded in October 2005. Although it has been more than seven months since October, it is still being dealt with. However, according to part (b) of the main reply, it would only take the Administration two to three months to process one ordinary case. President, I can only follow up this part of the question. Why should it take so long? Are there any special reasons justifying the long time taken by the Government in processing it? Is this again demonstrating the performance of strong governance of the Administration?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): President, in processing all disciplinary cases of civil servants, we have all along observed the due process and the principle of natural justice, so as to ensure that the disciplinary proceedings can be conducted without any bias and prejudice, and at the same time, we also try to ensure that the persons under investigation can enjoy the right to a fair hearing. The major principles I have mentioned earlier also apply to persons under investigation with appeals lodged with the Chief Executive.

I have made it clear in my main reply that, for appeals lodged with the Chief Executive, the average processing time for an ordinary case is two to three months. President, when we say "average", of course there must be some cases

which take less than two to three months, but there must also be others that take more than two to three months. The case of the Harbour Fest involved rather complicated details, that is why after the officer concerned had appealed to the Chief Executive, it is still being processed now. I hope that, without prejudicing the principle of natural justice, the appeal can be concluded as soon as possible. Then we shall report the result to the Legislative Council.

MS AUDREY EU (in Cantonese): *President, sorry, the Secretary has not answered my supplementary question. Each and every case must be handled in a fair manner. President, it is impossible that some injustice may be involved in other cases. Can the Secretary tell us why this case is so complicated? Where do the complications lie? And is this the performance of an Administration of strong governance?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): Maybe I can repeat certain information here. I mentioned that the average processing time was two to three months. We all know that, when we say "average", then of course there must be some cases that take less time than the "average time", and there must be others that take longer. As a matter of fact, during the past three years, among those appeals lodged with the Chief Executive, the shortest one took less than 10 days, whereas the longest took nearly eight months. In the year 2005-2006, we have processed 11 appeals made to the Chief Executive. Of them, four are still being processed, including the one that involves the Harbour Fest.

PRESIDENT (in Cantonese): There are altogether nine Members waiting for their turn to raise questions. Will Members please put their questions as concise as possible.

MR KWONG CHI-KIN (in Cantonese): *The case being handled by me may also take a longer time to deal with. But, with regard to the mechanism Ms Audrey EU has mentioned, I would also like to ask a follow-up. I have come across many cases involving civil servants who had been subjected to disciplinary action by the Civil Service Bureau. Some of such civil servants were dissatisfied, alleging that the punishment had been too heavy, particularly those who were*

dismissed. These civil servants then lodged appeals with the Chief Executive. However, among the cases I have come across, the Chief Executive's Office would usually refer the cases back to the Civil Service Bureau. This is meaningless. It turns out to be a situation with no independent channels of redress. The Chief Executive or the Chief Executive's Office should have an independent redress.....

PRESIDENT (in Cantonese): Please ask your supplementary question.

MR KWONG CHI-KIN (in Cantonese): *I wish to ask the Secretary: Should the Chief Executive's Office not handle the appeals independently, instead of referring them back to the Civil Service Bureau for processing?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): President, I thank Mr KWONG Chi-kin for asking this supplementary question. According to our disciplinary mechanism, if the authority concerned for making the decision in respect of the case is not the Secretary for the Civil Service, but, for example, the head of a department, then if the person under investigation is dissatisfied with the findings of an investigation and the punishment, he may lodge an appeal. Of course, such persons may lodge appeals with the Chief Executive. But our mechanism is, the Chief Executive has already authorized the Secretary for the Civil Service to follow up those disciplinary cases which are not decided by the Secretary for the Civil Service himself. If that disciplinary case has been decided by the Secretary for the Civil Service himself, then that appeal lodged with the Chief Executive will be handled by the Chief Executive's Office. This is our existing mechanism.

MS MARGARET NG (in Cantonese): *I have no alternative but to act on behalf of Ms Audrey EU by pursuing the question on part (c) which has not been answered in the main reply. Be it for the fairness to the appellant or the public, there should be a specified timeframe for concluding the case. May I ask the Secretary if the authorities have ever established any mechanism for specifying reasonable timeframes? If so, what are the details of that mechanism? If not, what are the reasons? President, I hope the Secretary will not tell us again the actual average time, the longest time and the shortest time. Instead, we want to*

fix a reasonable timeframe for deliberating such appeals. Can the Secretary focus on answering this question?

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): President, I thank Ms Margaret NG for raising this supplementary question. I have to repeat the fourth paragraph of the main reply, in which I have already mentioned that there are some internal guidelines. In handling non-statutory appeals, we hope that the processing of some simple cases can be concluded within four weeks, and that for some complicated cases, they can be concluded within three months. Of course, there will also be some exceptions. If the cases are particularly complicated and cannot be completed within three months, we shall first furnish the person under investigation with an interim reply. While not compromising the principles of fairness and impartiality, we shall try our best to finish processing the appeals as soon as possible.

MS MARGARET NG (in Cantonese): *President, the Secretary has not answered my supplementary question. My question is not asking for the reasonable timeframe for giving a reply. Saying that a reply will be forthcoming in four weeks is irrelevant. I only want to find out the reasonable timeframe for deliberating an appeal, and whether a mechanism has been established.*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): President, the reply I mentioned in my main reply actually refers to the timeframe for concluding the deliberation, instead ofSorry, President, I was thinking of the term — not an interim reply, but an answer in response to an appeal.

MS LI FUNG-YING (in Cantonese): *From the Secretary's reply to part(c) of the main question, we can obviously see that the present guidelines have not stipulated the upper limit of the timeframe, that is, it has not stipulated how long the deliberation should take. I want to ask the Secretary whether she would amend the guidelines to specify an explicit timeframe for the Chief Executive to give a reply. Even for extremely complicated cases, there must be a timeframe for concluding a case. How long actually does it take to come to an explicit result of deliberation?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): President, in our opinion, most of the cases can actually be concluded within four weeks to three months. However, for some complicated cases, this target really cannot be achieved. We think we really need to strike a balance between the two; and following up the appeals prudently is more important than fixing a rigid timeframe. In striking a balance between the two, we have formulated some guidelines, and we shall adhere to them circumstances permitting. Of course, in some extremely complicated and exceptional cases, we cannot conclude them within the timeframe as stipulated in the guidelines. However, we think that it is inappropriate for us to fix another timeframe for some extremely special cases.

MR RONNY TONG (in Cantonese): *President, I think the disciplinary proceedings for civil servants are very significant because in the recently enacted Interception of Communications and Surveillance Ordinance, civil servants having violated the law are not punished. Instead, their cases will only be followed up through disciplinary proceedings. Therefore, I think it is very significant. Earlier on, several Members have also raised this issue. I hope the Government can explicitly answer whether the Government would set up a mechanism with transparency and well-defined timeframes, and also expeditiously disclose the causes and outcomes of the incidents after the proceedings have been concluded.*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): President, in order to protect and respect personal data, the Government has all along adopted the practice of not disclosing the details of disciplinary cases of individual civil servants. However, as the circumstances surrounding the hosting of Harbour Fest, the report submitted by the Independent Committee of Inquiry appointed by the Chief Executive as well as the report of the Public Accounts Committee have all been openly discussed in the Legislative Council, they have thus become issues of widespread public concern. Therefore, it was against the context of the above most unusual circumstances that we agreed to give an account of the incident to the Legislative Council after it has been completely processed and concluded. We would like to request Members to be a little more patient, and we hope that, wherever practicable, we shall report to the Legislative Council on this incident as soon as possible. I wish to stress that, all along, our usual

practice is not to disclose the way of handling the individual disciplinary cases of public officers.

MR RONNY TONG (in Cantonese): *President, I would like to ask the Secretary whether she meant to say, even for issues involving public interest, she would not do so. Does she mean that? President, the supplementary question I have raised.....*

PRESIDENT (in Cantonese): Mr TONG, please sit down first. As your earlier supplementary question did not mention public interest, so I cannot allow you to raise this follow-up question. However, I believe you may follow this up through other channels.

MR RONNY TONG (in Cantonese): *President, I have asked about the issue of the system, but her reply was about the issue of individual cases, that is, about the replies in respect of individual cases. I hope she can reply my supplementary question from the perspective of the system.*

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

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): President, perhaps I did not make myself clear enough. As I said just now, we have to make a judgement in order to protect and respect the personal data of the persons under investigation. When we say that the usual practice of the Government is not to disclose the details of individual cases, we have already taken the factor of public interest into consideration. However, after we have taken this factor into consideration, we still think that we should respect and protect the personal data of the persons under investigation. Therefore, our usual practice is not to disclose the details. We will continue to adopt this practice.

MR LEUNG KWOK-HUNG (in Cantonese): *This is an issue of great concern to everyone. However, I heard the Secretary say that, in line with the general policy, the information of the appellants would not be disclosed. According to Article 64 of the Basic Law, the Government of the Hong Kong Special*

Administrative Region must abide by the law and be accountable to the Legislative Council of the Region. What we want to pursue is, first, this case has been dealt with for such a long time, is there any special reasons for that? The Secretary said that she would not disclose them. If it is like what you have said, that the Chief Executive of the SAR thinks that, after reading all the papers about the appeal, he does not have to deal with the case himself and refers it back to the Civil Service Bureau for action, how can he be accountable to the public?

Just like what has happened today, when we asked about the ordinary situation, the Secretary would tell us something about the general situation; but when we asked about the general situation, she would tell us something about the ordinary situations. What I would like to ask now is: Can the Secretary tell this Council and the President, how long it will take before the investigation of this case can be concluded? How complicated is this case? Can she? If the Secretary tells us that the decision was made by the Secretary, — but she had yet to become the Secretary at that time, so the decision was made by another person — can the Secretary tell this Council how long it will take? How complicated is it?

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): President, I wish to thank Mr LEUNG for this supplementary question. This appeal is no longer handled by me now, but has already been submitted to the Chief Executive. Therefore, I believe the official responsible for processing the appeal would adopt the most expeditious procedure without compromising the principle of fairness in conducting the study on the appeal. In view of the special reasons involved in this case, I believe, after the appeal is concluded, the Civil Service Bureau would give a full account of the entire case to the Legislative Council at the first possible instant.

MR LEUNG KWOK-HUNG (in Cantonese): *With regard to what the Secretary has said just now, as the Chief Executive, Mr Donald TSANG, was the Chief Secretary for Administration then, he is an interested party. As Mr TUNG Chee-hwa was the person who wanted to host the event, so Donald TSANG had also participated in it. Now he has become the Chief Executive, so he must have found it difficult to conduct any investigation into it. It is a case of "a person investigating himself".....*

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, I cannot see any relationship between this question and your earlier supplementary question. As our time is limited and your question has been too long, so I cannot let other Members to ask questions.....

MR LEUNG KWOK-HUNG (in Cantonese): *I only need to say one more sentence and you will understand what I mean. She said it was very complicated, but this is not a complicated factor. It is just a case of some people investigating themselves.....*

PRESIDENT (in Cantonese): However, this is not part of the supplementary question you asked earlier on. If you want to ask this question, you need to wait for another turn. But you do not have the chance of doing this today because we have already spent 20 minutes on this question.

MR LEUNG KWOK-HUNG (in Cantonese): *Thank you, President. However, this is exactly why I find it complicated.*

PRESIDENT (in Cantonese): I am sorry, Members. As we have already spent more than 21 minutes on this question, so other Members waiting in the queue do not have the opportunity to raise questions. Now we proceed to the fifth question.

Drink Driving

5. **MR LAU WONG-FAT** (in Cantonese): *President, despite police operations against drink driving from time to time, traffic accidents involving drink driving and causing casualties often take place at night and in the early hours. In this connection, will the Government inform this Council of:*

- (a) *the number of traffic accidents involving drink driving in each of the past three years; and*
- (b) *the measures taken and to be taken by the government department(s) concerned to combat drink driving?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): President, in 2003, 2004 and 2005, there were 106, 97 and 89 traffic accidents with casualties that were caused by drink driving respectively.

The drink driving legislation was introduced in 1995. Under section 39 of the Road Traffic Ordinance, it was an offence for a person who drove with an alcohol concentration exceeding the prescribed limit of 80 mg of alcohol per 100 ml of blood. To increase the deterrent effect, we further tightened the prescribed limit from 80 mg to 50 mg of alcohol per 100 ml of blood in 1999. When compared with other overseas countries, we are one of the places with the most stringent prescribed limit.

Regarding penalties, according to the existing legislation, a person who is convicted of drink driving is liable to a maximum fine of \$25,000, and three years' imprisonment, and will incur 10 driving-offence points. The offender will be disqualified from driving for not less than two years for a second or subsequent conviction. If a driver involving in drink driving has caused death of other parties, the driver could be prosecuted for dangerous driving causing death. If convicted, he will be subject to a maximum fine of \$50,000, five years' imprisonment, 10 driving-offence points, and will even be disqualified from driving for not less than two years for the first conviction or not less than three years for a second or subsequent conviction. The current penalties in Hong Kong are comparable to those in overseas countries.

The police have been taking active enforcement actions against drink driving. They are particularly vigilant and would conduct large-scale enforcement operations against drink driving in the night-time and early morning, as well as during festivals and holidays. In fact, the number of drink driving prosecutions increased from 649 in 1996 to 1 335 in 2005. The number of prosecutions in the first four months of 2006 already amounted to 448, representing an increase of 15% over the same period in 2005.

Currently, the police are empowered to require a person to provide a specimen of breath for the screening test if he is involved in a traffic accident, or commits a moving offence or is suspected of drink driving.

Apart from enforcement, public education is equally important. We have been making joint efforts with the Road Safety Council in organizing publicity campaigns and talks, and distributing leaflets to motorists and the transport

trades. We also broadcast Announcements of Public Interest on the television and radio regularly to highlight the serious consequences of drink driving and remind people not to drive after drinking. The police also launch publicity campaigns to tie in with their enforcement actions. Apart from distributing leaflets at areas with many bars and restaurants, they also invite members of the public to try the breath test so as to enhance the publicity effect.

We will continue to combat drink driving by stepping up enforcement and carrying out targeted education and publicity activities. On the enforcement front, the police will pay special attention to drink driving in the night-time and early morning. They will also increase large-scale enforcement operations against drink driving during special festive seasons and during the forthcoming World Cup football matches.

On education and publicity, we will further enrich the module on drink driving in driver training and improvement programmes, and incorporate messages against drink driving in general road safety publicity campaigns. Moreover, since students in tertiary institutions are potential drivers, we will educate them of the dangers of drink driving.

We will also continue to closely monitor the relevant accident and prosecution statistics, as well as keeping in view the measures adopted by overseas countries in combating drink driving effectively.

MR LAU WONG-FAT (in Cantonese): *President, in the past six days alone, two horrific car accidents involving drink driving have occurred. One involves the collision of three vehicles and the three drivers were found on testing to have drunk alcohol and two were arrested for exceeding the prescribed limit. Another car accident led to the death of a taxi driver who was physically quite strong and a female passenger. It can thus be seen how rampant drink driving is and how it seriously jeopardizes the safety of road users.*

In the face of such a serious situation, can the Government inform this Council if the existing measures targeting drink driving will be reviewed, including giving consideration to amending the legislation, so as to significantly raise the penalties for drink driving to disqualification for life and put the offence on a par with manslaughter, so as to achieve a deterrent effect?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): At present, a driver convicted of drink driving is liable to a maximum fine of \$25,000, three years of imprisonment and will incur 10 driving-offence points. The authorities can also increase the penalty to \$50,000, five years of imprisonment, 10 driving-offence points and disqualification from driving for not less than two years on the ground of drink driving causing the death of another party. For drivers convicted of a second conviction, they may be disqualified from driving for three years. The current penalties in Hong Kong are comparable to those in overseas countries and they are no less stringent. Only a small number of countries, for example, Sweden and Norway, have imposed restrictions more stringent than those in Hong Kong.

Concerning the alcohol level in a driver's blood, we also intend to review how the standard should be laid down and the relevant penalties from time to time. Of course, we will also consider safety measures. According to the present requirements of the law of Hong Kong, vehicles must be fitted with safety belts. In many European countries, there is a whole set of complementary safety installations, that is, a whole set of anti-collision protective devices, including safety belts, cabin accessories, frontal and lateral impact protective devices, and so on. Our colleagues in the Transport Department are studying whether these devices are suitable for Hong Kong. In the long run, constant improvements will definitely be made to safety measures.

MR LAU WONG-FAT (in Cantonese): *Sorry, may I ask the Secretary if she will consider amending the legislation?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Concerning the amendment of legislation, I have said just now that we hope to introduce amendments in several areas, one of them being the penalties upon conviction, the other being safety equipment. We are now considering these two areas, but there is no timetable for legislative amendments for the time being.

PRESIDENT (in Cantonese): Twelve Members are waiting to ask supplementaries. Will Members putting supplementaries please be as concise as possible.

MS MIRIAM LAU (in Cantonese): *President, at present, it is only after an accident has occurred or someone has been driving after drinking that the police will request the driver concerned to provide a breath specimen. In fact, if random breath tests can be carried out, this will enhance the deterrent effect. However, the Government is worried that this may arouse the concern of the public about human rights and police powers. However, I know that random breath tests are carried out in Australia, France, Belgium, Sweden, the Netherlands and New Zealand. May I ask the Government if it has ever studied why in places that attach such a great deal of importance to human rights that this measure can still be implemented? Is there any likelihood that Hong Kong will follow their examples?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Our principle in conducting breath tests is that, if a traffic accident has occurred or a driver has drunk or is suspected of having drunk alcohol — that is, when it is found that a motorist is not in proper control of his vehicle, the police can conduct breath tests and it is not necessary to wait until an accident has occurred.

I understand that Ms Miriam LAU is requesting that random breath tests be conducted as she believes that this may achieve greater deterrent effect. We have also raised this point in past discussions, however, Members were gravely concerned about such issues as the power of the police, human rights and public acceptance if the police request drivers to provide breath specimens. If police power is broadened to empower the officers to stop vehicles at random and request drivers to provide breath specimens, I believe it will be necessary to consult the public thoroughly before considering whether doing so can solve the problem.

I wish to talk about the practices in overseas countries. Ms Miriam LAU said that random breath tests are conducted in several countries. This is also the case on the Mainland, where police officers can stop drivers outside restaurants to conduct breath tests. However, in such countries as the United Kingdom, Canada, Germany and Singapore, this measure is not adopted and they have their reasons, which are the concerns that I have spelt out. In fact, we are constantly examining this issue and we will be happy to look into this subject again.

PRESIDENT (in Cantonese): Ms Miriam LAU, has your supplementary not been answered?

MS MIRIAM LAU (in Cantonese): *President, the Secretary has not answered my supplementary because I am requesting that the Government examine why the countries cited by me, which all attach great importance to human rights, can implement such a measure but Hong Kong does not follow their examples. The Secretary has not replied if she will examine this.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): President, I have in fact given a reply. We have been examining this issue and the situation in each country is different. We are not disregarding what is being done in other countries, however, if we make a comparison of several countries, we will certainly find that they have their own circumstances and Hong Kong also has its own special circumstances. If we continue to examine this and the findings reveal public acceptance to be at a certain level, and if it is found that doing so is acceptable after discussions with the police, of course, we can step up the work in this area.

MR CHEUNG HOK-MING (in Cantonese): *President, the Secretary said in the main reply that "Currently, the police are empowered to require a person to provide a specimen of breath for the screening test if he is involved in a traffic accident, or commits a moving offence or is suspected of drink driving." In this connection, may I ask the Secretary on what basis it is decided that a driver has to undergo a test when she said that law-enforcement officers have such a power? Are the guidelines clear?*

In addition, could the Secretary provide information on the proportions of traffic accidents or traffic offences in which breath tests were and were not been conducted respectively?

PRESIDENT (in Cantonese): Mr CHEUNG Hok-ming, you have raised two supplementaries. Which one do you wish the Secretary to reply to?

MR CHEUNG HOK-MING (in Cantonese): *Answering the first one first will be fine.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Concerning the breath test (that is, the procedure commonly referred to as "blowing the ball"), the existing legislation has already specified in what circumstances the police have to conduct a breath test and the key procedures that have to be followed when conducting the test. The police have also issued relevant guidelines to police officers. Basically, if anyone is involved in a traffic accident or has committed a moving offence, or is suspected of drink driving, the police have the power to request the person concerned to provide a breath specimen for a screening test.

MR CHEUNG HOK-MING (in Cantonese): *What I want the Secretary to clarify is the point on the power to make a request. How is such a power defined?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): This means the power rests with the police. The police can request that breath tests be conducted as long as one of the three conditions that I have mentioned is met, that is, a traffic accident has occurred, which is very obvious; or a traffic regulation has been violated, such as changing lanes over double white lines, or a motorist has been observed to drive erratically. Even though no accident has occurred and the driver has not violated any traffic regulation, as long as a vehicle has been observed to swerve from side to side and to move and stop intermittently, the police have the power to request the driver to undergo a breath test. Of course, the driver can raise objection, however, if the driver refuses without reasonable grounds, then the matter may have to be referred to the Court for judgement, since a driver cannot refuse to provide a breath specimen without reasonable grounds which is an offence. Regarding the extent of police power, this will depend on their guidelines and the stipulations drawn up by the Hong Kong Police Force concerning the circumstances in which the exercise of such powers by the police is considered reasonable. The rationality will depend on judgement.

DR JOSEPH LEE (in Cantonese): *The Secretary said in the main reply that the number of accidents involving drink driving had increased drastically and to take this year as an example, there is a 15% increase over the same period last year. However, the Secretary said that she would continue to adopt a two-pronged approach to prevent drivers from drink driving.*

In June, the World Cup football matches will take place again. May I ask the Secretary if targets have been set on the results to be achieved by the two-pronged approach? Can the Secretary undertake that in the coming months, the number of prosecutions against drink driving will decrease by a certain percentage as a result of this two-pronged approach?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): In 1999, we tightened the standard of alcohol concentration in the blood of a driver. In the past, it was 80 ml; now it is 50 ml. After tightening this standard, naturally more people will be prosecuted. This is one of the reasons. I have also pointed out in the main reply just now that on some special festive occasions, such as when the World Cup football matches take place, we will work together with the police to step up law-enforcement action. Therefore, the police may step up law-enforcement actions in the vicinity of pubs or at venues where members of the public congregate to watch soccer matches.

As regards the two-pronged approach, of course, during the period in question, we will draw the attention of the public to this matter by means of Announcements of Public Interest on the radio and television. However, of course, a lot of people will still choose to flout the law. We will ask the police to increase the frequency of prosecution in the hope of achieving deterrent effect. However, we have not yet set a target on the reduction to be achieved.

MR ALBERT CHAN (in Cantonese): *President, the Secretary quoted a figure in the main reply, saying that the number of prosecutions in the first four months of this year already amounted to 448, but this figure is obviously on the low side. I believe that for six days out of a week, the number of motorists whose levels of alcohol in their bodies have exceeded the limit is definitely not just this small. The number in any single night could have easily exceeded this figure of 448, not to mention in four months. However, the main reply went on to say that the police would adopt a two-pronged approach. Will the Secretary study together*

with the police whether the actions are effective? At present, the police will set up roadblocks on major roads and conduct checks. However, actually, everyone knows that there are several key areas, such as Tsim Sha Tsui, Wan Chai or the carparks near Lan Kwai Fong. If the police takes strategic actions in areas with a lot of pubs or at places where people go drinking and conduct tests once motorists get into or start their vehicles, this will definitely be better than conducting tests at roadblocks. Will the Secretary consider this measure together with the police to ensure that motorists will not drive with excessive concentrations of alcohol in their bodies?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): This figure of 448 prosecutions cannot be considered low. I hope that the streets of Hong Kong are not really full of drunkards driving. I also hope that Mr CHAN can provide more information. If he has a way to round these people up, it will be most desirable.

The police have made preparations to a launch publicity campaign to tie in with their enforcement actions. As I have said, during the period when the World Cup football matches take place, apart from distributing leaflets in areas with a lot of bars and restaurants, they will also invite members of the public to try the breath test. We can also further discuss with the police to see if we can take such actions at the exits of carparks. However, I believe not many people will drive to places like Lan Kwai Fong because it is not really suitable for parking cars. We will also see if there are other carparks in other areas that mainly cater to pubs. We also find this a good idea.

PRESIDENT (in Cantonese): We have spent more than 20 minutes on this question. Although a number of Members are still waiting to ask supplementaries, I cannot give any more time to this question. We will now proceed to the sixth question.

Promoting Tourism

6. **MR CHAN KAM-LAM** (in Cantonese): *President, it is learnt that with favourable conditions such as the extension of the Individual Visit Scheme (IVS) to six more mainland cities and the opening of the Hong Kong Disneyland, the*

number of mainland visitors coming to Hong Kong during the last Labour Day Golden Week saw a 6% increase over that of last year. The increase, however, fell slightly short of expectation, and was lower than the 9% increase for Macao. The number of mainland visitors joining package tours even decreased by nearly 20% over the same period last year. The Hong Kong Tourism Board (HKTB) attributed the cause to unstable weather, mainland students taking their mid-term examinations and change in travelling habits by mainlanders. In this connection, will the Government inform this Council:

- (a) whether it has assessed the factors, other than those listed by the HKTB, which resulted in just a slight increase in the number of mainland visitors coming to Hong Kong during the Labour Day Golden Week amidst the favourable conditions; and*
- (b) how it will promote tourism?*

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

- (a) During the 10 days in last Labour Day Golden Week, we received some 726 000 visitors, an increase of 7.5% as compared with the same period last year. Of these, some 415 000 were mainland visitors, representing an increase of 6% as compared with the same period last year. IVS visitors and group tour visitors accounted for 54.8% and 7.5% of total mainland visitor arrivals respectively. According to past experience, there were fewer mainland visitor arrivals during the Labour Day Golden Week amongst the three Golden Week holidays each year.

As the IVS becomes more popular, the share of IVS visitors increases to more than half of the total mainland visitors while the proportion of group tour visitors decreases correspondingly. This shows a change in the travel pattern of mainland outbound visitors. The "Golden Week effect" is expected to diminish gradually. Taking visitors from Guangdong Province as an example, they prefer to visit Hong Kong during normal weekends so as to avoid the crowd and the surcharges for peak seasons. During the first four months of this year, there were a total of 4.7 million mainland

visitor arrivals, an increase of 16.8% as compared with the same period last year, and the number of IVS visitors coming to Hong Kong during normal weekends for the same period has increased by an average of 22% year-on-year.

The number of countries granted the "Approved Destination Status" by the Mainland has increased substantially from 14 in 2000 to 81 in March 2006, providing more destination choices for mainland visitors. Hong Kong, therefore, faces competition for mainland visitors from other destinations.

Despite the change in the travel pattern of mainland outbound visitors as well as the intense regional competition for mainland visitors, with the promotion launched by the HKTB and the concerted efforts of the travel industry, the number of mainland visitor arrivals maintained a growth during the Labour Day Golden Week. This reflects that Hong Kong remains attractive to mainland visitors.

- (b) Our key strategies in promoting tourism are (1) to develop new tourist attractions and enhance existing ones, with a view to diversifying the travel experience in Hong Kong; (2) to strengthen promotions in the Mainland and overseas to attract more visitors to come to Hong Kong; and (3) to enhance the quality of tourism service and consumer protection, so as to let visitors have an enjoyable stay here.

Regarding the development of tourism facilities, the Hong Kong Disneyland was opened in September last year. It helps strengthen Hong Kong's position as the preferred destination for family visitors in Asia. "A Symphony of Lights" was awarded the world's largest permanent light and sound show by Guinness World Records last November. Phase II of the show was launched last Christmas, covering 33 buildings on both sides of the Victoria Harbour. It has been well received by locals and visitors. The Hong Kong Wetland Park, a nature conservation, education and tourism facility, was just opened last week. The Ngong Ping 360 (comprising Ngong Ping Skyrail and the Village), an attraction in a cultural and religious setting, will be opened next month. Besides, the Hong

Kong Disneyland will launch three new attractions (Autopia, Stitch Encounter and UFO Cool Zone) this summer. These projects will help diversify the tourism products in Hong Kong and enhance our attractiveness to family visitors. At the same time, we will give full support to the Ocean Park Redevelopment Plans to turn the 28-year-old Ocean Park into a world-class marine-themed attraction.

We will also continue to implement the Tourism District Enhancement Programme. While the Tsim Sha Tsui Promenade Beautification Project is expected to be completed within the next few months, the improvement works in Stanley waterfront and the Peak will be completed next year. Other projects being planned now, such as the Tsim Sha Tsui Piazza, Aberdeen Tourism Project and Lei Yue Mun Waterfront Enhancement Project, will be implemented in tandem.

The HKTb focuses on three areas of tourism promotion work. Firstly, leveraging on the opening of major tourist attractions in 2005 and 2006, the HKTb has designated this year as "Discover Hong Kong Year", and launched a series of worldwide promotional activities targeting visitors, the trade as well as the media in 16 key markets overseas to attract more visitors to come to Hong Kong. Strategic promotions targeting family and business visitors will also be launched; various mega events and new tourism products will be implemented to attract them to visit and spend in Hong Kong. As regards the development of new markets in the Mainland, the HKTb will continue its vigorous promotion in key IVS cities. It will promote Hong Kong's attractions to the residents in the secondary markets and new IVS cities, and encourage the trade to launch tailor-made tour itineraries targeting at residents of these cities. Thirdly, the HKTb will also co-operate with a number of mainland provinces and cities to develop multi-destination itineraries by combining Hong Kong and mainland cities to develop more attractive and theme-based itineraries, with a view to attracting more overseas visitors to Hong Kong.

In addition, the Government has all along been playing a facilitating and co-ordinating role, and keeping close liaison and

communication with various mainland provinces and cities. For example, under the auspices of Pan-Pearl River Delta (PPRD) regional co-operation, we have been proactively exploring co-operation opportunities within the region to provide a favourable business environment for the tourism industry in Hong Kong.

On enhancing the quality of tourism services, the Travel Industry Council of Hong Kong (TIC) launched a "Tourist Guide Accreditation Scheme" in 2002 to improve the professional standard of tourist guides. The Government and the TIC will continue to co-operate to offer continuing training courses on "green tourism", "cultural tourism", and so on, in order to enable tourist guides to continue skills enhancement and upgrade their service standards.

To help visitors recognize reliable shops and restaurants, the HKTb will continue to enhance its promotion of the Quality Tourism Services (QTS) Scheme, and ensure the attainment of service excellence by participating merchants through annual assessment. The HKTb will expand the Scheme to cover more tourism-related sectors. To ensure service excellence of merchants, the HKTb also provides training courses to the practitioners and steps up its surveillance of the outlets. To safeguard the consumer rights of group tour visitors in shopping arranged by travel agents in Hong Kong, the TIC has implemented the "100 Percent Refund Guarantee Scheme", and also launched the "Demerit System for Registered Shops" in April 2005 to strengthen disciplinary actions against travel agents and registered shops that contravene the rules.

MR CHAN KAM-LAM (in Cantonese): *President, the Democratic Alliance for the Betterment and Progress of Hong Kong organized a seminar in May to look into the causes of a drop in the number of visitors during the 1 May Golden Week as well as how tourism can be developed. Apart from the three strategies mentioned by the Secretary in part (b) of the main reply earlier, we think that the Government has failed to address two most important issues: First, increasing the number of hotel rooms and second, inadequate boundary crossing facilities to ensure smooth clearance for visitors.*

I would like to ask the Secretary this: Is there a comprehensive strategy to increase the number of border control points where round-the-clock clearance operation is implemented and to address the problem of overcrowdedness at border control points?

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): Madam President, first of all, I must make it clear that the number of mainland visitors coming to Hong Kong during the 1 May Golden Week this year did not decrease, but increased by 6% compared with last year. In fact, the number of mainland visitors has been on the increase. In the first three months of this year, the number of mainland visitors already increased by about 18%, which is quite good.

The supply of hotel rooms has, in fact, been increasing continuously. At present, there are about 43 000 hotel rooms in Hong Kong, and in the coming year, it is estimated that about 10 000 new hotel rooms will be completed. In other words, insofar as the market is concerned, new hotels have been completed one after another in response to an increase in the number of visitors.

In respect of the handling capacity of border control points, if we look at the handling capacity of existing land boundary crossings and matching transport facilities, they are sufficient to cope with increasing visitor arrivals under normal circumstances. To ensure smooth clearance during peak periods of mainland visitor arrival (including the Golden Weeks), the inter-departmental working group within the Government has been drawing up various measures to cope with the arrival of visitors. These measures include improving the visitor flow at border control points by, for instance, increasing the number of counters and diverting group tour visitors to Lo Wu for clearance, and making suitable traffic arrangements, or increasing the quota for cross-boundary bus service to meet demands. The Government will continue to maintain the reporting mechanism with travel agencies and the Guangdong Provincial Tourism Administration, and enhance liaison and communication with each other, so that we can complement each other in various aspects.

MRS SELINA CHOW (in Cantonese): *Although the number of visitors during the Golden Week turned out to be quite close to that as expected, it is beyond*

doubt that visitor arrivals on the 1st, 2nd and 3rd of May were on the low side, especially the number of group tour visitors. According to some reports, and as Mr CHAN Kam-lam has said, it has to do with the supply of hotel rooms. Certainly, we respect free market, but I would like to ask the Secretary this: According to these reports, this may be on the one hand attributed to the supply or various reasons, thus resulting in higher charges for hotel rooms in Hong Kong than those of our competitors and consequently eating into the competitiveness of Hong Kong. In the short or long term, what strategies will there be to address this issue, or what strategies are there to enhance Hong Kong's competitiveness in terms of the supply of hotel rooms while respecting free market operation?

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): As Mrs Selina CHOW said earlier, we must respect market force but at the same time, we do not wish to see visitors choosing to visit other places instead of Hong Kong because the charges of hotel rooms here are far too expensive. How can a balance be struck between them? As I have actually said in reply to Mr CHAN Kam-lam earlier, developers have actually been making plans to develop new hotels in response to an increase in the number of visitors. The 43 000 rooms available now already shows an increase over last year. In the coming year, the number of rooms will even be increased by about 10 000. I believe this will help to cope with the increase in the number of visitors in the future.

Certainly, as I pointed out in the main reply, mainland visitors actually have many more choices now. They do not necessarily have to visit Hong Kong, and they can choose other places where hotel rates are less expensive than those in Hong Kong. This is why I said last Friday that I hope the hotel industry could have a clear picture of the market. We can see that the demand in the market rose by about 15% during the 1 May Golden Week and yet, the occupancy rate was only some 80%. This shows that it is not a case of shortage of hotel rooms turning visitors away to other places. In spite of this, Madam President, I still hope that the hotel industry in Hong Kong can realize that hotel room rates are an important factor considered by visitors in choosing whether to visit Hong Kong or elsewhere. We must make continuous efforts to enhance our competitiveness. It is not our wish to see that our hotels charge exorbitantly for their rooms.

MR HOWARD YOUNG (in Cantonese): *As we all know, insofar as the development of tourism is concerned, some of the work falls outside the purview of Secretary Stephen IP. For example, Mr CHAN Kam-lam said that the number of visitors in Macao had increased. But we all know that this is due to the casinos in Macao, and in Hong Kong, this could not even make its way through the gate of Home Affairs, and their development is impossible in Hong Kong even if we wish to build them.*

I would like to ask the Secretary — this may be achievable under the Secretary's purview — whether he has drawn up a list of Chinese cities in ascending order of their GDP per capita, in order to find out whether in some cities with high GDP there are airports but no airline route to Hong Kong? There are now many airlines in Hong Kong. What policies does the Government have to encourage these airlines to introduce new routes, so as to make it more convenient for visitors from those cities (especially cities with high GDP) to come to Hong Kong by air?

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): First of all, under the IVS, the number of mainland cities where residents are allowed to visit Hong Kong has continued to increase. There are now 44 such cities with over 200 million mainlanders being allowed to visit Hong Kong. We certainly hope that visitors with high spending and purchasing powers will visit Hong Kong more often. Actually, visitors from cities included in the IVS already have a higher spending power. However, I certainly agree with Mr Howard YOUNG that flight and traffic arrangements are also very important. If there are direct flights or more frequent flight schedules to Hong Kong, it will facilitate and make it more convenient for mainland residents to visit Hong Kong.

Madam President, with regard to the air service arrangement between Hong Kong and the Mainland, we hope to strive for as many more aviation partners and higher flight frequency as possible every year. As for cities not covered by direct-flight service, we have also been working on them. I wish to emphasize that we have not drawn any comparison by GDP. We only wish to see more direct-flight arrangements between Hong Kong and mainland cities.

MR LAU KONG-WAH (in Cantonese): *President, Hong Kong cannot set eyes only on the IVS of the Mainland. Visitors from Europe, the United States and*

Japan are very important too. Recently, I have seen more such visitors on the street. The Secretary stressed diversification of products. With regard to the idea of a spa resort which is not found in Hong Kong, the Government has conducted studies and stated that Sai Kung could be a location for such development and yet, it is only all words but no action. I wish to ask the Secretary this: When can efforts be made to truly take things forward in this regard?

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): First of all, I must thank Mr LAU Kong-wah. I entirely agree that we must not lay stress only on mainland visitors. Hong Kong is, after all, an international tourist destination. So, I am glad to tell Members that the first three months of this year recorded an increase to the tune of 14% in the overall number of visitors. Insofar as the international market is concerned, overall visitor arrivals rose by 4% compared with the same period last year, but visitors from Europe, Africa, the Middle East, and so on, rose by over 15%, while those from Australia, New Zealand, and so on, also rose by over 11%. So, we can see that the efforts made in promoting tourism have not been made to no avail. We have consistently seen an upward trend in the number of inbound mainland or international visitors.

As for spa resort facilities, these are certainly an attraction. But I wish to stress that these facilities must be developed by private developers, rather than the Government. We can only conduct studies and identify locations, but as to whether or not the market will be interested in developing these facilities at the end of the day, the decision will rest with the market. I certainly hope that after the Government has completed studies and the report, we will see that some suitable locations can be identified, and I also hope that interested parties will approach us.

PRESIDENT (in Cantonese): We have spent more than 18 minutes on this question. Last supplementary question.

MR KWONG CHI-KIN (in Cantonese): *President, the number of mainland visitors joining package tours has decreased, but the Secretary did not give us the*

reason for it. According to general comments, this is because visitors do not like doing shopping everywhere and thus leaving no time for them to visit tourist spots. What measures does the Secretary have to address these practices of travel agencies? Why is there this situation? It is because some of the tours charge "zero tour fee" and so, they have to earn commission from visitors' spending at shops, and some tourist guides also have to pay a fee before they can be allocated a tour group. May I ask the Secretary whether there are measures targeting such undesirable practices of travel agencies?

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Cantonese): I thank Mr KWONG for his question. We have certainly done some work. Mr KWONG is right. Firstly, the number of visitors on package tours has dropped, and I believe Member can easily see the reason. It is because of the IVS. As I mentioned earlier, there are now 44 mainland cities with over 200 million visitors being allowed to visit Hong Kong under the IVS, and it is even more convenient for those places in Guangdong Province. So, we can see that after the introduction of the IVS, the number of visits made by mainland visitors to Hong Kong has increased. As they can now visit Hong Kong by themselves anytime, they need not join a package tour, and they can go home by themselves after doing their shopping.

With regard to package tours, they do have many restrictions and are certainly different from visits under IVS whereby visitors can visit Hong Kong by themselves anytime. But I do appreciate Mr KWONG's concern. He mentioned "zero tour fee" earlier. Apart from "zero-fare tours", in fact, there are also many products of this type, such as "negative-fare tours" and "fee for leaving the tour". What we have been doing is that we have been discussing these problems with the China National Tourism Administration, and tourism administrations in the Mainland are promoting integrity in tourist services, hoping that mainland travel agencies will not adopt these practices of attracting visitors to visit Hong Kong on a tour and then forcing them to shop in order to earn commissions.

Insofar as Hong Kong is concerned, the TIC actually has provisions requiring its members to comply with the code of practice, specifying that when organizing a tour, the travel agency must state explicitly the details and standards

of service as well as the itineraries, and that when taking tour members to shops, it must be stated expressly in advance that these shops are participants of the "100 Percent Refund Guarantee Scheme", in order to ensure protection for tour visitors. The code of practice also stipulates that tour operators cannot force visitors to pay a fee for leaving a tour or to join activities requiring an extra fee. Visitors must be allowed to make a decision on their own, and they cannot be forced to take part in activities requiring an extra fee or to do shopping. So, we have actually put in place a code of practice. As for tourist guides, they also have their code of practice, including the principles for arranging shopping activities for visitors, and the stipulation that visitors' refusal to do shopping or the quantity or amount of the goods they purchased must not have any bearing on the tourist guide's service to the visitors. Tourist guides who breach the code may be sanctioned by the TIC.

In other words, the code of practice for members of the TIC and that for tourist guides have already made very clear stipulations.

PRESIDENT (in Cantonese): Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS

Setting up Live Poultry Retail Stalls in Markets

7. **MR TOMMY CHEUNG** (in Chinese): *President, it is learnt that some of the new markets of the Food and Environmental Hygiene Department (FEHD) and markets in some public housing estates have no live poultry retail stalls. In this connection, will the Government inform this Council:*

- (a) *of the markets of FEHD and markets in public housing estates which have no live poultry retail stalls as well as their locations, and whether such stalls have never been set up in these markets;*
- (b) *whether it plans to set up live poultry stalls with facilities to segregate humans from chickens in the new markets of FEHD and those in public housing estates, and put them up for bidding by live*

poultry stall operators; if so, of the number of such stalls and their locations; if not, the reasons for that; and

- (c) *whether it plans to relocate some live poultry stalls to markets which have no such stalls, so as to avoid such stalls being too densely located; if not, of the reasons for that?*

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

- (a) At present, a total of 13 public markets managed by the FEHD are not provided with any live poultry stalls, six of which are not provided with such stalls since commissioning. The names and locations of these markets are at Annex A.

As regards markets in public housing estates, 43 of them currently do not have any live poultry stalls. Among these 43 markets, four are not provided with such stalls since commissioning. The names and locations of these markets are at Annex B.

- (b) Two new FEHD markets are near completion/under construction. They are the new Wan Chai Market in Wan Chai District and Aldrich Bay Market in Eastern District. To minimize human contact with live poultry and in the light of the availability of live poultry stalls in other FEHD markets in the vicinity, we will not provide live poultry stalls at these two new markets. As for the Housing Authority, no new markets in public housing estates are currently under planning/construction.
- (c) Generally, live poultry stalls in public markets are not too densely located. Since the introduction of the *ex gratia* payment scheme in July 2004 for live poultry retailers who voluntarily surrender their licences/terminate their tenancies, up to end April 2006, 159 operators of live poultry stalls in public markets have terminated their tenancies under the scheme. At present, there are 286 live poultry stalls in public markets. The Administration has no plan to allow existing live poultry stall operators to shift to continue their business in public markets without live poultry stalls.

Annex A

FEHD Markets without Live Poultry Stalls

<i>S/N</i>	<i>Market</i>	<i>District</i>
1.	Centre Street Market*	Central and Western
2.	Peng Chau Market	Islands
3.	Tai O Market*	Islands
4.	Yee On Street Market	Kwun Tong
5.	Lei Yue Mun Market	Kwun Tong
6.	Kimberley Street Market*	Yau Tsim Mong
7.	Sham Tseng Temporary Market	Tsuen Wan
8.	Tsuen King Circuit Market	Tsuen Wan
9.	Sha Tau Kok Market	North
10.	Lam Tei Market*	Tuen Mun
11.	Hung Shui Kiu Temporary Market	Yuen Long
12.	Kam Tin Market*	Yuen Long
13.	Lau Fau Shan Market*	Yuen Long

* Markets without live poultry stalls since commissioning.

Annex B

Markets in Public Housing Estates without Live Poultry Stalls

<i>S/N</i>	<i>Market</i>	<i>District</i>
<i>(A) Markets under Housing Authority</i>		
1.	Wah Fu (II) Estate Market	Southern
2.	Fu Shan Estate Market	Wong Tin Sin
3.	Choi Hung Estate Market	Wong Tin Sin
4.	Ping Shek Estate Market	Kwun Tong
5.	Lei Muk Shue Shopping Centre Market*	Tsuen Wan
6.	Cheung Shan Estate Market	Tsuen Wan
7.	Kwai Chung Shopping Centre Market*	Kwai Tsing
8.	Kwai Shing West Estate Market	Kwai Tsing
9.	Siu Hong Court Market	Tuen Mun
10.	Tin Yan Shopping Centre Market*	Yuen Long

<i>S/N</i>	<i>Market</i>	<i>District</i>
<i>(B) Markets under The Link</i>		
11.	Hing Wah (I) Estate Market	Eastern
12.	Wah Kwai Estate Market	Southern
13.	Fu Tung Estate Market	Islands
14.	Yat Tung Estate Market	Islands
15.	Hoi Fu Court Market	Sham Shui Po
16.	Tin Ma Court Market	Wong Tin Sin
17.	Shek Yam Estate Market	Kwai Tsing
18.	Kwai Shing East Estate Market	Kwai Tsing
19.	Shun On Estate Market	Kwun Tong
20.	Kwong Tin Estate Market	Kwun Tong
21.	Kai Tin Estate Market	Kwun Tong
22.	Sau Mau Ping Estate Market	Kwun Tong
23.	Lei Yue Mun Plaza Market*	Kwun Tong
24.	Ho Man Tin Plaza Market	Kowloon City
25.	Yu Chui Court Market	Sha Tin
26.	Chung On Estate Market	Tai Po
27.	Kam Ying Court Market	Tai Po
28.	Yiu On Estate Market	Tai Po
29.	Fu Heng Estate Market	Tai Po
30.	Ka Fuk Estate Market	North
31.	Yung Shing Court Market	North
32.	Po Tin Shopping Centre Market	Tuen Mun
33.	Siu Hei Court Market	Tuen Mun
34.	Fu Tai Estate Market	Tuen Mun
35.	Chung Fu Shopping Centre Market	Yuen Long
36.	Tin Chak Estate Market	Yuen Long
37.	Tin Shing Court Market	Yuen Long
38.	Tin Shui (II) Estate Market	Yuen Long
39.	Choi Ming Court Market	Sai Kung
40.	Hau Tak (II) Estate Market	Sai Kung
41.	Ming Tak Estate Market	Sai Kung
42.	Po Tat Estate Market	Sai Kung
43.	Sheung Tak Estate Market	Sai Kung

* Markets without live poultry stalls since commissioning.

Green Projects for Tsim Sha Tsui

8. **MR JAMES TO** (in Chinese): *President, the Greening Master Plan Committee under the Steering Committee on Greening mapped out the Greening Master Plan for Tsim Sha Tsui (GMP) last year, and the Finance Committee of this Council has also approved the funding for implementing the proposed green projects under GMP. On the other hand, the consultancy studies on "Area Improvement Study for Tsim Sha Tsui" (AIS/TST) and "Area Improvement Plan for the Shopping Areas for Mong Kok" (AIP/SAMK) commissioned by relevant authorities were launched in January 2004 and February 2006 respectively. In this connection, will the Government inform this Council:*

- (a) of the overlapping areas between the AIS/TST and GMP in respect of tree planting programmes and other aspects;*
- (b) as the green projects under GMP include the planting of trees on both sides and in the middle of Nathan Road, while the AIS/TST involves the development of pedestrian areas and other green projects in Tsim Sha Tsui District, of the mutual implications between the two plans consequentially, co-ordination among the authorities concerned, and whether needs to relocate trees and green belts under GMP are envisaged upon the implementation of the proposals in the AIS/TST;*
- (c) whether the authorities concerned have requested the consultancy firms commissioned to conduct studies on the AIS/TST and AIP/SAMK to refer to GMP; if they have, of the details; and how these consultancy firms come into step with the Steering Committee on Greening; and*
- (d) as GMP, AIS/TST and AIP/SAMK involve conducting environmental improvement works in similar areas, whether the authorities concerned have considered merging these studies for better co-ordination and lower consultancy fees; if they have, of the reasons for not merging the studies; if not, the reasons for that?*

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

- (a) The objective of the study on AIS/TST jointly commissioned by the Planning Department and Transport Department is aimed to formulate a set of planning framework and guidelines on the beautification of the district to improve urban design, enhanced streetscape and better pedestrian environment in a comprehensive manner. On the other hand, the GMP developed by the Civil Engineering and Development Department strives to identify suitable locations for compatible thematic planting and plant species as well as to draw up phased implementation plans.

Generally speaking, the AIS/TST study provides a high-level planning framework while the GMP focuses on specific greenery proposals, complementing each other in enhancing the overall district environment. The departments responsible for these studies will also liaise closely to avoid duplication of work.

- (b) The continuous communication between relevant departments has ensured that the proposals of both studies are fully compatible with one another. As such, planting works under the GMP will not be affected by the AIS/TST and no subsequent relocation is required.
- (c) Both the AIS/TST study and the study of the AIP/SAMK require the consultants concerned to take due consideration of the findings and recommendations of other completed, ongoing or planned studies within the respective study areas, including the GMP completed and the Greening Master Plan for Mong Kok planned to be commissioned by the Government. The Steering Committee on Greening is responsible for the monitoring and co-ordination of the work.
- (d) As mentioned in the first paragraph above, the area improvement plans and greening master plans studies have different focuses and level of details. The former is more complex in scope and involves issues such as land use restructuring with appropriate road traffic systems. The greening master plans, having regard to the planning conditions, aims at identifying feasible greening measures and making arrangements for phased implementation. The scope of study and planning focus of AIS/TST and AIP/SAMK are different. For example, the former focuses on tourism and cultural activities

while the latter on shopping and commercial activities. The Government also has to examine the local planning issues, impact assessments and study recommendations in the respective local contexts. As such, it is not advisable to combine these studies.

Enhancing Role and Functions of District Councils

9. **DR YEUNG SUM** (in Chinese): *President, regarding the implementation of the measures proposed by the Government in mid-2001 to enhance the role and functions of District Councils (DCs), the Government replied to a Member's question at the Council meeting on 26 April 2006. Regarding the reply, will the Government provide this Council with the following supplementary information:*

- (a) *as the authorities are studying and following up the 195 suggestions put forward by DCs in the past three years regarding district leisure and cultural facilities and services, of the details of such suggestions, broken down by DCs and the following categories:*
 - (i) *construction of new leisure facilities;*
 - (ii) *improvements to existing facilities;*
 - (iii) *construction of new libraries or expansion of existing libraries, and provision of more mobile library service points;*
 - (iv) *extension of the opening hours of libraries and mobile libraries;*
 - (v) *expansion of library services;*
 - (vi) *construction of new civic centres; and*
 - (vii) *miscellaneous, for example, provision of car parks;*
- (b) *regarding the suggestions put forward by DCs in the past three years about district municipal facilities and services, of the details of the 13 suggestions that will be reviewed from time to time and the 11*

that have not been accepted, broken down by DCs and the following categories;

- (i) construction of new public toilets or improvements to the facilities of existing toilets/aqua privy;*
 - (ii) installation of air-conditioning systems in markets/hawker bazaar;*
 - (iii) relocation of hawkers to fixed pitches with no restricted trading hours;*
 - (iv) allowing on-street hawkers to choose whether to move into a newly completed market;*
 - (v) construction or relocation of refuse collection points, dog latrine or central animal carcass collection point;*
 - (vi) construction of new or temporary markets, improvements to the electricity supply of existing markets or retention of the existing rental scheme; and*
 - (vii) disposal of home renovation waste; and*
- (c) of the numbers of meetings with DC members by each Director of Bureau and Head of Government Department since the commencement of the current DC term, with indication for DC meetings among such meetings?*

SECRETARY FOR EDUCATION AND MANPOWER (in the absence of Secretary for Home Affairs) (in Chinese): President,

- (a) A breakdown of the 195 suggestions put forward by DCs in the past three years that are being studied and followed up is at Annex A.
- (b) A breakdown of the 13 suggestions that are kept under constant review and of the 11 suggestions that have not been accepted is at Annex B.

- (c) Since the commencement of the current DC term in January 2004 and up to 23 May 2006, our DC Secretariat records show that Directors of Bureaux or Heads of Departments have personally attended 69 DC meetings. As there were occasions when more than one Director of Bureau or Head of Department attended a DC meeting (for example, in the recent consultation on the DC Review, the attending government delegation was led by the Secretary for Home Affairs and comprised two Heads of Departments), a total of 106 such attendances were recorded. A breakdown of these attendances by the officials concerned is at Annex C.

DC members serve on a wide variety of government boards and committees; they will be attending meetings with Directors of Bureaux and Heads of Departments in their other capacities. Given the large number of DC members involved and their varied interactions with other bureaux and departments, it is not possible for us to provide the total number of such meetings between DC members and Directors of Bureaux and Heads of Departments, let alone a detailed breakdown.

Annex A

Breakdown of the 195 suggestions put forward by DCs
over the past three years
on district leisure and cultural facilities and services
being studied and followed up

<i>Category of suggestions</i>	<i>Total No. of suggestions</i>	<i>DC</i>	<i>Suggestions</i>
1. To build new leisure facilities	60	Eastern	To provide a rest garden with basketball courts or a soccer pitch next to Provident Centre at Tong Shui Road, North Point
			To provide a rest garden with fishing facilities next to Provident Centre at Tong Shui Road, North Point
			To extend Sai Wan Ho Harbour Park by utilizing the pedestrian link in front of Sai Wan Ho Pier

<i>Category of suggestions</i>	<i>Total No. of suggestions</i>	<i>DC</i>	<i>Suggestions</i>
			To resume the site of the Marine Police Staff Car Park at Lei King Road for inclusion as a part of Sai Wan Ho Playground
			To temporarily open the vacant site of the former helicopter landing pad in Siu Sai Wan for public access
			To convert the former helicopter landing pad in Siu Sai Wan into a sitting out area
		Kowloon City	To construct a heated pool at Kowloon Tsai Swimming Pool
			To provide a turf gateball court in the Kowloon City District
			To install children's play equipment in Sheung Shing Street Park upon completion of water works by the Water Supplies Department
		Kwun Tong	To redevelop Kwun Tong Swimming Pool
			To provide an 11-a-side soccer pitch in the recreational development on the former landfill at Jordan Valley
		Sham Shui Po	To implement as soon as possible the project of Sham Shui Po Park Stage II
			To convert the main pool at Lai Chi Kok Park Swimming Pool into an indoor heated pool
			To convert the secondary pool at Lai Chi Kok Park Swimming Pool into an indoor heated pool
		Southern	To provide a barbecue area on the Seaview Building site, Repulse Bay
			To construct a waterfront promenade connecting South Horizons with the recreational development of the "Local Open Space" on North Ap Lei Chau Reclamation
		Yau Tsim Mong	To provide a cycling ground in Cherry Street Park
			To construct a pet garden in the district

<i>Category of suggestions</i>	<i>Total No. of suggestions</i>	<i>DC</i>	<i>Suggestions</i>
			To take over the concrete litter bins provided by the Highways Department at Hoi Wang Road and convert them into planter boxes
			To provide basketball courts in the Tai Kok Tsui Temporary Market Development Project
			To construct a community garden in Cherry Street Park (Phase II)
			To construct a community garden instead of the proposed piazza in Cherry Street Park
			To develop the Tree Bank site at the junction of Hoi Fai Road and Cherry Street into a rest garden
			To provide basketball courts or volleyball courts instead of the four proposed tennis courts in Cherry Street Park
		Tai Po	To convert some of the squash courts in the Tai Po District into sports climbing facilities
		North	To develop the unleased government land zoned "Government/Institution/Community" near Yung Shing Court for greening and leisure use
			To construct a rest garden on a "Green Belt" site on San Fung Avenue, Sheung Shui
			To provide a multi-purpose activities venue at the local open space in Fan Ling/Sheung Shui Area 28
		Sha Tin	To plant trees along the pavements of Sai Sha Road
			To plant trees along the pavements at Sha Tin Centre near the market
			To incorporate dog garden facilities in the basketball court project in Sha Tin Area 11
			To provide temporary sitting-out facilities on the site earmarked for the construction of a fire station

<i>Category of suggestions</i>	<i>Total No. of suggestions</i>	<i>DC</i>	<i>Suggestions</i>
		Sai Kung	To upgrade Ho Chung Soccer Pitch to a full-sized soccer pitch
			To provide a pebble walk at Silverstrand Beach
			To provide a dog garden in Tseung Kwan O Area 26
			To develop a town park in Tseung Kwan O Area 45
		Islands	To construct a sports centre in Yi Pak Wan, Discovery Bay
			To provide a sports centre in Discovery Bay
			To upgrade Tung Wan, Peng Chau to a gazetted beach
			To provide an activity room on Lamma Island
			To include a roller-skating rink in the projects under planning for Tung Chung
			To provide a cricket pitch at the district open space project in Tung Chung Area 18
			To provide diving pool facilities in the swimming pool project in Tung Chung Area 1
		Kwai Tsing	To provide barbecue areas in Tsing Yi
			To plant more seasonal flowers in Tsing Yi
			To provide a gateball practice court in Tsing Yi North
			To provide barbecue facilities in Central Kwai Chung Park
			To convert Ching Wah Garden into a mini-soccer pitch to replace the one in Tsing Wah Playground near Wah Woon Court
		Tsuen Wan	To construct a standard beach volleyball court in the Tsuen Wan District for holding international events
			To install elderly fitness facilities and children's play equipment in the rest garden outside Tsuen Wan West Sports Centre near Bayview Garden
			To improve the facilities of Tsuen Fu Street Garden and provide outdoor table tennis facilities

<i>Category of suggestions</i>	<i>Total No. of suggestions</i>	<i>DC</i>	<i>Suggestions</i>
		Tuen Mun	To provide a skateboard area for the local open space project in Tuen Mun Area 16 (Yau Oi South)
			To provide beach rafts at the beaches in Tuen Mun District
			To set up an open air café at Golden Beach, Tuen Mun
			To provide lockers for public use as part of the improvement works of the beach service building at Butterfly Beach, Tuen Mun
			To add a short distance golf driving range in Wu Shan Bowling Green to boost the utilization rate
			To extend the walking trail along the beaches in Tuen Mun and the permanent stage to be provided at Golden Beach
		Yuen Long	To plan and construct a cycling park
			To construct a cricket pitch in Tin Shui Wai
			To construct a standard swimming pool in Tin Shui Wai Area 107
2. To improve existing facilities, for example, to build more toilets	38	Central and Western	To adjust the room temperature of indoor games halls to a suitable level instead of 23 degrees Celsius
		Kowloon City	To provide toilet facilities in Kau Pui Lung Road Playground
			To remove excessive rubbish bins away from Tak Ku Ling Road Rest Garden
			To provide toilet facilities in King's Park High Level Service Reservoir Playground
			To expand the toilet block in Peace Avenue Playground to cater for the needs of nearby restaurants and people such as taxi drivers
			To build a toilet block in Sung Wong Toi Road Playground
			To hand over the management of fitness and jogging facilities at Fat Kwong Street from the DC to the Leisure and Cultural Services Department

<i>Category of suggestions</i>	<i>Total No. of suggestions</i>	<i>DC</i>	<i>Suggestions</i>
			To construct a staircase connecting King's Park High Level Services Reservoir Playground to the adjacent vacant government land
			To provide a cover for the spectator stand of the hard-surface soccer pitch in Junction Road Park
			To provide a cover for the outdoor pool at Ho Man Tin Swimming Pool
		Sham Shui Po	To use squash courts in Po On Road Sports Centre as study rooms during the period Po On Road Public Library was closed for maintenance
			To build a new toilet block in Sham Shui Po Park Stage II
		Southern	To provide hand washing facilities near the barbecue area in Waterfall Bay Park
		Wan Chai	To alter the use of the pool in Wan Chai Park
			To convert the under-utilized squash courts into billiard rooms
		Yau Tsim Mong	To install an underwater monitoring system at Kowloon Park Swimming Pool to enhance water safety
			To improve the ratio of lifeguards to swimmers
			To shorten the duration of annual maintenance for swimming pools
			To plant mosquito and insect repellant plants in Lok Kwan Street Park
			To provide a cover for the piazza in Cherry Street Park (Phase II)
		Sha Tin	To construct a spectator stand facing the artificial turf in Ma On Shan Playground
			To provide more new facilities, for example, sauna rooms, pick up/drop off points for taxis and private cars, and parking space, for design proposal of Hin Tin Swimming Pool Project (Phase II)

<i>Category of suggestions</i>	<i>Total No. of suggestions</i>	<i>DC</i>	<i>Suggestions</i>
		Sai Kung	To install floodlight facilities at Ho Chung Soccer Pitch
			To conduct sand replenishment works at Kiu Tsui Beach
			To review the swimming lane allocation policy to ensure equal access to swimming pool facilities for local swimming clubs
			To provide changing room and toilet facilities at Pak Kong Soccer Pitch
			To provide high quality sound equipment for performance purposes for the sports centre in the complex building in Tseung Kwan O Area 44
			To provide a cover for the Tai Chi area of the local open space in Tseung Kwan O Area 44
			To build a barrier on both sides of Silverstrand Beach to keep seaborne refuse away from the beach
		Kwai Tsing	To standardize charges for tennis courts in urban and New Territories areas
			To put on sale monthly passes for swimming pools to the elderly and members of the public
			To extend the opening time (to include March and November) of non-heated public swimming pools
		North	To add a cycling track for the district open space in Fan Ling/Sheung Shui Area 39
		Tsuen Wan	To convert three adjacent tennis courts in Shing Mun Valley Park into a five-a-side soccer pitch and an archery practice range
			To resurface the two hard-surface soccer pitches in Sha Tsui Road Playground and erect flag poles there
		Tuen Mun	To adopt a tag and registration system and restrict the use of the barbecue pits in Butterfly Beach Park
			To build a toilet block in Mouse Island Children's Playground
		Yuen Long	To relocate the soccer pitch to the centre of Tin Shui Wai Area 107

<i>Category of suggestions</i>	<i>Total No. of suggestions</i>	<i>DC</i>	<i>Suggestions</i>
3. To build new libraries or to expand existing libraries, and to provide more mobile library stops	34	Central and Western	To provide a mobile library stop in the vicinity of Tung Wah Hospital in the Western District
			To set up a public library in the Mid-Levels
			To construct a library at the former Nethersole Hospital site
			To set up a district library in Sheung Wan Municipal Services Building
		Eastern	To set up a district library in the joint-user building in Lei King Wan
			To provide a mobile library stop in Siu Sai Wan Promenade
		Kowloon City	To station a mobile library van near Kowloon City Municipal Services Building during the renovation of Kowloon City Public Library
		Kwun Tong	To provide library services on a larger scale in Po Tat Estate, Sau Mau Ping Estate, and Hiu Lai Court
		Sham Shui Po	To set up an temporary library in Fu Cheong Shopping Centre
			To secure additional resources to strengthen the mobile library service
			To strengthen the mobile library service in Hoi Lai Estate
		Wong Tai Sin	To study the possibility of using those kindergartens which are left vacant due to under-enrolment for setting up more small libraries for the benefit of the local community
		Tai Po	To provide a mobile library stop at the Shuen Wan Joint Village Office
			To study the feasibility of relocating mobile library stops to the rural areas from some housing estates
		North	To reopen the small library in Cheung Wah Estate
			To provide a mobile library stop in Ka Fuk Estate, Fan Ling South

<i>Category of suggestions</i>	<i>Total No. of suggestions</i>	<i>DC</i>	<i>Suggestions</i>
		Sai Kung	To build a second public library in Tseung Kwan O
		Islands	To exercise flexibility in handling the request for opening a library in Discovery Bay for the benefit of the residents. For example, the library could be operated through public-private partnership
		Kwai Tsing	To provide a mobile library stop in Cheung Wang Estate
		Tuen Mun	To add a library at the swimming pool complex in Tuen Mun Area 1
		Yuen Long	To increase the user capacity of Tin Shui Wai Public Library
			To lease vacant shops near Tin Shui Wai Public Library for library purposes
			To negotiate with the Kowloon-Canton Railway Corporation and to make concessions in land premium as incentives for the Corporation to develop a central library in the Comprehensive Development Area
			To reallocate the morning and afternoon sessions of the mobile library service in Tin Yiu Estate to Tin Shui Wai South and Tin Shui Wai North
			To provide a mobile library stop in the vicinity of Tin Chak Shopping Centre
			To provide a mobile library stop somewhere between Tin Heng Estate and Tin Chak Estate
			To set up another temporary library in Tin Yan Shopping Centre
			To join hands with the community centres, voluntary agencies, or schools in the district in the provision of library services
			To redeploy the mobile library vans serving Tuen Mun to Tin Shui Wai
			To retain the existing Tin Shui Wai Public Library after completion of the main library in Tin Shui Wai

<i>Category of suggestions</i>	<i>Total No. of suggestions</i>	<i>DC</i>	<i>Suggestions</i>
			To enhance the library services in rural areas such as Yuen Long South near Tai Tong area
			To expand the size of Tin Shui Wai Public Library
			To expand the area of the small library in Tin Shui Wai North
			To provide a library service for the residents of Tin Chung Court, Tin Wah Estate, and Tin Shui Estate
4. To extend the service hours of libraries and mobile libraries	19	Central and Western	To extend the opening hours of libraries until 10 pm
			To extend the opening hours of libraries
		Kowloon City	To extend the opening hours of public libraries
		Wan Chai	To extend the opening hours of small libraries
		Tai Po	To extend the service hours of the mobile library stops at Fu Heng Estate and Fu Shin Estate after cancellation of the stop in Wan Tau Tong
		North	To extend the service hours of mobile library vans in Fan Ling South, which were in service only on alternate Monday afternoons
		Sha Tin	To open Ma On Shan Public Library for 24 hours a day, providing a place of evening activities for the youth
			To extend the opening hours of Ma On Shan Public Library
			To extend the service hours of the new mobile library stop in Lee On Estate
		Sai Kung	To extend the opening hours of Tseung Kwan O Public Library
		Islands	To keep Peng Chau Public Library open during lunch time
		Tuen Mun	To extend the service hours of mobile library vans
			To maintain mobile library services on Sundays and after 6 pm on weekdays
			To enhance the service hours of mobile library stops

<i>Category of suggestions</i>	<i>Total No. of suggestions</i>	<i>DC</i>	<i>Suggestions</i>
		Yuen Long	To provide evening mobile library services to meet the needs of Tin Shui Wai North
			To extend the opening hours and cancel the closing days of libraries
			To maintain study room services on the closing days of public libraries in Tin Shui Wai and Yuen Long
			To maintain study room services on library closing days
			To provide evening mobile library services
5. To expand library services, for example, extension of loan period of library materials	15	Central and Western	To provide a drop box for returning books in Sheung Wan Municipal Services Building
			To extend and standardize the opening hours of libraries
		Kwun Tong	To organize extension activities at mobile library stops
		Yau Tsim Mong	To convert 2/F of Fa Yuen Street Market into study rooms as the place has been left vacant for a prolonged period
		North Islands	To extend the loan period of library materials
		Tuen Mun	To provide a study room in the temporary Tung Chung Public Library
			To expand mobile library services by increasing the number of mobile library vans and staff
		Yuen Long	To make regular block loans of books to youth centres and voluntary agencies in the district
			To increase the number of staff or self-charging terminals in Tin Shui Wai Public Library with a view to shortening queueing time
			To arrange for the sale of used books to readers at low prices, and to make available to the public outside the libraries those used books which were not selected
			To hand over the management and operation of study rooms to community centres during public holidays

<i>Category of suggestions</i>	<i>Total No. of suggestions</i>	<i>DC</i>	<i>Suggestions</i>
			To provide a visual arts exhibition gallery as well as a film and video projection room in Tin Shui Wai Public Library cum Sports Centre
			To provide as far as possible dedicated facilities such as an exhibition gallery, a conference room, a car park, and so on, in the planning of Tin Shui Wai Public Library cum Sports Centre
			To provide a conference room instead of the proposed discussion room for holding meetings and seminars
			To cater for the needs of people of different ages by providing them with suitable reading materials
6. To build new civic centres and Multi-purpose Complexes	7	Eastern	To construct a permanent venue dedicated for Cantonese opera performances preferably on the former North Point Estate site in the Eastern District
		Sham Shui Po	To implement as soon as possible the construction of Tung Chau Street Complex (This suggestion was put forward by the DC in both 2003 and 2005)
		Southern	To build a civic centre in the Southern District to meet the demands of local bodies
		Wong Tai Sin	To consider the construction of a large scale cultural and entertainment performing venue in the district
		North	To accord priority to the North District Civic Centre project (This suggestion was put forward by the DC in both 2003 and 2005)
7. Miscellaneous, for example, provision of car parks	22	Kowloon City	To construct a Hoi Sham Temple in Hoi Sham Park
		Southern	To extend the contract period of the restaurant at Pao Yue Kong Swimming Pool, allowing the contractor more time to yield returns

<i>Category of suggestions</i>	<i>Total No. of suggestions</i>	<i>DC</i>	<i>Suggestions</i>
		Wan Chai	To provide a fee-paying car park at the Hong Kong Central Library
			To provide an access for the disabled between 4/F and 5/F of Lockhart Road Public Library after renovation
		Tai Po	To construct a pier outside Tai Po Waterfront Park
			To provide a self-study corner in Fu Shin Sports Centre
			To remove the seats behind the CD racks in the library so as to prevent noise nuisance caused by the searching of CDs
			To install an observation elevator for library patrons on the external walls of Tai Po Complex
		North	To add parking facilities for the district open space in Fan Ling/Sheung Shui Area 39
			To provide a bicycle parking area for the sports centre in Fan Ling/Sheung Shui Area 28A
		Sha Tin	To open Ma On Shan Public Library to the public as soon as possible
		Sai Kung	To provide a trail connecting Clear Water Bay First Beach and Second Beach
		Tuen Mun	To shorten the 15-month renovation period of Tuen Mun Central Library
		Yuen Long	To organize book donation and sale activities in Yuen Long on a trial basis
			To provide seating for the public queueing outside Tin Shui Wai Public Library
			To resite the main library of Tin Shui Wai to Tin Shui Wai Area 104
			To optimize the use of resources by organizing the sale of withdrawn books at low prices or through donations of such books to schools and organizations in need
			To reduce the stock of English books

<i>Category of suggestions</i>	<i>Total No. of suggestions</i>	<i>DC</i>	<i>Suggestions</i>
			To rename Tin Shui Wai Central Library as Tin Shui Wai District Library
			To include sculpture installation and the construction of one more toilet block at the local open spaces in Tin Shui Wai Areas 25, 25A, and 25B
			To provide additional facilities for the Tin Shui Wai Public Library cum Sports Centre Project
			To give away relatively old library materials to local organizations or district councillors
Total	195		

Annex B

Details of the suggestions put forward by DCs
over the past three years
regarding district municipal facilities and service
kept under review and those not accepted

<i>Category of suggestions</i>	<i>Total Number of suggestions</i>	<i>DC</i>	<i>Suggestions</i>
1. To build new public toilets or to improve facilities of existing toilets/aqua privy	6	Central and Western	To allocate resources to places without public toilet facilities (such as football pitches)
		Kwun Tong	To install automatic flushing system for the squatting and the pedestal type toilets
		Wan Chai	To provide a temporary toilet at the portion of Eastern Hospital Road near the Hong Kong Stadium
		Kwai Tsing	To provide a permanent toilet at the morning walk trail on Liu To Road, Tsing Yi
		Yuen Long	To provide a public toilet adjacent to the nullah in Tin Shui Wai
		Yuen Long	To improve the aqua privy in Nam Hang Tsuen, Tai Tong Road, Yuen Long

<i>Category of suggestions</i>	<i>Total Number of suggestions</i>	<i>DC</i>	<i>Suggestions</i>
2. To install air-conditioning (A/C) system in markets/hawker bazaar	5	Eastern	To install A/C system in Java Road Market
		Kwun Tong	To install A/C system in Ngau Tau Kok Market and Cooked Food Centre
		Southern	To install A/C system in Aberdeen Market
		Wong Tai Sin	To install A/C system in Ngau Chi Wan Market
		Yau Tsim Mong	To install A/C system in the Jade Hawker Bazaar
3. To relocate hawkers to fixed pitches with no restricted trading hours	1	Sham Shui Po	To relocate hawkers who are subject to specified trading hours (that is, who are required to vacate the site daily) to vacant fixed pitches in the district with no restricted trading hours
4. To allow on-street hawkers to choose whether to move into a newly completed market	1	Wan Chai	To allow on-street hawkers to choose whether to move into the newly completed Wan Chai Market and to provide them with more options
5. To construct or relocate refuse collection points, dog latrine or central animal carcass collection point	6	Southern	To relocate Tsung Man Street Refuse Collection Point
		Islands	To construct a refuse collection point
		North	To relocate the refuse collection point in Luen Fat Street, Luen Wo Hui
		Kwai Tsing	To relocate the dog latrine in Liu To Road, Tsing Yi
		Tai Po	To relocate the Yan Hing Street Refuse Collection Point in Tai Po Market
		Yuen Long	To set up a central animal carcass collection point
6. To construct new or temporary markets, to improve the electricity supply of an existing market or to retain existing rental scheme	4	Yau Tsim Mong	To solve the electricity supply problem and to increase the number of stalls in Haiphong Road Temporary Market
		Islands	To provide a temporary market at Yung Shue Wan, Lamma Island
		Tuen Mun	To construct a new market in Lam Tei, Tuen Mun

<i>Category of suggestions</i>	<i>Total Number of suggestions</i>	<i>DC</i>	<i>Suggestions</i>
		Yuen Long	To retain the existing rental scheme for stall tenants of Tai Kiu Market and Tung Yick Market
7. To dispose of home renovation waste	1	Islands	To dispose of home renovation waste
Total	24		

Annex C

Breakdown of meetings held between
Directors of Bureaux/Heads of Departments
and DC members
since the commencement of the current DC term in January 2004

<i>Directors of Bureaux/Heads of Departments</i>	<i>Number of DC Meetings</i>
Secretary for the Civil Service	1
Secretary for Constitutional Affairs	16
Secretary for Education and Manpower	1
Secretary for Home Affairs	30
Director for Civil Engineering and Development	1
Director of Environmental Protection	3
Director of Food and Environmental Hygiene	5
Director of Home Affairs	35
Director of Leisure and Cultural Services	14
Total	106 ¹

¹ Some of these meetings involve more than one Director of Bureau or Head of Department.

Judges Joining Political Organizations

10. **MR MA LIK** (in Chinese): *President, it has been reported that a recorder of the Court of First Instance of the High Court and a deputy District Judge have joined a local political party as founding members. In this connection, will the Government inform this Council if it knows:*

- (a) *whether the rule in the existing Guide to Judicial Conduct that Judges should refrain from membership in or association with*

political organizations is applicable to part-time judges; if so, how the Judiciary will deal with those judges who fail to comply; if not, of the reasons for that;

- (b) whether the appointment letters currently issued respectively to full-time and part-time Judges have stipulations on judges joining political organizations and engaging in political activities; if so, of the details;*
- (c) of the current channels through which the public and court users can know whether individual Judges are members of or associated with political organizations; and*
- (d) whether the Judiciary will, before appointing any person to be a Judge, require him to make a statement pledging that he will refrain from membership in or association with political organizations while in service?*

CHIEF SECRETARY FOR ADMINISTRATION (in Chinese): President, the issues raised in the question are matters for the Judiciary. Based on the information provided by the Judiciary, we now provide the following response.

- (a) The Judiciary reiterates that judicial independence and impartiality are of course of fundamental importance. There are well established legal principles laid down in case law, which apply to both full-time and part-time Judges, as to when a Judge should disqualify himself from sitting. The circumstances include those giving rise to apparent bias. The test is whether the circumstances are such as would lead a reasonable, fair-minded and well-informed observer to conclude that there is a real possibility that the judge would be biased.

According to the Judiciary, based on the above well-established legal principles, and having regard to the fact that the full-time occupation of part-time Judges is practising in the legal profession, the guidance in the Guide to Judicial Conduct that Judges should refrain from membership in or association with political organizations does not apply to part-time Judges.

- (b) The appointment letters issued to full-time and part-time Judges have no stipulation on judges joining political organizations and engaging in political activities.
- (c) The Judiciary does not collect personal information on whether individual Judges are members of or associated with political organizations.
- (d) All full-time Judges are expected to comply with the Guide to Judicial Conduct, which includes the guidance on refraining from membership in or association with political organizations or activities.

Inspection of Vegetable Samples

11. **MR FRED LI** (in Chinese): *President, will the Government inform this Council:*

- (a) *of the total number of vegetable samples taken in the past year by the Vegetable Marketing Organization (VMO) for testing to ascertain whether their levels of pesticide residues fail to comply with the local requirements or whether they contain any prohibited pesticides, as well as the respective numbers of vegetable samples taken by the Food and Environmental Hygiene Department (FEHD) from local farms, supermarkets, public markets, Man Kam To and other places for the purpose of conducting such tests;*
- (b) *of the respective vegetable samples taken in the past year by the FEHD and the VMO for conducting the above tests, and the vegetable samples which were detected to contain levels of pesticide residues not complying with the local requirements as well as the degree of non-compliance;*
- (c) *whether the FEHD and the VMO detected any vegetable samples containing prohibited pesticides in the past year; if so, of the number of samples, types of vegetables and the names of the prohibited pesticides involved;*

- (d) *whether the FEHD and the VMO have issued guidelines and codes of practice concerning the inspection of vegetables (for example, which types of vegetables should be particularly targeted in a particular season, and the points to note when taking samples, and so on); if so, of the details; if not, the reasons for that; and*
- (e) *as the authorities have urged supermarkets to improve the system for tracking and tracing the source of their vegetables and other farm produce, and will explore the feasibility of instituting a voluntary registration system for farmers engaged in commercial production of food produce and will consult the public on this matter, whether the FEHD, the VMO and the Customs and Excise Department (C&ED) have taken other measures to strengthen the control of the quality of vegetables; if so, of the details of such measures and whether they are temporary or long-term measures?*

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

- (a) The FEHD has collected 19 100 vegetable samples through the Food Surveillance Programme in 2005. The following table shows the sampling locations and number of samples collected:

<i>Vegetable Sampling Location</i>	<i>Number of Samples (rounded to the nearest hundred)</i>
Man Kam To Food Control Office	16 900
Wholesale Markets	700
Supermarkets	700
Markets	700
Others	100
Total:	19 100

Besides, the VMO collected 62 200 vegetable samples for basic tests on pesticide residues in 2005. The test is a service provided by the VMO for vegetable wholesalers and buyers so that vegetables offered to the patrons are of superior quality. If there are any doubts about pesticide residues in vegetables, the VMO will refer the cases to the FEHD for follow-up action. The VMO also make

use of the test results to educate farmers on how to use pesticides properly.

(b) and (c)

The FEHD and the VMO take samples for tests from four main categories of vegetables, namely leafy vegetables (for example, flowering Chinese cabbage and lettuce), non-leafy vegetables (for example, cauliflower and broccoli), gourds (for example, hairy melon and wax gourd) and others (for example, pulses and mushrooms). The following is a breakdown of vegetable samples collected by the FEHD and the VMO in 2005:

<i>Types of Vegetables</i>	<i>Samples Collected by the FEHD</i>	<i>Samples Collected by the VMO</i>
Leafy vegetables	11 300	40 900
Non-leafy vegetables	200	7 900
Gourds	5 200	9 100
Others	2 400	4 300
Total:	19 100	62 200

The standards adopted in Hong Kong for the monitoring of pesticide residues in food commodities mainly followed those set by the Codex Alimentarius Commission (Codex). In 2005, vegetables with unsatisfactory results tested by the FEHD are as follow:

<i>Species</i>		<i>Amount</i>	<i>Test Results (parts per million)</i>
Leafy vegetables	Water cress	1	Methamidophos ^{Note} : 8.4
	Lettuce	1	Methamidophos: 4.5
	Flowering Chinese cabbage	1	Methamidophos: 3.1
	Chiu Chow white cabbage	1	Methamidophos: 3
	Common sow-thistle	1	Methamidophos: 2
	Chinese lettuce	2	Methamidophos: 1
	Cabbage	1	Methamidophos: 1
Gourds	Eggplant	1	Methamidophos: 2
Others	Green string bean	1	Methamidophos: 2
Total:		10	

Note: Methamidophos is an unregistered pesticide under the Pesticides Ordinance (Cap. 133). However, the testing results show that the amount of Methamidophos is insufficient to cause immediate danger to human.

- (d) The FEHD has issued guidelines for sampling and tests of food (including vegetables) to its staff. Points to note on how to take samples were included in the guidelines. In addition, while carrying out the Food Surveillance Programme at the import, wholesale and retail levels, the FEHD makes appropriate changes to the types and number of samples to be taken for tests based on risk assessment and scientific analysis.

The VMO has also issued guidelines for sampling and tests on vegetables and briefed its staff on how to take vegetable samples and handle vegetables that contain pesticides that exceed permitted levels.

- (e) In response to recent reports about vegetables sold in Hong Kong that contained excessive or unregistered pesticides, the FEHD has stepped up testing on vegetable samples at the import, wholesale and retail levels and liaised with the mainland authorities to share information to ensure the vegetables sold in Hong Kong markets are fit for human consumption.

The C&ED has always conducted spot checks on imported goods at various control points to prevent articles not listed on the manifests, including vegetables, from being smuggled into Hong Kong. After the incidents, the C&ED and the FEHD have stepped up collaboration to prevent vegetables unfit for consumption from being smuggled into Hong Kong. Apart from sharing intelligence, the two departments also undertake frequent joint operations to ensure that lorries carrying vegetables would be inspected at the food control centre of Man Kam To Control Point. The C&ED will also continue to strengthen its intelligence gathering and analysis efforts to better combat various types of smuggling activities.

The VMO has already recruited more staff to step up quality control for vegetables sold via its network in order to further enhance the quality of service for its patrons.

Reducing Amount of Drugs Dispensed

12. **MR LI KWOK-YING** (in Chinese): *President, it has been reported that the hospitals in the New Territories East Cluster have recently implemented a new policy whereby only half of the normal amount is dispensed in the prescription of the medicines "to be taken if needed". In this connection, will the Government inform this Council whether it knows:*

- (a) when the policy began to be implemented, and whether the organizations concerned have been consulted before its implementation;*
- (b) whether the hospitals in the New Territories East Cluster are currently implementing the policy, and whether the scope of the policy will be extended to other hospital clusters in the future; if so, of the implementation timetable; and*
- (c) the rationale for dispensing only half of the normal amount in the prescription of the medicines "to be taken if needed", and whether it has assessed the impact of the policy on the conditions of the patients taking such medicines?*

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Chinese): President, generally speaking, medicines "to be taken when necessary" under prescription by medical practitioners refer to medicines that are not required to be taken at prescribed intervals. These medicines, which are meant to be taken by patients as and when necessary, are mainly used for providing relief to symptoms that may arise (for example, diarrhoea, pain, dizziness, and so on).

Under existing policy, public hospitals do not have any rule stipulating the dispensation of half the quantity of medicines "to be taken when necessary" to patients. As a matter of fact, when prescribing this type of medicines the medical practitioners would determine the quantity to be dispensed having regard to the clinical condition of the patients, including the frequency of occurrence of the symptoms in question. The medical practitioners would discuss the prescription of medicines "to be taken when necessary" with patients, so as to ensure the appropriate use of these medicines and that the quantity to be dispensed would suit the patients' needs.

In the event that a patient is in need of an additional quantity of medicines "to be taken when necessary", he may approach the hospital or clinic he attended for assistance. The health care staff would seek advice from the patient's attending doctor and make appropriate arrangements, including the prescription of additional quantity of the medicines or, where necessary, an advancement of the date of the follow-up consultation.

Replies to the specific questions are set out below in *seriatim*:

- (a) The New Territories East Cluster has adopted the practice of determining the quantity of medicines "to be taken when necessary" to be dispensed to patients on the basis of their clinical condition since 17 April 2002. This dispensing practice was considered and endorsed by the Cluster's Pharmaceutical Services Committee.
- (b) Other hospital clusters have also adopted similar dispensing practices.
- (c) By adopting the practice of determining the quantity of medicines "to be taken when necessary" to be dispensed to patients on the basis of their clinical condition, the main objectives are to reduce the waste of medicines and to avoid possible mishaps from the accumulation of unused medicines. This dispensing practice has been implemented for some time and proven to be effective. The Hospital Authority is not aware of any adverse effects of the practice on patients so far.

Electronic Road Pricing Scheme

13. **DR RAYMOND HO** (in Chinese): *President, it has been reported that the Government is actively conducting studies on the electronic road pricing (ERP) scheme, with a view to resolving the traffic congestion problem in Central District, Wan Chai and Causeway Bay areas. In this connection, will the Government inform this Council:*

- (a) *as I learnt that studies on the above scheme started a few years ago and the scheme was subsequently abandoned due to the lack of*

adequate alternative roads, why the authorities are actively studying the scheme now;

- (b) as the authorities have already formulated plans (such as the provision of Central-Wan Chai Bypass) to improve the traffic congestion problem in Central District, and so on, whether they have assessed if there is any need for the ERP scheme; if so, of the assessment results; and*
- (c) whether it has assessed if the ERP scheme, while achieving relief in the scheme areas, will lead to an increase in the traffic flows in other areas, thereby causing the traffic conditions in those areas to deteriorate?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): President, we have been exploring all possible measures, including ERP, to improve the traffic flow along major transport corridors, cater for traffic growth and alleviate traffic congestion. Regarding the study on ERP, we are updating the transport model developed some years ago with latest data to assess the impact of different charging scenarios on relieving traffic congestion.

When examining the ERP scheme, we will consider the effectiveness of the scheme and other traffic improvement measures, as well as the pros and cons of implementing the scheme and otherwise. We will consult the public before making any decision.

We will also assess how implementing ERP in specific areas will affect the traffic situation in other areas.

Education for Non-Chinese Speaking Students

14. **MS EMILY LAU** (in Chinese): *President, regarding education for non-Chinese speaking (NCS) students, will the executive authorities inform this Council:*

- (a) as the authorities have indicated that the three secondary schools which conventionally admit a larger number of NCS students have*

already put in place school-based curricula to assist their students in attaining the qualification of General Certificate of Secondary Education (Chinese), of the details of these curricula;

- (b) as the authorities have indicated that they will identify one or two schools in each of the five electoral constituencies to offer better support for NCS students, of the details of the work to identify such schools; and*
- (c) of the details of the vocational training programmes in English offered by the authorities to NCS students?*

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

- (a) In order to facilitate integration of NCS students into the local community and their long-term development in Hong Kong, the three secondary schools which traditionally admit a larger number of NCS students have in recent years started to develop their school-based Chinese Language curricula progressively at each grade level. The development takes into account the diverse needs and abilities of their students and their specific school context. One of the objectives of such curricula is to enable the students concerned to acquire, upon completion of secondary education, a suitable qualification in Chinese Language mainly for NCS persons, such as the General Certificate of Secondary Education (Chinese), according to their abilities. The Chinese Language curriculum puts emphasis on developing the basic language skills of students (reading, writing, listening and speaking); enriching their knowledge about the Chinese culture and literature; developing thinking and independent learning skills; and cultivating positive moral values. The school-based curricula developed by the three schools are also following this broad framework with adaptation according to the Chinese proficiency of the relevant cohorts of NCS students. Currently, the curriculum in one of the secondary schools concerned has been developed up to the Secondary Four level while those in the other two schools are being implemented at the junior secondary level.

- (b) Recently, the Education and Manpower Bureau (the Bureau) has had preliminary discussion with non-government organizations and ethnic minority concern groups on how to select the "resource schools" concerned. The relevant arrangements will take into consideration the number of NCS students in individual electoral constituencies, the distribution of the selected primary and secondary schools in the electoral constituencies, the experience and performance of these schools in supporting NCS students, the number of NCS students they have admitted, and so on. Currently, the Bureau is identifying suitable schools in each of the electoral constituencies, and will conduct detailed discussion with the schools concerned on the school-based support measures that may be required. The purpose is to assist these "resource schools" in developing their strengths and centralizing resources to provide even better support for their NCS students, and to facilitate their professional sharing with other schools. If everything goes smoothly, the relevant arrangements may start to be implemented within the 2006-07 school year at the earliest.
- (c) The Vocational Training Council (VTC) has provided NCS school leavers with a number of professional training courses conducted in English. In the 2005-06 school year, a one-year fundamental diploma course on tourism has been provided for 36 Secondary Five NCS school leavers. The VTC plans to increase the number of such learning modules and school places in the 2006-07 school year. A series of long- and short-term courses covering beauty care, catering, construction services and computer animation will be provided for NCS school leavers at different academic levels. In addition, the Construction Industry Training Authority has also offered vocational training courses conducted in English.

For Career-oriented Curriculum (COC) piloting in secondary schools and the future Career-oriented Studies under the new senior secondary curriculum, some courses may be offered in English subject to demand. Under the COC pilot scheme for the 2005 to 2007 school years, six courses could have been offered in English but were not run eventually due to a lack of demand from the schools concerned. As regards the 34 piloting courses for the 2006 to 2008 school years, two courses will be offered in English only

whereas 12 courses can be offered in English subject to demand. So far four secondary schools have nominated some of their NCS students to take the COC courses, including those to be conducted in English. In addition, to further widen the choices of courses for NCS students who have little problem communicating in Chinese orally but are only relatively weaker in reading/writing the language, we have requested the relevant institutions to consider supplementing the courses conducted primarily in Chinese with English reading materials/assessment.

Hong Kong Private Cars Crossing Boundary

15. **MR LAU KONG-WAH** (in Chinese): *President, regarding private cars of Hong Kong crossing the boundary, will the Government inform this Council:*

- (a) *whether it knows if the number of private cars of Hong Kong which were granted boundary-crossing licences has increased over the past three years;*
- (b) *given that the Guangdong authorities have stipulated that Hong Kong businessmen have to make an industrial/commercial investment of over US\$1 million in non-mountainous regions of Guangdong Province before they may apply for a private car boundary-crossing licence, whether it will negotiate with the Guangdong authorities to relax this requirement; if not, of the reasons for that; and*
- (c) *whether simplified arrangements will be provided for private cars of Hong Kong with boundary-crossing licences to cross the boundary?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Chinese): President, by the end of April 2006, around 11 500 Hong Kong private cars were allowed to enter and leave the Mainland, representing a 34% increase from around 8 600 as at end of April 2003.

According to the agreement between the Governments of the Hong Kong Special Administrative Region and Guangdong, quotas for Hong Kong private

cars to enter and leave the Mainland are mainly issued to persons with business need to travel between the two places. The Guangdong authorities require an applicant to invest more than US\$1 million (HK\$/RMB 8 million) in non-mountainous areas in Guangdong or US\$400,000 (HK\$/RMB 3.2 million) in mountainous areas. We have recently discussed with Guangdong the feasibility of relaxing the investment requirement. Guangdong considers that even under the existing eligibility criteria, an applicant has to wait for quite some time before he can obtain a quota. It is therefore not opportune to relax the criteria, lest this would further lengthen the waiting time. Both sides, however, agree to discuss the feasibility of relaxing the criteria again after the commissioning of the Hong Kong-Shenzhen Western Corridor.

We have often endeavoured to introduce appropriate and practicable measures to simplify the cross-border procedures for vehicles and enhance clearance efficiency. For example, we have introduced the Automated Vehicle Clearance System at Man Kam To, Sha Tau Kok and Lok Ma Chau Control Points in phases. In addition, eight additional kiosks, which are newly designed to provide a "one-stop" immigration and customs clearance at the same kiosk, have been commissioned at Lok Ma Chau. During busy hours, the front-line departments would also take into account the traffic flow and turn some goods vehicles kiosks into private cars kiosks to facilitate clearance of private cars.

School-based After-school Learning and Support Programmes

16. **MR FREDERICK FUNG** (in Chinese): *President, the Government commenced the School-based After-school Learning and Support (SALS) Programmes in the summer last year to provide cash grant to schools on application and non-governmental organizations (NGOs) which work in partnership with schools to run the programmes. The mode of implementation of the programmes will be revised in the next school year to include community-based projects in addition to the current school-based subsidy. The Government will set aside \$25 million from the recurrent provision of \$75 million for the purpose of organizing community-based projects, with the remaining provision going to school-based subsidy, and the maximum subsidy per eligible student per annum, which is set for the purpose of calculating the amount of school-based subsidy, will be substantially reduced from \$3,600 in this school year to \$200 in next school year. Moreover, although the target group of the*

SALS Programmes is Primary One to Secondary Seven students from families in receipt of the Comprehensive Social Security Assistance (CSSA) and full-grant assistance under the Student Financial Assistance Scheme (SFAS), schools are also given the discretion to offer not more than 10% of the places reserved for the target students to those needy but not receiving CSSA or SFAS full grant. In this connection, will the Government inform this Council:

- (a) of the percentage of the schools and NGOs whose applications have been successful in the total number of applications since the commencement of the SALS Programmes, and the reasons for not approving the applications by those unsuccessful applicants, as well as the contents and forms of the after-school activities which have been subsidized;*
- (b) how to assess the effectiveness of the SALS Programmes, and whether it will consider arranging regular meetings with school principals, teachers, persons in charge of NGOs, social workers and parents to seek their views on the programmes; if not, the reasons for that;*
- (c) how to determine the provision of \$25 million for community-based projects; of the estimated respective maximum amounts of grant for various districts, the maximum amount of grant which can be applied for each activity and the annual maximum subsidy per eligible student; how the priorities for the programmes proposed in various districts will be determined; whether restrictions will be imposed on the types of community-based support programmes, and whether they will consider providing additional amount of funding to NGOs for recruiting personnel to run community-based projects;*
- (d) of the reasons for the authorities' substantial reduction of the maximum subsidy per eligible student per annum, the estimated number of students who will receive school-based subsidy in the next school year, and whether they have assessed the impact of the subsidy reduction on both schools and students; and*
- (e) why the authorities have capped the above number of places under the SALS Programmes, which schools have discretion to offer, at not*

more than 10% of the places reserved for the target students of the programmes, and whether they have assessed the impact of such a cap on both schools and students?

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

- (a) Since the start of the SALS Programmes, that is, the 2005-06 school year, the success rate for schools and NGOs is around 33% and 9% respectively.

A committee comprising representatives from the Education and Manpower Bureau (the Bureau), the Social Welfare Department, NGOs and school sector was set up to formulate the vetting criteria and consider all applications. In the 2005-06 school year, a total of 930 applications were received. As the funding requested far exceeded the total allocated sum for the SALS Programmes, approval of the applications was based on the priority set by the said Committee.

The SALS Programmes included tuition classes, cultural activities, leadership training, visits, and so on.

- (b) Successful schools and NGOs are required to submit an evaluation report on the effectiveness of the project. The report should assess whether the project has been implemented in accordance with the design and objective; the participation and completion rate; feedback from students and parents on the SALS Programmes and other outcome measures included in the SALS Programme plan, as well as academic or affective outcome such as engagement in learning, academic attainment, attitudes, and so on.

Through school visits and regular meetings with representatives of the stakeholders, the Bureau collects views on the SALS Programmes from stakeholders, including principals, teachers, NGO heads, social workers, students and parents.

- (c) Subsequent to our consultation with stakeholders, the mode of implementation has been revised such that a school-based grant at the rate of \$200 per target student (applicable to those Primary One to Secondary Seven students in receipt of the CSSA or full grant assistance from the SFAS) will be disbursed to schools which intend to offer the SALS Programmes. The remaining provision of around \$30 million will be used for organizing community-based projects.

The Bureau will invite interested NGOs to apply for funding to organize community-based or district-wise activities under the SALS Programmes. The community-based project grant for each district will initially be apportioned according to the number of target students in each of the districts. In vetting the applications, the Committee mentioned above will consider the nature of the proposed activities, their relevance to the needs of the particular district, and so on, and apportion funds to each district flexibly.

All expenses to be incurred for the community-based projects, including recruitment of staff to implement the projects, and so on, should be included in the budget; there will not be any additional funding for NGOs to appoint staff for this purpose.

- (d) When we reviewed the implementation of this year's SALS Programmes, stakeholders (including principals, teachers, parents and NGOs) proposed to provide schools which intended to offer the SALS Programmes a fixed amount of school-based grant (that is, \$200 per target student, meaning those Primary One to Secondary Seven students in receipt of the CSSA or SFAS full grant). The remaining provision will be used for community-based projects. It is estimated that about 200 000 students will benefit in the 2006-07 school year. Compared with the 55 700 students benefited in the 2005-06 school year, the proportion of beneficiaries will increase from around 22% to all target students.

In the 2006-07 school year, the SALS Programmes include two parts, that is, the school-based grant and the community-based projects. The Bureau will encourage schools to turn their successful and sustainable school-based projects into

community-based ones, by means of community-based projects. Furthermore, the experience gained from the collaboration between schools and NGOs in the 2005-06 school year will facilitate future co-operation, which in turn will benefit more target students.

- (e) The target students of the SALS Programmes are those Primary One to Secondary Seven students in receipt of the CSSA or SFAS full grant. Nevertheless, students might have different needs, so the Bureau provides schools with an additional 10% of the places reserved for the target students, so that schools can have the discretion to decide on how to identify disadvantaged students suitable for the SALS Programmes, such as those from needy families not receiving CSSA.

Since schools have a good knowledge of their disadvantaged students in need of the SALS Programmes, schools welcome such discretionary powers, and can effectively exercise them.

Providing Low-platform Bus Service

17. **MR ALBERT CHAN** (in Chinese): *President, in May 2004, I raised a question in this Council regarding the issue that most of the bus trips to and from Tin Shui Wai were not serviced by wheelchair-accessible buses with low platforms. It is learnt that currently most of these trips are still not serviced by low-platform buses, and wheelchair users often have to wait for more than 30 minutes for such buses. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of low-platform buses added to the fleets of various franchised bus companies since May 2004 and the respective rates of increase;*
- (b) *of the daily number of trips run by low-platform buses to and from Tin Shui Wai, and the percentage of such trips in the total number of relevant bus trips; how such figures compare with those in May 2004; and*

- (c) *whether it will consider including a clause in the future franchise agreements with the franchised bus companies, requiring them to retrofit in all in-service non-low-platform buses facilities which facilitate boarding and alighting of wheel-chaired passengers; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): President,

- (a) The total number of wheelchair accessible low-floor buses of the franchised bus companies has increased from 2 342 (or 39% of the total number of franchised buses) in May 2004 to 2 544 (or 43% of the total number of franchised buses) in April 2006. The change in the number of low-floor buses of the respective companies is outlined at Annex.
- (b) In May 2004, the total number of trips operated by low-floor buses serving Tin Shui Wai bus routes was 2 321 per day, accounting for 66% of the daily total number of trips of the relevant routes. At present, the total number of trips operated by wheelchair accessible low-floor buses serving Tin Shui Wai bus routes is 2 319 per day, representing 70% of the daily total number of trips of the routes concerned. The present percentage of bus trips operated by low-floor buses serving Tin Shui Wai bus routes in a day is 4% higher than the figure in May 2004.
- (c) All franchised bus companies except New Lantao Bus Company (1973) Limited have agreed and implemented since 2001 that all new buses to be purchased as additional or replacement vehicles would be wheelchair accessible. As regards New Lantao Bus Company (1973) Limited, deployment of wheelchair accessible low-floor buses is not suitable for most of its routes due to constraints of the terrain of its service network. The company, however, has purchased wheelchair accessible low-floor buses for deployment on routes where the terrain permits.

Apart from the low-floor design, there are other features that a bus needs to accommodate to make it wheelchair accessible. For instance, the doors of the bus should be wide enough for wheelchair access; the vehicle should have space for installing ramp with safe gradient; the compartment should have wide aisle for wheelchairs access while with standing passengers, space and tiedowns for safe parking of wheelchair as well as anti-skid floor. Since converting in-service buses to enable access by wheelchair will pose significant difficulties, we consider that it is more practicable for bus companies to continue to adopt wheelchair accessible models when using resources in purchasing new buses. The franchises granted to bus companies by the Chief Executive in Council last for 10 years and will expire between 2013 and 2017. We would review whether the present difficulties could be further addressed when processing future applications for new franchise.

Annex

Number of Low-floor Buses of Franchised Bus Companies

<i>Franchised Bus Companies</i>	<i>Number of Low-floor buses (total number of buses)</i>		<i>Percentage of low-floor buses in the bus fleet</i>	
	<i>2004</i>	<i>April 2006</i>	<i>2004</i>	<i>April 2006</i>
Kowloon Motor Bus Company (1933) Limited	1 494 (4 138)	1 738 (4 042)	36%	43%
Citybus Limited (Hong Kong Island and cross harbour routes) (CTB(F1))	61 ^{Note1} (778)	43 ^{Note2} (744)	8%	6%
Citybus Limited (Airport and North Lantau bus routes)	74 (164)	76 (166)	45%	46%
New World First Bus Services Limited (NWFB)	565 (712)	531 ^{Note2} (693)	79%	77%
Long Win Bus Company Limited	136 (145)	139 (147)	94%	95%
New Lantau Bus Company (1973) Limited	12 (74)	17 (83)	16%	20%
Total	2 342 (6 011)	2 544 (5 875)	39%	43%

Note :

1. The majority of CTB(F1)'s buses were purchased before 1997 when wheelchair accessible low-floor bus was not available in the market.
2. After taking into consideration their own operating conditions and the potential synergy effect, CTB(F1) and NWFB have rationalized their Hong Kong Island and cross harbour routes since 2004, with a view to enhancing efficiency of the two companies. The number of buses required by the two companies has therefore been reduced.

Fire Safety Measures in Public Housing Estates and Private Buildings

18. **DR JOSEPH LEE** (in Chinese): *President, regarding fire safety measures in public housing estates and private buildings, will the Government inform this Council:*

- (a) *of the number of cases received or discovered by the authorities last year concerning poor maintenance or malfunction of fire service equipment and obstruction of fire escapes in public housing estates and private buildings;*
- (b) *of the present position of the authorities' work in promoting fire prevention in public housing estates and private building over the territory, the fire safety measures implemented and their effectiveness; of the numbers of fire escape inspections, tests on fire service equipment and fire drills conducted by the authorities for public housing estates and private buildings in each of the past three years; and whether the authorities reviewed, in the past year, their fire safety work to see if there are loopholes; if they did, of the details and findings of the review; and*
- (c) *of the progress of the Estate Fire Safety Campaign launched by the Housing Department (HD) and its effectiveness in fire safety education, as well as the details and effectiveness of the fire safety campaigns organized by the District Fire Safety Committees (DFSCs) of the Home Affairs Department (HAD) in the past year?*

SECRETARY FOR SECURITY (in Chinese): President,

- (a) In 2005, the number of cases received or discovered by the Fire Services Department (FSD) and the HD respectively concerning

poor maintenance or malfunction of fire service installation and obstruction to means of escape in public housing estates and private buildings is as follow:

	<i>Poor maintenance or malfunctioning of fire service installation</i>	<i>Obstruction to the means of escape</i>
FSD (Public housing estates and private buildings)	1 302	4 619
HD (Public housing estates)	3 843	788

- (b) The Government's fire prevention work in public housing estates and private buildings is carried out mainly through inspections, fire drills, publicity and educational activities. The overall effectiveness of such work was satisfactory in the past three years, with the number of building fires dropping by 14%. The relevant departments will continue to conduct inter-departmental meetings regularly to review and exchange views on fire prevention work in order to further enhance its effectiveness. The details and figures in this regard are as follows:

- In the past three years, the FSD conducted an average of 14 000 inspections to means of escape in public housing estates and private buildings each year;
- Under the Fire Service (Installations and Equipment) Regulations (Cap. 95B), the owner of any fire service installation or equipment installed in public housing estates or private buildings is required to keep such fire service installation or equipment in efficient working order at all times, and have such fire service installation or equipment inspected by a registered contractor at least once every 12 months. In the past three years, the FSD conducted an average of about 81 000 inspections of fire service installation or equipment each year;
- The HD conducts annual inspections, testing and preventive maintenance of all the fire service installations in public

housing estates in accordance with the statutory requirements. In addition, the HD arranges an additional inspection for fire hydrants, hose reels and alarm systems in public housing estates every six months to further enhance their reliability and stability. To ensure that the fire service installations are in good working order at all times, estate management staff, during their daily patrol, inspect all estate facilities, including fire service installations, and arrange immediate repairs or replacements for any damaged items;

- In addition, in the past three years, the FSD assisted the HD and private buildings to conduct an average of 2 000 fire drills each year;
 - The Government's fire prevention work also includes organizing various publicity and educational activities such as fire station open days cum district fire prevention carnivals, fire prevention quizzes, fire safety roving exhibitions, fire safety talks, and setting up DFSCs to enhance public awareness of fire safety; and
 - Government departments have also actively stepped up fire prevention management of buildings. For example, with a view to equipping security personnel with fire safety knowledge the FSD, in collaboration with the Security and Guarding Services Industry Authority (SGSIA), has incorporated general fire safety measures and guidelines on what to do in case of fire into the "Manual for Security Personnel Providing Guarding Services in Buildings" prepared by the SGSIA and the security training courses recognized by the SGSIA. Since 2004, the HAD has jointly organized "Quality Building Management Competitions" with the District Councils annually to raise the standard of management and fire safety of private buildings.
- (c) The HD attaches great importance to fire safety education for public housing tenants. Every year, in collaboration with the FSD, the HD promotes fire safety and arranges regular activities to enhance public housing tenants' awareness of fire prevention. In 2005-06,

a series of educational and promotional activities were organized under the slogan "Enhanced Fire Safety, Safer Estates". These activities include:

- inviting the FSD's mobile publicity units to visit 51 public housing estates to promote knowledge about fire prevention and understanding of the functions and correct use of fire service installations;
- launching a special radio programme to promote fire safety in public housing estates;
- launching a new website on "Estate Fire Safety Campaign";
- broadcasting seven two-minute educational videos on the "Housing Channel" at the ground floor lobbies of public housing blocks;
- organizing the "Estate Fire Safety Roadshow" in 44 estates, which included fire drills, fire safety talks, prize-winning quizzes, and so on. Over 11 000 tenants participated;
- distributing a calendar card printed with tips on how to escape in case of a fire to every public housing household; and
- organizing the "Estate Fire Safety Ambassador" training programme jointly with the FSD and arranging volunteer fire safety ambassadors as guides to lead group visits to the "Estate Fire Safety Education Paths" in On Yam Estate, Kai Tin Estate and Tin Wan Estate.

The above promotional activities and work on fire safety education have produced satisfactory results. According to the FSD's statistics, the number of fires within public housing estates dropped by 92 from 1 618 in 2004 to 1 526 in 2005, representing a decrease of 6%.

Regarding the DFSCs under the HAD, they organize various publicity, educational and promotional activities on fire safety with

the FSD, the District Councils and district organizations in the 18 districts of the territory every year. In 2005, the DFSCs organized a total of 241 fire safety activities, including fire drills held in collaboration with 108 private buildings, 26 fire safety talks, 15 fire safety exhibitions, eight training courses and 84 other activities (such as fire safety carnivals, newsletters, visits, competitions, and so on), which attracted over 100 000 participants. It was hoped that through various forms of activities, fire prevention messages would be effectively conveyed to different sectors of society. In the past year, there was active participation in the fire safety activities by organizations and residents in the respective district, and the response was considered satisfactory.

Air Pollution

19. **MR LEUNG YIU-CHUNG** (in Chinese): *President, in an issue of Time Asia Magazine published this month, one article praises Seoul of South Korea for its efforts to clean up the environment while another casts doubt about whether the Hong Kong authorities have the imagination and determination to tackle the air pollution problem. In this connection, will the Government inform this Council:*

- (a) *whether it has conducted studies on the amount of economic and manpower losses caused by air pollution in Hong Kong each year; if so, of the results;*
- (b) *whether it has studied the measures adopted in foreign countries to clean up the air, with a view to determining which of them are suitable for Hong Kong; if so, of the results; and*
- (c) *of the new long-term and short-term measures to clean up the air of Hong Kong?*

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

- (a) The environmental costs and health care expenditure attributable to air pollution are indirect and long term. According to a study

commissioned by the Environmental Protection Department and conducted by the University of Hong Kong and The Chinese University of Hong Kong in 2002, the economic losses (including consultation and hospitalization fees and productivity loss incurred) caused by respiratory and cardiovascular diseases possibly related to air pollution can reach \$1.7 billion each year, estimated on the basis of the air quality and population data of 2000.

- (b) The Government of the Hong Kong Special Administrative Region (SAR) has been monitoring closely the technologies and policy measures adopted overseas to combat and prevent air pollution, as well as studying their practicability in the local context. We have successfully implemented a number of emission reduction measures in recent years, including:
- (i) Newly registered vehicles are required to comply with Euro I, II and III emission standards in tandem with the European Union, and the Euro IV emission standards have been introduced in stages since 1 January 2006;
 - (ii) Diesel vehicles are required to use ultra low sulphur diesel;
 - (iii) Dynamometers are used for conducting smoke tests for diesel vehicles and computers are used to control the smoke test programme of the dynamometers; and
 - (iv) Financial assistance was provided for retrofitting pre-Euro diesel vehicles with catalytic converters, and legislation had been subsequently introduced to make the installation mandatory.

On power generation, for over a decade, with reference to the experience of developed countries in Europe and the United States, the Government has required all coal-fired generating units be equipped with electrostatic precipitators. New generating units also have to be installed with low-NO_x (nitrogen oxides) burners and flue gas desulphurization systems. Moreover, all new generating units commissioned after 1997 have to be powered by natural gas. Meanwhile, by drawing on the experience of Europe

and the United States in implementing emission trading, the SAR Government and the Guangdong Provincial Government are currently finalizing the details of the Emission Trading Pilot Scheme for Thermal Power Plants in the Pearl River Delta (PRD) Region.

To tighten control on the emission of volatile organic compounds (VOC), we have required the installation of vapour recovery systems at petrol filling stations, having regard to extensive overseas experience. With reference to the successful experience in handling smog pollution in California of the United States, we are also drafting a regulation to control VOC emissions from architectural paints, printing inks and consumer products. The regulation is expected to be introduced to the Legislative Council within this year.

- (c) To bring long-term improvements to air quality in the PRD Region, including Hong Kong, the SAR Government reached a consensus with the Guangdong Provincial Government in April 2002 to reduce, on a best endeavours basis, the emission of four major air pollutants, namely sulphur dioxide, NO_x, respirable suspended particulates and VOC by 40%, 20%, 55% and 55% respectively in the region by 2010, using 1997 as the base year. Achieving these targets will not only enable Hong Kong to meet its air quality objectives but also significantly improve the air quality of the PRD and relieve the regional smog problem.

To fully achieve the above emission reduction targets, the following additional emissions reduction measures are being pursued:

- (i) tightening the motor petrol standard to Euro IV with effect from 1 January 2005;
- (ii) requiring the installation of vapour recovery systems for vehicle refuelling at petrol filling stations with effect from 31 March 2005;
- (iii) introducing Euro IV emission standards to newly registered vehicles from 2006 onwards;

- (iv) requiring the power companies to take measures to reduce emissions and increase the use of natural gas in electricity generation; and
- (v) introducing a scheme to control VOC emissions from selected products.

In 2006, the major tasks underlining the co-operation between the two Governments include the following:

- (i) On combating air pollution from the power generation industry, Phase I construction of the liquefied natural gas (LNG) trunk pipeline in Guangdong Province will be completed in 2006 and a number of LNG power plants are expected to be commissioned in phases. This will substantially reduce the reliance on the more polluting fuel oil and coal in the PRD. Moreover, existing oil-fired and coal-fired power plants in Guangdong Province will continue to install flue gas desulphurization systems;
- (ii) On controlling tailpipe emissions from motor vehicles, the Guangdong Provincial Government will strive to advance the implementation of National III motor vehicle emission standards (on a par with Euro III) in the PRD cities;
- (iii) The data collected by the Regional Air Quality Monitoring Network are analysed jointly by the environmental protection authorities of the two Governments. A regional air quality monitoring report will be submitted on a half-yearly basis, providing the public with more information on the air quality in the PRD;
- (iv) The environmental protection authorities of the two Governments will continue to strengthen technical exchanges and joint studies, especially on the online monitoring of stationary pollution sources and commissioning studies on regional air pollution on a need basis; and

- (v) Details of the Emission Trading Pilot Scheme for Thermal Power Plants in the PRD Region being jointly developed by the two sides are expected to be finalized by mid-2006. Subject to agreement of the two Governments, details will be presented to the power plants in Hong Kong and Guangdong in the third quarter of 2006 so that prospective participants can identify their trading partners and draw up emission trading agreements.

Assisting Development of Cantonese Opera

20. **MISS CHOY SO-YUK** (in Chinese): *President, it has been reported that so far the property owner of the Sunbeam Theatre in North Point has only agreed to extend its tenancy agreement to August 2009. The Cantonese opera sector will then face the problem of lacking permanent performance venue. Regarding assistance to facilitate the development of Cantonese opera, will the Government inform this Council:*

- (a) *of its specific plan to help the Cantonese opera sector solve the problem of lacking permanent performance venue: and*
- (b) *whether it will adopt the recommendation of the Chinese Artists Association of Hong Kong, which represents the Cantonese opera sector, to build, on the cleared site of the former North Point Estate, a standard theatre for use as a permanent performance venue for Cantonese opera; if it will, of the details; and if not, how to ensure the passing on and development of the local Cantonese opera?*

SECRETARY FOR EDUCATION AND MANPOWER (in the absence of Secretary for Home Affairs) (in Chinese): President, at present, Cantonese opera performances take place at various venues in Hong Kong. Every year, there are on average 300 opera performances at the Sunbeam Theatre in North Point. These include different forms of operatic performances and singing. Cantonese opera performances account for a majority of these bookings. Apart from the Sunbeam Theatre, Cantonese opera performances are regularly staged in performing arts venues managed by the Leisure and Cultural Services Department (LCSD). They may take the form of bookings by the professional

companies or presentations by the LCSD. There were 364 such presentations in 2002-03, 373 in 2003-04 and 385 in 2004-05. From time to time, other non-government venues such as the facilities of the Hong Kong Academy for Performing Arts are hired for Cantonese opera performances.

The Government attaches importance to the development of Cantonese Opera as a traditional performing art form in Hong Kong and is fully aware of the concerns of the Cantonese Opera sector over the shortage of suitable performance venues, particularly when the Sunbeam Theatre is no longer available.

Regarding part (a) of the question, we have been working closely with the Cantonese Opera Advisory Committee, set up in May 2004 and the Cantonese Opera sector, on how best to address the sector's need for performance venues. Short- to medium-term measures in the pipeline include special booking arrangements at various LCSD venues to suit the needs of Cantonese opera performances and improvements to the Ko Shan Theatre where Cantonese opera performances have the highest booking rate amongst other LCSD performing venues so as to make it a performance venue more suited to the requirements of Cantonese opera.

The special booking arrangements tailored to the needs of Cantonese opera performances comprise the following measures:

- Priority booking of Ko Shan Theatre — Booking for full-script Cantonese opera performances is accorded high priority in Ko Shan Theatre throughout the year. Applications can be made as early as from 12 to eight months in advance, that is, ahead of booking by other performances which are only accepted seven months in advance
- Reservation of the auditoriums at Sha Tin Town Hall, Tsuen Wan Town Hall, Kwai Tsing Theatre, Tuen Mun Town Hall and Yuen Long Theatre for Cantonese opera performances for the first 15 days of Lunar New Year
- Reservation of Ko Shan Theatre for Cantonese opera performances for the first 14 days of Lunar New Year

- Reservation of the concert halls of Hong Kong Cultural Centre and City Hall for full-script Cantonese opera performances for Lunar New Year eve and the first five days of Lunar New Year
- For all Lunar New Year bookings, they can be made by the Cantonese Opera sector as early as 24 months in advance
- Full-script Cantonese opera performances are given priority in booking for the month of September at Sha Tin Town Hall, Tsuen Wan Town Hall, Kwai Tsing Theatre, Tuen Mun Town Hall and Yuen Long Theatre 12 months in advance. This is earlier than the normal seven months' advance booking arrangement for other users
- Long run performances have priority in booking the LCSD venues. The Cantonese opera performances should be able to benefit from this arrangement

Improvements to Ko Shan Theatre aim at making this venue more suited to the operational requirements of Cantonese opera performances. Works include:

- Lighting improvement for access road to the Theatre (already completed)
- Dressing room facilities improvement (already completed)
- Sound system improvement (already completed)
- Additional cubicles for female toilets (in progress, expected completion before end 2006)
- Providing a covered loading and unloading bay for props (in progress, expected completion in 2007)
- Providing a covered walkway to facilitate pedestrian access (in progress, under consultation with the Kowloon City District Council)

We are consulting various parties concerned on a plan to construct an Annex Building to Ko Shan Theatre which will provide a 600-seat auditorium and multi-purpose rooms suitable for Cantonese opera training and performance. This plan is however subject to resource allocation according to established procedures.

Regarding part (b) of the question, according to the existing Outline Zoning Plan for the North Point Estate, it is zoned Residential (Group A). A performance venue is a place of entertainment which falls under Column 2 use in the Outline Zoning Plan and according to the notes of the Plan, any Column 2 use will require a submission to the Town Planning Board. At this stage, we have no intention to make a submission to the Town Planning Board as the subject site is under land use review.

To address the sector's concern for a centrally located performance venue after the expiry of the lease for the Sunbeam Theatre, we are actively studying how to introduce an even more flexible booking policy at selected centrally located LCSD venues. We shall consult the Cantonese opera sector, in particular, the Chinese Artists Association of Hong Kong, in due course.

As for the longer-term development, we would look to the sector to give us their views by making full use of the West Kowloon Cultural District consultative machinery, namely the Consultative Committee on the Core Arts and Cultural Facilities of the West Kowloon Cultural District, the Performing Arts and Tourism Advisory Group (PATAG), and the focus group meetings for the Cantonese opera sector organized by the PATAG.

We wish to add that the preservation and development of Cantonese Opera in Hong Kong is not just a matter of performance venues. In consultation with the Cantonese Opera Advisory Committee, we are undertaking other measures to achieve this objective, namely:

- Setting up of the Cantonese Opera Development Fund. The Fund has supported a first batch of 18 projects to support Cantonese opera training, promotion and performance as well publication of materials related to the sector
- The LCSD's regular presentation of Cantonese opera performance programmes, and organization of seminars and workshops

- The LCSD's organization of the District Cantonese Opera Parade
- The LCSD's invitation of amateur Cantonese opera companies to participate in audience building schemes, such as the Community Cultural Ambassador Scheme, the Programme Partnership Scheme and the School Culture Day
- Earmarking the last Sunday of November as Cantonese Opera Day in conjunction with Guangdong and Macao to promote the art form through large-scale performances in the three places
- Supporting small Cantonese opera companies through the one-year grantee scheme and various project grants of the Hong Kong Arts Development Council
- Diploma programmes offered by the Hong Kong Academy for Performing Arts to provide systematic training in an academy context to complement the traditional form of apprentice training.

BILLS

First Reading of Bills

PRESIDENT (in Cantonese): Bill: First Reading.

HAZARDOUS CHEMICALS CONTROL BILL

CLERK (in Cantonese): Hazardous Chemicals Control Bill.

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

Second Reading of Bills

PRESIDENT (in Cantonese): Bills: Second Reading.

HAZARDOUS CHEMICALS CONTROL BILL**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**

(in Cantonese): President, I move the Second Reading of the Hazardous Chemicals Control Bill (the Bill).

The principal object of the Bill is to protect human health and the environment from the potentially harmful or adverse effects of non-pesticide hazardous chemicals by regulating the import, export, manufacture and use of such chemicals. The new legislation will enable the Hong Kong Special Administrative Region (SAR) to observe two international conventions, that is, the Stockholm Convention on Persistent Organic Pollutants (the Stockholm Convention) and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (the Rotterdam Convention).

The People's Republic of China is a contracting party to these two conventions. The Stockholm Convention is designed to protect human health and the environment from potentially harmful persistent organic pollutants. The United Nations Environmental Programme has identified an initial set of 12 persistent organic pollutants. In implementing the Stockholm Convention, Governments will take measures to restrict the production/use and/or reduce/ultimately eliminate these pollutants. The Central People's Government instructed that the Stockholm Convention be applied to the SAR from 11 November 2004.

The Rotterdam Convention aims to promote shared responsibility and co-operative efforts among the contracting parties in the international trade of certain hazardous chemicals and pesticides in order to protect human health and the environment from potential harm. The Convention has introduced a mandatory Prior Informed Consent Procedure to monitor and control the import and export of certain hazardous chemicals and disseminate national importing decisions to the contracting parties. Since at present, we do not have the necessary legislation to fully implement the Rotterdam Convention, therefore, the Rotterdam Convention is not applicable to the SAR for the time being.

The non-pesticide hazardous chemicals to be regulated under the Bill are subject to either the Stockholm Convention or the Rotterdam Convention. The

Bill has the flexibility to regulate in the future other non-pesticide hazardous chemicals.

Under the Bill, the Environmental Protection Department (EPD) will establish and operate a permit regime for permitted activities. Each permitted activity (that is, import, export, manufacture or use) will be specified in a permit which is valid for 12 months.

Non-pesticide hazardous chemicals to be regulated under the Bill are divided into Type 1 chemicals (that is, two non-pesticide industrial chemicals regulated under the Stockholm Convention) and Type 2 chemicals (that is, 10 non-pesticide industrial chemicals regulated under the Rotterdam Convention). The import, export, manufacture or use of any such chemical is not allowed except where it is carried out under and in accordance with specific conditions.

An import/export licence should be obtained under the consignment-based licensing system under the Import and Export Ordinance (Cap. 60) for the import/export of any non-pesticide hazardous chemicals. This proposed arrangement is very similar to that adopted in respect of hazardous pesticides regulated under the Pesticides Ordinance (Cap. 133) and the Import and Export Ordinance (Cap. 60).

The EPD has consulted members in the sector and stakeholders on this legislative proposal. In the light of comments from carriers about their difficulty in complying with the import/export licensing requirements relating to transit and air transshipment cargo, the Bill does not require carriers to apply for import/export licences under the Import and Export Ordinance (Cap. 60). However, in order to comply with the stipulations of the two conventions, carriers would need to have obtained permits under the Bill for the import/export of those chemicals and they would need to have obtained permissions from both export and import countries. They would also need to notify the EPD within a period of seven days of arrival of the cargo the details of the cargo with relevant documents.

President, to protect human health and the environment from the adverse effects of non-pesticide hazardous chemical is an important area in the work on environmental protection. In complying with the conventions, we will also

facilitate trade where possible and strike a balance between the two. I hope Members will support the Bill, so as to step up environmental protection work.

Thank you, President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Hazardous Chemicals Control Bill be read the Second time.

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

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): We now resume the Second Reading debate on the Construction Industry Council (No. 2) Bill.

CONSTRUCTION INDUSTRY COUNCIL (NO. 2) BILL

Resumption of debate on Second Reading which was moved on 13 October 2004

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

MR KWONG CHI-KIN (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on Construction Industry Council (No. 2) Bill, I would like to report on the deliberations of the Bills Committee.

Since its establishment in October 2004, the Bills Committee has held 23 meetings, met with 20 professional and interested deputations of the construction industry and received 29 submissions.

All of the deputations which have expressed their views to the Bills Committee support the establishment of the Construction Industry Council (CIC) to co-ordinate and spearhead reform to upgrade the quality of the construction industry. However, members of the Bills Committee and a number of deputations share the view that several major points must be reflected in the Construction Industry Council (No. 2) Bill (the Bill) before the objective of establishing the CIC can be achieved.

First of all, the functions of the CIC must be appropriate. Although the Bill confers on the CIC a much wider range of functions than the existing functions of the Construction Industry Training Authority (CITA), members of the Bills Committee find the proposed functions of the CIC inadequate.

Insofar as the functions of the CIC are concerned, not a word has been mentioned about the long-standing problems in the construction industry, such as those relating to subcontracting arrangements, wage in arrears and evasion of Mandatory Provident Fund (MPF) contributions. Members of the Bills Committee consider that unless the CIC is expressly empowered to deal with these problems, the quality of the industry cannot be effectively upgraded. After detailed discussions with the Administration, members considered that the best approach is to specify in clause 5 of the Bill that the functions of the CIC will include promoting good practices in the construction industry in relation to subcontracting, project management and supervision. The CIC will also be tasked to enhance the cohesion of the construction industry by promoting harmonious labour relations and observance of statutory requirements relating to employment. The Administration will later move Committee stage amendments to the clause to expand the functions of the CIC to address issues of concern to the industry.

Another issue of concern to the Bills Committee is the mode of composition of the CIC. The Bill proposes that the CIC shall consist of a Chairman, an Executive Director, three public officers and 20 other members. The other 20 members will be appointed by the Secretary for the Environment, Transport and Works under the principle that they represent the various sectors of the construction industry.

The majority of deputations and members of the Bills Committee object to the proposed mode of composition. Members of the Bills Committee hold the view that the other 20 members should be nominated by the relevant sectors for

appointment by the Secretary for the Environment, Transport and Works. This will ensure that the relevant members reflect the views of the represented sectors and have a duty to report back to the nominator organizations.

After an in-depth study, the Bills Committee accepted the Administration's proposal to adopt a hybrid model under which nominator organizations representing several major sectors in the industry can propose candidates for consideration and appointment by the Secretary for the Environment, Transport and Works to the CIC on an *ad personam* basis.

I must emphasize here that, with so many trades and related organizations in the construction industry, it would be unrealistic to include all related organizations as nominator organizations. It is therefore necessary for the Bills Committee and the Administration to strike a balance in discussing the list of nominator organizations in order to heed the interests of various sides. Members of the Bills Committee consider it imperative for the appointees to report regularly to stakeholder groups belonging to their constituent sectors.

The Administration has also acceded to the views of the Bills Committee on the composition of the CIC by increasing the number of seats allocated to construction worker unions from two to three to achieve balanced representation. The Secretary will later move Committee stage amendments to clause 9 to reflect in the Bill the consensus reached by members.

Madam President, members are well aware that improving the composition of the CIC is one of the ways to achieve its functions. Another effective way is to enable small groups of persons connected with the industry which have not been selected as nominator organizations to participate in the work of the CIC. One way to achieve this is to enhance the transparency of the CIC by opening up its meetings. Members of the Bills Committee are pleased to find that the Administration has accepted their suggestion readily by agreeing to add a provision in the Bill to specify that the CIC shall hold open meetings except under certain specified circumstances. The Secretary will later move Committee stage amendments to this effect.

Whether the CIC could obtain sufficient funding to sustain its operation remains an issue of concern throughout the deliberations of the Bills Committee.

The two main sources of income for the CITA are levy income from construction operations and training course fees. Members of the Bills Committee note that, over the past several years, income from these two sources has continued to drop, with a reduction of income accrued from construction levy and training/trade testing falling by 14% and 41% respectively during the period from 2002 to 2004.

Members of the Bills Committee are aware that, in order to balance the books and to cope with the evolving industry needs, the CITA introduced the Voluntary Exit Scheme (VES) in August 2005. Members are pleased to note that the scheme has received positive response from the staff. Members have reiterated again and again the need to ensure continued employment of the CITA's existing staff who have chosen not to opt for the VES upon its amalgamation with the CIC.

Despite the Administration's reiteration that no adverse impact would be caused on all serving staff of the CITA when it is subsumed under the CIC as stipulated in clause 82 of the Bill, members consider the assurance inadequate. After lengthy discussions between members and the Administration, the Chairman of the Provisional Construction Industry Co-ordination Board addressed a letter to the Bills Committee, pledging that no major organizational changes or staff retrenchment would arise from budgetary reasons within two years upon the setting up of the CIC. The Administration has also agreed to reiterate the pledge in the speech to be delivered by the Secretary later.

Madam President, all the Committee stage amendments to be moved by the Administration have been discussed with the Bills Committee and endorsed by members of the Bills Committee.

Lastly, I would like to thank members of the Bills Committee for their efforts made in the deliberations of the Bill. On behalf of the Bills Committee, I would also like to thank the Administration for its full co-operation in acceding to the proposals made by members in various aspects to improve the future operation of the CIC and the text of the Bill.

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

Next, Madam President, I would like to speak on the Second Reading of the Bill. During the initial deliberation of the Bill, we all thought that our task

could be completed very quickly. However, it eventually took us nearly two Sessions. As Chairman of the Bills Committee, I am obliged to ensure that all problems derived from the Bill are resolved before the Bill can pass.

This feeling became more intense early this year, when construction workers were required to register according to law. When the registration commenced, many problems arose. Many workers simply could not register, as they were required to set out in the registration form all their employment records for the past six years, to be signed and certified by their employers. However, to avoid troubles, their employers simply would not do so. We could not even ascertain who were required to register and who were not required to do so. It was only after lengthy discussions between the Government and worker unions that the matter was finally sorted out for the registration to commence. Nevertheless, it is still unknown as to whether the relevant work can be completed by August.

As the Bill under deliberation concerns the entire construction industry, it must be handled even more cautiously. For instance, we have spent a very long time lobbying for the number of worker representatives sitting on the CIC before the result today can be achieved. As for the transitional arrangements for the CITA staff, the matter must be handled with even greater care, for the employees' "rice bowls" will be directly affected. It was not until we received the written confirmation that the staff could enjoy a transitional safeguard for two years that the Bill was submitted to this Council for its Third Reading.

Madam President, the industry has high expectations for the CIC and hopes that the deep-rooted, undesirable practices in the construction industry can be gradually resolved. Thank you, Madam President.

MR CHEUNG HOK-MING (in Cantonese): Madam President, the construction industry, albeit being a major economic pillar of the territory, is still problematic. In particular, the connection between a number of accidents and unauthorized building works has aroused great concern in the community. Furthermore, the industry is highly fragmented and beset with an adversarial culture which impedes long-term development. Besides the problems mentioned above, the authorities concerned are confronted with tremendous

regulatory difficulties owing to the faulty "subcontracting" and "multi-layered subcontracting" system and the loopholes of the industry. This has also given rise to a lot of problems relating to defaulted payment of wages, refusal of MPF contributions, and industrial safety, as a result of the vicious circle. Therefore, the Democratic Alliance for the Betterment and Progress of Hong Kong expresses support for the setting up of a statutory, co-ordinating body covering major sectors of the industry to effectively resolve the inherent problems of the industry so as to raise its standard and cost-effectiveness.

Madam President, to ensure that the statutory body can achieve its intended objectives, the Bills Committee has spent considerable time scrutinizing the provisions of the Bill. In particular, the Bills Committee has spent most of the time scrutinizing, among others, the provision concerning the composition of the CIC and its major committees, also an issue of the greatest concern to the industry and some members of the Bills Committee. Thanks to the efforts by the Bills Committee, representatives of the industry and the regulatory authorities in negotiations, a consensus has finally been reached. After the deliberation, the provision will greatly enhance the transparency of the future operation of the CIC, thus in turn facilitating the direct monitoring of the CIC by various sectors of the community, and indirectly facilitating the amelioration of the internal problems of the industry.

Besides government regulation, social monitoring, employers' self-discipline, the competitive edge of employees also plays an important role if the industry is to move towards good operational practices. With the future establishment of the CIC, the CITA will become a major committee, renamed the Construction Industry Training Board, under the CIC. During the deliberation of the Bill, it was noted that the CITA had, over the past several years, continued to slash the number of programmes, which was an unhealthy phenomenon insofar as upgrading the standard and skills of industry employees is concerned. We very much hope the CIC, after its establishment, can offer workers of the industry more appropriate and practical training programmes to upgrade the overall standard of workers. When the time is ripe, the authorities may consider allowing the CIC to strengthen co-operation with organizations outside Hong Kong for mutual exchange and learning between the local industry and overseas organizations, while enabling the local industry to draw reference from other's strengths.

Although the Bill has laid down objectives and provided safeguards for the future operation of the CIC, it does not mean that the existing problems in the industry will be instantly resolved, or the Government can put down its burden. After the passage of the Bill into law, the Government should actively maintain its regulatory role and close co-operation with various sectors of the community and this Council, with a view to further broadening the horizons for the local construction industry.

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

MR HOWARD YOUNG (in Cantonese): Madam President, the CITA, mainly responsible for providing training and skill tests, has long been the only agency associated with the construction industry. For years, there have been repeated negative reports about the construction industry, such as substandard piling incidents, default property developments, construction site accidents, subcontracting disputes, default payment of wages by contractors, default payment of MPF contributions for workers, and so on. In the light of the recent suspension of works owing to serious delays by the Dickson Construction Company Limited, people in the construction industry have agreed unanimously that it is essential to set up a statutory body to regulate certain operations of the industry.

In the long run, I support the Government's proposal of setting up the CIC. Through the establishment of this organization, I hope a code of practice can be formulated to spearhead reform to upgrade the quality and professional standard of the industry and enable the industry to minimize the occurrences of accidents and disputes.

The proposed composition of the CIC is the most controversial issue of the Bill. I am very glad that the Government has acceded to the views of the Bills Committee to enhance the acceptance and accountability of CIC members so that they can truly reflect the views of the industry. To achieve this, the original unilateral mode of appointment by the Government will be amended so that representative organizations can nominate suitable candidates for selection by the Government, on the basis of their representativeness, track record and experience, before deciding on the appointment. The revised arrangement slightly resembles the appointment arrangement of the Travel Industry Council

of Hong Kong, the statutory body of tourism, that is, the constituent represented by me. However, we are responsible for nominating independent directors, not sectors. Representatives will be nominated by the trade associations of the industry for appointment by the authorities. Moreover, numerous representatives can be nominated for selection. Of course, tourism is not as extensive and complicated as the construction industry in terms of implications. But still, I believe the hybrid mode will command greater credibility than the original unilateral mode of appointment.

Furthermore, representative bodies/groups have formulated some fundamental principles, and organizations of various major sectors will be covered as far as possible. In order to achieve balanced representation, the Government has agreed to increase the number of seats for the trade unions of construction workers. After amendments by the Government, I believe the composition of the CIC can truly and fully represent various sectors of the industry.

During the deliberation of the Bill, concern was expressed about whether the proposed amalgamation of the CIC and the CITA would adversely affect the CITA's existing staff, including massive redundancy resulting from major reform brought about by the merger, and whether the staff's existing terms of employment, benefits, and so on, will be altered. These misgivings are totally understandable. I am very pleased that the Government, in order to allay the misgivings of the CITA's staff, has undertaken that the staff will continue to be employed under the existing terms and conditions upon the merger of the CITA and CIC. The Government will also reiterate again during the resumption of the Second Reading debate on the Bill that the CITA's existing staff will not be affected by redundancy for budgetary reasons within two years upon the setting up of the CIC.

I hope the establishment of the CIC can effectively resolve the potential problems confronting the construction industry in concrete terms, and further upgrade the professional standard of the industry.

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

MR WONG KWOK-HING (in Cantonese): Madam President, the construction industry is an old profession with many traditions. People in the industry are so

emotionally attached to each other that most of them work together like brothers. However, the long history of the industry has also brought about undesirable practices, which can still not be ameliorated after all these years.

One of the most serious bad practices is the subcontracting system, under which numerous works are subject to multi-layered subcontracting. As a result, some individual workers have even become contractors. This system is absolutely unreasonable, for such contractors are not genuinely self-employed. The multi-layered subcontracting system has also led to exploitation, with contractors at different layers sharing the construction fees. Not only will subcontracting do nothing to enhance productivity, it will also affect the quality and quantity of works and eat into the entitled wages of workers. Workers employed under the subcontracting system will only end up "working without pay". Despite repeated processions and protests staged by workers, the problem remains unresolved. Although the Provisional Construction Industry Co-ordination Board (PCICB) was set up in 2001, the phenomenon of "working without pay" remains today.

People in the industry certainly have expectations for the CIC; otherwise, participation from all sides will not have been so active. With the establishment of the CIC, we still have to keep in view how to implement and enforce the system designed for ameliorating the undesirable practices of the industry. Why do I propose to keep this direction in view? Let me cite an example to illustrate my point. Subsequent to our intense lobbying over the defaulted payment of wages in the Dickson incident, the Government undertook to launch, with effect from 1 May 2006, "nine tactics" to ameliorate the problem of defaulted payment of wages. However, we can see that problems will continue to arise if these new tactics are proposed without actual implementation. We have recently received a complaint from a Labour Relations Officer (LRO) from a site under the Government's experiment. To substantiate his complaint against the principal contractor for defaulting payment of wages, he came forth to testify the defaulted payment of wages witnessed by him and filed a complaint. However, it was precisely because of his action to file the complaint in discharging his duty that he was fired this month. When we assisted him in complaining to the Labour Department (LD) and pointing out the loophole, we were told by the Government that, according to existing legislation, workers genuinely affected by defaulted payment of wages must testify in person before the Government can follow up the case. Despite the LRO's testimony that the defaulted payment of wages had become so serious that dozens or a large number

of workers had been owed wages in arrears, his accusation was not considered acceptable. This loophole has obviously been overlooked. My purpose of citing this example is to illustrate that the future CIC, given its important responsibility, must exercise strict supervision. Otherwise, even if the top has a policy with the Government introducing new tactics, the bottom will come up with counter-measures, not to mention the uneven standard of the front-line law-enforcement staff stationed on government sites. Furthermore, those unscrupulous employers will employ endless tactics to deceive workers' wages. We therefore hope the CIC can encourage expression of views and listen to the genuine views of the people of the industry and front-line grass-roots workers for the purpose of making constant improvement in the light of the actual situation. In particular, it must implement direct payment of wages by banks through auto pay in concrete terms to truly plug the loophole arising from defaulted payment of wages and evasion of MPF contributions, thus ensuring that workers are duly protected.

Madam President, during the deliberation of the Bill, we fought for nomination by the industry because members appointed by the Secretary might not be acceptable to the entire industry. Subsequent to the amendments to the Bill, nominations will be made by specified organizations representing the industry for appointment by the Secretary. Such an arrangement is conducive to appointing representatives acceptable to the entire industry so that the views of the industry can be better reflected.

Madam President, construction workers have been suffering for years from either being jobless or working without pay. I hope, after the establishment of the CIC, problems relating to subcontracting, wage in arrears and evasion of MPF contributions can be resolved radically. To duly protect the rights and interests of workers is our expectation in supporting the establishment of the CIC; it is also the future direction of the CIC. Lastly, I would like to point out that it is equally important to give the staff of the CITA job security. After the passage of the Bill, the authorities concerned must do something to honour various promises already made, or else the jobs of the staff will be threatened. This will not be conducive to the implementation of various matching initiatives by the CIC. I hope the relevant government department will note this final appeal of mine and give me a proactive response.

I so submit.

MS EMILY LAU (in Cantonese): President, I rise to speak in support of the resumption of the Second Reading of the Construction Industry Council (No. 2) Bill (the Bill).

President, the Chairman of the Bills Committee, Mr KWONG Chi-kin, earlier said that he had not expected the Bill to take such a long time to deliberate. We have held altogether 23 meetings. However, I believe the time has been well spent. I very much hope that the Secretary can, after the passage of the Bill today, commence work expeditiously. As pointed by colleagues earlier, the origin of the Bill can be traced back to as early as the TUNG Chee-hwa era. The Construction Industry Review Committee (CIRC) was appointed in April 2000 to commence work to pave the way for the proposals and submission of the Bill. However, owing to insufficient time, the Bill could not be submitted to the Legislative Council of the last term, and it was submitted again to the Legislative Council of the current term. We hope the Bill can help the construction industry rationalize many matters and help it resolve its problems.

President, this Council can definitely accomplish something about this. The industry was described at that time to be highly fragmented and beset with an adversarial culture. As a result, many tasks could not proceed and there were a lot of problems. This aroused great concern from different sectors in the community. We hope that the establishment of the CIC can be really useful and help provide a forum for discussions to be held between employers and employees.

On our behalf, Mr KWONG Chi-kin voiced many of our concerns earlier in the meeting, one of which being the transitional arrangements for the relevant staff. Despite the lengthy discussions on this issue, we hoped that an undertaking could be given so that the staff could work with peace of mind for at least two years after the establishment of the CIC. I personally approve of the safeguard provided for the staff. Mr KWONG has also mentioned the commencement of the registration of workers. Though The Frontier is not a worker union, I have also heard workers complain that they feel disconsolate and helpless. I hope the authorities can rationalize the matter expeditiously to prevent workers from feeling at a loss as to what to do.

During the deliberations on the Bill, I was shocked by a point in relation to the Construction Industry Training Authority (CITA). President, I have no idea

what was going on. I only heard my colleague mention accusations, quarrels, this and that. I have no idea what had happened. The CITA certainly comprises appointees. As mentioned earlier, the future appointment system will be slightly changed. Initially, it was said that the Secretary would decide on the persons believed to be capable of representing their constituents before making appointment. But then, the system was revised so that the candidates would be nominated by organizations for appointment by the Secretary. I hope the Secretary will not trust the wrong persons. Despite the saying concerning affinity with the Government, some people will only make the authorities and the entire system suffer if their record is bad, such as absence from meetings or refusal to perform their duty. Therefore, the Secretary should equip herself with a list of desirable and undesirable candidates, and support those who have performed well and not to appoint those who have performed poorly, even if they are considered to have very "close" affinity with the Government. Now that such flexibility is built into the Bill, I hope the Secretary can take advantage of it and follow up the matter.

I very much agree with Mr KWONG that the Administration is ready to accept good advice in dealing with a lot of matters. Besides commending the Secretary for readily accepting good advice, I have to praise her competent assistants who have held more than 20 meetings with us. President, I sometimes have the feeling that holding meetings with government officials is, like removing a tooth, hard to bear. The Financial Reporting Council (FRC) issue is one of such examples. I will say a few words on this topic later. The FRC falls into the portfolio of Secretary Frederick MA. Nevertheless, Secretary Dr Sarah LIAO has been readily accepting good advice in dealing with many matters, including the appointment of candidates mentioned earlier. According to the initial proposal, only candidates considered by the Secretary to be capable of representing their constituents would be appointed. Even the Secretary has later changed her mind and accepted that nominations would be made by the industry for her appointment. As pointed out by me earlier, I hope the Secretary will not trust the wrong persons again. She must look for people who are willing to attend meetings seriously and help her consider matters, instead of finding someone who will not utter a single word at meetings or never attend meetings but, when things go wrong, will say that he has nothing to do with them. I hope the Secretary can find people who are serious in helping the CIC. I also hope that the industry can nominate such people. This is vitally important, so I feel.

As pointed out by colleagues earlier, since not every organization can have a candidate appointed to the CIC, members have therefore agreed that the

meetings be made open to the public, though the meetings have actually been publicized. Nevertheless, we hoped to take one more step by including this requirement in the Bill. I am very grateful to the Secretary for her consent. The Secretary should also be aware that the requirement of "holding open meetings" has already been brought into the Town Planning Board, though this has nothing to do with her. She will say a few words on the Annex to clause 10 — no, not this one. Anyway, the Secretary has agreed to bring this into the ambit of the Bill, and I greatly support her. The Secretary will definitely say that it might not be possible to publicize meetings concerning personnel, financial, sensitive or commercial matters, or matters relating to legal liability, and the meetings will have to be held behind closed doors when these matters are discussed. This I accept, as long as the Secretary is willing to bring "holding open meetings" into the ambit of the Bill.

President, I mentioned the FRC earlier because I believe the relevant Bill will be submitted to this Council for the resumption of its Second Reading. Despite a similar request made by me, the authorities were reluctant to act accordingly. I hope Secretary Frederick MA can go back and give the request some thought and learn from Secretary Dr Sarah LIAO. It is also essential for the authorities to rationalize the differences by examining why some boards may hold open meetings, while some are even disallowed from putting certain discussed topics in writing.

Besides, President, I hope the FRC can follow certain practices, particularly the one concerning the term of office, as Secretary Dr Sarah LIAO has agreed to bring the relevant provisions into the ambit of the Bill as clause 10 and clause 3 of Schedule 3. It is mentioned, among others, a candidate cannot be appointed to serve more than six consecutive years. This is actually the "six-six principle". I am very pleased that the Secretary has agreed to do so. This is what I intend to say. This provision was not the one I mentioned a while ago. I am now referring to Secretary Frederick MA's reluctance to put things down in writing, though he said that he would do so. Yet, he is still reluctant to bring it into the ambit of the Bill. We do remember dozens of people have been appointed, in violation of the "six-six principle", since the incumbent Chief Executive took office. Hence, if this principle is brought into the ambit of the Bill, the authorities should all the more abide by the law. This is why I have to praise the Secretary.

President, there is yet another reason for my singing Secretary Dr Sarah LIAO praises, for Secretary Frederick MA is reluctant to do the same. It concerns the circulation of documents. Insofar as this point is concerned, the Bills Committee had held lengthy discussions because of diverse views among members. Members will certainly disagree if some important decisions are made simply by circulation of documents without any chance for discussion. The Administration eventually agreed to write it into the Bill, that the matter will have to be discussed by holding meetings provided that there is at least one objection. Although this request is absolutely reasonable, Secretary Frederick MA is reluctant to include it in the Bill. Today, Secretary Dr Sarah LIAO will propose amendments to two points and bring (the relevant content) into the ambit of the Bill. Nevertheless, the Financial Services and the Treasury Bureau is reluctant to do the same. I am most puzzled indeed. Why can the two Bureaux, both under the Government, act in such an interesting manner?

President, I would also like to say a few words on a point raised earlier by colleagues regarding the numerous problems confronting the industry at the moment. While we hope to rationalize all these problems, a great concern to us is the numerous problems arising from defaulted payment of wages. During discussions in the Bills Committee, we were told that proactive measures would be taken to follow up these fundamental problems. We were even told that a working group had been set up to review the contractual arrangements ascertaining whether further control can be incorporated into the contract to alleviate the problems of non-payment of workers' wages and unnecessary subcontracting of works. The working group has also proposed implementing a scheme of measures in a few selected public works contracts on a trial basis to tackle the problems. These measures include establishing computerized site access control and a special team to receive and handle complaints; controlling/monitoring payment of workers' wages; and prohibiting the main contractor from subcontracting any part of the works under the contract. After assessing the outcomes of the trial scheme and consultation with stakeholders, the proposed measures will be implemented expeditiously for all future works contracts. President, I have no idea of the progress of the trial scheme. If possible, I hope the Secretary can tell us later. As Members of this Council, we can absolutely not tolerate defaulted payment of wages or workers being deceived after backbreaking toil.

I am also convinced that Secretary Dr Sarah LIAO does not support these practices. Given the proposal and the working group, I very much hope the trial has been conducted to ascertain the problems and feasible measures so that a relevant date can most preferably be announced today to let us know when the measures can be enforced in all works. I also hope that the measures can cover all works, not merely government works. I still recall the former Governor (the Governor before 1997), Chris PATTEN, once expressed his feeling that Hong Kong had been disgraced by its record in a number of areas, such as industrial accidents. I hope the situation with industrial accidents has now been improved. Nevertheless, some people say that the situation must have been improved as workers do not have work to do. But the question is: How can we explain to others if workers receive no wages even if they have work to do and industrial safety has been improved? Today, while we support the establishment of the CIC, I sincerely hope that it can work smoothly in the future. However, the authorities must help offer protection to the workers, and the Secretary is obliged to do so.

With these remarks, President, I support the resumption of the Second Reading of the Bill in the hope that work will proceed smoothly in the future.

MS LI FUNG-YING (in Cantonese): President, after more than two years and over a span of two terms of the Legislative Council, the deliberations on the Construction Industry Council (No. 2) Bill (the Bill) have finally come to an end and, is now ready for the resumption of its Second Reading debate and Third Reading. Despite discussions by members of the Bills Committee during the deliberation on the Bill on a wide range of areas, including the functions, composition, funding of the CIC and the transitional arrangements for the CIC's future merger with the CITA, I am still concerned about the transition of the CITA's existing staff and their job security.

During the deliberations on the Bill regarding the transitional arrangements for the CITA's existing staff, the Bills Committee strongly put forward a number of requests, hoping the Administration and the PCICB can do more and take one extra step by giving an assurance and safeguard to the staff. President, the strong reaction and anxiety of members were not unfounded. Throughout the discussions on the merger, I was strongly impressed by the utterly "outrageous" performance of individual members of the CITA management, as reflected by their inconsistency of words and deeds. Despite

the assurance regarding the transitional arrangements for the staff under clause 82 still ringing in our ears, the CITA has, with a blink of an eye, forced its staff to resign voluntarily on the ground of reduction of classes. What is even more "outrageous" is that some staff and its staff association, in view of the extreme importance of job security, have organized some actions and invited Members of this Council to participate, and at least six Members (including me) and the chairman of the staff association had subsequently received a letter issued by a lawyer representing the CITA. This is really utterly ridiculous. What wrong is it for Members to be concerned about and protect the staff's job security, rights and interests? It was later found out that the letter was actually issued in the name of the CITA, whereas the CITA management committee had been completely kept in the dark.

Anyhow, after repeated efforts by members of the Bills Committee, the Government finally agreed to introduce amendments to clause 82 of the Bill to provide clearly that the employment of the employees of the CITA will not be terminated as a result of the dissolution of the CITA. Meanwhile, the Chairman of the PCICB, Mr Keith KERR, wrote to the Bills Committee on 21 April pledging that no major organizational changes or staff retrenchment would arise from budgetary reasons after the Bill is enacted and within two years upon the setting up of the CIC.

Despite the introduction of relevant amendments to provide safeguards to the existing staff, I still have reservations about the pledge because Mr KERR, the Chairman of the PCICB, has merely undertaken that no major organizational changes or staff retrenchment would arise from budgetary reasons after the amalgamation. However, organizational changes or staff retrenchment arising from other reasons are not covered by the pledge.

Lastly, it remains my sincere hope that, in order to achieve smooth transition of the CITA staff upon the amalgamation of the two organizations, the relevant authorities and the Secretary must truly demonstrate their integrity in making commitments and, in discussing and tackling various matters relating to the rights and interests of the staff in future, first consult the staff and the staff association in order to reach a consensus to ensure that the staff's "rice bowls", pay and benefits will not be adversely affected as a result of the amalgamation. It is our hope that, through the setting up of the CIC, the existing problems in the industry can be resolved, and construction workers and the community will not be disappointed. Thank you, President.

MR ABRAHAM SHEK: Madam President, I speak in support of the Second Reading of this Bill. Madam President, before I start, I would like to pay my respect and thanks to Mr Clement CHEUNG, whose hard work, patience and positive attitude to listen genuinely to the needs of the various conflicting sectors have made it possible for today's Bill to be tabled. Without his work, we will not see the end of the day.

The second person I would like to thank, who has made this Bill possible, is the present Financial Secretary Henry TANG, for his leadership and hard work in spearheading the construction reform study that laid the solid foundation to this particular future council.

Enacting the Construction Industry Council (No. 2) Bill will mark a milestone in bringing about improvements in the construction industry and in fostering a partnership culture to produce better quality building and construction safety. In establishing the proposed statutory co-ordinating body, this measure will provide a focal point to spearhead reform initiatives and increase more collaboration within the sector. In implementation, it will enhance the overall quality and competitiveness in the construction works. Therefore, it is absolutely important that the Bill is passed to boost the sustainable development of the construction industry, and I would like to galvanize my colleagues' support to vote "yes" to this Bill.

The Bill proposes the Construction Industry Council (CIC) be vested with self-regulatory power in a market-driven environment. As the CIC will serve as the Government's top advisory board and think-tank on strategic matters and policies related to the industry, it will perform a much wider and more comprehensive range of statutory functions and powers after taking over the works of the Construction Industry Training Authority (CITA). The establishment of the CIC will provide what we now lack, a statutory co-ordinating platform to draw on industry-wide members' wisdom and dedication. CIC members will work on administering registration and rating schemes, assessing performance through the compliance of indicators, formulating codes of conduct, good practices and enforcing them. I strongly believe that establishing benchmark measurements can be effective in enhancing the quality and performance of construction works expeditiously. The establishment of good practices can also help our contractors incorporate the

guidelines into their daily operation and management, thereby consolidating the culture of upholding professionalism and integrity in the construction sector.

Also, in the promotion of better practices in environmental protection, the CIC will foster the greater use of recycled materials, waste reduction, promotion of energy efficiency and rolling out greener building features among the sector. Further, the Construction Industry Training Board will work on overseeing construction manpower training and trade testing in long-term vision. Through the process of providing and approving specialized training courses and examinations, as well as awarding certificates of competence for those training courses, it can definitely equip more trained young workers with advanced building techniques and knowledge, thus raising the professional skills and quality level of all workers. It is encouraging to see the present construction workers registration scheme is fostering a culture of quality by mapping out a clear career path for workers, motivating them to aim for higher skill levels and greater status.

As the future CIC will be financially committed to making research activities systematic and employing innovative techniques, I believe that it can lower building budgets and enhance cost-effectiveness across the construction industry, hence benefiting the community at large. I welcome the Government's commitment to offer land grants to set up training centres as a way of supporting workers' upgrade. The construction sector certainly does not want to see any reduction in funds for training. The Government must guarantee that financial resources for training will be maintained, especially in the first three years after the transition.

In enacting the Bill, the Government has accepted the Bills Committee's recommendation in making amendments to clause 5, which in essence, suggests that the CIC should promote better practices with regards to subcontracting, project management and supervision. However, I believe the CIC must also be given some flexibility in implementing these drafted practices rather than be bogged down by rigid regulations. Since all meetings are open to citizens, the CIC's operation will be made more transparent, and its credibility and image will be sharply raised.

In terms of the CIC's composition, I believe the proposed hybrid model can achieve greater balanced participation by promoting a mix of eminent representatives drawn from major sectors including employers, professionals,

consultants, contractors, subcontractors, material/equipment suppliers and trade unions. This model will ensure that nominated members in the CIC will have a high degree of recognition and be accountable to their affiliated associations. Individual nominating organizations can develop their own reporting mechanism since they may vary depending on their unique circumstances.

Madam President, I am encouraged to hear the pledge from our Secretary for the Environment, Transport and Works as well as the CIC that no staff retrenchment will take place for budgetary reasons for two years upon the CIC's creation, thereby ensuring stability and continuity in staff development. I appreciate that the Government has also accepted the Bills Committee's recommendation to revise clause 82, in that CITA staff will not be terminated even with the dissolution of the CITA. The CIC needs to explore more sources of revenue to sustain its operation and carry out its statutory powers. I urge them to uphold the spirit of contracts by ensuring that employers will not change the employment terms without the consent of their employees.

The future CIC must grapple with this annual operating deficit which the CITA is now facing. It must strive to enhance productivity and open up new revenue streams by devising training courses that fit the prevailing needs. The Government should work with the CIC to explore new administrative arrangement measures to tighten the levy collection mechanism. The enactment of the Bill is crucial for boosting the sustainable development of our construction sector and again, I would like to ask for my colleagues' support to this Bill. With the clear passage of this Bill, not only will the construction industry be benefited, but in fact, the whole of Hong Kong will also be benefited, for what is more important than to have safe and quality buildings, offices and residences? This is the pride of Hong Kong.

Thank you, Madam President.

MR LEE CHEUK-YAN (in Cantonese): President, on behalf of the Hong Kong Confederation of Trade Unions, I speak in support of the Construction Industry Council (No. 2) Bill. Why is the Construction Industry Council (CIC) formed? Members should look back at history. Do we still remember the substandard piling case in Yuen Chau Kok Estate? As the buildings concerned have been demolished, the incident is now resolved. I remember at that time Members were shocked to learn that problems were discovered only when the buildings

were completed and when lifts were about to be installed. It was discovered that the buildings had already tilted. In addition to that, a substandard piling incident also occurred in Tin Chung Court and at that time, this Council formed a select committee to inquire into the incident. The law on the special privileges of this Council was invoked and it was found that the construction industry was beset with bad practices and there were layers of subcontracting stretching from the contractors, subcontractors and sub-subcontractors. Problems were also found in the supervision of works. These accounted for the spate of substandard piling incidents.

These substandard piling incidents served to expose the inherent problems in the construction industry in a most shocking manner. After these incidents, Members would recall that the Government appointed people to form the Provisional Construction Industry Co-ordination Board (PCICB). Over the years the PCICB has done a lot to bring about changes to improve the construction industry and this has led to the establishment of the CIC. It is my hope and wish that the Yuen Chau Kok and Tin Chung Estate substandard piling incidents will become history and no such incidents will ever happen again. The CIC bears the important task of ensuring that the quality of construction can improve and be maintained and no such outrageous things like the substandard piling incidents will happen again.

As unionists, certainly our most eager expectations are that the CIC will face up to the problems of wage defaults and subcontracting. Often times when I hold discussions with the industry, the people in the industry all think that there is a need for so many subcontractors. I doubt if there is really such a need for multi-layered subcontracting. Of course, we know that some kind of flexibility should be given to the industry. But shall we allow this kind of never-ending subcontracting? In the end, those who are held responsible are not the subcontractors but the self-employed people who do not have any employment protection, not even any compensation for wage defaults. I do not believe that this subcontracting system is indispensable to the industry and that it must not be abolished. We often demand that the industry should employ the workers direct and that more staff on permanent terms should be employed. However, I do not think that these are possible, at least in the near future. Even if workers are not employed on a permanent basis, there would not be any need to undergo so many layers of subcontracting. What the CIC should first discuss is how to minimize the layers of subcontracting. In my opinion, at most there can only be three layers of subcontracting. Even when it comes to some professional division of

labour, three layers of subcontracting would be quite sufficient to divide a job up into very fine details. Hence there would not be any need for further subcontracting. So we hope that the CIC can do something to reduce the layers of subcontracting to a minimum.

Then, President, there is another thing which is outrageous and that is, workers are now required to register while the subcontractors are not. Mr CHEUNG or the Secretary may of course say that now there is already a system of voluntary registration. We also know that currently the Government will only award public works to subcontractors which have registered voluntarily and this practice would have contributed to the promotion of this voluntary registration system. However, if the Government really wants to promote this registration system, why does it not mandate the registration of subcontractors? When the Secretary speaks later on, he may say that this is one of the issues the CIC will discuss. I hope that while the CIC will discuss this matter, the Government will also promote the system of registration for subcontractors as soon as possible. If it is found that a subcontractor has violated the standards in safety, quality and labour issues, the subcontractor will be blacklisted and barred from undertaking government works projects. This may lead to another problem and that is, when the Government blacklists a company, the name of the subcontractor concerned should be put on the blacklist as well. For if not, all that the subcontractor may need to do is to alter the name of the company and then bid for government works again. But how is the system going to be set up? We all hope that the CIC will discuss it soon. I hope the Government should play an important role and that is, even if discussions have begun in the CIC, the Government should also assist in the promotion and it should work out and put forth proposals to perfect the law on the subcontractors registration system.

The third major problem for the construction workers, is of course, wage defaults. It is an unforgivable sin to let workers toil but not get paid for it. It is written in the *Bible* that wages of him that is hired shall not abide with the employer all night until the morning. Now we have a seven-day grace period and that is actually a violation of biblical teachings. According to the *Bible*, wages cannot be withheld beyond sunset, that is, the end of the work day. In this modern society of ours, a grace period of seven days is allowed and the Old Testament of the *Bible* is not invoked to oppress the employers. What is most tragic is that in the many trades and industries, the problem of wage defaults is

the most serious in the construction industry. We hope very much that the CIC will come up with some radical solutions to the problem of wage defaults.

President, we know that the Government is working on some new initiatives whereby employers are required to pay wages by auto-pay or direct payment to the workers and labour relations officers should be hired. We propose that labour relations officers should be hired by the Government and if the contractor is to hire the labour relations officers, this is like asking them to find their own faults and that is perfunctory. Admittedly, such measures as proposed by the Government are a good thing, but it is not enough if they are only applicable to government work sites. Such a system should be promoted throughout the entire industry. The Secretary is well aware of some more progressive practices of some large construction companies which have set up their own system of direct payment of wages and auto-pay, but these are only a minority and most construction companies still do not have a sound system to deal with the problem of wage defaults. If no sound system is in place, workers in their attempt to recover wages in arrears may sit precariously on edges of buildings or threaten to jump down and these would become commonplace incidents that we do not want to see. It is our strong wish that the CIC will come up with a thorough solution to the problem of toil without pay and put the entire industry back onto the right track. We therefore hope that these problems would be discussed in the CIC as soon as possible.

In addition, I welcome certain amendments proposed by the Government, such as an increase in the number of representatives from trade unions from two to three. Although we think that there should be more representatives from trade unions, for the sake of balanced representation, we can accept the idea that there should be three trade union representatives from the outset. We hope that discussions will be held in the CIC after its formation on how to increase the representation of workers in the CIC. The proposal to increase trade union representatives from two to three can at least serve to make the voice of workers heard better in the CIC. Therefore, we welcome this proposed amendment from the Government.

Lastly, I would like to talk about the transitional arrangements for the Construction Industry Training Authority (CITA). This is because the CITA would be dissolved in future and scrapped, so to speak, and CITA staff will be directly employed by the CIC. The arrangements for staff have been discussed in this Council for quite some time. The first proposal is to adopt a voluntary exit scheme (VES). In our opinion, this is not a solution that can solve the operational problems in the CITA thoroughly. As workers are required by the

Government to register and they are required to apply for licences and pass trade skills tests, a very important thing is to increase the number of courses offered to meet the demand for training in the construction industry. What the CITA should do is to expand the scope of its work instead of trying to tackle its deficits problem by laying off the staff. We hope that the CIC will come up with more ways to do a better job in training construction workers such as allowing workers from other countries to come to Hong Kong for training. This will also prevent our facilities from falling into disuse. This is something that can be considered and it may mean greater contribution to the Motherland as well. We can discuss how training work in the construction industry can be done better.

President, the last issue is related to the transitional arrangement provisions in clause 82 of the Bill, that is, no adverse impact will be caused on all serving staff of the CITA when it is subsumed under the CIC. However, this is only protection at the moment of transition and in my opinion, this provision only stipulates protection within a very short period of time. I do not think protection should only be given during the transition but it should be provided for a longer period of time. As the CITA has run into financial difficulties, right from the start it stated that it would find it difficult to provide such a safeguard. But since VES was launched later, the CITA's financial position should have improved significantly. Members can note that the current financial position of the CITA is that it has \$200 million of accrued reserves. As for income from the levy, there was \$210 million in 2005 and \$180 million in 2006. It is estimated that from then on, income from the levy should be around \$160 million to \$180 million each year. By 2010, there should still be reserves in the region of some \$100 million. Hence its financial position is very sound indeed. I have cited these figures to prove one thing and that is, if the CITA is financially sound, then it can provide better protection to its staff. We do not want to see CITA staff losing their job security or have their terms of service modified against their wish in the amalgamation exercise. Therefore, we have been pressing for the setting up of a protection period.

President, with respect to this protection period, we are not asking that lifelong protection be given. For if this is the case, employees will need to rely on the trade unions. Of course, it is our wish that trade unions will fight for employees' lifelong protection successfully, this is the task of the trade unions in the days to come. However, what we should do in this legislative exercise is not to do anything against our conscience and do our best to prevent employees

from being subjected to too great an impact during the transition. For this reason we ask that there should be a merger — sorry, President, whenever I see the Secretary I would think of the merger of the two railway corporations — after the CIC is established, the pledge given now is a two-year protection period, but actually we think it should be four years. We hope that after this two-year protection period is over, things will not be over and done with after the transition and there will be protection for the next two years and the staff will not have their terms of service modified and no retrenchment will arise.

Personally, there is one point about the written undertaking given that I am not at all satisfied and that is, as I said last time, there is something superfluous about the pledge made by the Government, that "no staff retrenchment would arise from budgetary reasons". During our deliberations on this Bill, we knew that the Government was not harbouring any unscrupulous intentions when it made such a pledge. I am convinced about this. The Government will not set a trap deliberately and sack the employees later on other grounds. It will certainly not do this. And I also believe that present-day management will not set up any trap for the workers. My point is, since no one is harbouring any unscrupulous intentions, then why not state expressly that no retrenchment will be taken during the two-year period. There is no need to state that "no staff retrenchment would arise from budgetary reasons". Honestly, there is no other cause for staff retrenchment and if someone is dismissed because of poor performance, that is not retrenchment. It is a fair dismissal. The meaning of retrenchment is to reduce staff and tens or hundreds of employees may be dismissed at one time. This is what retrenchment is about and its aim is to cut the size of the manpower establishment. I believe this is not what we want.

When the Government makes a written undertaking in future, I hope that it can remove words like "no retrenchment would arise from budgetary reasons". After the two-year protection period, I hope very much that the terms of the workers' employment contracts will not be modified. Should amendments really be needed, I would suggest one way and I hope this will go down in the records and that it would be considered if such an occasion arises. Should there be a need to modify the contract terms — I really do not want to see that happen — should it really be necessary that contract terms be modified and if employees refuse to sign the new contract because the terms are worse off than before, then to be fair, an exit scheme should be offered, the terms of which should not be worse off than the VES which is currently in force. The logic is simple enough.

When nothing happens, the Government allows them to go of their own accord, but when something happens, it would not be fair if they cannot go of their own accord. This is because, as a matter of fact, the Government has changed their employment contract. Therefore, President, I hope that this arrangement can be included in the provisions laid down by the Government on staff protection.

Lastly, the impression we have got from the entire process of deliberating on the Bill is that the Bureau has been receptive to our views. Mr Abraham SHEK named Mr CHEUNG when he commended him. Ms Emily LAU has praised him without naming him. There is one thing that I think is well done and that is, Mr CHEUNG does not make any affinity distinction. *(Laughter)* Sorry, I think I am about to give a kiss of death again. I retract this remark. I do not want to give this kiss of death now but I think it is important that civil servants should remain neutral.

Thank you, President.

MR LEUNG KWOK-HUNG (in Cantonese): President, the setting up of a council like the Construction Industry Council (CIC) is one way of dealing with the many problems in Hong Kong. For social strata, classes or groups representing diverse interests, the Government may ask them to form a council to deal with their own matters. Of course, the function of these councils is somewhat like a painkiller and it may kill the pain for the time being. Another function is that such a council may rectify some irregularities in a certain trade or industry, hence improvement is made. A council therefore possesses these two functions. But is this CIC able to address the problems faced by the construction industry?

Once when I flew from abroad and was about to land in Hong Kong, from the aeroplane I was unable to see very far down below because it was too polluted. I could not see anything. At last, I could make out something and I could see lots of buildings below, all stacked up like building blocks. A foreigner sitting next to me said it was a spectacular sight. He was amazed. I replied, "Hong Kong is really amazing. It is the most densely populated place in the world and flats are very expensive here." He said, "Right. That is good for you." I said, "It is good for those speculators and developers. The construction companies may get a slice of the cake as well." I think Members

would know that in the construction industry, there used to be a practice known as "3-3-4" and that means construction costs would only take up 30% and the land price 40%.

What in fact are we discussing now? We are discussing a Bill, which seeks to form a council to deal with problems in the construction industry. Just now LEE Cheuk-yan has led us through a journey in the labyrinth of our mind which evokes bitter memories of the past and rosy dreams for the future. Right, these are problems resultant of the substandard piling incidents. Had such problems caused by substandard piling incidents happening in other places, some people would have been put into jail. The people I refer to are not those who are arrested. They are nobody. I am talking about those people in society who have institutionally rationalized corrupt practices in the construction industry. These people should have been sent to jail. If they do not get a prison sentence for this, they should be held politically accountable. In these substandard piling incidents — now we are talking about those incidents once again, who should be held accountable? It so happens that no one is held accountable for these incidents. We know that one of the people who caused the incidents is a famous personality and before a message of no confidence was sent by this Council to him, he indicated that he did not want to remain in office anymore. Then he left and it turned out that he could be appointed to a position more influential than the construction industry. He was appointed as the Chairman of the Education Commission. He is taking charge of education matters and not just in building houses. This is corruption in the truest sense.

What are the drawbacks of this CIC? It is worse than the corporatism idea which MUSSOLINI once toyed with. We know who MUSSOLINI was, right? He was bald. He was a great dictator from Italy. He told people that Fascism was the best thing in the world. He said that he was impartial while the capitalists and workers were all wrong. MUSSOLINI thought that he was the smartest man. So what he did was that whenever problems cropped up, he would ask the big trades to organize some corporations like a council and hold consultative meetings and let the people argue and debate. Of course, MUSSOLINI himself would stand aloof from the heat of things. Even the Vatican lent him its support. In the end, actually he was fooling the people, he would say that everyone had talked in the council and they all agreed and so there must be some change and the wage should be raised by a certain amount and the people should do this and that, and so on, and so forth.

One of the problems with the CIC is that there is no checking force, not even on the surface. It can also be said that there is no force from the labour and no force from the users. There we cannot find any consumers of the construction industry, that is, those who rent and buy properties. The construction workers are shut off because they carry no weight. Thus the setting up of a council like this is meant to get a rubber-stamp. It lets those people who have no credibility make decisions and declare that matters have been discussed in the CIC in great detail.

Let us look at the problem of wage defaults which LEE Cheuk-yan has talked about. I have had many personal experiences of this kind. Once I asked LI Ka-shing to pay the wages in arrears and LI Ka-shing applied for an injunction to stop me from going to his place. He did not allow me to go there. But to whom should I go if I do not go to his place? At last, on the second day of the Chinese New Year, something happened — the tomb of his close relative was vandalized.

Why has this society of ours come to such a state? It is because the construction industry has a perennial practice and that is, works must be subcontracted. Under this subcontracting system, those who reap the most profits are those who do not have to offer any protection to the life of the humble — those who have actually worked out the miracle of Hong Kong — the miracle workers. Previously, I went to recover wages in arrears and I also assisted workers in doing the same. We were like beggars standing in front of the gate. Some policemen asked why we had to do that. They said to me, "Mr LEUNG, why do you not go home?" I could have gone home. But what about the workers? Could they go home? That day was the 25th day of December in the lunar calendar and with the Chinese New Year just around the corner, could the workers go home if they could not get any money?

This system that we are talking about now is one that nobody has ever been held accountable. It has been like this for ages. Someone should have been held accountable in the substandard piling incidents. As seen in these substandard piling incidents, buildings that were built with so much money were slanted like the leaning tower of Pisa. This is not acceptable. About those people who toil day in and day out but cannot get any wages, why do we think that this social phenomenon is perfectly normal? Why are the people told that this is something that cannot be changed? Is this something that really cannot be changed? Why can the Government say that government practices can be

changed while other people are not required to follow suit? When some capitalists think that this state of affairs is outrageous and they would rather pay wages to workers direct, why do some other capitalists not dare to follow suit? If some people are willing to make the change but the CIC says that this cannot be changed, then what is the use of having the CIC after all? Would it just serve window-dressing purposes and no more? I fail to see why Honourable colleagues should propose passing this law.

I have proposed a "three-legged stool" approach — this is not the "three-legged stool" during the days of the Sino-British talks. What is this "three-legged stool" approach? There must be a form that can represent the interests from all quarters. It should at least be like that before there can be any hope of justice and fairness. At least everyone can speak up. Can homebuyers have their representatives? When these people buy their flats, how do they know what kind of flats they are buying when the terms and conditions they see are printed in such tiny print all packed closely together and are virtually illegible? If construction workers do not have any money for their meals and if they have worked but are not paid, who would then pay them their wages? If ever they come across anything unfortunate or if they die, would they only get their wages after their death?

Members, can the CIC solve these problems? I do not think it can. Then may I ask why we think that it is a good thing? Is it because there should be a rubber-stamp in just the same way as this Council is before it can be called good? Has it ever occurred to us that in the construction industry, there are still a lot of problems that remain unsolved? Has it ever occurred to us that we should tackle this system of contractors which is outdated and backward and which is adversely affecting the life of thousands of workers? Has it ever occurred to us that these workers are placed in a plight of all toil and no pay? Has it ever occurred to us that the safety measures cannot be enforced because of the subcontracting system? Have we ever been forced to yield to an unreasonable system and work under it because there is no money for dinner and we have to pay the school fees of our children? If this Government is to do what it says that it wants to practise strong governance for the people, should it not do something to offer a stable life to those workers who work so hard to construct this city of building blocks which foreigners feel so amazed as they look down from a plane? This is something which these workers deserve. If the CIC fails to do this, what then is the use of having it?

Some workers have complained to me that previously the safety effort was sloppy and now with safety measures in place, workers have to obtain licences. Each licence costs about \$500. If a worker is qualified in five different trades, he will need to get five licences renewable annually. Some trade unions increase their membership by offering licence application services. This is like helping the Government to rob and fleece the workers. I wish to ask this question: While a driving licence is valid for 10 years, why should these licences be renewed every year? Do Members know that a worker will have to spend a whole day and pay \$500 to get a licence? What kind of reform have we launched? Why is the cost of social progress paid by the humble instead of by those who make the most profits?

Members, if we go out of this building and look sideways, we can see that office tower of Mr LI. It is so tall that the Legislative Council seems to be dwarfed. As we go a bit further, we can see the Bank of China which is about to be listed. Again we are dwarfed by it. This is no illusion. What we see in our retina is, as KANT puts it, real. It is precisely because the powers of the property sector are so immense that we have this impression that we cannot do without it and that is why some people ought to be victimized.

Honourable colleagues, do you know how much it would cost to take this reform forward? It comes as no surprise that you know nothing. Neither do I. But I can tell you all that it should not be too costly. If a reform is really to be launched, what the Government should do is to propose a comprehensive reform, get it passed by the Legislative Council and then enforce it for compliance by everyone. This is the duty that we should discharge as Members of this Council. What we should do is not to say yes to the formation of a council or whatever or give our support to a council which stands above the people. Members, the Legislative Council is the place we work for the people. If the Legislative Council cannot protect the safety of the construction workers and offer them safety at work, then why do we have to have this CIC? When the CIC is established, do we see any novelty in it? Like the Industrial Relations Institute and the Labour Advisory Board, consensus from the three parties concerned is required. Can the CIC do this? In such circumstances, I cannot say yes. Forgive me for being so dumb, but I really cannot say yes to the setting up of this body which is neither fish nor fowl. Had we ever been to a zoo when we were young and do we know that there is an animal which

resembles four different animals but is really none of them? Does it look cute? What we are doing is to set up one such body which does not resemble anything.

Members, Donald TSANG wants to practise strong governance and he says that he wants to bring benefits to the people. Has he ever thought about how best this channelling of benefits in the construction industry can be rectified? Has he ever thought seriously about doing something for the construction workers? I bet he has not. What he has come up with is a so-called CIC. What kind of a reform is it? What kind of reform do we need? Why is it that with respect to the constitutional reform, our Chief Executive could produce a monstrous package of proposals in no time, but things get busted and miscarried when it comes to improving workers' welfare and their safety at work? Why is it that in an attempt to forestall the progress of constitutional reform, there could be so many monstrosities and we had to spend so much time trying to clean up and purge their venom? Given a black hole in the construction industry the existence of which has been proved by the substandard piling incidents, why can we not do anything? We know that there will be a council and that council is like the corporations which MUSSOLINI talked about (only that it is even worse than these corporations and so we should not try to imitate MUSSOLINI). In the case of MUSSOLINI, he had the guts to put his stakes on the table as he mobilized hundreds of thousand people to march to Rome. He betted that he would not meet any interception. Do we dare? I am not encouraging Members to imitate MUSSOLINI. Does Donald TSANG dare? Does Donald TSANG dare to tell the capitalists that this should not be done? Does he dare to tell them, "You must give way if you want me to govern Hong Kong well. And you must give candies to other people — you want to give them one, two or three candies?" No, he will not dare. This is the nature of the regime. It is characterized by being mean in the face of democracy but never dares to pursue the course of a dictator. His words may sound very nice but he will never reach for his wallet. So, I am sorry I cannot support this Bill which looks like glittering gold on the skin but is rotten underneath.

Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If no Member would like to speak, I would now invite the Secretary for the Environment, Transport and Works to speak in reply.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): President, the Construction Industry Council (No. 2) Bill (the Bill) was tabled at the Legislative Council as early as in October 2004 for First Reading, after which the Second Reading debate commenced. After almost 20 months of deliberations, the Second Reading debate of the Bill is resumed today. Here, I must thank the Chairman of the Bills Committee, Mr KWONG Chi-kin, and other members of the Bills Committee for joining hands with us to complete this difficult task while upholding the common interests of various sectors of the construction industry.

The Bill seeks to establish a statutory body known as the Construction Industry Council (CIC), which serves to pool efforts for the co-ordination of strategic matters relating to the long-term development of the industry as well as self-regulation measures. It also takes over the functions currently performed by the Construction Industry Training Authority (CITA) in respect of training, trade testing and levy collection. The role of the CIC and its purview are mainly based on the report published by the Construction Industry Review Committee (CIRC) in 2001. This, together with the principles and directions established by the CIC's predecessor, namely, the Provisional Construction Industry Co-ordination Board (PCICB) after consultation with members of the industry, forms the blueprint for the drafting of the Bill.

The Government very much supports the industry actively working for the early establishment of the CIC with a statutory status, thereby increasing the strength in promoting reform measures. Under the Bill, the CIC is mainly composed of representatives of various major sectors in the construction industry, together with a small number of lay members and government officials. This is a clear manifestation of the spirit of legislation, that is, establishing an industry-led CIC for the benefit of the industry. Yet, we have still taken on board the view of the Bills Committee by including a nomination mechanism whereby specified trade organizations will nominate suitable candidates for the Government's consideration in making appointments to the CIC, but these organizations are required to ensure that the nominees will be fully committed to

the work of the CIC and that they will maintain close communication and contact with the relevant industry organizations by way of reports.

During the discussions on the Bill, the Works Branch of the Environment, Transport and Works Bureau had been studying how the proposals relating to the operation and concerns of the industry could be implemented or put to trial. A working group was set up in January 2005, as mentioned by Ms Emily LAU earlier on. The information paper of the Legislative Council on 11 May also mentioned this working group, but the paper may not contain the most updated information. So, I would like to give a brief explanation here. With the establishment of the working group, we can pioneer reforms or conduct an experiment in the construction industry mainly in respect of public works.

First, enhancing protection for workers. In this regard, the work records of workers will be computerized for retention. These are very important records because, in the event of labour disputes in future, these records, especially files relating to wages and workers' working hours, will be very important. In this connection, a computerized smart card system has been installed at construction sites to keep records of workers' attendance. All workers are also required to enter into written employment contracts, not verbal contracts, with their employers, because in the event of disputes, it will be very difficult for verbal contracts to have the protection of law. Meanwhile, in this pilot scheme, we will also restrict the payment of wages to bank auto-payment and require principal contractors to submit records of wage payment.

Moreover, there is also the management of subcontracting. Shortly after I had taken office, I already started discussions on subcontracting management with the PCICB, hoping to arrange for the registration of subcontractors, such that they must be formally registered if they wish to become subcontractors of government works. I understand that insofar as subcontracting management is concerned, and as many Members have also mentioned, it will cause big problems in the construction industry. We will impose some restrictions, so that certain processes of public works cannot be subcontracted. I will not go into the details here. In any case, requests for subcontracting of works must be reviewed by the head of the Works Branch whose consent must be sought on the details of subcontracting, and the works must be subcontracted to registered subcontractors only. From the end of last year to early this year, there were

many public works projects and these measures were implemented for three contracts. These measures were put into practice before the Dickson incident. But as the problem of arrears of wages arose also in non-public works projects in the wake of the Dickson incident, and after discussion with various sides and in view of concern in the community, we decided to implement the measures across the board at an earlier date, that is, on 1 May this year. The measures which I have just mentioned are adopted for new construction contracts put to tender since that day, with a view to ensuring protection for the rights and interests of workers.

However, I must say that I still have reservations, because when the Works Branch discussed this with me, I understand that the situation of the construction industry is unique. While arrears of wages should not happen in any trade or industry, given the high mobility of the construction industry, coupled with the fact that the practice of subcontracting is rather deep-rooted, and if you happen to talk about this with the workers, you would know that many of them do not wish to see a ban on subcontracting. In fact, they would form their own team of workers to take up the subcontracted work if they have the ability to do so. But where there is subcontracting, protection is set to become less. So, the Works Branch holds that although this approach is adopted for all projects put to tender from 1 May onwards, it is still necessary for us to conduct a review. It is not the case that these procedures or provisions, once decided, are entirely unchangeable. We all know that once the Government has decided on certain procedures, it is very difficult to make changes to them. We must allow flexibility, and there is room for a review of these provisions made by us.

We originally planned to first implement the measures on a trial basis for three projects, but we have already seen some problems. For example, on the bank auto-payment requirement, it was found that some workers did not have a bank account, then how could autopay be possible? These problems surfaced one after another when implementing the pilot measures, and when problems are identified, how should we deal with them? We must consider the projects individually and so, with regard to all subsequent tenders, we may include these provisions in the tender contract of each project, so that changes can be made accordingly. The ultimate aim is to come up with an approach which is considered satisfactory to workers and contractors and which the Government considers to be in compliance with the requirements in law.

Moreover, the CIC has another characteristic: a highly transparent and open *modus operandi*. The Bill provides that the CIC must submit proposals on activities and its budget to the Government every year. It is also required to table its work report and accounts before the Legislative Council. This, together with the arrangements for reporting mentioned earlier, will enable the industry to understand the development of the CIC in various important aspects. Moreover, as it is difficult for the many organizations in the industry to find opportunities of direct involvement at the same time, the CIC will make public its discussion of agenda items where appropriate, and this requirement is provided for in the Committee stage amendment that I will move later on. This amendment also has the support of the Bills Committee.

As for the other consensuses reached with the Bills Committee on, among other things, the duties and functions of the CIC, appointment of members, making public records of interest declaration, the manner in which a resolution is made, and so on, they are included in the amendments to be introduced one by one later and so, I am not going to talk about them in detail here.

One of the major "operations" to be performed by the establishment of the CIC is the amalgamation of the CITA with the CIC. I hope Members will understand that the CITA was established in the '70s, and I had also actively participated in its work. The problems and requirements back in those years were indeed very different from those nowadays. There have been great changes in the entire industry too. I hope Members will understand that the CIC or the legislation must be compatible with the changes in society and in the industry as a whole and progress with the times. So, when discussing this issue, some workers may have anxieties about the future. I hope they will understand that reforms are warranted in the construction industry and it is necessary to have a dedicated body to address the problems, so that this industry can prosper continuously and will not dwindle.

The industry has, in fact, proposed to first explore how the CIC should position itself and how it should develop under the new framework. For this reason, the PCICB has clearly undertaken that no major organizational changes or staff retrenchment would arise from budgetary reasons after the Bill is enacted and within two years upon the setting up of the CIC. We agree that this can strike a balance between workers' concern and the ability of the CIC in its future

operation. If we stick to the old rut while imposing restrictions at the same time, it might affect both the effectiveness and efficiency. So, I am glad that Members have accepted these arrangements.

The local construction industry has faced severe challenges in recent years. Employees and workers in various sectors of the industry have also experienced a very difficult time. The establishment of the CIC is meant to enable the industry to explore new development directions and opportunities to strive for continuous improvement. I implore Members to support and pass the Bill.

Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Construction Industry Council (No. 2) 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): Construction Industry Council (No. 2) Bill.

Council went into Committee.

Committee Stage

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

CONSTRUCTION INDUSTRY COUNCIL (NO. 2) BILL

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Construction Industry Council (No. 2) Bill.

CLERK (in Cantonese): Clauses 1, 3, 4, 6, 8, 11, 16, 17, 19, 20, 22 to 55, 57, 60 to 70, 72 to 81 and 83 to 86.

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 2, 5, 7, 9, 10, 12 to 15, 18, 21, 56, 58, 59, 71 and 82.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Chairman, I move the deletion of clauses 13 and 15 and the amendments to other clauses and headings read out just now, as set out in the paper circularized to Members.

First, the two minor amendments to clause 2 seeks to, respectively, simplify the definition of "contractor" and in the light of members' suggestion, change the name of the Objections Committee under the Construction Industry Council (CIC) for the purposes of determining objections to "處理反對事宜委員

會". At the same time, the references to the Committee in clauses 18, 21, 56, 58 and 59 and their headings will also be amended accordingly for consistency.

The amendments to clause 5 are made mainly in the light of members' view that the Bill should confer more definite functions on the CIC in order to resolve the long-standing problems in the construction industry. For this reason, relevant provisions have been added to this clause, including the promotion of good practices in multi-layer subcontracting, project management and supervision and dispute resolution, as well as the promotion of harmonious labour relations and the observance of the Employment Ordinance.

The amendments to clauses 7, 12 and 82 are drafting changes and their legal effect will not be affected.

Clause 9 deals with the membership composition of the CIC. The amendments include increasing the number of representatives from labour unions to three and introducing a nomination mechanism designed for such sectors as employers, professionals or consultants, contractors, subcontractors, materials suppliers and equipment suppliers and trade unions in the industry. On the whole, the number of non-official members will increase from 20 to 21, however, since the Executive Director will be deleted from the membership composition, the total number of members will remain unchanged.

The amendment to clause 10 makes it explicit that the policy on the maximum tenure for non-official members in the CIC will be six continuous years. In addition, since members considered it unnecessary to make arrangements to fill casual vacancies, clause 13 will be deleted.

Clauses 14 and 15 are both related to the Executive Director of the CIC. The amendments seek to combine the provisions relating to his functions into one clause and in the light of members' views, to specify that the Executive Director shall perform his functions subject to the CIC's directions. In addition, since he will no longer be a member of the CIC, the arrangements for acting appointments and giving notice in Gazette of such appointments are deleted. A consequential amendment has also been made to the heading of clause 14.

The amendment to clause 71 involves adding a new Schedule 1A to its heading and in the provisions to make the amendment mechanism consistent with the other three schedules.

All the foregoing amendments have won the support of the Bills Committee. I implore Members to pass these amendments. Thank you, Chairman.

Proposed amendments

Clause 2 (see Annex)

Clause 5 (see Annex)

Clause 7 (see Annex)

Clause 9 (see Annex)

Clause 10 (see Annex)

Clause 12 (see Annex)

Clause 13 (see Annex)

Clause 14 (see Annex)

Clause 15 (see Annex)

Clause 18 (see Annex)

Clause 21 (see Annex)

Clause 56 (see Annex)

Clause 58 (see Annex)

Clause 59 (see Annex)

Clause 71 (see Annex)

Clause 82 (see Annex)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No 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 amendments to clauses 13 and 15, which deal with deletions, have been passed, these clauses are deleted from the Bill.

CLERK (in Cantonese): Clauses 2, 5, 7, 9, 10, 12, 14, 18, 21, 56, 58, 59, 71 and 82 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): Schedules 1 and 4.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Schedules 2, 3 and 5.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Chairman, I move the amendments to Schedules 2, 3 and 5 as printed on the papers circularized to Members.

Schedule 2 provides for the meetings of the Construction Industry Council (CIC) and their procedures. Schedule 3 provides for the composition, meetings and procedures of the training board under the CIC. Schedule 5 includes the consequential or relevant amendments. Amendments made at the suggestion of Members mainly include the addition of new clause 6A to Schedule 2 to require the CIC to keep records of interest declarations by CIC members for public inspection. Clause 7A in Schedule 2 provides that meetings of the CIC will be open to the public except under special circumstances, that is, for cases involving levy and penalty or when the CIC made other decisions after consideration. Section 9 empowers the CIC to make a resolution in writing where there is no objection from members. On the other hand, consequential amendments are

also necessary for some provisions in the Schedules in the light of changes in the contents of the Bill or other ordinances.

These amendments have the support of the Bills Committee. I implore Members to pass them.

Proposed amendments

Schedule 2 (see Annex)

Schedule 3 (see Annex)

Schedule 5 (see Annex)

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

MS EMILY LAU (in Cantonese): I rise to speak in support of the amendments moved by the Secretary. But I still wish to say a few more words on clause 6A of Schedule 2, which is about the maintenance of a register by the Construction Industry Council (the CIC), and most importantly, the maintenance of records on the declaration of interests.

Chairman, as pointed out by the Secretary, under clause 6A(4), the CIC shall maintain a register for public inspection at any reasonable time, so as to enable the public to ascertain the details of members' disclosure. I thought that it was an inconvenient arrangement. "Any reasonable time" actually means people's working hours. People are now even talking about a five-day week, so there will be even less time and there will be no access to such information on Saturdays. We think that all the information should be uploaded onto the Internet. Chairman, in paragraph 40(e) of the excellent report prepared by the clerk, it is also agreed that the information should be uploaded onto the Internet — no, it should be paragraph 40(d). But they do not agree that this should be included in the legislation. In another panel, I also asked a question on this. The authorities said there were difficulties, and I do not think that I should discuss these difficulties in detail today. However, since this will be done anyway, that is, since the register will be made public, we should really make it

more convenient to the public. The arrangement should be user-friendly to members of the public. They should not be made to think that all is possible only when they have time. The aim must always be facilitating public access to the relevant information. I have therefore tried to express my views on this.

Second, Chairman, clause 7A of Schedule 2 is about the requirement of holding open meetings. As I have pointed out, I strongly support the Secretary's inclusion of this in the legislation. Although meetings will not be held openly under some circumstances, there should not be any great problems and I can accept this. But there is a sentence which says that if the CIC reasonably believes that there is no need for an open meeting, the meeting will not held publicly. We discussed this point at a meeting of the Bills Committee, and the authorities presented some precedent cases to us. According to them, this does not mean that the CIC Chairman or any other persons can make any decision at will. Instead, there are always certain objective criteria, and justifications must be put forward. This means that the decision concerned may be challenged. I hope Members can understand the situation. If the CIC wants to exercise this power and says that it is not going to hold open meetings, it must put down on record all the justifications. If there is any subsequent objection, I believe that the decision may be challenged.

Chairman, concerning Schedule 3, which I have discussed in great detail earlier, I hope that Secretary Frederick MA can really draw from reference. I mean, there should be a provision specifying that the term of office of an appointee should not exceed six years. I very much appreciate the Secretary's willingness to include this point in the Schedule. But the Secretary has in fact done half the job only. The reason is that according to the "six-six principle" of the authorities, the term of office of an appointee should not exceed six years and he should not serve on more than six committees concurrently.

The Chairman also knows that several meetings before this one, the authorities disclosed that in the 10 months following his assumption of office as the Chief Executive, Mr Donald TSANG had made 1 323 appointments. Of these, 87 were in violation of the six-year rule and 14 others were in breach of the six-committee requirement. This explains why it is necessary to write this requirement into the legislation. The authorities understandably want flexibility, but we hold that if this is really a policy, it should be set out clearly as a provision. I suppose the authorities will not break this legal requirement.

Chairman, on 10 May this year, Dr Fernando CHEUNG moved a motion debate on the "six-six principle". Secretary Dr Patrick HO explained at that time that the authorities simply could not adhere to this requirement without any adjustments and flexibility. But we think that the "six-six principle" is a very reasonable one. Although there is already such a requirement, the authorities have still refused to comply. And, Chairman, many people are still unable to fulfill this requirement. Let me read out what Secretary Dr Patrick HO said on that day, just to show the gravity of the problem, "The number of appointees who sat on more than six boards in March 2004 was 45, while the number of appointees violating the six-board rule up to March 2006 dropped to 11. The number of appointees who had served for more than six years in the same advisory or statutory board in March 2004 was 1 695, while the number of appointees violating the "six-year rule" up to March 2006 dropped to (was still as large as) 543." It can thus be seen that the problem is very serious.

The Secretary is really wonderful because she agrees to include this in the Bill. I hope that when the authorities submit any related Bills to the Legislative Council in the future, they can voluntarily include the "six-six principle" — Secretary Frederick MA entered the Chamber a moment ago but he has just left. I also hope that he can hear what I have to say. I believe that several weeks later, the Second Reading of the Bill on the establishment of a Financial Reporting Council will resume. I also hope that this point will be included in the Bill.

Besides, as mentioned just now, the Secretary will move amendments in respect of the circulation of documents. In other words, if a member requests the holding of a meeting, a meeting can then be held. I hope that Secretary Frederick MA can agree to include this in the Bill. I so submit.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): If not, Secretary for the Environment, Transport and Works, do you wish to speak again?

(The Secretary for the Environment, Transport and Works shook her head to indicate that she did not need to speak again)

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

(Members raised their hands)

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

(No 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): Schedules 2, 3 and 5 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 Schedule 1A Specified Bodies.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS
(in Cantonese): Chairman, I move that new Schedule 1A, as printed on the papers circularized to Members, be read the Second time.

Schedule 1A sets out the list of trade organizations which can nominate to the Government members of the Construction Industry Council (CIC). According to the consensus reached with the Bills Committee, these organizations must demonstrate both willingness and capability to spearhead industry reforms as representative bodies within their own sectors. I hope that through this nomination arrangement, the Government can absorb suitable talents who will dedicate to the work of the CIC and make the greatest contribution to the industry.

I implore Members to pass this motion.

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

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS
(in Cantonese): Chairman, I move that new Schedule 1A be added to the Bill.

Proposed addition

New Schedule 1A (see Annex)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new Schedule 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.

CONSTRUCTION INDUSTRY COUNCIL (NO. 2) BILL

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

Construction Industry Council (No. 2) 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 Construction Industry Council (No. 2) 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): Construction Industry Council (No. 2) Bill.

Resumption of Second Reading Debate on Bills

PRESIDENT (in Cantonese): We will resume the Second Reading debate on the Revenue Bill 2006.

REVENUE BILL 2006**Resumption of debate on Second Reading which was moved on 26 April 2006**

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

MR SIN CHUNG-KAI (in Cantonese): Madam President, the Democratic Party thinks that the rate of reduction in salaries tax as proposed by the Government on this occasion fails to meet public expectations.

In the middle of February this year, I moved a motion in this Council to urge the Government to reduce salaries tax. I recall at that time I said that according to my estimation, the Government should have a surplus of as much as \$15 billion. It turns out that my estimate is even more accurate than that of the Government which has all the data in its hands. I recall in 2003 Mr Antony LEUNG, the then Financial Secretary, adjusted the salaries tax rate upwards on grounds of fiscal deficits. He said that it would bring in a revenue of \$6.7 billion per annum for the Government. The Democratic Party reckoned that given the upturn in our economy and with the increase in the income of the public, more people would fall into the tax net. It follows that even if the salaries tax is reduced, the fall in public revenue would be about less than \$6 billion. Hence the Government can put into practice some poverty alleviation measures, implement small-class teaching and launch some infrastructural projects vital to our future development all at the same time despite a tax cut. But due to some reasons incomprehensible to us, the Budget of the Government is still mistaken as in the past when estimates on surplus are made. This is the fourth year in a row that mistakes in estimates are made in the surpluses and deficits to the tune of some \$10 billion in the Revised Estimates. And the situation is getting worse and worse.

I hope the Government can explain later why in the Revised Estimates for so many years in a row, deficits have been overestimated while surpluses underestimated. When the Government announces its Budget, it is only a few weeks from the conclusion of financial year in end March.

Madam President, I have a chart here. I hope to let you see how in the past few years the Government has always overestimated deficits seriously and underestimated the surpluses. For this year, the surplus is underestimated by

\$9.9 billion; last year a surplus of \$9.4 billion was underestimated; in the year before last, an overestimation of deficit by \$8.9 billion was made; and for the year 2002-2003, there was an overestimation of deficit by \$8.3 billion. When we check the situation a few years ago, that is, in 2000-2001, the same overestimation of deficit was made, though the amount was unlike those during these past few years which was close to \$9 billion. The discrepancy of two years ago was only some \$2 billion, that is, between \$2.3 billion to \$3.6 billion.

On 22 February the Government announced that the surplus for this year was \$4.1 billion. The figure is far lower than the \$10 billion to \$20 billion as predicted by the private sector. A public uproar was caused. During the past four years, the discrepancy in the revised surplus of the Budgets was.....

PRESIDENT (in Cantonese): Mr SIN Chung-kai, the Bill we are discussing now is actually on how proposals from the Government are made in line with the Budget.....

MR SIN CHUNG-KAI (in Cantonese): Madam President, I see your point, but I was trying to explain.....

PRESIDENT (in Cantonese): Please do not make that explanation.

MR SIN CHUNG-KAI (in Cantonese): Yes.

PRESIDENT (in Cantonese): Actually you will have an opportunity to speak on this aspect, for later on today we will have a motion debate on it. I hope you can speak within the scope of this Bill by all means, all right?

MR SIN CHUNG-KAI (in Cantonese): Yes. I wish to explain why I have come to this view. The most important reason is that when the Government made a public announcement in March on the amount of surplus it had, in fact it

would have a direct bearing on how the public would comment on the rate of tax cuts that ought to be effected.

With respect to the tax reduction items found in the Revenue Bill 2006, as I said in the beginning, they are disappointing. The reason for my disappointment is that previously the Government made an estimate that there would be a surplus of only \$4.4 billion, but it turned out later that there is some \$14 billion. Had the Government stated in March when the Budget was announced that there was a surplus of some \$14 billion and nonetheless it would still wish to propose this Bill, I believe the public would certainly have a different response. This is the logic of my argument. However, I would still go on.....

PRESIDENT (in Cantonese): Mr SIN, you should now come back to contents related to this Bill, please?

MR SIN CHUNG-KAI (in Cantonese): Yes. I would still use this logic. In fact, when it comes to the middle or latter part of my speech, I would return to this part direct again. Madam President, I hope I can finish talking about this within the time limit of 15 minutes.

However, not only has the Government not undertaken any review of its blunders but it is also making remarks on the radio and on other public occasions to the effect that mistakes cannot be avoided and the private sector does not have the data available to the Government, and so on. It is regrettable to see this blatant refusal by the Government to admit grave blunders made in the revised surpluses.

Unfortunately, finally the cat came out of the bag and in end April, the Government announced that it had a surplus of as much as \$14 billion as opposed to \$4.1 billion as it had stated earlier.....

PRESIDENT (in Cantonese): Mr SIN Chung-kai, I have advised you twice to return to the question of this Bill but you still insist on saying some other things.

MR SIN CHUNG-KAI (in Cantonese): Alright, alright, I

PRESIDENT (in Cantonese): Please speak to the question of the Bill. As for other things, I will let you voice your opinions later today.

MR SIN CHUNG-KAI (in Cantonese): Fine, then I will speak to the question.

Madam President, first of all, the Democratic Party thinks that the tax bands, tax rates, allowances and marginal tax rates of salaries tax should be fully reverted to their former levels in 2002-2003. Members should note that presently wage earners with a monthly income of less than \$10,000 are also included in the tax net.

I do not know if Members opposing the tax reduction know that the tax increase in 2003 resulted in a 70% or even a 100% tax increase for wage earners making some \$10,000 a month. Under the tax reduction proposal we make, those who will benefit the most would be those wage earners from the lower-middle class who have just fallen into the tax net whereas those with a high income and are paying tax at the standard rate will not benefit so much.

Second, the tax hike in 2003 was made because of the fiscal deficits. The Government proposed that tax be increased and the reason given was the existence of "structural deficits". It even stated that all the reserves would be almost depleted by 2008-2009. But the Government now has fiscal reserves of over \$310 billion. No mention is made of structural deficits now. Deficits have become surpluses. Why do we still cling onto these grounds and refuse to effect a thorough tax cut? Would it not be unfair to taxpayers if no tax cut is effected?

Third, the aim of collecting taxes by any government should be to use the money on public services. Why then is our Government not using the tax revenue on helping the poor and implementing small-class teaching? Why are health care services not increased substantially and the people are asked to pay for their own medicines? So much tax money is collected but it is only placed with the Hong Kong Monetary Authority to earn a 3.1% return. Why can the Government not place its wealth with the people?

Madam President, the Democratic Party thinks that if the Financial Secretary in compiling his Budget already knew that the reserves amounted to \$14 billion, would he increase the provision for poverty alleviation work by just \$100 million? Or would he only reduce the marginal tax rate for salaries tax by just 1%? I do not think he would.

The Budget is a solemn piece of document. But the Government has time and again underestimated the surpluses and overestimated the deficits. Such a move has not only tarnished the reputation of Hong Kong but also served to mislead the public, including some Members of this Council. As a result the public is convinced that the Government is caught in an adverse financial position, hence objection is raised against tax reduction proposals. In the present case, it was only after the Budget had been passed by this Council that the Government disclosed the actual amount of reserves at hand. It was discovered that the amount was \$10 billion more than that which had been disclosed. Then some explanations were hastily offered. But by that time, even if Members wanted to pursue the matter and urge the Government to revise the Budget, it would be extremely difficult, for the Government would have landed on the other side of the shore as it were and thrown its critics off the trail. Excuses will be put up, that consideration will be made next year. For the Legislative Council, it cannot afford to spend more than a month's time every year to examine seriously a budget, knowing that its figures are problematic, then wait until the right figures are released one month later and move a motion to debate on it in the Council and urge the Government to adopt more tax reduction and poverty alleviation measures.

Therefore, the Government may as well do better in its release of the Budget by making public the figures stated in the Budget in a more concrete manner. The Government is able to do this. As I said when I quoted the figures earlier, in 2000-2001, such a discrepancy made by the Government was much less than the discrepancy now. If that can be done, the public would not have been misled and the Government would not be criticized by people such as SIN Chung-kai that it is making up figures or keeping wrong accounts. Madam President, I do not wish to dwell on this because the Government thinks it is being hassled and it is showing some displeasure. I do not intend to do anything to make our relationship with the Government turn sour, now that it already distinguishes who are close and who are distant.

Madam President, as pointed out by some members of the Democratic Party on the many occasions when this Council debated on the Budget, the position of the Democratic Party is that the \$14 billion surplus may actually not be the ultimate figure. This is because in end August when the Government releases the audit statement, that is, releasing the audited accounts, the surplus can be more than \$14 billion. In any case, the Government should have listened to the people to find out what they think and it should revert the salaries tax rates, allowances, tax bands and marginal tax rates all back to their levels in 2002-2003. On top of all these, the poverty alleviation measures proposed in the Budget this year are only minimal and lame.

I recall in 2003 the then Financial Secretary imposed a hike on salaries tax on the ground of a fiscal deficit. Now our financial position has in fact been greatly improved and the Government should loosen its purse strings. Madam President, I wish to stress one point and that is, our financial position is much better than what is depicted by the Government. I recall both the Chief Executive and the Financial Secretary said on the radio that during these few years of difficulty, our accrued deficits were as much as \$190 billion. I hope Members will see the point that our Exchange Fund consists of three parts, one is fiscal reserves and the other is.....Madam President, this is relevant. How much money should we have before we can afford a tax cut? The first part is fiscal reserves and with respect to this, the falling trend for last year and this has stopped and we have bounced back and we are on a rising trend. During the worst times, the fiscal reserves dropped to almost between \$270 billion and \$280 billion, but now we have \$310 billion. The second part is accrued surpluses. I recall during the financial turmoil in 1997 and 1998, the accrued surpluses in the Exchange Fund amounted to about \$300 billion. But now this part amounts to \$440 billion and that is an increase by \$140 billion. If we add up the accrued surpluses and fiscal reserves in the Exchange Fund together at the end of last month, that is, at the close of the previous financial year, that would be an all-time high. The two sums of money are the money of the people of Hong Kong. So the state of affluence in our public coffers is not just as the Commissioner of Inland Revenue has put it, that our revenue for this year stands at an all-time high, but that our fiscal reserves and accrued surpluses have also hit an all-time high.

Another comment I wish to make is that the tax reduction proposed by the Government is actually more unconvincing than the tax increase made some years ago. As I said at the beginning of my speech, the tax hike made at that

time resulted in a close-to-70% increase for the grassroots, but what the Government is doing now is just to lower the salaries tax by only a tiny fraction. A loss of tax revenue in the region of some \$1 billion is no big deal for the Treasury. Taking into account our fiscal reserves and accrued surpluses, it can be said that we are still financially very much strong.

However, Madam President, we will not oppose the motion today and forestall its passage. If that happens, the public would be denied even the minimal tax cut that is offered. So with reluctance, we will support this tax reduction item. But I hope the Government can hear this, that is, when compiling the Budget for next year — soon the Government will have to gauge public opinions again — the Government can revert the allowances, tax bands and marginal tax rates fully to their 2002-2003 levels.

Madam President, I so submit.

Actually, I also wish to talk about some arguments related to the debate, but I will save them for a later occasion.

PRESIDENT (in Cantonese): You may speak on them during the motion debate to be held later.

MR SIN CHUNG-KAI (in Cantonese): The speaking time later is not 15 minutes but.....

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

MR JAMES TIEN (in Cantonese): Madam President, I know very well that this Agenda item is on the resumption of Second Reading debate for the Revenue Bill 2006 (the Bill). I shall focus on the issue of salaries tax relief relating to the Bill. Mr SIN Chung-kai raised many points and I do agree with him. I shall deal with these points in detail in the relevant motion debate this evening.

Madam President, let me now discuss the issue of salaries tax relief. In 2002-03, the Government started to increase the tax burden of the middle

classes, and a special attempt was made to introduce the tax increase in two separate stages. We are not asking for any refund. What we are saying is that if the Government has any fiscal surpluses, it should reduce taxes. Regarding the tax increase imposed in two stages starting from 2002-03, the revenue increase in each stage amounted to some \$3 billion. In other words, the revenue of the Government increased totally by some \$6 billion. We have been advising the Government all this year that if there are enough surpluses, it should offer tax relief to the middle classes. However, in February, the Government said that people were wrong and the surplus was just \$4.1 billion. At the beginning, the Government told us that there would be a deficit of \$10.6 billion, but later on, it said something different, claiming that there would be a surplus of \$4.1 billion instead. But many experts and the business sector all think that the surplus should not be as small as \$4.1 billion.

In this connection, I must point out that in the past few consecutive years, the figures announced when the formulation of the Budget began all subsequently turned out to be smaller than the revised figures for the years concerned — Mr SIN Chung-kai also mentioned this point. Perhaps, I should cite all these figures once again. Earlier this year, the Government announced that at the end of March, there would be a surplus of just \$4.1 billion. But it turned out that the surplus was \$9.9 billion in excess, amounting to \$14 billion. Similarly, it was announced in February last year that the surplus would be \$12 billion, but the surplus subsequently turned out to be \$21.4 billion, that is, \$9.4 billion more. The year before last (2003-04) was a very bad year, and the Government said that the deficit would be \$49 billion. But in the end, the deficit was just \$40 billion, that is, \$8.9 billion smaller. We can see that in each of the past three years, there was invariably a discrepancy of some \$9 billion. Madam President, I think

PRESIDENT (in Cantonese): Mr James TIEN, I am sorry, but I must interrupt you. It will be unfair if I do not do so because Mr SIN Chung-kai talked about these points and you are also talking about them. Please speak to the motion question.

MR JAMES TIEN (in Cantonese): Yes. Madam President, I talked about surpluses because the surplus this year is \$9.9 billion more than what was originally announced. The Government may understandably argue that one

should not ascribe this extra \$9.9 billion only to salaries tax. I must point out that since the economy of Hong Kong has been improving throughout this year, there are three sources of rising revenue for the Treasury. Its tax revenue is as high as \$145 billion. Well, let me just put this aside for the time being. However, Madam President, I must still talk about something that is absolutely related to the part of the Bill on salaries tax. The salaries tax revenue this year is as high as \$37.5 billion, showing an increase of 10%, or \$3.7 billion, over the figure for last year. This means that the Government has received an extra \$3 billion or so from salaries tax. Consequently, it should be able to return at least some \$3 billion to the middle classes. I am not going to talk about all the details of the tax relief measures proposed in the Bill, but generally, the relief offered to the middle classes will just amount to roughly \$1.5 billion. We have been requesting the Government to restore salaries tax to the levels in 2002-03 (involving as much as \$6.8 billion), and just last year alone, there was already an increase of 10% (or \$3.7 billion) in salaries tax revenue. In view of all this, we think that the Government should offer still a greater tax relief.

Madam President, we do not think that any political parties or groupings can possibly reject the Bill because if they do so, the middle classes will even fail to enjoy this tax relief of roughly \$1 billion. We will therefore support the Bill. But this does not mean that the Government should "cry wolf" every year when preparing the Budget, claiming that it is unable to offer relief to the middle classes despite a surplus of \$9 billion. We also note that the only thing we can do this year is to discuss this issue again with the Financial Secretary at the end of the year. If passed, the Bill will become law, and they will do nothing more. Therefore, during the motion debate later on, we will put forward these proposals to the Government.

With these remarks, Madam President, I support the Second Reading of the Revenue Bill 2006. Thank you.

MR WONG KWOK-HING (in Cantonese): Madam President, there was continuous improvement to the economy of Hong Kong in 2005-06, thus bringing increasing revenue to the Treasury and giving the Government more room to offer tax relief. The Revenue Bill 2006 (the Bill) put before this Council by the Government today is definitely no candy. It is at most a small lump of granulated sugar to the public. The reason is that the Bill only proposes

to extend the tax deduction period for home loan interest from seven years to 10 and reduce the marginal tax rate for salaries tax. I certainly support all this. But I must also say that the Government has not done enough.

As we all know, property prices in Hong Kong are exorbitant, and most ordinary people must spend a good part of their incomes on repaying their mortgage loans. In the case of many families, their mortgage loan tenures are as long as 10 years or even more. This is pitiable, because an employee must in that case work hard for his whole life just for a housing unit. An extension of the deduction period will ease the burden of ordinary families and enable them to keep a bit more money in their pockets. In this way, the aim of retaining wealth among the people can be achieved. But at a time when there is great improvement to government finances, should more wealth not be kept among the people? Can the Secretary give some thoughts to this question?

I can remember that before the announcement of the 2006-07 Budget, the three Members belonging to the Hong Kong Federation of Trade Unions (FTU) once had a meeting with the Financial Secretary, during which he was requested to directly restore the rates, tax bands and basic allowance of salaries tax to the levels in 2002-03 when preparing the Budget. According to the statistics of the Inland Revenue Department, as many as 1.84 million people are required to submit tax returns this financial year. This is the highest record in six years. The reason for this is that in 2003, the authorities raised the basic personal allowance to \$100,000. As a result, even a person earning just around \$8,300 is captured by the tax net. If the basic personal allowance can be restored to the level in 2003, the financial burden on people earning lower incomes will certainly be lightened, because they will not have to bear any tax burden. That way, the masses will be able to share the fruit of economic improvement. The Government does really have room do something more to retain wealth among the people.

Besides, the FTU has all along been proposing that the age of dependent parents qualifying a taxpayer for the dependent parent allowance should be lowered from the range between 55 and 59 years to just 50 years or above, so as to ease the burden on people at this very time when middle-aged people face employment difficulties and serious unemployment. Therefore, the provision of tax allowance to people with dependent and jobless parents aged 50 or above is truly a relief measure to the people.

Madam President, later on at this meeting, this Council will debate Mr KWONG Chi-kin's motion on effectively using the fiscal surplus. It is hoped that the Government can listen more to the advice of this Council and enable all Hong Kong people to share the fruit of economic success. I so submit.

MR CHAN KAM-LAM (in Cantonese): This year, the SAR Government has succeeded in eradicating the fiscal deficit earlier than scheduled. And, it has thus proposed to mildly lower the marginal salaries tax rate and further extend the tax deduction period for home loan interests to 10 years. Although we in the DAB have criticized the Government for being too conservative in easing the tax burden of the public, especially the middle classes, despite the great improvement of its finances, we still support the tax relief measures proposed by the Government because the lowering of the marginal tax rate will benefit 1 million taxpayers.

The Government announced at the end of last month that since the revenue from stamp duty, salaries tax, profits tax and land sales were greater than expected in the latter period of the past financial year, the provisional financial statistics for 2005-06 as at late March showed that there would be increases in overall expenditure and surplus. It was announced that the surplus would be some \$10 billion higher than the \$4.1 billion projected in the 2006-07 Budget.

Under such a situation, it is only understandable that people from various sectors have all asked the authorities to increase the rate of tax relief or introduce measures to improve the people's livelihood. Members naturally support the Revenue Bill 2006 (the Bill), but we also think that for the purpose of returning wealth to the people, and particularly because the surplus is greater than expected, the Government should consider further relief measures.

President, as a matter of fact, the Government estimates that the two tax relief measures of the Bill will only reduce government revenue by just \$2.7 billion. This is less than 20% of the Government's current fiscal surplus, which stands at \$14 billion. For this reason, we advise that while continuing to adhere to the principle of "prudent financial management and spending within the means", the Financial Secretary further increase the rate of tax reduction to answer people's aspiration.

Thank you, President.

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

MR RONNY TONG (in Cantonese): President, when examining this Bill, colleagues mainly relied on the statistics provided to them by the Government. If there is considerable discrepancy between the statistics provided by the Government and the reality, it will be difficult for Members of this Council to monitor the revenue and expenditure of the Government, and this will very easily lead to the loss of mutual trust between us.

This year's situation is particularly serious compared with that of past years. The statistics provided by the Government showed a surplus of a few hundred million dollars only and so, there is not much that could be done, and the Government also stated that it did not have the means to take care of all strata in society. In spite of this, the Government still said that it is willing to allocate about \$2.7 billion for the assistance of the middle class, in order to alleviate the heavy financial burden on them. This, we agree.

What we disagree is that according to the Government, the disadvantaged groups will be provided with assistance of about \$100 million only, which will be used only to improve their living. We consider this approach of fiscal management grossly unfair and a deviation from the reality. But given that this Bill will have a bearing on the operation of society as a whole, we should not and cannot oppose this Bill. Although we will support this Bill, we will not give up further calling on the Government to help the disadvantaged groups continuously with its actual surplus.

In this connection, I will explain in detail the views and position of the Civic Party when we discuss the Member's motion later. At this stage, as I said just now, we should not and cannot oppose this Bill. So, President, we support this Bill.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now call upon the Secretary for Financial Services and the Treasury to reply.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, in the 2006-07 Budget the Financial Secretary introduced some proposals relating to revenue. The purpose of the Bill is to amend the Inland Revenue Ordinance, in order to implement two of the tax concession proposals announced in the Budget.

The first proposal is to lower the marginal rates of the second, third and top tax bands of salaries tax by one percentage point from the existing 8%, 14% and 20% to 7%, 13% and 19% respectively.

The second proposal is to extend the validity period for the deduction of home loan interest by a further three years to a total of 10 years.

If the Bill is passed, the proposal to lower the marginal rates of salaries tax will take effect from the 2006-07 year of assessment, whereas the proposal relating to the deduction of home loan interest will take effect from the 2005-06 year of assessment.

The House Committee decided on 28 April that it was unnecessary to set up a Bills Committee and supported the resumption of the Second reading debate of the Bill. Here, I thank Members for enabling the Second Reading debate of the Bill to resume expeditiously.

Earlier on, many Members have expressed their views on the Budget, and in the motion debate to be held this afternoon, I will speak on behalf of the Government. So, we will then respond to some of the points made by Members earlier.

Finally, I urge Members to support the Revenue Bill 2006.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Revenue Bill 2006 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): Revenue Bill 2006.

Council went into Committee.

Committee Stage

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

REVENUE BILL 2006

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Revenue Bill 2006.

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

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

REVENUE BILL 2006

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, the

Revenue Bill 2006

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

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Revenue Bill 2006 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): Revenue Bill 2006.

MOTIONS

PRESIDENT (in Cantonese): Motions. Proposed resolution under the Road Traffic Ordinance.

PROPOSED RESOLUTION UNDER THE ROAD TRAFFIC ORDINANCE

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): President, since 1976, the total number of vehicles which may be registered as public light buses (PLBs) has been limited at the level of 4 350. The limitation was promulgated by the Executive Council in 1986 through the Public Light Buses (Limitation on Number) Notice. The effective period of the Notice was extended from time to time through resolution passed by the Legislative Council, and it was last extended in June 2001 for five years to 20 June 2006. This motion proposes to further extend the effective period of this limitation for another five years until 20 June 2011.

Given the limited road space and community concerns about environmental impact created by road-based vehicles, the authorities accord priority to the development of mass carriers *viz* railways and franchised buses with other transport modes assuming a supplementary role. PLBs supplement the mass carriers in the public transport system with the major functions to provide feeder service to railway stations and public transport interchanges, and serve areas where passenger demand does not justify the provision of high capacity services.

Currently, PLBs make up about 16% of the overall public transport market. In the past few years, the patronage of PLBs has remained stable at around 1.6 million to 1.7 million per day. There is spare capacity for PLBs to meet the passenger demand. In the coming years, it is expected that the planned expansion of railways will increase the carrying capacity of the overall public

transport system. Growth in the number of PLBs will only cause unhealthy competition within the PLB trade and among other public transport operators. Given the unlikely surge in demand for PLB service, we consider it appropriate to extend the existing limitation on the total number of PLBs at 4 350 for a period of five years up to 20 June 2011. This will also provide greater certainty for the PLB trade to effectively perform its function in the public transport market.

Looking ahead, the Government will continue to implement measures to encourage the conversion of red minibuses to green minibuses (GMB). In pursuance of this objective, the Transport Department will continue to identify suitable new GMB routes to be grouped into packages for open bidding by interested operators. The Government will also liaise closely with the PLB trade to explore measures for improving their operating environment.

President, I beg to move.

The Secretary for the Environment, Transport and Works moved the following motion:

"RESOLVED that the period for which there remains in force the limit on the number of vehicles which may be registered as public light buses specified in the Public Light Buses (Limitation on Number) Notice (Cap. 374 sub. leg. K) and extended to 20 June 2006 by Legal Notice No. 141 of 2001, be further extended to 20 June 2011."

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

MR WONG KWOK-HING (in Cantonese): Madam President, Hong Kong has long been renowned internationally for its advanced and well-developed public transport system. Thanks to its transport networks, with railway as the backbone and complemented by Light Rail Transit (LRT), buses, public light buses (PLBs), Hong Kong, unlike other major cities, does not frequently see traffic congestions lasting one or two hours during peak hours. Reducing the number of private vehicles can also make the operation of the entire city more

environmentally-friendly. In a community emphasizing speed and convenience like Hong Kong, the importance of PLBs is particularly prominent, as opposed to such mass carriers as Mass Transit Railway (MTR), LRT and buses.

Madam President, PLBs are convenient in the sense that they serve as a compromise between private vehicles and buses. Hong Kong's cityscape is characterised by busy commercial centres and a large number of major housing estates. As it is extremely common for homes and workplaces to be far apart, there will be a drastic increase in transport needs within a short span of time, during the so-called peak hours, or commuting hours. However, the same places could return to dead silence during non-peak hours, with only very few commuters on the road. Using such mass carriers as MTR or buses to serve residential areas will therefore only lead to mismatch of resources. By contrast, PLBs can speedily meet transport needs in different periods by flexibly deploying the required number of vehicles to ease the flow of commuters. At present, we do not notice a huge demand for more PLBs, except that there are inadequate PLB routes serving certain areas. The present quota, 4 350 PLBs, is therefore compatible with the road space requirement in the territory. Yet, we have received some complaints from residents about the halting of both PLB and bus services in certain areas, such as Cheung Wang Estate and Cheung Hang Estate in Tsing Yi and Kwai Chung Estate in Kwai Chung, during certain periods, particularly at or past midnight. As neither bus nor PLB services are provided in these places after midnight, I hope the Administration can keep this in view and take follow-up action to respond to the aspiration of the residents.

Madam President, besides encouraging the conversion of red minibuses (RMBs) to green minibuses (GMBs), the Government should also review the policies relating to GMBs. At present, most operators and drivers adopt a profit-sharing approach. In other words, drivers receive low or zero basic salary, and profits are shared according to the number of passengers. As a result, drivers can earn more if they work harder. This income arrangement, calculated on the basis of trips made, directly encourages drivers to make more trips in order to earn more. This explains the frequent occurrences of such extraordinary means as speeding, red light jumping and indiscriminate overtaking. Despite the amendment to the licensing requirements for GMBs early this year requiring that operators must employ drivers to operate their GMBs, some operators still conceal their secretive actions because even Mandatory Provident Fund contributions can be saved should the profit-sharing model be adopted, and a large sum of expenses can very probably be saved in the

end. I hope the Government can pay more attention to the fact that some GMB operators still use the profit-sharing model, instead of merely awarding GMB routes. If these practices are not tackled seriously, GMB drivers will have no job security at all. Without job security, they will not have peace of mind while driving. Such being the case, the safety of passengers can hardly be protected effectively.

Madam President, the public transport network in Hong Kong is so convenient and efficient that places as remote as the rural areas can be reached at any time. At the same time, an efficient public transport network can lower people's desire of purchasing vehicles, and in turn enhance the efficiency of the operation of road networks. PLBs indeed play an important role in making our public transport network so efficient. Therefore, in the interest of the people, and for the sake of the development of the industry, the Government should expeditiously and comprehensively review its PLB policy. Thank you, Madam President.

MS MIRIAM LAU (in Cantonese): Madam President, the Liberal Party supports the resolution, which limits the number of vehicles which may be registered as PLBs to 4 350 in the next five years. However, I still wish to express some views on the PLB policy of the Government.

In her speech, the Secretary used the word "stable" and also talked about "certainty". First, she said, "In the past few years, the patronage of PLBs has remained stable at around 1.6 million to 1.7 million per day." If Members study the patronage of PLBs carefully, they will realize that behind this "stable" situation, there actually lies the plight of the PLB industry. In 2001, the average daily patronage of a GMB was 449 passenger trips and that of a RMB was 280 passenger trips. In 2005, the average daily patronage of a GMB increased by only 26 passenger trips to 475. As for RMBs, the average daily patronage also showed a very small increase, rising by just two passenger trips to 282. But in the past five years, oil prices, insurance premiums and repairs and maintenance expenses all went up, and at the same time, there were also various restrictions on GMB fare rises. Therefore, the stable patronage of 1.6 million to 1.7 billion passenger trips per day can in fact show that the business of PLBs (especially RMBs) has turned increasingly difficult.

Second, she remarked, "This (the extension of the existing limitation on the total number of PLBs) will also provide greater certainty for the PLB trade to effectively perform its function in the public transport market." Admittedly, keeping the number of PLBs at 4 350 can indeed provide certainty for the PLB trade, but the maintenance of certainty should not be the only goal of the Government. It should also seek to expand the scope of business of PLBs. One of the means is to identify a greater number of suitable maxicab routes and allow RMB operators to apply for franchise. The reason is that the average daily patronage of GMBs is after all higher than that of RMBs, and the patronage of the former is also more secure. However, the pace of converting RMBs into GMBs has not been satisfactory enough. In the past five years, the number of GMBs increased only by 11.9%.

As rightly pointed out by the Secretary, there is still spare capacity for PLBs to meet passenger demand. Even though the Government accords priority to the development of mass carriers, it should still actively and proactively assist PLBs and other ancillary modes of transport in expanding their scopes of operation, instead of concentrating only on certainty.

Madam President, I so submit.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for the Environment, Transport and Works to reply.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): President, first of all, I would like to thank the two Members for giving their invaluable views just now on the role of PLBs in the overall public transport system and the future development of PLB service. With respect to enhancing the service quality of PLBs and ensuring the stable operation and development of the PLB trade, we share the same views. I will thus give Members' views just now careful consideration. Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for the Environment, Transport and Works 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 Pharmacy and Poisons Ordinance to approve the Pharmacy and Poisons (Fee Revision) Regulation 2006 and the Pharmacists (Disciplinary Procedure) (Fee Reduction) Regulation 2006.

PROPOSED RESOLUTION UNDER THE PHARMACY AND POISONS ORDINANCE

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I move that the Pharmacy and Poisons (Fee Revision) Regulation 2006 and the Pharmacists (Disciplinary Procedure) (Fee Reduction) Regulation 2006 as set out under my name in the paper circulated to Members be approved.

Fees relating to registration of pharmaceutical products and licensing of concerned traders and manufacturers are prescribed under Schedule 9 to the Pharmacy and Poisons Regulations. Fee relating to verbatim record of proceedings of an inquiry held by the Disciplinary Committee of pharmacists is prescribed under regulation 4(2) of the Pharmacists (Disciplinary Procedure) Regulations. Most of these fees were last revised in 1994.

It is government policy that fees should in general be set at levels sufficient to recover the full cost of providing the services. However, most of the fees

and charges have been frozen since 1998 as an exceptional measure to alleviate the financial burden on the public in times of economic difficulty. As the economy is gradually picking up, in line with the "user pays" principle, the Financial Secretary in his 2004-05 Budget speech indicated the need to resume the revision of government fees and charges. Based on the costing reviews, fees will either be increased to achieve full-cost recovery in phases or reduced to reflect the full cost in one go.

A costing exercise was conducted to review the costs of the fee items under the Pharmacy and Poisons Regulations and the Pharmacists (Disciplinary Procedure) Regulations. In the light of the outcome, we propose to increase the fees of 12 items and reduce the fees of five items.

The Legislative Council Panel on Health Services was consulted in April on the fee revision proposals. Members generally raised no objection to the proposals but have asked the Government to reconsider the fee increase for three items, namely, application for registration of a pharmaceutical product or substance, annual licence for manufacturers of pharmaceutical products, and registration of premises of an authorized seller of poisons. The existing cost recovery rate of the three items ranges from 7% to 20% of the full cost and we proposed an increase with a recovery ranging from 8% to 25%. Members considered that the Government should not heavily subsidize private business operators and should seek to recover the full cost in a timely manner.

To address Members' concerns, we now propose to increase the fees by a larger magnitude with increases in dollar terms ranging from \$500 to \$1,340 and to achieve the cost recovery rate ranging between 13% to 41%.

The two Amendment Regulations now before Members seek to amend the fees of 17 items specified in the Pharmacy and Poisons Regulations and the Pharmacists (Disciplinary Procedure) Regulations.

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

The Secretary for Health, Welfare and Food moved the following motion:

"RESOLVED that the following Regulations, made by the Pharmacy and Poisons Board on 2 May 2006, be approved –

- (a) the Pharmacy and Poisons (Fee Revision) Regulation 2006;
and
- (b) the Pharmacists (Disciplinary Procedure) (Fee Reduction) Regulation 2006."

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

PRESIDENT (in Cantonese): Proposed resolution under the Radiation Ordinance to approve the Radiation (Control of Radioactive Substances) (Fee Revision) Regulation 2006 and the Radiation (Control of Irradiating Apparatus) (Fee Reduction) Regulation 2006.

PROPOSED RESOLUTION UNDER THE RADIATION ORDINANCE

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese):
Madam President, I move that the Radiation (Control of Radioactive Substances) (Fee Revision) Regulation 2006 and the Radiation (Control of Irradiating Apparatus) (Fee Reduction) Regulation 2006 as set out under my name in the paper circulated to Members be approved.

Fees relating to the grant or renewal of licence for radioactive substances and the issue of certified copy of medical examination certificate concerning fitness for employment involving unsealed radioactive substances are prescribed under regulations 4(1) and 16(2) of the Radiation (Control of Radioactive Substances) Regulations. Fees in respect of the issue of certified copy of medical examination certificate of fitness for engagement in radiation work, licence to possess an irradiating apparatus in a non-functional state and licence to use an irradiating apparatus are prescribed under regulation 11(2) of and Schedule 2 to the Radiation (Control of Irradiating Apparatus) Regulations. The fees in respect of two of the above were introduced in 1997 and that of the remaining three were last revised in 1994.

It is government policy that fees should in general be set at levels sufficient to recover the full cost of providing the services. However, most of the fees and charges have been frozen since 1998 as an exceptional measure to alleviate the financial burden on the public in times of economic difficulty. As the economy is gradually picking up, in line with the "user pays" principle, the Financial Secretary in his 2004-05 Budget speech indicated the need to resume the revision of government fees and charges. Based on the costing reviews, fees will either be increased to achieve full-cost recovery in phases or reduced to reflect the full cost in one go.

A costing exercise was conducted to review the costs of the fee items under the Radiation (Control of Radioactive Substances) Regulations and the Radiation (Control of Irradiating Apparatus) Regulations. In the light of the outcome, we propose to increase the fee in respect of one item and reduce the fees of four items.

The Legislative Council Panel on Health Services was consulted in April on the fee revision proposals and Members generally raised no objection to the proposals.

The two Amendment Regulations now before Members seek to amend the fees of five items specified in the Radiation (Control of Radioactive Substances) Regulations and the Radiation (Control of Irradiating Apparatus) Regulations.

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

The Secretary for Health, Welfare and Food moved the following motion:

"RESOLVED that the following Regulations, made by the Radiation Board on 2 May 2006, be approved –

- (a) the Radiation (Control of Radioactive Substances) (Fee Revision) Regulation 2006; and
- (b) the Radiation (Control of Irradiating Apparatus) (Fee Reduction) Regulation 2006."

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

MEMBERS' MOTIONS

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

First motion: Legislating to regulate medical devices.

LEGISLATING TO REGULATE MEDICAL DEVICES

MR LI KWOK-YING (in Cantonese): Madam President, I move that the motion as printed on the Agenda be passed.

Madam President, in the past two days, the news crews of several local mass media were in Shenzhen to report on location the court claims concerning Hydrophilic Polyacrylamide Gel (PAAG). This shows that the various issues raised in the motion today are matters of grave concern to the public. In the course of reporting, some reporters were stopped, treated violently and even assaulted, to the horror of all. The Shenzhen Government must deal sternly with any crimes of violence, so as to protect the rights and personal safety of Hong Kong journalists engaged in lawful news reporting in the Mainland.

Madam President, people all say that "staying beautiful" is the lifelong career of all women. And, as a matter fact, the money spent by women on cosmetological treatment, slimming, and so on, has been increasing rapidly year after year. Beauty is no crime, nor is the quest for beauty, because not only women but also an increasing number of men are now prepared to spend huge sums of money on improving their appearances and figures. But money is not so important, for the worst thing is that tempted by all sorts of advertisements and publicity, people may underestimate the risks involved and receive substandard services. In the end, cosmetological treatment may end up in disfigurement.

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

As disclosed by the Consumer Council earlier on, at least 53 women had developed breast problems after receiving injections of PAAG for breast augmentation, and in some cases, radical mastectomy had to be performed. The follow-up investigations by the Department of Health (DH) reveal that in total 119 women have reported having received PAAG injections for breast augmentation. Fifty-four of these women complained about adverse side-effects, and nine of these 54 women claimed that they had received their injections in Hong Kong. The rest said that they had received their injections in the Mainland, Macao or other places. This "bomb of beauty care" has not only produced huge reverberations in society but also brought lifelong regrets to the women who have received such injections.

Deputy President, PAAG is not a newly invented product. As a matter of fact, small doses of it have all along been used as a dermal filler material. But without our realizing it, people have gradually started to use large doses of it for breast augmentation, thus arousing the concern of the international community. The greatest health hazard of PAAG is that, as proven by animal testing, PAA, the raw material for making PAAG, is a carcinogenic substance that also contains a toxin causing neural impairment. Owing to its fluid property, PAAG may easily migrate. It will not be absorbed by the human body after injection but will adhere to body tissues instead. Consequently, it will be difficult to remove it entirely from the human body once any problems arise. Many cases in Hong Kong, the Mainland and overseas have all proved that people using PAAG for breast augmentation must eventually undergo radical mastectomy because of the migration of implant and the formation of lumps.

The international community has long since been regulating PAAG as a medical device, and there are also various restrictions on other uses of this material. PAAG is not an approved plastic surgery material in the United States, meaning that the United States prohibits the injection of PAAG into the human body. In the European Union, Canada and Australia, the use of PAAG as a dermal filler material is allowed, but its use as a breast augmentation material is strictly prohibited. In the Mainland, the manufacture and use of PAAG were once permitted, and it could even be used for breast augmentation. However, due to the continuous spates of cases revealing the adverse side-effects suffered by recipients of PAAG injection, the State Food and Drug Administration found it necessary to conduct a reappraisal of the product following its use in the market. Deeming that there was no safety assurance for users of PAAG, it subsequently announced the total prohibition of the

manufacture, sale and use of injectable PAAG with effect from 30 April 2006. The registration certificates of mainland manufacturers of PAAG were also revoked.

If we look at the situation in Hong Kong, we will notice that PAAG has all along been used as a dermal filler material. Unfortunately, however, Hong Kong has been lagging behind the international community in respect of regulating medical devices. At present, we are still relying on an administrative measure, that is, a voluntary registration system, and there are no mandatory regulatory measures for medical devices under the law. As far as my understanding goes, before the Consumer Council disclosed the health hazards of using PAAG for breast augmentation, PAAG was never listed in the register of medical devices kept by the Government. Therefore, Members can judge for themselves the efficacy of such a voluntary registration mechanism. But there is one thing that worries me even more. How many unregistered medical devices as hazardous as PAAG are being sold and used in the market?

We do understand that a new law on the comprehensive regulation of medical devices cannot possibly be formulated overnight. At this very moment, in order to regulate the use of PAAG, the Government must amend existing legislation as a means of regulation in the transitional period. As for whether or not PAAG injection into the human body should be totally banned, we are of the view that it is necessary to conduct some further studies in conjunction with the local medical sector. But, in any case, the injection of large doses of PAAG into the human body, especially for breast augmentation, must be strictly regulated in the future. As for other medical devices used as implants into the human body, such as injectable plastic surgery materials, they must be used only by registered medical practitioners.

In regard to the direction of regulatory legislation, the DAB wishes to raise a number of points. The first point is about pre-sale regulation. We hold that medical devices are no different from drugs, which can both cure and harm people. Consequently, the former must be regulated in the same way as the latter. A special committee must be set up to examine and approve the safety and efficacy of medical devices, and labels must be attached to make known the risks of using individual medical devices. And, users' manuals must also set out the directions of use, possible risks and medical advice. The Government must at the same time establish a database on medical devices, so that the public can have easier access to information concerning approved medical devices.

The second point is about after-sale monitoring and recall. The current administrative regulatory system adopted by the Government already includes an incident reporting and warning mechanism, so I suppose once we enact a piece of legislation to make the whole mechanism mandatory, we will be able to tackle the problem of after-sale monitoring. However, the DAB still hopes that the Government can establish a more effective incident notification mechanism, so that the public can be notified immediately and investigations conducted whenever any incidents concerning medical devices occur both locally and overseas. Besides, we also hope that the future legislation can empower the DH to recall problematic products, so that they can be withdrawn from the market much more quickly.

The third point is about the skills to be required of operators of medical devices. Generally speaking, medical devices should be operated by medical personnel. However, in practice, many of the products classified as medical devices, such as contact lenses and ear thermometers, are in fact things we often use in our daily life. Besides, some medical devices may also be used for other purposes, the most common example being Intense Pulse Light machines, which are used for beauty care and skin revitalization. Therefore, it will be impractical to sweepingly require all medical devices to be operated only by medical personnel. But some also hold the opinion that a number of high-risk medical devices must still be operated by medical personnel. For this reason, the DAB accepts that medical devices with a risk level of Class IV, such as implantable pacemakers and stents, must be operated only by medical personnel. But when it comes to other low-risk devices used widely for cosmetological purposes, such as low-energy laser and Intense Pulse Light machines, we maintain that there should be greater flexibility. For example, although contact lens cleaning liquids and condoms are both classified as Class III medical devices, no one would ever insist that these devices must be operated only by medical personnel or used only under their supervision.

Deputy President, it cannot be denied that if operated improperly, laser and Intense Pulse Light equipment will do harm to the human body. This explains why they must be operated only by trained personnel with technical certification. I understand that the beauty care industry has been making active efforts to upgrade the skill levels of its employees through the organization of many training programmes. The DAB is of the view that the Government must offer its support by joining hands with the industry to design recognized training courses and formulate a technical certification mechanism. In the long run, the

Government should establish a registration regime for beauticians, with a view to regulating their skill levels and protecting consumers in a more effective manner. The professionalization of beauticians will in turn create conditions more favourable to the development of the cosmetological industry. The industry must on the other hand exercise self-discipline. Before the establishment of a regulatory regime, only trained beauticians should be permitted to operate all these equipment. And, the code of practice should require beauticians to explain clearly to customers all the service details, points to note and potential risks. The industry must in addition actively explore whether it is necessary to take out liability insurance policies for cosmetological services involving higher risks, so as to provide consumers with greater protection.

Deputy President, I now wish to say a few more words on the advertisements and claims of cosmetological services. Just flip through any magazine and we will see that at least 20 to 30 whole pages are occupied by the advertisements of different brands of cosmetics, beauty care services and slimming programmes. I suppose that, like the real estate and electronic products industries, the beauty care industry is also an industry that is most generous in spending on advertisements. But the truth of all the advertisements is open to question. I can readily cite some examples off hand. One advertisement says, "Fulfil your dream of having a high nose in as short a time as the afternoon tea break." A commercial on breast augmentation claims, "The birth of a curvaceous body without any surgery." There are also all sorts of wittily worded slogans, one of which reads, "Big or small as you wish — it's all guaranteed." In some other cases, the advertisements claim that technologies and equipment have been introduced from overseas. All these publicity slogans brag about "economy of time, absence of pain and instant results". They can thus appeal to "aesthetes", filling them with hopes and yearnings. But following the recent cases of breast augmentation involving PAAG, we now know that hidden behind all these claims are all sorts of health hazards. People's quest for beauty may end up in momentary satisfaction but lifelong regret.

Actually, this is not the first time that society as a whole and the Legislative Council make a request for the regulation of claims relating to such services and products. But the Government seems to be turning a blind eye and deaf ear to the request, refusing to enact any legislation all along. What is most serious is that it does not even require advertisements in the printed media to carry any warning. The regulation of such advertisements is even laxer than that of

television commercials. The DAB is not saying that the broadcasting or publication of such advertisements should be prohibited. But it still maintains that there must at least be a regulation of some sort, requiring all claims to be based on facts. And, health warnings must also be attached, so that consumers can have more information to help them make their choices.

Deputy President, finally, I wish to point out that the recent incidents involving PAAG are not simply about the regulation of medical devices. They also involve the quality and development of cosmetological services. Consequently, when formulating the legislation concerned, the Government must fully consult all the relevant industries on its legislative proposals, so that they can put forward their views. At the same time, the Government must strike a balance between consumer rights and the development of the cosmetological industry.

DEPUTY PRESIDENT (in Cantonese): Time is up.

MR LI KWOK-YING (in Cantonese): With these remarks, Deputy President, I beg to move.

Mr LI Kwok-ying moved the following motion: (Translation)

"That, as the Consumer Council's recent reports on the adverse after-effects caused by the use of Hydrophilic Polyacrylamide Gel (PAAG) for breast augmentation have aroused widespread public concern and exposed the loopholes in the existing system for regulating medical devices, this Council urges the Government to:

- (a) after consulting the various sectors concerned and the public, legislate to restrict or forbid the implantation of PAAG in human body, subject all medical devices and materials for implantation in human body to proper regulation, and expeditiously put forward a comprehensive legislative proposal for the regulation of medical devices;
- (b) review the existing regulatory system and legislation, in order to prevent exaggerated and false promotional claims about services

and products for beauty care, body shape-up and plastic surgery, etc, so as to safeguard the health and interests of consumers; and

- (c) provide the public and users with more information about various medical devices so that they can make informed choices."

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

DEPUTY PRESIDENT (in Cantonese): Mr Vincent FANG, Dr KWOK Ka-ki and Mr Fred LI will move amendments to this motion respectively. The motion and the three amendments will now be debated together in a joint debate.

I will call upon Mr Vincent FANG to speak first, to be followed by Dr KWOK Ka-ki and Mr Fred LI; but no amendments are to be moved at this stage.

MR VINCENT FANG (in Cantonese): Deputy President, I believe everyone knows that today's news headline features a report on the attack on Hong Kong reporters who were reporting the first civil claim for compensation in Shenzhen made in connection with a PAAG injection. The reporters were beaten up by the personnel of the hospital where the plaintiff had received the operation. The incident aroused public concern in society. Last month, in a special meeting of the Panel on Health Services, we also agreed that the Government should step up its regulation of PAAG. We have to thank the Health, Welfare and Food Bureau for agreeing to take this into consideration.

Both the Liberal Party and the cosmetological industry support the regulation of the import and application of PAAG as well as the enactment of legislation to regulate the materials for implantation in human body by way of injection. On the one hand, PAAG has already been classified by international cancer research institutes as "a material that may cause cancer". It could be very dangerous if it is improperly injected into the human body. The most serious consequence is, after injecting PAAG into the human body, at the present level of medical technology, there is no way we can ensure that it can be removed completely from the body.

The cosmetological industry also hopes that justice can be done to them. It is because since the incident had been disclosed by the media, criticisms were launched at beauty parlours, accusing them of performing PAAG injections on clients for breast augmentation. However, practitioners in the industry told me that they would not perform any hypodermic injections on clients. The beauty parlours would work in co-ordination with doctors and nurses. After they have a service order, they would either refer the case to a doctor or hire the service of a nurse to perform the injection. Therefore, the current practice in the industry is already "limiting their use to properly trained medical personnel only", as proposed by Dr KWOK Ka-ki. According to the papers presented by the Bureau, among the three cases of PAAG injections for breast augmentation which the DH had identified problems, they might involve illegal medical practice, and one may even involve professional misconduct by a doctor.

With regard to medical devices, there is no legislation regulating the import and sale of such devices. As medical devices involve great dangers (particularly those implanted in human body) and must be used properly, so the Liberal Party thinks that it is necessary to enact legislation to impose regulation. However, we must clearly define medical devices and beauty devices, which should be subject to regulation by different ordinances.

According to the DH, the definition of medical devices includes all kinds of equipment, apparatuses, implants or similar objects for diagnosis, prevention, monitoring, treatment or alleviation of illnesses or injuries, as well as those for the preservation or maintenance of human lives. The wordings are very explicit. However, in the Medical Device Administrative Control System introduced by the Administration in November 2004, the scope of products is very extensive, ranging from complicated high technology medical devices like magnetic resonance imaging scanners to gauze, bandage and needles for treating acnes, and so on, and they are subject to the same treatment.

However, now we have some beauty devices which may have some mildly "replacement effect". For example, the steam spraying machine enhances blood circulation while expanding the pores on the face. But how can they be regarded as medical devices? On the other hand, PAAG, which has aroused great public concern, is not subject to the regulation of any ordinance at all.

Therefore, I hope the authorities can effect the discrimination between medical devices and beauty devices. Both the Liberal Party and the industry are of the opinion that all the devices that can only be used for beauty care purposes, instead of having any medical curative effects, should be regarded as beauty devices.

The industry is very concerned about the negative press reports on the sequelae caused by the limited understanding of consumers regarding the functions of certain products. Such reports will have a negative bearing on the development of the industry. Therefore, the industry strives proactively on the one hand to enhance the people's acceptance of the industry through self-discipline, and on the other, for regulation of devices on the list of medical devices which are also suitable for use for beauty care purposes. The industry hopes to strengthen its communication with the Government. For personnel responsible for operating beauty devices of the highest risk, they should be required to receive training and acquire certified qualifications. For those beauty devices of the highest risk, including laser or Intense Pulse Light machines, instead of just subjecting them to the listing requirements, the DH should also set up a special working group to provide training and examinations for personnel operating such devices, including the cosmetologists.

Although the certification system is meant to provide consumers with protection, it is also conducive to enhancing the acceptability of the cosmetological industry. In recent years, many mainland consumers come to Hong Kong to use the cosmetological services here because they have confidence in the standards of service in Hong Kong. Therefore, the industry supports all the initiatives that would help boost the reputation of the cosmetological industry of Hong Kong.

The Consumer Council has announced 53 cases in which the victims have suffered from sequelae developed as a result of PAAG injections for breast augmentation. Of these cases, 90% of the injections were performed in the Mainland. Had mainland hospitals launched any promotion initiatives in Hong Kong on such services? If some sequelae were the results of exaggerated and false promotional claims which cannot be regulated by Hong Kong laws, then it seems we are putting the cart before the horse if we strive to step up the regulation of local promotion initiatives.

The Liberal Party supports a review of the existing laws to see if they are adequate for regulating the claims of certain services and products which may not protect the interests and health of consumers. However, such efforts should not be targeted at only those industries that have been reported in negative media coverage.

Regarding the three types of services proposed for inclusion into the scope of regulation in Mr Fred LI's amendment, they were exactly those items deleted from the Undesirable Medical Advertisements (Amendment) Bill when it went through Third Reading and was passed in 2005 in the Legislative Council.

The Liberal Party opposes the frequent resort to legislation as a means of regulating products and services promotion. If the consumers do not have the necessary information, they can only rely on hearsay, and eventually it may lead to lots of misunderstandings and inappropriate use of products. The greater the transparency, the more information will be provided. And in this way, it will help consumers make more sensible choices. I stress "points to note" must be provided, and the purpose is to heighten the awareness of some people who may not find the products inappropriate for them. In this way, the safety of users can be further guaranteed.

We all understand that while laws are used for disciplining the law-abiding, the speculators will eventually identify some loopholes and exploit them. In the end, the laws will become the restrictive tools which make the business environment in Hong Kong more and more restrictive, thus ultimately undermining the competitiveness of Hong Kong which has to face the competition from neighbouring countries and regions.

As such, we cannot give full play to our own advantages and the choices of consumers are also restricted. Just like the present case of PAAG injections for breast augmentation — since such operations are forbidden in Hong Kong or because of the expensive costs involved, so consumers went to the Mainland to receive such operations. As a result, the health of the people cannot be safeguarded. Therefore, I hope Honourable colleagues can understand that, instead of eliminating the room of survival for certain industries, we should strive to make some common efforts, and through the co-operation of the Government and the industry, we can boost Hong Kong's advantages and give full play to Hong Kong's attraction.

With these remarks, I hope Honourable colleagues can support my amendment. Thank you, Deputy President.

DR KWOK KA-KI (in Cantonese): Deputy President, first of all, I would like to indicate my support for the original motion moved by Mr LI Kwok-ying. In particular, I would like to thank him for moving this most opportune motion. Many of us have mentioned the unhappy incident yesterday in which some Hong Kong reporters were assaulted. In fact, they were doing a report on an issue of great concern to Hong Kong people, namely, the litigations arising from the complications caused by the injection of PAAG. Since the disclosure of this incident, the Government has received 106 enquiries. And among the enquirers, 62 have received PAAG injections for breast augmentation, and 27 have felt certain discomforts. As we all know, radical mastectomy had to be performed on six Hong Kong women who had received PAAG injections for breast augmentation. This is indeed a major tragedy. Why did something like this happen? The PAAG cases that have come to our attention are just the tip of the iceberg because cases of implantation of all kinds of medical devices or equipment in human body will continue to emerge in Hong Kong, and the number of such cases will continue to increase in future.

Members may have read from the newspapers and learnt that a new material called Sub-Q has already been introduced into Hong Kong from Japan. And this new material may have already been introduced in some beauty parlours. In fact, how many such misleading or risky treatments are there in Hong Kong? At first, we made enquiries with the Government. But they had no knowledge about this as well. Why? Members may have heard about this: The Government released a consultation document on the regulation of medical devices in 2003. But unfortunately, after completing the consultation, the Government only implemented a voluntary registration system. It was not until the beginning of this year that this voluntary system was further expanded to include medical devices of Levels II and III. Earlier on, Members have heard that there is no voluntary registration system for PAAG. With regard to such regulatory measures, we all understand that the intent was not to hinder the commercial activities or businesses of any industry, as alleged by Mr Vincent FANG. In fact, the Government has to play the role of the ultimate protector of public interest or consumer interests. But, unfortunately, the Government had not adopted such an attitude at that time, and that explained why the PAAG incident could have occurred and was reported in the media and now it has

aroused much public concern. However, over a hundred people have fallen victim to this and sustained physical harms, including the six women who had to have their breasts removed because of this. Therefore, the Government does have a very substantial responsibility in this incident.

Although this incident was already discussed in a meeting of the Panel on Health Services, and the Government has undertaken to make amendments to the part on new medical devices, we still have not received a more detailed document as of today. I hope the Government can really live up to its promise by expeditiously introducing regulation on the use of medical devices.

For a long time, the medical sector has been fighting for the enactment of legislation to regulate the use of medical devices. With regard to the original motion's proposition of "legislating to restrict or forbid the implantation of PAAG in human body", I have actually conducted a consultation among medical organizations. As some earlier documents have mentioned, PAAG is a dermal filler material for the face or some tissues. It can be used legally in many parts of the world, including the European Union, Australia and Canada, and so on. However, they all have very strict systems in place, that is, this material has to be registered; the personnel allowed to use the material are restricted; and there must be the proof to show that the application of this material complies with the legal provisions governing it. As I have said in the amendment, all the medical devices and materials involved in implantation in the human body by using PAAG for this purpose must be decided by medical personnel. However, even in the international arena, such a material will not be used for breast augmentation. Therefore, I think we should ban it.

I recall Mr Vincent FANG saying earlier that this issue should not be linked with undesirable medical advertisements or the practices adopted by some unscrupulous beauty parlours. But I think the actual situation is not so. If Members take a look at the figures provided by the Consumer Council, they will be able to see the reason. The Consumer Council received 518 and 755 complaints about the marketing practices of beauty parlours in 2004 and 2005 respectively, whereas it received 17 and 35 complaints about laser or Intense Pulse Light treatment programmes in 2004 and 2005 respectively. There were 44 complaints about slimming programmes and services in 2004 and the figure increased to 126 in 2005. These figures have exactly illustrated that under the present circumstances in Hong Kong, some undesirable or irresponsible

advertisements are in fact assisting the bad elements in this industry to exploit such a loophole.

Mr Vincent FANG has also mentioned that many people from the Mainland have chosen to receive plastic surgeries in Hong Kong. Why? It is not because Hong Kong is a free society with no regulation. On the contrary, it is because they trust the system of Hong Kong, and they trust the laws of Hong Kong. However, if there are loopholes in the system and the laws, whereby the laws cannot protect local and overseas consumers, who will still have faith in the system of Hong Kong in future? How can we attract other people, including our compatriots from the Mainland, to come to Hong Kong to use the cosmetological services in future?

Comprehensive laws include comprehensive legal provisions regulating medical devices. These laws will exactly help decent businessmen in the industry to boost their businesses, instead of making them unable to operate in Hong Kong. Therefore, if they understand this point, I believe Mr Vincent FANG would be able to appreciate why the amendments proposed by me and Mr Fred LI mention that it is necessary to regulate their advertisements, including those undesirable medical advertisements. In fact, when the Undesirable Medical Advertisements Ordinance was examined in the Legislative Council last year, many Honourable colleagues and I said that it was an irresponsible decision for the Government to withdraw three most significant parts from the Ordinance, namely, claims about detoxification, slimming and enhancement of immunity, which had been the parts that were most misleading to the public and consumers. But these parts were eventually withdrawn at that time. I believe it is necessary for the Government to review a decision it made wrongly in the past and it should now strive to perfect the Ordinance expeditiously. Therefore, I agree with Mr LI Kwok-ying's original motion in that there should be the ultimate regulation, so as to subject the industries such as the cosmetological industry and the beauty care industry to proper regulation, thereby offering protection to consumers.

Recently, the Government has come to realize that it is necessary to do something about this issue, so it has considered making some improvement in certain industries or establishing some kinds of system to facilitate the certification of their qualifications. We agree with this point, but I notice there are problems with a point in Mr Vincent FANG's amendment, that is, beauty devices with the highest risk must be operated by personnel who have been

properly trained and certified in the relevant field. In fact, one point is missing, and actually it should be: Such personnel should be the medical personnel who have been properly trained and certificated in the relevant field. Why do I say so? It is because if the devices carry the highest risk, then as the description suggests, the personnel operating such devices must possess a lot of essential medical knowledge as well as the understanding that certain practices would lead to complications. But the present situation in Hong Kong is: There is no control at all on this. Deputy President, as long as someone says that he wishes to operate such devices, regardless how risky these devices are, he is allowed to do so, insofar as the current laws are concerned.

Hong Kong is an advanced society, how can we allow something like this to happen? How many years do we have to wait before the Government is willing to effect the changes and steer the regulation of medical devices and undesirable medical advertisements onto a proper track? I hope the Government can really formulate a legislative timetable in the near future, so that protection can be provided to all the people, all the consumers as well as all those consumers who may come to Hong Kong to use this service in future.

With these remark, I would like to support the amendments. Thank you, Deputy President.

MR FRED LI (in Cantonese): Deputy President, the present regulatory system for the cosmetological industry, which also regulates the promotion and advertisements of the industry, the use of medical devices or materials by the industry as well as other aspects, has failed to keep abreast of developments in society. As such, it is necessary for us to further protect the health and interests of the people. What worries us most is, unlike the stringent control over medical doctors and services, the Government has, in my opinion, overlooked the potential risks in the cosmetological industry. In fact, medical services affect only people who are suffering from illnesses. But cosmetological services and beauty care products can be used by anyone. To a certain extent, the damage they may cause could even be more extensive than medical services.

There are more victims of PAAG breast augmentation than we have imagined and the damages are more serious. As far as we know — a Member has also mentioned this earlier on — there are 119 persons in Hong Kong who

had received PAAG injection. Among them, 54 had developed serious problems after the injection, and unfortunately radical mastectomy had to be performed on at least six ladies. The consequences caused by PAAG injections for breast augmentation are not as mild as "adverse body reactions" as lightly put by Mr Vincent FANG in his amendment. Even the breasts had to be excised, and some victims even said that they were at the brink of mental breakdown. Therefore, "adverse after-effects" in Mr LI Kwok-ying's original motion is a more realistic description.

Apart from breast augmentation, there are also lots of other cosmetological services. For example, some claim that they provide slimming services — Deputy President, such advertisements can easily be found in certain weeklies. Some of the advertisements say if you want to lose weight, all you have to do is to buy and eat some products and you can achieve your slimming goal. If it is true, I will take them too. But of course, I do not believe in such advertisements. As a matter of fact, such advertisements do involve great risks. On the one hand, they claim that they can attain detoxification, and on the other, they can enhance one's immunity. Why do I add the "three effects" to the original motion? As Dr KWOK Ka-ki has said, we have been forced to do so. We think that the Government is under tremendous pressure from the industry. As exemplified by what had happened in the past, in fact, the Government had once proposed to regulate these three types of claims made in advertisements, namely, slimming, detoxification and enhancement of immunity after having commissioned some experts to conduct certain studies. However, eventually, the Government had to delete these three types of claims from the scope of regulation. In this regard, both Dr KWOK Ka-ki and I share the same view: Though we know the Liberal Party will oppose the motion and it may not be passed, we still think that we have our own principles and we should protect the people.

Actually, what we can see from the advertisements published in weeklies, with the exception of cosmetic products which we put on our face — in fact, I did mention some years ago in a meeting of the Panel on Economic Services that the cosmetic products we put on our face do not bear any labels, that is, there are no labels indicating the places or countries where such products are manufactured, or the places from which they are imported into Hong Kong. They might be marked as cosmetic products belonging to "a certain Japanese brand". The reference to "Japanese" may lead others to think that they are made in Japan, but in fact it really does not mean anything in that sense.

Instead, it simply bears an actual brand name called "Japanese XXX cosmetic products". As a matter of fact, nowadays, they may use many tactics to lead the people to associate the products in a "taken-for-granted" manner, but we never know where they are manufactured. And sometimes, such products may not even carry information on the "best before" dates, not to mention the "use by" dates. In fact, all these products have expiry dates. These facts are basic information that consumers should have a right to know. But if no regulatory measures can be implemented even in this regard, I think it is very unfair to the consumers of Hong Kong.

The Government often says — perhaps since Secretary Dr York CHOW is responsible for health-related affairs, so consumers' rights are none of his concern. And again Secretary Stephen IP may say that these are health issues and should be referred back to Secretary Dr York CHOW for actions. In fact, these two Directors of Bureaux have not made any serious efforts to co-ordinate with each other, nor have they considered in a holistic manner that apart from hygiene, health and safety issues, there are also the issues of consumers' rights and choices.

Let me cite an example related to the beauty parlours. A certain magazine mentioned that, with as little as \$2,000, a person can be guaranteed to become taller by one to three inches through the aid of certain medicines and equipment. Upon reading it, I said we should invite Mr LEE Wing-tat to try this service. Another beauty parlour claims that it can enlarge breasts through DNA re-configuration. I am quoting from some actual printed materials. If Mr CHIM does not believe in the existence of such claims, I can show him these materials. (*Laughter*) There is also an advertisement which says, with the implantation of some specially prepared essence into the cavernous body of the breasts, it can enlarge the breasts. These advertisements usually hire the services of many film stars or even persons wearing white gowns appearing to be doctors to promote the products, thus presenting an air of authority to the people. All these advertisements can be found in all kinds of weeklies and magazines. Are all these claims made in the various promotional initiatives real? Are they really capable of achieving the proclaimed effects? I am really doubtful. If those products launched in the promotion initiatives cannot bring about any effect, then the customers may only lose some money. However, given the prevailing development of the cosmetological industry, a recent survey shows that even during the SARS outbreak, even at the time of an economic downturn, the people's spending on cosmetological services had never dropped. Instead,

such expenditure has kept rising. Therefore, this is really a very big market, which is being scrambled by many different parties. It offers unlimited business opportunities, but the competition is very keen. The beauty parlours make massive investments to purchase beauty devices; make use of different materials; extract some tissues from the bodies; or the fat is extracted from the bags under the eyes within 15 minutes by experienced practitioners to achieve the effect of leaving no scars and reducing the puffiness over the eyes region. How great is the risk involved in such medical devices, materials and treatment programmes? The consumers have no clues at all, nor do I. Even for the staff members working in such beauty parlours, do they have a good knowledge of all these products?

An even greater worry is the fact that the risks are all played down and concealed in the publicity and promotion processes. Take PAAG as an example. Some beauty parlours claim that PAAG is artificial fat — a claim that reduce the vigilance of consumers. With regard to such claims, as well as advertisements related to fat reduction, slimming and detoxification, the Democratic Party and I once strongly requested that they be subject to regulation under the Undesirable Medical Advertisements Ordinance. But at that time, the Government gave us an undertaking, but on the other hand, it requested us to accept the deletion of these three items first while enabling the passage of other items. However, I would like to take this very good opportunity offered by this motion debate moved by Mr LI Kwok-ying to call on the Secretary once again; and we hope our friends in the DAB can support us in requesting the Government to reconsider these three items again, so as to enact the legislation expeditiously to enforce regulatory control. Of course, the Government may also choose to enforce regulatory control without invoking the Undesirable Medical Advertisements Ordinance. In fact, some countries enforce regulatory control over beauty care products or the cosmetological industry by way of other legal provisions, that is, enacting some other new laws to enforce regulation. For example, in Britain, even shampoo is categorized as a beauty care product and subject to regulatory control. Hong Kong is on the other extreme — no regulatory control at all, nothing at all, not even partial regulatory control.

It is equally imperative for us to impose regulatory control on the use of materials and devices. The bureaucracy in the Government has led to an extremely slow pace in taking action. Take PAAG as an example. It is a fact that problems did occur to people who have made use of such a material. It has

already been banned from being manufactured and used on the Mainland. Needless to say, the United States has long since banned it. But the Government is still indecisive and has failed to put forward a proposal of addressing the issue. From this recent incident, we can see that the cosmetological industry will definitely and possibly launch another product shortly. PAAG will no longer be used, and by then another product will be introduced into the market, though we have no idea now what it will be. Can the Government catch up with the present development? Can the Government always stay at the forefront in the work of protecting consumers, thereby preventing another group of consumers from being injured? This is our worry.

With regard to the present proposed voluntary listing system that allows practitioners of the industry to submit information on devices voluntarily and that the sales records be kept by the manufacturers, this can only be regarded as a starting point. In the long run, it cannot protect the safety of the people. It is necessary for the Government to conduct studies on how best to formulate a mandatory regulatory system and enforce regulation on the industry because business activities, not charities, are involved after all. Therefore, people operating cosmetological businesses will definitely make use of the latest technology and the latest products. There is no problem with it. But they must be subject to proper regulation.

I am proposing this amendment on behalf of the Democratic Party. I hope Members can understand this. This PAAG incident has reflected the situation of the entire cosmetological industry. I hope people in the cosmetological industry can strive to seek continuous improvement and move gradually towards professionalization.

With these remarks, I propose the amendment.

DR JOSEPH LEE (in Cantonese): Deputy President, currently laws in Hong Kong only regulate medical devices containing pharmaceutical products or those capable of emitting ionizing radiation. Apart from legislation regulating these two types of medical devices, there is no specific legislation regulating the import and sale of other medical devices. Despite the fact that starting from 2004, the authorities launched by way of an administrative measure a voluntary medical devices listing system to monitor medical devices, incidents involving

the danger of PAAG implants to the human body have shown clearly that this kind of administrative regulation is no effective solution to monitoring the use of medical and high-risk cosmetological devices and materials.

In recent years the medical profession is well aware of the adverse consequences of implanting a material such as PAAG into the human body. Owing to its dubious nature, PAAG defies ready classification. It is not a pharmaceutical product and hence its use cannot be regulated and restricted in the way as pharmaceuticals are. PAAG is a material that is implanted into the human body to change its composition. It is therefore potentially risky and may affect health. It follows that it should be classified as a medical device. As PAAG is not included in the listing system for medical devices, no regulation of PAAG is possible. This is exactly because PAAG is left in this regulation limbo that it can be used by people without any relevant professional training and that explains the cases involving its damage done to consumers which have surfaced lately.

Deputy President, the existing monitoring system of medical devices is unable to give clear legal guidelines and regulation to the industry. It therefore comes as no surprise that the local beauty care industry has seen its reputation tarnished and its business adversely affected by black sheep in the industry. To tackle the problem at root, the Government should do its best to protect public health and create a good business environment and encourage healthy practices in the industry. Unfortunately, we cannot see any effective regulation from the Government. Apart from legislating to regulate PAAG, we fail to see any better way to help the Government do a better job. Deputy President, the PAAG incidents this time have rendered the voluntary listing system spent and its existence inappropriate and ineffective to Hong Kong. The most pressing task for the Government now is to seize the opportunity to speed up legislating to regulate the supply and use of medical devices and materials in Hong Kong, so as to ensure that consumers will be given reasonable protection of their safety and health.

Deputy President, in recent years body slimming and beauty care has been a trend gaining popularity. As mentioned by Honourable colleagues earlier, magazine readers these days are inundated with advertisements on improving physical appearance, beauty care and reconstructive treatment. There are great

diversities in these treatments and methods, and some of them can be described as exotic and even weird. Consumers bombarded by these advertisements cannot tell which ones are genuine and which ones are not and there is no guarantee on the safety and efficacy of these services advertised.

In addition, there is also a great diversity in the quality of diploma programmes on beauty care. At present, there is no licensing regime or assessment mechanism to impose regulation on the professional qualifications of certified beauticians. The Government does not have any effective policy in place to serve as a platform for monitoring of the situation. In view of this, we urge the Government to study expeditiously into the setting up of a licensing framework for the beauty care industry and beauticians. Stipulations should be laid down to require that only qualified licensed beauticians are permitted to operate medical devices and apply materials carrying potential health hazards. A set of clear-cut guidelines should be drawn up for the use of various medical devices and materials. These will protect the health of consumers and create positive room for development of the beauty care industry.

With rapid advances in technology and the launch of countless new materials and devices, this statutory regulation of medical devices should be applicable to all cosmetic, plastic and reconstructive devices and materials that have potential health hazards. Therefore, I demand that the Government should undertake a speedy review of the current legislation regulating cosmetic and plastic services to curb the growth of false and exaggerated advertisements and claims in beauty care, reconstructive and plastic products and services, hence protecting the health and rights of consumers in Hong Kong.

Deputy President, I so submit.

MR WONG TING-KWONG (in Cantonese): Deputy President, as a Tang Dynasty poet expresses his admiration for a beautiful lady, "Her face is seen in flower and her dress in cloud"¹. The longing for beauty is inherent in human nature. This is especially true of ladies who all aspire to a beautiful face that "launches a thousand ships" as well as a shapely figure that would leave a deep

¹ 300 Tang Poems - A New Translation, Commercial Press 1987

impression on others. Statistics reveal that the spending pattern of Hong Kong people has changed, and their total spending on beauty care has been rising year after year. Take last year as an example, the overall spending in this aspect is over \$2 billion. However, there are many different methods of beauty care and plastic surgery, and some of them could have adverse impact on the health of the people. Last year, the Consumer Council received a total of 50 complaints on laser cosmetological services, and among them, 45 involved Intense Pulse Light treatment, with the remaining five involving laser treatment. Recently, some incidents occurred in which people intended to improve their body shapes by receiving PAAG injection had suffered from adverse sequelae. Yesterday, the first civil litigation on PAAG problems in the Mainland was heard in a Court in Shenzhen.

The cosmetological industry relies heavily on the use of medical devices. According to the present voluntary registration system, some of the relatively risky medical devices such as laser machines and Intense Pulse Light machines can be used for cosmetological purposes. At the strong requests of the cosmetological industry, non-medical personnel are allowed to operate such devices, and the relevant system also permits non-medical personnel who have received recognized training to use laser devices with medium-to-low power as well as low power Intense Pulse Light machines, in order to carry out specific treatment procedures such as hair removal and revitalization of skin. In consideration of the safety of the consumers, the DAB agrees that the SAR Government should enact legislation to impose regulatory control on the use of medical devices by the cosmetological industry. In addition, we would like to stress that, any kind of methods involving the injection of certain materials into the human body must be subject to very stringent control and they must be administered professionally by medical and nursing personnel.

Recently, I learn that the SAR Government plans to conduct a public consultation on proposals of enacting legislation to impose regulatory control on the use of medical devices for cosmetological purposes at either the end of this year or the beginning of next. I believe that practitioners in the cosmetological industry must be among those who are most concerned about this. Some of the medical devices are used by the cosmetological industry in carrying out laser or Intense Pulse Light treatment programmes, and it is estimated that this type of service accounts for 60% to 70% of the turnover of the cosmetological industry. According to the survey of the Census and Statistics Department, the people

spent a total of \$2.56 billion in 2005 on beauty parlours and services such as body building and spa, and so on. Calculating on this basis, we can reckon that the people's spending on beauty parlours would be in the region of \$1.24 billion a year. Therefore, if such medical devices can only be operated by medical and nursing personnel, the cosmetological industry would be severely affected. Consequently, the livelihood of practitioners of the cosmetological industry will be adversely affected, and the economy of Hong Kong will suffer as well. Therefore, the DAB thinks that beauticians, who have been properly trained, should be allowed to continue operating such devices for performing cosmetological services after their skill level and qualifications have undergone proper certification procedures.

At present, the cosmetological industry has implemented several initiatives to upgrade the skill level of the industry, including working with the Vocational Training Council to conduct skill training and certification examinations. In the meantime, the industry is also working jointly with the Consumer Council to formulate the Code of Practice of the Cosmetological Industry which stipulates *inter alia* that only trained beauticians can operate laser machines or Intense Pulse Light machines; that beauticians are explicitly forbidden to perform injections or operations on clients, including the injections of goat placentas and botulinum toxin, which have been popular for many years.

In order to further enhance the skill levels of the cosmetological industry, it is necessary for the SAR Government and the industry to operate the skills certification system in a most stringent manner; to implement a registration system for beauticians; and to require that all cosmetological services involving risks have to be provided by registered beauticians. Meanwhile, in order to provide consumers with greater protection, the cosmetological industry should study whether registered beauticians are required to take out liability insurance policies.

Since there is no comprehensive legislation in Hong Kong enforcing regulatory control on such services, so consumers can only rely on the words of the mouth of people who have used such services, or the recommendations of their friends or relatives, or even the publicity or advertisements. Now the levels of the cosmetological industry in different parts of the world are ever escalating. So, people working in the cosmetological industry must undergo special training and acquire recognized professional qualifications through taking examinations before they can officially practise as a beautician. Let us take the

case of Britain as an example. Apart from some general internationally recognized professional qualifications, some universities have even offered bachelor programmes in cosmetology.

In my opinion, from now on, the authorities should consider enacting legislation on this, and during the period of enacting legislation, the practitioners of the cosmetological industry must be allowed to participate and voice their opinions. The authorities should also strive to gain a better understanding of the situation of the industry, so as to avoid the emergence of a situation whereby the insiders are regulated by the outsiders. Besides, with the growing number of beauty parlours and the increasingly keen competition in Hong Kong now, the expectations of the clients have been rising too. Therefore, practitioners of the cosmetological industry are now willing to boost the status of the industry through the provision of training and opportunities of further education. The Government should give them encouragement through allocating resources to assist their development and working closely with the industry, so as to enable the cosmetological industry to keep abreast of the times and move towards professionalization, thereby further protecting the interests of consumers.

With these remarks, Deputy President, I support the original motion and all the amendments.

MS AUDREY EU (in Cantonese): Deputy President, unlike Mr WONG Ting-kwong, I do not pursue the kind of beauty that "launches a thousand ships", I am still very concerned about the PAAG issue because it will lead to all kinds of sequelae. In fact, it has been more than one month since the Consumer Council reported the issue, and so far it seems that not too many actions or suggestions have been made by the authorities. Dr Gloria TAM, Assistant Director of the Department of Health, said on 29 April that since there was no existing legislation directly regulating the import and application of PAAG, they were considering to introduce legislative amendments to regulate the import of PAAG, requiring importers to maintain sales records, in order to facilitate follow-up actions when necessary. In comparison, the State Food and Drug Administration of the Mainland has already explicitly said that in view of its inability to guarantee the safe use of PAAG in the market, it had decided to cancel the medical device registration certificate of PAAG with effect from 30 April, and ordered the full-scale suspension of production, sale and use of PAAG.

Such situations remind us of the malachite green and streptococcus suis incident, and so on. Whenever some major incidents happen, the authorities would usually become very indecisive on the import of such goods that may be potentially risky. This is in stark contrast to the "strong governance" as claimed by the Chief Executive. We understand that great prudence must be exercised before certain products are really banned from importation, but this does not mean that the problems should be allowed to drag on forever.

As pointed out by many Honourable colleagues who have spoken, the problem is not only confined to the PAAG. Behind this, it has actually exposed the problem of the Government's inadequate supervision of medical devices and undesirable advertisements on medicines. The Civic Party naturally agrees with the many suggestions put forward in today's original motion and all the amendments because apart from introducing regulatory measures and enhancing consumers' right to know, I hope we can adopt an even wider view, that is, consideration should be given to ensuring consumers are provided with post-service protection and legal channels to claim damages if they are really so unfortunate. Therefore, Deputy President, I wish to mention in particular that the Law Reform Commission — I was the Chairman of a subcommittee — had submitted a research report entitled "The civil liability for unsafe products" in the last century, that is, in February 1998. The research report pointed out that, if anyone is injured by unsafe products, under the existing legislation, he can only initiate proceedings to claim damages in accordance with the law of contract and the law of negligence. However, taking either course of action will mean countless hurdles for the claimants.

(THE PRESIDENT resumed the Chair)

For example, according to the law of contract, the consumer can only claim damages against the party with whom he has a direct contractual nexus. So apart from the consumer who has bought the products, other people cannot claim damages for unsafe products. If a lawsuit is pursued according to the law of negligence, it is also very difficult to claim damages because the burden of proof is placed on the claimant. Very often, the consumers absolutely have no idea of how to prove that the products are unsafe, and eventually it may involve

experts giving testimonies. And legal technicalities are also beyond the capabilities of the average consumer. Therefore, the report of the Law Reform Commission proposed that, in addition to the law of contract and the law of negligence, a new legal liability should be introduced with emphasis on defective products. Products which cannot satisfy the safety expectations of the people will be considered as defective. Any injured persons, regardless of whether they are a party to a contract, and regardless of whether they are the users or only the lookers-on (for example, they are injured in an explosion), should all be protected under the newly proposed legal liability.

Besides, there is still another crucial point. Apart from legal protection, the litigation system should also be able to help the consumers. As we all know, there is no collective litigation system in Hong Kong. Although consumers may seek help from the Consumer Council and apply for the Consumer Legal Action Fund, even if the application is accepted, the lawsuit will only be brought to the Court as an individual case. We must bear in mind that, if an individual consumer should initiate proceedings, even with the assistance from the Consumer Council, he actually will have to face very tremendous pressure when he has to engage himself in proceedings against major enterprises or companies. It was because the consumer will have to shoulder a very heavy burden in terms of time, energy, and so on. Of course, some may worry that the amendment may lead to collective litigations, and Hong Kong may follow the footsteps of the system of the United States with many mega lawsuits being filed, in which case, other undesirable consequences may arise.

I wish to point out that the Consumer Council had suggested many years ago that, particularly with reference to the claims or publicity mentioned in the motion — Mr Fred LI has earlier on told us in great details some very ridiculous and substantially misleading advertisements — in fact, the Consumer Council has been talking about this for a very long time ago. We should let the Consumer Council represent us consumers to initiate actions against some false advertisements or those that contain elements of exaggeration, or even prohibit such advertisements from publishing continually, so as to prevent them from misleading the people. Such proposals have already been mentioned for many years and the rationale is simple. For we have such a readily available organization — the Consumer Council, which enjoys very good credibility among the people. But I really do not know why: Some issues have been discussed for years, yet the Government is still reluctant to take any actions.

Recently, there are many reports on PAAG. This morning, there were even reports on the assault on reporters. This in fact reflects that such industries can make huge profits easily. Therefore, it is really necessary for us to introduce regulatory control over them. I hope that, after listening to the opinions of Members, the Government can expedite the process of identifying some good solutions that will offer protection to consumers.

Thank you, President.

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

MR JAMES TO (in Cantonese): President, I would also take this opportunity to discuss a related problem that has aroused my concern recently.

Actually, in many cases, claims made in advertisements of beauty care and slimming services are accompanied by varying degrees of support from "authorities". It may be claimed that the "authority" is a medical professional, or a medical practitioner. But in reality, the person may not be engaged in the discipline being advertised in Hong Kong. And, upon verification, one may even find that the person is not a medical practitioner overseas. Besides, it is also doubtful whether the person is really engaged in the relevant discipline because references are made very cleverly in the advertisement. I hope that the Government can examine this problem carefully.

The reason is that many legal assumptions are involved. As a matter of fact, misleading advertisements, especially those involving the testimonies given by authorities, are already subject to regulation in different fields. For example, there are regulations applicable to television commercials and there is the Broadcasting Authority Ordinance. The mass media are generally subject to control, but there is often a loophole in the case of the print media, because the standards of control for them are not the same as those for the electronic media. I hope that the Government can conduct a review of this.

Medical and quasi-medical issues aside, there is also the problem of attestors, that is, the problem of having someone to attest that the use of a product can enable one to lose a certain number of pounds and reduce one's waist by a certain number of inches. The advertisement concerned may claim that the

"authoritative and trustworthy" figure is a legal professional or accountant. But upon verification, we may discover that this so-called professional is not living in Hong Kong. What role does such an overseas person play in the advertisement? Should such claims be permitted? Should there be a regulation requiring that the professional qualifications of attestors must be specified? In case a claim is proved to be erroneous or false, can any actions be taken? I hope that the Government can consider the enactment of some relevant laws and restrictions in the future.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr LI Kwok-ying, you may now speak on the three amendments. You have up to five minutes.

MR LI KWOK-YING (in Cantonese): Madam President, first of all, I wish to extend my gratitude to Mr Vincent FANG, Dr KWOK Ka-ki and Mr Fred LI for moving their respective amendments to my motion. I must also thank other Members for speaking on the motion.

Mr Vincent FANG's amendment is worded with special care to differentiate between beauty devices and medical devices for the purpose of regulation. We do not object to this principle, but we are worried whether strict differentiation is really possible in all cases in the actual implementation. As I have pointed out, besides serving cosmetological purposes, laser and Intense Pulse Light machines can also work as medical devices for the removal of wound scars or even the treatment of varicose veins. Therefore, if we are to differentiate one from the other, we must be very cautious and conduct adequate consultation. We must be especially careful in determining what should be included in the various classes of medical devices I mentioned earlier on. Besides, the contents of the classification system must be reviewed in greater detail.

Mr Vincent FANG's amendment also proposes that people operating high-risk beauty devices must receive training. We support this proposal. In

addition, we even want to establish a mechanism for skills certification, so as to standardize skill levels and give greater assurance to consumers.

As for Dr KWOK Ka-ki's amendment, I can notice from its wording that he actually supports my original motion. He proposes to restrict the use of high-risk implantable medical devices and even specifies that such devices must be operated only by properly trained medical personnel. This is not in conflict with my original motion.

Mr Fred LI's amendment proposes to expeditiously enact legislation on regulating advertisements about services and products which claim to be able to slim the body, facilitate detoxification and regulate the immune system. This issue has actually been debated in society for a long time. But the Government has so far refused to impose any regulation. The DAB really hopes that the Government can heed the voices of the public. We hope that it can really "share the people's concerns" and expeditiously enact a sound piece of legislation that can fully regulate the advertisement claims of all these products and services. That way, the interests of consumers can be protected and the entire beauty care industry will be able to develop healthily under regulation.

Thank you, Madam President.

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, first of all, I wish to thank Mr LI Kwok-ying for proposing this motion for debate. I also thank Members for their opinions expressed earlier. This motion debate gives the Government and myself an opportunity to brief Members on the efforts that we have been making to follow up the PAAG incident, as well as our latest views on and directions for the regulation of medical devices and materials. It also enables us to fully understand Members' views in these respects.

I must emphasize at the outset that the Government is very concerned about Hong Kong citizens having developed adverse body reactions as a result of their use of PAAG for breast augmentation. I must also point out that the implantation of foreign objects in human body for breast augmentation is a medical procedure and involves a certain degree of health risks. Members of the public should consult specialist doctors before undergoing such procedure.

In fact, there is no sufficient scientific evidence to prove the safety and effectiveness of PAAG being used for breast augmentation.

When the PAAG incident was revealed in Hong Kong, that is, on the day in April when the report of the Consumer Council was released, the Department of Health (DH) immediately introduced a series of measures, including setting up a hotline to contact the people affected and collect information from them direct and answer public enquiries. The DH has, by way of letters and on its website, notified all local medical practitioners and the relevant health professional bodies of the health hazards arising from the use of PAAG injection for breast augmentation, and invited them to report relevant cases, while at the same time reminding the public that PAAG is absolutely not suitable for breast augmentation.

As at end April, the DH received a total of 243 telephone enquiries, in which 119 callers claimed that they had received PAAG injections and 54 said that they had experienced adverse body reactions; nine said that they had received the injection in Hong Kong while others had it in places outside Hong Kong. The DH suspected that illegal medical practice is involved in three cases and has referred them to the police for follow-up action. Besides, the DH has referred a case involving professional misconduct by a medical practitioner to the Medical Council of Hong Kong for action.

In the course of investigation, it was found that in promoting their products for breast augmentation, some beauty parlours claimed that PAAG had been registered for clinical use with the DH in Hong Kong. This is not true and is suspected to be in breach of the Trade Descriptions Ordinance. The DH has already referred these cases to the Customs and Excise Department for follow-up. The Customs and Excise Department is now conducting investigation and prosecution under the Ordinance is also being considered.

Moreover, as information available indicates that most of the affected persons received their PAAG injections in the Mainland, the DH and I have contacted the Ministry of Health, the State Food and Drug Administration and the General Administration of Quality Supervision, Inspection and Quarantine to discuss measures to strengthen the protection of public health of both places, including regulation of the use of PAAG in the Mainland. In the light of this incident, a review was launched by the relevant mainland authorities of the approval for the production of PAAG for breast augmentation injection, and on

30 April, the State Food and Drug Administration also imposed a ban on PAAG injection for breast augmentation in the Mainland.

We have also actively studied how the import and use of PAAG can be regulated through legislation. Given that PAAG is not a pharmaceutical product and is not considered a consumer goods by definition, PAAG is not subject to regulation under the relevant legislation. We had two options in mind at that time. First, we planned to regulate the import of PAAG by introducing amendments to the import and export legislation, requiring PAAG importers to apply for an import licence from the DH, in order to ensure that PAAG is provided only for use by medical practitioners and that its use is subject to regulation. When issuing an import licence, the DH will set out conditions for compliance by importers, such as restricting the sale of PAAG by importers to registered medical practitioners only and requiring importers to keep sale records of PAAG. The second option was to impose a total ban on the use of PAAG in Hong Kong. We are studying the details of the relevant legislation with the departments concerned and the Department of Justice. Meanwhile, we have also made reference to overseas practices. Some Members mentioned earlier that in the European Union and Australia, PAAG is permitted for use as a material in plastic surgery known as dermal filling. In Hong Kong, PAAG is also used as a dermal filling in plastic surgery. In fact, the cause of this incident is that some people have put PAAG to wrong use and so, our original plan was to allow some room for PAAG to be used by professionals.

Dr KWOK Ka-ki mentioned earlier that some surveys had been conducted, and as far as we know, the Plastic Surgeon Society in Hong Kong has recently conducted a survey within the profession and found that over 90% of the professionals said that they had decided not to use PAAG. So, our position is that if possible, considering the level of public knowledge of plastic surgery in Hong Kong (and especially in neighbouring places) and the series of adverse consequences caused by PAAG, we are inclined to ban the use of PAAG more thoroughly. Later, we will study the details of the relevant legislation with the departments concerned and the Department of Justice, hoping that the relevant legislative procedures will be completed as soon as possible.

The DH has also stepped up education on public health, so that members of the public can have a more comprehensive and in-depth understanding of the risks involved in the use of PAAG or other methods of breast augmentation. I believe that through public education and extensive media coverage, people who

consider undergoing any plastic surgery or breast augmentation procedure should make a choice carefully.

In the light of the PAAG incident, we have immediately reviewed the timetable for bringing medical equipment under statutory regulation. According to its definition in the international community, the term medical device can have very extensive coverage. It refers to any instrument, apparatus, appliance, material or other article, excluding drugs, used for diagnosis, treatment, rehabilitation purposes, or for monitoring diseases or injuries. Materials used in plastic surgery, such as PAAG, are also classified as medical devices according to the established international definition.

The Government published a consultation document on medical devices in 2003, proposing the setting up of a risk-based regulatory framework for the supply and use of medical devices, with a view to safeguarding public health and safety. The scope of control will include pre-market control, post-market monitoring and reporting mechanism for medical incidents, and control on certain types of high-risk medical devices. We reported to the Legislative Council Panel on Health Services the results of consultation in 2004 and proposed to implement an Administrative Control System as a first step, in order to facilitate smooth transition in all aspects and come up with the way to impose statutory regulation in the long term.

The Medical Device Administrative Control System (MDACS) was launched in end 2004, whereby high- and medium-risk medical devices have been listed gradually. Many workshops have been organized for the profession to help them understand the operation of the system.

Given public concern about the safety of medical devices (including materials) in the wake of the PAAG incident, we have decided to expedite the introduction of statutory registration and regulation of medical devices. We will first target medical devices with comparatively higher risks. Our objective is to consult all stakeholders, including importers, wholesalers and users of medical devices, on the details of statutory control next year, after which we will embark on the drafting of legislation.

In the international community, including Europe, the United States, Australia and Canada, the regulation of medical devices generally consists of two parts, namely pre-market control, which mainly refers to the registration and

approval of goods, and post-market control, which includes active monitoring and an incident reporting system. Given the rapid advancement of medical devices, it is a general practice in the international community to impose risk-based rather than product-specific regulation, in order to ensure that the medical device is safe, effective and meets quality standards. In considering the details of regulation, we will also make reference to international practices and views of the relevant parties.

Members are concerned about the regulation of promotional claims about services and products for beauty care, body shaping and plastic surgery.

First of all, insofar as plastic surgery services are concerned, promotional advertisement on plastic surgery is prohibited under the Undesirable Medical Advertisements Ordinance. Moreover, plastic surgery procedures are also considered as medical procedures and can be performed only by registered medical practitioners.

As regards publicity of beauty care and body shaping products and services, I believe many people have achieved physical fitness through exercise and a balanced diet. But we understand that in a society which emphasizes high speed and quick results, some people will hope to achieve body slimming speedily through various services and products. Members are concerned that some advertisements may mislead consumers by way of exaggeration and false claims and therefore proposed to subject the promotional claims of these services or products to regulation, in order to ensure that all these claims are consistent with the actual effects of the products or services.

Advertisements, by their nature, carry a certain degree of creativity, and at present, there is not a composite piece of legislation to regulate promotional advertisements on consumer products, but there are codes of practice targeting the contents of advertisement, such as the Code of Practice for television and radio advertising standards issued by the Broadcasting Authority under the Broadcasting Ordinance and Broadcasting Authority Ordinance, which regulates advertisements aired by licensed television and radio service providers, and the television and radio advertising codes have set out requirements on the truthfulness of the television and radio advertisements to ensure that they will not mislead the public.

With regard to advertisements on slimming products and services, there are additional requirements in the television and radio advertising codes whereby these advertisements are required to indicate that the advertised products or services are adjunct to a balanced/healthy diet to achieve such effect. Television and radio licensees are required to obtain evidence showing that the advertised products or services should be effective and will not cause harm. Moreover, the advertisements must not be addressed to persons under the age of 18. The Broadcasting Authority will take follow-up actions on receipt of complaints against these advertisements.

The Association of Accredited Advertising Agents of Hong Kong has formulated a standard Code of Practice to regulate the advertisements produced by its members, requiring that the advertisements must be legal, decent, honest and truthful. Any member who fails to comply with the Code of Practice will be subject to sanctions according to the relevant rules laid down by the Association.

I understand that with regard to complaints involving slimming and body shaping services, apart from complaints about unsatisfactory results, there are also complaints about the methods of sale. According to the information of the Consumer Council, 126 complaints against slimming services or courses were received in 2005, representing about 0.3% of all complaints to the Consumer Council last year. These concerned issues such as ineffective treatment, high-pressure sales tactics, closing down of shops with paid-for services still outstanding and poor service standards.

The policy on consumer protection comes under the purview of the Economic Development and Labour Bureau, and there is legislation to protect the rights and interests of consumers. If consumers are not satisfied with the goods or services provided to them, their cases will generally be handled in accordance with the terms in the contracts. In substantiated cases, consumers may seek redress under the Unconscionable Contracts Ordinance, Supply of Services (Implied Terms) Ordinance and Sale of Goods Ordinance.

Apart from health education, promoting consumer awareness and their knowledge of products in the market through dissemination of information also helps to protect consumers against undesirable trade practices and enable them to make rational choices. The Consumer Council plays a key role in this regard by disseminating consumer information and enhancing consumer awareness

through publication of the *Choice* magazine, media liaison and various publicity programmes. Moreover, the Consumer Council also helps facilitate consumers' access to redress through its complaints mediation service and through providing legal assistance for consumers to take action against suppliers of unsatisfactory goods or services.

In view of the concern in all sectors of the community about the operation of beauty/slimming centres, the Consumer Council has recently completed the drafting of the Beauty Industry Code of Practice. Trade representatives have made an undertaking to actively promulgate and abide by the Code. The Code will provide guidance to the beauty industry in respect of its operation and will promote the use of good sales practice, with a view to providing protection for consumers.

It is the duty of the Health, Welfare and Food Bureau to protect public health. Priority and resources are placed on issues and items that pose high health hazards, such as the registration of drugs and regulation of health care professionals.

From the health perspective, a person failing to achieve the degree of weight loss as promised in advertisements does not constitute the level of public health risk that may warrant positive intervention. In fact, we believe that most people are smart consumers who can choose products and services suitable for themselves and distinguish these products or services from others.

Members mentioned the Undesirable Medical Advertisement Ordinance. The Ordinance is precisely a reflection of our attitude of imposing risk-based regulation. It prohibits claims relating to diagnosis and treatment of high-risk health conditions, such as cancer, heart diseases and other diseases. The objective is to ensure that people who have these conditions and diseases would seek medical consultation in the first instance instead of resorting to self-medication. We all understand that the desire to improve one's body shape and image is not a high-risk disease and so, claims relating to slimming and body shaping are not incorporated into the scope of regulation of the Ordinance.

However, I understand that some Members hope that the scope of regulation of the Ordinance can be extended to cover claims of body slimming and weight loss, and upon the passage of the Undesirable Medical Advertisements (Amendment) (No. 2) Bill 2004, I also undertook that the

Government would conduct studies in this regard after the registration of proprietary Chinese medicines is put on the right track and that the study would include claims about facilitating detoxification and regulating the immune system.

As regards slimming or healthy/beauty care medicines, especially when it comes to medicine, they are under the regulation of the Pharmacy and Poisons Ordinance. These pharmaceutical products have to be registered to ensure that they are safe and of good quality and efficacy before they can be sold. Some pharmaceutical products are further classified as prescription-only medicine because of their specialized use and their side-effects. Prescription drugs can only be supplied by registered medical practitioners, or by pharmacists employed at pharmacies in accordance with a prescription, and it is an offence to sell unregistered pharmaceutical products or prescription-only medicines without prescription.

Moreover, the DH will regularly purchase samples of health food products for laboratory analysis to ensure they are not adulterated with western drug ingredients. Public health is also protected through the regulation of medical professionals. Take medical practitioners as an example. The professional practice of medical practitioners is regulated by the Professional Code and Conduct issued by the Medical Council of Hong Kong. The Code provides that a medical practitioner has the duty to provide patients with medical services of a professional standard and also decide, after proper consultation, the proper medications with appropriate duration

Furthermore, Mr Vincent FANG proposed to conduct risk assessment for medical devices and that in accordance with their risk levels, medical devices with the highest risk can be operated only by personnel who have received relevant training. Mr FANG's view is in fact consistent with the Government's view on the regulation of medical devices. In fact, under the existing listing system, medical devices are classified into four classes based on their risk levels. With regard to high-risk devices such as laser machines, we suggested that they can be operated only by specialist doctors. As for Intense Pulse Light, given that the risk involved is comparatively lower, we consider that it can be used by medical and health care personnel as well as other people who have received the relevant training. We will further promote the regulation of medical devices on this principle.

As for claims made in advertisements, we consider that free flow of information and public education will help the public obtain accurate knowledge of their body and image and also how they can improve their body shape, so that they will not completely rely on those most creative advertisements in making spending decisions. In choosing products and services, consumers also have the duty to find out whether these products or services can satisfy their needs effectively and safely. In this connection, the DH has always endeavoured to enhance health education for the public and promote a healthy lifestyle by, among other things, promoting to the community the importance of keeping a balanced diet and taking regular exercise in achieving proper weight control.

Mr LI Kwok-ying proposed that the public and users of medical devices should be provided with more information about the devices for them to make informed choices. We very much agree with this suggestion of Mr LI. In fact, since 2005, the DH has maintained surveillance on safety alerts and recall notices issued by overseas authorities or manufacturers. Of the 599 known alerts and notices, 168 affected products are sold in Hong Kong. The authorities have also issued alerts to possible product users, such as the Hospital Authority, private hospitals, nursing homes, and the Hong Kong Medical Association. If the DH is of the view that the product concerned may be extensively used by the public, safety alerts and recall notices will be issued to the public. Past examples included electronic cardiac device, thermometer, intrauterine device, and so on. Besides, a mechanism is already in place for medical device manufactures and users to report medical incidents to the DH.

The DH has also disseminated information on medical devices to the public, the relevant professions and professionals through its webpage, e-mails, posters and health education pamphlets. Moreover, the DH has arranged a series of seminars for medical professionals and executives of medical organizations to enable them to choose, use and manage medical devices correctly.

Finally, I wish to reiterate that the Government accords first priority to public health. We have promptly taken actions to follow up the PAAG incident and expedite statutory regulation of medical devices and materials, implementing a diversity of measures to protect public health. As for the amendments proposed by Members, we consider all of them acceptable, just that we will need

to consolidate their proposals and work out the legislative procedures and timetable, after which we will explain the details to Members.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now call upon Mr Vincent FANG to move his amendment to the motion.

MR VINCENT FANG (in Cantonese): President, I move that Mr LI Kwok-ying's motion be amended.

Mr Vincent FANG moved the following amendment: (Translation)

"To delete "after-effects" after "Consumer Council's recent reports on the adverse" and substitute with "body reactions of some people"; to delete "use" after "caused by the" and substitute with "injection"; to add "in the Mainland and Hong Kong" after "breast augmentation"; to add ", " after "public concern"; to add "and beauty" after "regulating medical"; to add "as well as materials which are used for implantation in human body by injection" before ", this Council urges the Government"; to add "set out clear definitions of the standards of medical and beauty devices as well as instructions on their use," after "implantation in human body to proper regulation,"; to add "(b) in respect of those beauty devices currently included in the list of listed medical devices, further perfect the listing system by requiring that the beauty devices with the highest risk must be operated by personnel who have been properly trained and certified in the relevant field;" after "comprehensive legislative proposal for the regulation of medical devices,"; to delete the original "(b)" and substitute with "(c)"; to delete "for beauty care, body shape-up and plastic surgery, etc" after "claims about services and products"; to delete the original "(c)" and substitute with "(d)"; to add "and beauty" after "more information about various medical"; and to add ", methods of using them and points to note," before "so that they can make informed choices"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Vincent FANG to Mr LI Kwok-ying'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.

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the amendment passed.

PRESIDENT (in Cantonese): Dr KWOK Ka-ki, as Mr Vincent FANG's amendment has been passed, I have given leave for you to revise the terms of your amendment, as set out in the paper which has been circularized to Members. When you move your revised amendment, you have up to three minutes to explain the revised terms in your amendment, but you may not repeat what you have already covered in your earlier speech. You may now move your revised amendment.

DR KWOK KA-KI (in Cantonese): Madam President, I move that Mr Vincent FANG's amendment be amended, as printed on the document.

I am very glad to hear the Secretary say that he basically agreed to the original motion as well as all the amendments. I seek to amend Mr Vincent FANG's amendment mainly because I feel that it is necessary to subject medical devices for implantation in human body to relatively more stringent regulation. Of course, we still need to consider which materials or devices should be subject to regulation, as well as what kind of training for medical personnel should be considered adequate. This is a direction we need to take.

With regard to one of the aspects mentioned earlier, I wish to reiterate it once more. With regard to the part about high-risk devices, I believe more stringent regulatory control must eventually be imposed, instead of not mentioning the personnel operating them, as in the cases of the amendments. In fact, the part with the highest risk is really very risky, and as a convention, in other societies of international standards, such devices and materials of the highest risk for implantation in human body are also used only by suitably and adequately trained medical personnel.

I so submit.

Dr KWOK Ka-ki moved the following further amendment to the motion as amended by Mr Vincent FANG: (Translation)

"To add "; and (e) subject all medical devices and materials for implantation in human body to proper regulation by limiting their use to properly trained medical personnel only" after "so that they can make informed choices"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Dr KWOK Ka-ki's amendment to Mr LI Kwok-ying's motion as amended by Mr Vincent FANG, 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.

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by

functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the amendment passed.

PRESIDENT (in Cantonese): Mr Fred LI, as the amendments by Mr Vincent FANG and Dr KWOK Ka-ki have been passed, I have given leave for you to revise the terms of your amendment, as set out in the paper which has been circularized to Members. When you move your revised amendment, you have up to three minutes to explain the revised terms in your amendment, but you may not repeat what you have already covered in your earlier speech. You may now move your revised amendment.

MR FRED LI (in Cantonese): President, I move that Mr LI Kwok-ying's motion as amended by Mr Vincent FANG and Dr KWOK Ka-ki, be further amended by my revised amendment.

Actually, my amendment is very simple and it is not in conflict with the amendments moved by other Members. The Secretary also said just now that he agreed with the amendments moved today and he did not find any part particularly objectionable. Concerning the three areas, that is, advertisements about services and products which claim to be able to slim the body, facilitate detoxification and regulate the immune system, I hope the Government will examine how to protect the health of the public as soon as possible. I hope Members will support my amendment.

Mr Mr Fred LI moved the following further amendment to the motion as amended by Mr Vincent FANG and Dr KWOK Ka-ki: (Translation)

"To add "; and (f) expeditiously legislate to regulate advertisements about services and products which claim to be able to slim the body, facilitate detoxification and regulate the immune system" after "limiting their use to properly trained medical personnel only".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr Fred LI's amendment to Mr LI Kwok-ying's motion as amended by Mr Vincent FANG and Dr KWOK Ka-ki, 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 Fred LI rose to claim a division.

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

Dr LUI Ming-wah, Mr Bernard CHAN, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr WONG Kwok-hing, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr Patrick LAU, Mr KWONG Chi-kin and Miss TAM Heung-man voted for the amendment.

Mrs Sophie LEUNG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Vincent FANG, Mr Jeffrey LAM and Mr Andrew LEUNG voted against the amendment.

Dr Philip WONG abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Ms Emily LAU, Miss CHOY So-yuk, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr LI Kwok-ying, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr CHEUNG Hok-ming and Mr Albert CHENG voted for the amendment.

Mr James TIEN and Mrs Selina CHOW voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 18 were present, 10 were in favour of the amendment, seven against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 25 were present, 22 were in favour of the amendment and two against it. Since the question was agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was carried.

PRESIDENT (in Cantonese): Originally, at this stage, it should be Mr LI Kwok-ying's turn to speak in reply, however, since Mr LI Kwok-ying has used up all his speaking time, so I will now put the question to you straightaway and that is: That the motion moved by Mr LI Kwok-ying, as amended by Mr Vincent FANG, Dr KWOK Ka-ki and Mr Fred LI, be passed.

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

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion as amended passed.

PRESIDENT (in Cantonese): Second motion: Effective utilization of fiscal surplus.

EFFECTIVE UTILIZATION OF FISCAL SURPLUS

MR KWONG CHI-KIN (in Cantonese): Madam President, I move that the motion as printed on the Agenda, be passed.

According to the estimation of the Financial Secretary of Hong Kong, there would be a fiscal surplus of only \$4.1 billion this year. However, it was announced last month that there was an unexpected additional surplus of \$9.9 billion this year. The utilization of this unexpected surplus has caused great concern in the community.

In view of this, the motion of "Effective utilization of fiscal surplus" proposed by me today has attracted the interest of a number of Members who proposed amendments. I have checked the records of the past few years. With six Members proposing amendments, this motion of mine can be said to have broken the record of the Legislative Council.

Faced with this "windfall", careful consideration must be given to its utilization so as to benefit the general public. The most simple and direct means is the provision of tax rebate, rates relief, and so on. These measures definitely will not give rise to much criticism. But in terms of the long-term development of Hong Kong, careful thoughts should be given to the utilization of the surplus to maximize the benefit for Hong Kong.

Over the last couple of years, the overall economic environment of Hong Kong has seen an improvement. However, a number of economic and social problems are hidden behind this atmosphere of prosperity awaiting further improvement. At the Question and Answer Session of the Legislative Council

last week, the Chief Executive mentioned that various indicators of Hong Kong have shown signs of improvement. And he looked satisfied with his own performance. However, in the meantime, a member of the public lodged a complaint with my office. He is an operator in the transport industry, who has employed a dozen or so drivers. When the business was in boom in the past, he had cars, properties and yachts. Now, he even finds it difficult to pay wages to the employees. This is mainly due to the increasing number of competitors in the market of the transport industry, which has given rise to an oversupply and a difficult business environment.

Why have so many people thrown themselves into the transport industry? It can all boil down to the inadequate number of jobs at the grass-roots level, and the "wage earners" can have but little choice. In the past, there were a lot of jobs available at the grass-roots level such as in the clothing, electronics, plastics, metal industries, and so on. Workers did not need to worry about jobs. However, grass-roots workers can now only find jobs in such sectors as restaurant, sales, guarding services, cleaning, transport, and so on. The competition for jobs has led to an oversupply in the labour market. For the same reason, our unemployment rate has continued to stand at around 5%, with 180 000 people remaining unemployed so far and numerous workers strained in the state of working poverty. In addition, social problems such as the disparity between the rich and the poor and inter-generational poverty have thus emerged.

Apart from the problems of unemployment and the disparity between the rich and the poor, Hong Kong has also faced the predicament of a lack of long-term competitiveness. The Chinese Academy of Social Sciences (CASS) has pointed out that although the competitiveness of Hong Kong is still very strong now, no development momentum can be seen in the long run. If Hong Kong adopts a "relaxed attitude" and does nothing, it is feared that our future competitiveness will decline and our edges will not be maintained.

Faced with all kinds of hidden troubles, the community of Hong Kong should seize the opportunity of having a fiscal surplus to discuss how to utilize the surplus to stimulate the economy and increase employment opportunities. I have proposed the motion today in the hope of giving the Legislative Council and the community a forum for discussion.

Over the past 10 years, our experiences of the reunification, the financial crises and SARS have left us no time to think about the future of Hong Kong.

However, during this period, a number of determined persons had still put forward various proposals, only that those proposals were not put into practice in the end. For instance, the development of the river loop areas and the border zone was proposed, which aimed at making use of the land bordering on the Mainland to achieve a complementary effect on different fronts. A group once proposed the development of the river loop area into a Chinese medicine centre where the Mainland would provide professional expertise and Hong Kong would play the role of providing information and quality control. Another proposal was the development of the vehicle parts industry at the boundary area, which could bring Hong Kong a new economic growth point as well as various employment opportunities.

In fact, since the implementation of CEPA, over 1 300 products of Hong Kong have enjoyed zero tariff. With a market as huge as our Motherland, there is plenty of room for development of our manufacturing industry. It is a pity that over the past few years, little progress has been made under CEPA in the manufacturing industry and creation of jobs. The policy address last year mentioned under the topic of "Furthering CEPA" the reduction of the size of the closed area to release more land. This proposal can precisely tie in with the development of CEPA. However, there have yet to be any further discussions on the utilization of the closed area.

However, in any case, for the development of new high value-added industries in Hong Kong, it is essential to invest in research and development (R&D). However, neither the Government nor the businessmen of Hong Kong have attached great importance to R&D, resulting in limited investments in this area. This is also the main reason why the academics of the CASS gathered that the development momentum of Hong Kong was weak. The Government of Singapore has proposed in its budget this year a provision of around \$9.48 billion over the next five years for university education, as well as around \$23.7 billion over the next five years for the establishment of an R&D fund. On the contrary, in Hong Kong, the total expenditure on R&D over the years has represented only around 5% of the Gross Domestic Product (GDP). As there is an additional surplus of almost \$10 billion this year, should consideration not be given to the establishment of an R&D fund for the expansion of the creative and high value-added industries of Hong Kong?

It takes time to develop new industries. However, the Hong Kong Federation of Trade Unions (FTU) has, over the years, proposed the rendering of support to the recycling industry to create job opportunities in a short time. And this requires support in terms of policy. First of all, it is the issue of land utilization. The recycling industry not only needs a recovery park, but also transfer stations in different districts for recovered materials. The recycling industry can exactly absorb labour force at the grass-roots level. Experiences of Taiwan and South Korea have shown that in the long run, the recycling industry can bring forth the development of high value-added industries such as the manufacturing of feeds and fertilizers. And South Korea has also conducted studies on the reversion of plastic wastes to petroleum.

The Government announced yesterday that we recorded an 8.2% growth in the GDP in the first quarter. This is good news for the Government. But not every member of the public can share it, which includes the 180 000 unemployed and the 300 000 working poor with a monthly income below \$5,000. The Budget this year has allocated \$100 million to poverty alleviation, accounting for only 1% of the additional surplus. It looks really mean. Statistics prepared by the Government reveal that the unemployment rate of the middle-aged in their forties is the highest. And people between 40 to 50 years of age are the largest group of the low-income Comprehensive Social Security Assistance (CSSA) recipients. They are also victims of the drastic economic restructuring. Therefore, when the overall economy has taken an upturn, the earnings of the people of Hong Kong should be used to help these people break away from poverty. For instance, more people will benefit if the scope of inter-district transport subsidies is expanded. Moreover, I agree to the proposal put forward in Dr Fernando CHEUNG's amendment, that is, to revert the CSSA rates for single parents, children, the elderly and people with disabilities to their previous levels so as to narrow the disparity between the rich and the poor.

Over the past few years, under the financial envelope policy, a large number of posts that were originally under the permanent establishment have been forced to be taken up by non-civil service contract staff. Although whether there will be such an abundant fiscal surplus next year remains an unknown, the present economic performance of Hong Kong gives us grounds for an optimistic estimation. As the shadow of fiscal deficit cast over the Government has passed, posts with actual need should be converted to the permanent establishment to lessen the workload of both the civil service and non-civil service staff, as well as to provide a steady civil service team for the Government.

Madam President, if a person has a windfall, apart from saving a certain amount of it to provide for the rainy days, he will most probably think of how to make good use of the money. The same goes for the Government. If the Government has an unexpected additional surplus of almost \$10 billion, apart from saving a certain amount as the reserve, it should consider how to make good use of some of the surplus. Otherwise, the Government will be criticized as "Scrooge". If the surplus is to be put to good use, in the long run, I think it should be used in the development of infrastructure, the stimulation of the economy and the enhancement of the competitiveness of Hong Kong. The immediate tasks of the Government are the alleviation of poverty and the support for youth employment. I hope the Government will expand the scope of cross-district transport subsidies to give more remote area residents transport subsidies to travel to work in the urban area. And the problem of working poverty will then be slightly ameliorated.

Moreover, the unemployment rate among youths has been on the rise. Along with the advance of the summer holidays, a new batch of Secondary Five graduates will join the labour market. I hope the Government will put more efforts in the provision of induction training for the youth. As our fiscal surplus has now seen an increase, should consideration not be given to extending and deepening the induction training courses for the youth to help them secure employment and to save them from unemployment upon graduation?

Madam President, all the political parties/groupings hope for some tax concessions. If this hope comes true, everybody will be happy. Since there are six Members proposing amendments to this motion, I will leave it to them to elaborate on the subject of tax concession. Thank you, Madam President.

Mr KWONG Chi-kin moved the following motion: (Translation)

"That, as the fiscal surplus in 2005-06 amounts to \$14 billion, which exceeds the expected \$4.1 billion by \$9.9 billion, this Council urges the Government to effectively utilize the surplus to alleviate the disparity between the rich and the poor, stimulate the economy and increase employment opportunities."

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

PRESIDENT (in Cantonese): Six Members will move amendments to this motion. The motion and the six amendments will now be debated together in a joint debate.

I now call upon Mr James TIEN to speak first, to be followed by Mr SIN Chung-kai, Mr LEUNG Yiu-chung, Mr Frederick FUNG, Dr Fernando CHEUNG and Mr CHAN Kam-lam; but no amendments are to be moved at this stage.

MR JAMES TIEN (in Cantonese): Madam President, the Government first projected a deficit of \$15.4 billion for the last financial year, that is, the year 2005-06. However, when the Budget was released in February, the Government announced the elimination of the "double deficits", that is, in both the Operating and Consolidated Accounts, three years ahead of schedule and a surplus of \$4.1 billion in the Consolidated Account. Moreover, when "the accounts were squared" in April, there was a surplus amounting to \$14 billion, which was \$9.9 billion more than the Revised Estimates. In fact, the Administration has "underestimated the account" for nine years in a row, giving us an impression of "crying wolf".

Madam President, I will not quote all the figures of the "underestimated account" in the nine consecutive years. I will just quote those of the recent four years. The year 2002-03 was the worst. The Government announced a deficit of \$65.6 billion in the Revised Estimates in the following year, that is, in March. A deficit of \$63.3 billion was finally recorded. Then, it was the year 2003-04. Excuse me, Madam President, the figures I just quoted were for the year 2001-02. In the year 2002-03, a deficit of \$70.1 billion was reduced to \$61.7 billion, with a difference of \$8.4 billion. In the year 2003-04, a deficit of \$49 billion was reduced to \$40.1 billion, again with a difference of \$8.9 billion from the estimates. In the year 2004-05, a surplus of \$12 billion was lifted to \$21.4 billion, with an increase of \$9.4 billion. This year, a surplus of \$4.1 billion was lifted to \$14 billion, with an increase of \$9.9 billion. Therefore, the practice of "underestimating the account" by the Government is not an isolated incident for a particular year. The crux of prudent management of finances lies in "prudence". However, "underestimating the account" for nine years in a row together with a huge amount of money involved have given Members an impression of the Government either "crying wolf" or actually having messed up all the figures.

Madam President, the Liberal Party has no particular opinion about the original motion moved by Mr KWONG Chi-kin. We just think that the original motion has not focused on reducing the burden of the middle class and has neglected the major direction of "returning wealth to the middle class". Apart from returning wealth to the people, other areas in which the surplus should be used can be subject to further consideration.

Madam President, on a radio programme on 19 May, the Chief Executive expressed the need to "spend on what should be spent" and "save for the rainy days" in the discussion on the management of the fiscal surplus. The Liberal Party has totally shared his view. We think that measures such as the reversion of the salaries tax rate to the 2002-03 level and the reduction of rates are exactly "spending on what should be spent". The tax burden of the middle class has increased along with the economic downturn in the past. It is time to give them "a break".

At present, the Inland Revenue Department has been "flooded" due to a total tax revenue amounting to \$145 billion in 2005-06. Our tax revenue has soared to a record high in both the profits tax (\$68.9 billion which represents an increase of 23% over the previous year) and the salaries tax (\$37.5 billion which also represents an increase of 10% over 2004-05).

The Liberal Party has proposed that the salaries tax rate be "reverted to the basic step", that is, to the 2002-03 level. After the tax increase, the taxpayers have paid an additional \$6.8 billion each year. The Budget this year only proposed to lower the marginal rates of the second, third and top tax bands by 1%, which will cost the Government \$1.5 billion in a year. This is just one "candy" given out by the Government. Therefore, even the salaries tax rate is reverted to the basic step, it will only cost the Government a further \$5.3 billion.

Although there is a salaries tax cut on the surface, strictly speaking, it is just a rebate to the taxpayers for their additional salaries tax paid over the past few years. This can realize the principle of "what is taken from the middle class is to be returned to the middle class".

A debate on the reversion of the salaries tax rate to the 2002-03 level was held in the Legislative Council on 15 February this year. The motion was eventually passed by a unanimous vote of the different political

parties/groupings. As the Treasury now has "abundant cash in supply", the above consensus should be put into practice at an early date.

The return of the extra tax revenue to the pocket of the middle class can, on the one hand, lessen their burden, stimulate internal spending, boost the market and increase employment opportunities, and on the other, further lower the unemployment rate from the present 5.1%.

The Budget this year has given out two "candies", one of which I have mentioned earlier. The other one is the extension of the validity period for deduction of home loan interest from seven to 10 years. However, the extension of three years has actually given people an impression of "a half-baked cake". This is because the mortgage tenure in general is 20 to 25 years. The current extension of the validity period from seven to 10 years has offered them assistance for only half the period.

The Liberal Party holds that the entitlement period for home loan interest deduction should be extended to the full mortgage tenure to provide tax deduction throughout the whole mortgage tenure. This may give a great boost to the confidence of home buyers. In the end, the revenue from stamp duty generated may see a considerable increase instead.

The United States had another interest rate rise in the middle of this month. This has been the 16th consecutive interest rate rise since June 2004. Although the local major banks did not effect an immediate interest rate rise this time, the increase in interest rate for 13 times during the period to follow the move of the United States has resulted in a rise in mortgage rate ranging from 3% to 3.25%, which is just one percentage point short of the United States rate.

Take a \$2 million apartment with a 90% mortgage for a tenure of 20 years as an example. Before the interest rate rise, the monthly mortgage repayment was \$9,538 and at present, it is \$12,382, representing an increase of 30%. We think this increase has created a great burden for the middle class.

Moreover, the Liberal Party has also proposed the reduction of the rates percentage charge by 0.5% from the current 5% to 4.5%. To the Government, this is, in fact, little different from the proposal of the DAB to provide rates relief for one quarter of a year. Our survey reveals that the residential rental of the 50 major local housing estates has increased by 13% on average over the past year,

and that of the Grade A offices has increased by 40% in general. However, the Government stated that the appreciation of rates was just 9.2%. Nevertheless, a reduction of the rates percentage charge by 0.5% from 5% to 4.5% will not lower the total rates revenue.

The salaries tax cut first proposed will cost the Government \$1.5 billion a year. If the Government accedes to the wishes of the people on this occasion and reverts the salaries tax rate to the 2002-03 level prior to the tax increase, it will further cost the Government only around \$5.5 billion in revenue, representing less than half of the present additional surplus of \$14 billion.

As regards the deduction of home loan interest, its impact on the Government will also be minimal. It is because towards the end of the mortgage tenure, the amount of interest will be on the decrease. Given the present fiscal surplus of the Government, I think this proposal will not put a great pressure on the Treasury.

The Liberal Party never asks the Government to give out candies blindly. This is the one standpoint we have always shared with the Government. However, the middle class has contributed the largest share of the tax revenue while receiving the smallest share of the welfare assistance. And the middle class has always borne the brunt and become the target of a tax increase. Therefore, we maintain that if the "unexpected" surplus of \$9.9 billion is to be put to effective use, the Government should first share it with the people — "the people" means the middle class — that is, first share it with the middle class. As we mentioned earlier in the resumed Second Reading debate of the Revenue Bill 2006, it is not possible to implement all measures of returning wealth to the people in this financial year. But we think all those measures should at least be put into practice in the Budget next year.

Madam President, Ms Miriam LAU will later on elaborate on the proposal of waiving the duty on diesel for one year in my amendment. Thank you, Madam President.

MR SIN CHUNG-KAI (in Cantonese): I would like to thank the President for allowing me to continue with my speech in the first half of the meeting.

Actually, I have doubts about the Government having a surplus of \$14 billion this year. One of my doubts is: President, I wish to offer you an explanation. Compared with the revenue in March over the past few years, the revenue of only \$24.9 billion this year was a particularly low figure. In the year before last, the revenue in March alone amounted to \$37.4 billion. It was \$30.1 billion last year. However, it was only \$24.9 billion this year, which was a rather low figure when compared with those over the past few years. As our economy has seen an upturn and our revenue has seen an increase, I do not understand why the figure this year is particularly low. I really hope the Secretary will provide me with an explanation. In 2002-03, it was over \$28 billion when the economy at the time was definitely not as good as that in this year. Therefore, I hope the Secretary will give me an explanation.

However, Mr James TIEN raised earlier the same issue mentioned in my amendment, which is the so-called overestimation of the deficit and underestimation of the surplus. I just wish to say that I do not particularly want to tear open the wound of the Government. I just hope the Government will seriously examine its own operation. The Government had prepared rather low Budget Estimates for two financial years. When the Budget was released in March, the Government expressed a need to revise either its estimated deficit or surplus. Eventually, the final figure deviated from the estimation of the Government. In fact, the Budget Estimates for 2000-01 and 2001-02 were better prepared. I would like to stress that the Government will revise the estimates or deficit of the year before when the Budget is released in March. However, there will be a discrepancy when the Government subsequently announces the actual figure. President, I think it is necessary for the Government to examine its own mechanism.

Coming back to the subject of this motion, President, by the time when the Budget is released in mid-February, the Government should have at least got hold of the data of eight months. Moreover, the fluctuation of the monthly expenses of the Government is minimal as the expenses on salaries and "overheads" will not be subject to significant changes.

In terms of revenue, although most of the government revenue items are entered into the account in the latter half of the year, all those figures can perfectly be predicted — even if not all, at least most of them. For instance, tax returns will be sent at the end of the year to inform us of the amount of salaries tax payable in January and April. And the amount of rates revenue can be

predicted, so can whether there will be any land sale by auction between January and March, the reserve prices of the lots, and so on.

It is possible that the revenue from stamp duties is more difficult to predict. The stock market was on a roll from January to March this year. An average of \$1.8 billion may be generated from the stamp duty on stock transactions. It may be difficult for the Government to predict the revenue from stamp duties this year. As the Secretary mentioned before, the revenue in this area had once been \$1.6 billion more than expected. Why does the Government not include this figure in its forecast when formulating the Budget? Should these forecasts be included, the figures will be more accurate. In fact, if the figures are more accurate, not only the political parties, but also the Government will benefit. Just think of the scenario where the surplus is not wrongly estimated and a surplus of \$14 billion is announced in the Budget, will members of the public be satisfied only with the reduction of marginal tax rates by 1%? Will this Council agree to the additional allocation of only \$100 million to poverty alleviation? As far as I can remember, a public opinion survey conducted in March indicated that the public was satisfied with the Budget. However, if a surplus of \$14 billion instead of \$4 billion was announced at the time, to what extent will members of the public be satisfied with the Budget?

President, why has the Democratic Party insisted on the reversion of the salaries tax rate to the 2002-03 level? I actually agree to the reasoning Mr James TIEN put forward earlier. The Democratic Party has proposed the reversion of the salaries tax allowance, tax bands and marginal tax rate to the 2002-03 level in the hope of easing the tax burden of the middle class. In fact, the lower strata of the middle class will benefit most from the tax cut. Take a "wage earner" with a monthly salary over \$10,000 as an example. After the tax increase in 2002-03, his tax payable has increased by almost 70%. If a tax cut is introduced on this occasion, he will greatly benefit. It will also help increase employment opportunities and stimulate spending. The tax increase in 2003 was due to a deficit recorded at the time. The Government gave us a scare by quoting a structural deficit. However, the deficit was eliminated a few years later. Therefore, I think the Government should reduce its tax revenue now.

As this issue was discussed in the earlier debate on revenue, I will not repeat it here. In fact, our amendment has mentioned several other issues. First, I hope a children's education allowance will be introduced. In fact, many

of the current education policies of the Government have incurred an increase in education expenses. Of course, I welcome the proposal of the Financial Secretary this year of considering a tax deduction for associate degree. As the Financial Secretary has made such a proposal, I hope it will really be implemented. As associate degree students have to bear a tuition fee of tens of thousands dollars, it will create a great burden for parents at the grass-roots level.

I have also mentioned in my amendment the reversion of the CSSA rates for the elderly and people with disabilities to the 2002-03 level, so that they can deal with the inflation and other needs of living under pressure. We hope a number of measures on alleviation of poverty will also be implemented, including the provision of transport subsidies to encourage residents in remote areas to seek employment.

Moreover, we would like to thank the Government for responding in the Budget the setting up of a children development fund to enable children from low-income families to participate in more extra-curricular activities and to promote personal development. I hope the Government will be sympathetic towards the people. Regarding the implementation of small-class teaching, I believe Dr YEUNG Sum will elaborate on this issue later. Given our financial position, I believe there will be more room for the implementation of small-class learning.

Under the several measures put forward by us — perhaps we would specially invite Mr Frederick FUNG to speak because he has mentioned in his amendment the principle of combating poverty before reducing taxes. I believe the Democratic Party also agrees that priority should be accorded to combating poverty before reducing taxes. I wish to stress that priority should be accorded to combating poverty because we think the community should look after the socially disadvantaged. However, I hope Dr Fernando CHEUNG or Mr Frederick FUNG will understand that given the present financial position, the Democratic Party thinks that there should be no conflict between reducing taxes and combating poverty.

I recall that when I first raised this issue on 15 February, it was possible that colleagues were slightly misled by the data supplied by the Government. I told colleagues at the time that according to my estimation, there would be a surplus of \$15 billion this year. Of course, my estimation was not correct

either. Eventually, there is a surplus of \$14 billion, which, however, differs tremendously from the government estimate of over \$4 billion. I have worked out the costs of all the tasks of the Government and have deduced that even if taxes are reduced, a sizable surplus will still be maintained. Mr Frederick FUNG told me that it would only take \$3 billion to implement all the measures proposed by him. I also mentioned in my previous speech that an additional income of over \$6 billion was generated from the tax increase, even if a reduction of over \$6 billion is actually effected, together with the implementation of the proposals of Mr Frederick FUNG, the Government still has a balance of \$4 billion.

Therefore, I hope those other Members will understand that my amendment is actually not in conflict with their proposals. I also agree that priority should be accorded to poverty alleviation. But apart from combating poverty alleviation, there is still capacity for tax reduction. Moreover, reducing taxes can stimulate employment and increase employment opportunities at the grass-roots level.

We support Mr Frederick FUNG's amendment, particularly the implementation of such measures as rendering assistance to the socially disadvantaged and freezing livelihood-related charges. Mr LEUNG Yiu-chung's amendment has mentioned two points, that is, the lowering or freezing of livelihood-related charges. Of course, I hope that livelihood-related charges will be frozen. But I also support the lowering of these charges. If the Government thinks it can afford to lower some of the livelihood-related charges and submits subsidiary legislation for this purpose to the Legislative Council, the Democratic Party will give them support on the occasion.

There is still time left and I would like to discuss the amendments of Mr CHAN Kam-lam and Mr James TIEN. We support Mr James TIEN's amendment in principle but find it difficult to implement in practice. Moreover, regarding the deduction for home loan interest, as the average mortgage period required is usually three years or so, even the mortgage on a property has not expired, people may buy another flat and mortgage it. The adoption of the limit of five years or seven years is much simpler. The provision of the deduction is on the basis of an individual instead of a property. As regards the reduction of rates by 0.5%, we think priority should be accorded to the modification of tax allowances. Should the three proposals put forward by Mr James TIEN be implemented, I believe it will require over \$10 billion,

which will perhaps stretch the capacity of the Government a bit too far. As regards the provision of rates relief for one quarter, on the premise of "affinity distinction", I believe this proposal will have the biggest possibility for implementation. However, I believe the Democratic Party also thinks there is no need to implement this measure. And priority should remain to be accorded to tax reduction.

We will abstain from voting on the amendments of Mr CHAN Kam-lam and Mr James TIEN, and support the amendments of Mr Frederick FUNG, Dr Fernando CHEUNG and Mr LEUNG Yiu-chung. I hope we will give support to each other.

I so submit.

MR LEUNG YIU-CHUNG (in Cantonese): President, the surplus of \$9.9 billion on this occasion is, as Mr James TIEN said earlier, by no means incidental.

There has been substantial discrepancy in the Government's estimation of the financial position over the years. President, what is the most serious problem with this discrepancy? The answer is: Both the government expenditure and revenue in the Budget will be affected. That means no matter whether it is in the future economic development of the community or the livelihood of the people, there will be closely-related problems. Therefore, if the Government can seriously face the problem, it should take the initiative to revise this Budget in a responsible manner to make effective use of the surplus without our suggesting it to do so.

I also agree with what Mr KWONG Chi-kin said earlier, that we should be far-sighted instead of only looking at the present situation when considering the effective utilization of the surplus. What we are facing now is the overall development of the economy. It is not necessarily a very good approach if we only focus on the immediate livelihood concerns instead of the long-term development.

Nevertheless, we have no choice but to take a look at the present situation. President, the community as a whole has actually shaken off deflation since July 2004. And the sign of a so-called upturn can gradually be seen in a number of

areas, including the steady rise of the Consumer Price Index A. The latest announcement in April has indicated a rise by 1.7%, which is higher than the 1.4% increase of the previous month. Among the various consumption items, expenses on electricity, water, and so on, have recorded the most drastic increase of 4%. Expenses on housing have come second, with an increase of 3.9%. Expenses in these two areas are closely related and indispensable to the living of the people. That means no matter how hard people economize, expenses in these areas cannot be cut down much. In other words, they have a huge impact on the people. Therefore, I think we have no choice but to see how the Government can render assistance to the people regarding the rising expenses. Although we have expressed the need to attend to long-term issues, should we totally disregard the immediate concerns?

We learnt yesterday that there had been an 8.2% growth in GDP in the first quarter this year. It will not be a problem if the general public benefit along with the growth of the GDP. However, as we have often asked: Has the general public actually benefited? A large number of figures show that it is impossible for them to benefit from it. President, as Mr Matthew CHEUNG, Permanent Secretary for Economic Development and Labour, said, there has been a trend of polarization in the local job market. The unemployment rate of the higher-skilled workers has seen a drop to around 2%. But it has been alarming in the case of the lesser-skilled unemployed. The unemployment rate of this group has seen a rise as high as 6.1% instead of a drop. This shows that the lesser-educated and middle-aged workers face a very serious problem.

Moreover, the latest information report released by the Census and Statistics Department reveals that the Nominal Wage Index has risen by 1.4% since December 2005. However, does it mean there is an improvement in the wages of the workers? In fact, the answer is no. After the Consumer Price Index A is deducted, the average real wages have, on the contrary, seen a drop by 0.3% over the same period. Therefore, we are looking at a scenario where the Government or many social figures have kept stressing that the economy recovery will naturally bring improvement to the environment, but it is not the case in reality. President, the figures just quoted by me have indicated that this is not the case.

Therefore, we are now deeply concerned that our trouble is not in "disparity" but in "scarcity". When there is polarization in the market, and

inflation begins to surface, what exactly will happen to the livelihood of the people at the grass-roots level? Are we going to leave them stuck with heavier burdens and greater hardships? Are we going to sit back and leave them alone? The amendment proposed today has proved that our answers to these questions are definitely "no". When the Government has such a huge surplus, our indifference and negligence to their needs are, in my view, inhumane. When we have kept striving for improved quality of life, how can we say it is humane when only some of the sectors benefit and this sector is left out? Therefore, the amendment we proposed today has called for the freezing or lowering of some of the government fees and charges so that the general public will benefit under these circumstances and their standard of living will be safeguarded. I hope the Government will really listen to our voices. For instance, it is really possible for the Government to lower the water charges and others. Although the reduction will not be substantial, the general public will benefit in some measure. And it is hoped that this may result in easing the upward trend of the Consumer Price Index A.

Besides, as we mentioned earlier, it is necessary to address the immediate concerns. Therefore, I hope the Government will put in more efforts and carefully consider lowering or freezing these livelihood-related fees and charges. And it should not further increase fees and charges to put more pressure on the people.

Apart from addressing the immediate concerns, I agree with what Mr KWONG Chi-kin said earlier, that we should be far-sighted instead of short-sighted in dealing with problems. In the long term, investment in human resources is the only option. Otherwise, development will be impossible. I recall I quoted the examples of Finland and Singapore during the Budget debate on 23 March this year. I pointed out the fact that these two countries — the Government may think otherwise — no matter whether they were countries with high or low tax revenue, equally allocated resources to resolve problems in times of economic depression. In which areas did they invest? Of course, their money was not carelessly spent. They invested in education in the hope that the quality of talent would be enhanced to promote the development of the economy.

It is a great pity that in response to my speech on that occasion, the Financial Secretary kept criticizing me for focusing only on those investments and overlooking the high tax revenue of other countries. President, I had stressed that no matter whether they were countries with high or low tax revenue,

they took the same course of action. Therefore, the Government should not lend an ear to one side — I think the Government is now used to lending an ear to one side. In fact, no matter whether they are countries with high or low tax revenue, they have equally allocated resources to the development in this area.

A newspaper editorial I read today said, "The intrinsic structural problems of the economy of Hong Kong will not be fundamentally resolved because of the strong economic performance. In fact, there is a lack of new economic growth points and a trend of polarization in the job market. The Government should be cautioned with the saying of 'hardships and trials lead to survival; comforts and pleasure end up in death'. And the Government should not 'forget the pain once the wound has healed' and indulge itself in an optimistic mood blindly." The editorial finally suggested the Government promoting economic restructuring to address the structural unemployment problem of the lesser-skilled population. President, I agree that the structural unemployment problem of the lesser-skilled population should be addressed. However, the problem cannot be solved overnight. It takes a long time for a solution to be developed. What can be done to make this better? The answer definitely lies in the investment in education.

Of course, we are not saying that the Government has not invested in education currently. But the present investment is inadequate. In what area is it inadequate? As Mr SIN Chung-kai mentioned earlier, it is in the area of small class learning. We think this can improve the present quality of education. As the Government has a surplus now, why does it not allow more teaching and administrative staff to join the education sector to keep lowering the teacher-student ratio to improve the education environment so that students will have more opportunities to acquire knowledge? Therefore, I hope the Government will do its utmost in this area.

Regarding the present situation of the civil servants, at least 15 000 non-civil service contract staff have now be employed in the Civil Service. We think they are entitled and deserve the opportunity to be converted to the permanent establishment. In fact, they are now serving for long-term purposes. To some of the contract staff or the so-called short-term contract of the Government — President, do you have any idea what "short term" means? It generally means five years. Although it is called a temporary contract, the contract period is as long as five years. It is just that the Government is unwilling to initiate the conversion. As these posts have existed for a long period of five years or more, why is it not possible for them to be converted to

long-term contract or permanent posts? Therefore, I think the Government should stop deceiving its staff. And I hope the situation will be greatly improved.

President, I so submit.

MR FREDERICK FUNG (in Cantonese): President, the Government announced at the end of April this year a fiscal surplus of \$14 billion for 2005-06, which has far exceeded the \$4.1 billion estimated in the Budget released in February by \$9.9 billion. An analysis earlier even pointed out that the reason why the Government had a surplus of only \$1 billion-plus after deduction of expenses for the single month of March this year, which was lower than the surplus ranging from \$6 billion to \$30 billion in the previous three years, and was the second lowest figure since the reunification, was perhaps the deliberate delay in entering the revenue of March into the account in order to reduce the surplus of the last financial year, and at the same time, to ease the pressure of the Government in answering public aspirations.

Should this analysis be true, the Government has actually manipulated figures to distort the real financial position in order to keep a tight grip on the abundant social resources while looking on coldly at the socially disadvantaged presently living on the brink of poverty. And the Government is suspected of misleading the public. Therefore, it is necessary for the Government to review the current state of revenue and expenditure to make effective use of the fiscal surplus under the principle of "combating poverty before reducing taxes" to help the poor families so that different social strata can share the fruits of economic success, and to increase its commitment in the provision of social welfare and education and training to develop a diversified economy to arrest the trend of polarization in the job market. I would now like to elaborate a bit on the wordings of my amendment. The wordings I have used are: The reduction in rates and salaries tax should only be considered after the six measures I have proposed have been implemented and when the financial situation permits. In fact, the implementation of the six measures does not mean their full implementation before taxes can be reduced. This is because it may take two to three years, or even four to five years for some of the measures to be implemented. As long as the Government has undertaken to implement them, they will be regarded as being implemented. When the financial situation permits means according to our estimation, it takes the Government around

\$3 billion to \$4 billion to fund the implementation of the six measures. It is apparent that after the necessary deduction, there are still enough funds for other purposes.

President, as three of my six proposals, which include the issues of CSSA, second safety net and freezing of livelihood-related charges have been raised and discussed at previous motion debates, I will not repeat those arguments. I will now focus on the issue of employment.

Although the Government announced last week the latest unemployment rate for February to April has slightly dropped to 5.1%, which is the lowest in four years, and the number of people with a monthly income over \$30,000 amounts to 460 000 in the first quarter this year, representing a substantial 10% increase over last year, it is a pity that these figures have only indicated a wider gap between the rich and the poor. The unemployment rate of the higher-skilled workers has only been 2%, almost reaching the level of full employment while that of the lesser-skilled workers has risen to 6.1%, much higher than the overall unemployment rate. A very serious mismatch in the local workforce has been highlighted by these figures. If the Government continues to sit back and ignore the problem, intense social conflicts will inevitably arise and the strange phenomenon of "some jobs are without workers while some workers are without jobs" will be aggravated. Moreover, even if workers can secure a job, their wages are not enough to support their families. This is the problem of working poverty, so to speak. The Government should pay due attention to this problem and find a solution.

A report on working poverty was released by the Legislative Council Subcommittee to Study the Subject of Combating Poverty early this year. Different political parties/groupings in the Legislative Council have given their support and eight consensus and recommendations have been put forward. The Subcommittee also met with Financial Secretary Henry TANG to present its stand and put forward its recommendations. I hope the Secretary will keep his promise to find ways to implement the recommendations to provide financial assistance and support services to the working-poor families; to upgrade the living standard of the poverty sector by lifting the CSSA rates to the levels in 2003; and to provide transport subsidies to the working poor in remote areas.

Moreover, the Hong Kong Association for Democracy and People's Livelihood (ADPL) has also proposed the setting up of one-stop employment

service centres to provide the unemployed with comprehensive support services ranging from job search, job matching, job placement to skills training in a through-train mode. The setting up of one-stop centres will create a "triple-win" situation for the unemployed, the Administration and the public. First, at present, the unemployed have to "rush hither and thither" to the Labour Department for job search; the Social Welfare Department for interview with social workers; the Employees Retraining Board for training courses. Not only is it time-consuming, some unemployed have repeatedly participated in a number of employment schemes very much the same in nature as similar schemes have been offered by different departments while other unemployed such as those between the age of 25 and 29 are not eligible for job-specific schemes. The merit of one-stop centres is the provision of suitable and immediate support according to the needs of the unemployed. At the same time, wastage of resources will be avoided and repetition minimized. Moreover, the authorities can gain a better and direct understanding of the job market to ascertain the needs of the unemployed more expeditiously so that proper adjustments can be made.

There is evidence to prove the effectiveness of one-stop employment service centres. The introduction of the New Deals Program under the Jobcentre Plus in the United Kingdom in 2002 has helped the unemployed re-enter the job market. The Jobcentre Plus has provided one-stop services in the form of personal consultation to help the unemployed find jobs and to give them support so as to remove their barriers to employment, including the provision of training. This scheme has enabled all the young people between the age of 18 and 24, as well as over 90% of the middle-aged between the age of 25 and 50 in the United Kingdom to secure a job within one year. Consequently, the number of long-term unemployed adults in the United Kingdom has also reduced by more than 70%. And the unemployment rate has dropped from 10% in 1993 to 4.7% in 2004 and the number of employed persons has increased by 1.9 million.

Members of the Subcommittee to Study the Subject of Combating Poverty met with the Economic Adviser at the Department for Work and Pensions of the United Kingdom in September last year. The Economic Adviser opined that the provision of one-stop services to help recipients secure employment was the key to the success of the scheme. The Report of the District Study on Employment Assistance released by the Commission on Poverty at the end of March has also stated the significance of one-stop service centres. Please allow me to quote

from the Report: "Instead of a service-oriented approach, the unemployed should be at the centre of the employment service. All unemployed ought to be able to approach a service point where relevant programmes are provided according to their needs." End of quote.

Moreover, in order to slow down the trend of polarization in the job market resulted from economic restructuring, the authorities should have the courage and breadth of mind to clarify the values and concepts for the alleviation of poverty. And bias against the socially disadvantaged should be removed. The authorities should seriously draw up a blueprint for the development of a diversified economy with a tolerant attitude and a broad vision to create job opportunities for the lesser-skilled workers and to provide them with relevant training instead of pouring all the resources into the so-called high value-added initiatives. We do not object to the investment of resources in high value-added initiatives. However, in the case of Hong Kong, low value-added and labour-intensive initiatives should also be one of our concerns because the current practices of the Government will engender structural poverty and limit the upward mobility among social strata. On the surface, the "positive non-intervention" approach has been adopted. In practice, selective intervention in the market has effected a strong bias in favour of the business sector and consortium, in neglect of the unfairness in the real market. As a result, the socially disadvantaged has been denied equal opportunities of development and the disparity between the rich and the poor has been aggravated.

Therefore, it is clear that measures for the alleviation of poverty should not simply be "giving out candies". The poor are equally neither "lazybones" nor "persons in the habit of asking for help". They do not expect money from the Government. They just need a job to earn enough money to support themselves and their families. It is the responsibility of the Government to devise comprehensive and diversified economic policies, and to provide safeguards for the livelihood of the socially disadvantaged by means of various social policies so that the social function of the non-economic policies will be recognized and the value of man given due respect. These social policies can not only maintain the stability of the community, but also lay a solid foundation for future economic development. Thus, more wealth and job opportunities will be created. And the principle of a people-based approach and "working for the well-being of the people" will finally be realized to allow people from all walks of life, including the grassroots and the middle class to maximize their potentials through diversified development and improve their living standard.

Therefore, the ADPL and I urge the Government to implement the above measures. I hope Members will support the principle of "combating poverty before reducing taxes" in our amendment. I hope Members will support my amendment.

President, I so submit.

DR FERNANDO CHEUNG (in Cantonese): President, I believe I need not repeat here that the additional surplus is a windfall and we even have no knowledge of the exact size of this windfall. However, President, I think the most embarrassing situation occurred during the discussion and debate on the Budget and the distribution of public resources in this Council two months ago when the Financial Secretary insisted that there was a surplus of only \$4.1 billion estimated at the time and consequently requested us to manage the finances in a prudent manner and keep expenditure within the limits of revenue. Therefore, the authorities were unable to give a direct response to many of the pressing social needs. He even criticized Members, including Mr SIN Chung-kai, who forecast a surplus of \$15 billion at the time for an inaccurate understanding of the revenue and expenditure position of the Government. However, it comes as a total surprise that it was people other than those in the Financial Secretary's Office and the Financial Services and the Treasury Bureau that had the most accurate grasp of the public revenue and expenditure position. It has also struck home another message. I agree with Mr James TIEN's comments that this is a repeat of "crying wolf". For how many more times can we place our trust in the Government? The deviation of the windfall this year has been the greatest in six years, and it rates the second highest since the reunification.

Have we estimated wrongly this time? When we review the weir financial management philosophy pursued by the Government over the years, we can see that the Government has attached great importance to financial stability. This is indeed not wrong. However, the Government has rather left the surplus in the reserve-loaded Treasury than using some of the money on the people to enable them to upgrade their quality of life, let alone improving the lot of the socially disadvantaged.

Our fiscal reserve amounted to \$310.7 billion as at the end of March this year. And our foreign exchange reserve also amounted to US\$120.7 billion,

that is, almost \$1,000 billion as at the end of April. A small city like Hong Kong ranks eighth in the world in terms of the reserve. The mega-reserve of Hong Kong has even left rich countries around the world speechless.

Chief Executive Donald TSANG once again explained his "affinity theory" in this Chamber last week. Colleagues of the DAB and the Liberal Party have separately moved amendments to the motion today to propose the provision of relief on taxes and rates. We will wait and see how Secretary Frederick MA will reply on behalf of Financial Secretary Henry TANG and whether he will further support the view of Chief Executive Donald TSANG, that there is a difference in the closeness of relationship. However, given a fiscal surplus, I hope careful consideration will be given to its utilization whether on the provision of several hundred dollars of tax relief to win the momentary pleasure of the better-off class or on investment in more worthy and long-term social needs, particularly in improving the current inadequacies of the pressing social services and looking after the basic needs of the socially disadvantaged.

The motion on domestic violence proposed by Ms Margaret NG and the amendments proposed by other Members were passed unanimously by this Council on 8 March this year, in which 12 specific proposals were also passed unanimously by all the Members. I hope the Government will learn from the lessons of blood and tears of domestic violence and make good use of the additional surplus to take immediate and decisive measures to curb domestic violence.

The police announced the other day that there were 1 100 domestic violence cases requiring referral to the Social Welfare Department in the first quarter this year, representing an increase of 34% over the same period last year. And the number of reported domestic violence cases amounted to 2 784 for the whole of last year, representing a more than 20% increase over 2004. Moreover, nearly half of the cases, which amounted to 1 274 cases, have involved criminality, representing an increase of 41%. A family tragedy that occurred in Tin Shui Wai two years ago has raised the alarm on the non-interference policy adopted by the Government on domestic violence over the years. The so-called policy of "zero tolerance" of the Government has remained in the five-page policy document that lacks any substance. If the Government continues this practice and keeps turning a deaf ear to the various

proposals put forward by the three-member panel on the Tin Shui Wai family tragedy, the Coroner's Court, the University of Hong Kong, The Law Society of Hong Kong and the Women's Commission, serious domestic violence cases causing deaths and injuries will definitely recur.

Chief Executive Donald TSANG said in a bold and confident manner in this Chamber last week that the opposition camp aimed at undermining the prestige of the Government. But I hope Mr TSANG will understand that should the Government be unable to take its mind off policies rejected and ignore constructive and feasible policies proposed, which has led to an undermining of the prestige of the Government, it is of its own making and has nothing to do with the opposition camp.

A study conducted by the University of Hong Kong reveals that the ratio of the hidden risk of domestic violence has reached 1:99, which means hidden behind one surfaced domestic violence case reported by the media are 99 unreported such cases. At present, each social worker in the Integrated Family Service Centre has to follow up 70 to 80 cases on average. And each social worker in the Family and Child Protective Services Unit, generally called the "OSCG", has to follow up over 50 cases. Although an additional \$30 million has been allocated in the Budget to strengthening family support, it is merely a drop in the ocean to the Integrated Family Service Centre and the OSCG "overflowing with workload".

I think the Government should make good use of the surplus to increase the manpower of social workers. And five community domestic violence prevention teams should be set up in the five catastrophic domestic violence districts to reach out to families at risk of domestic violence and establish a co-ordination network of relevant units to prevent domestic violence before it is too late. The implementation of this proposal takes only around \$10 million a year, which are just peanuts in our entire reserve.

Moreover, there is a pressing need for the provision of one-stop crisis support services to victims of domestic violence in Hong Kong, including a hotline specifically for domestic violence, outreach services, emergency referral services, law enforcement and medical support and emergency legal consultation services. In addition, integrated service teams comprising social workers, police officers and medical personnel should be established to be specifically responsible for domestic violence intervention. According to the estimates of

the non-governmental organizations, the implementation of this proposal takes only around \$12 million a year.

In the long run, a "Domestic Violence Prevention Fund" should be set up to facilitate non-governmental and self-help organizations to apply for funds for the further provision of direct support services.

In times of a fiscal deficit, the Government called on the people to weather the hard times. It has been the elderly CSSA recipients and the vulnerable who have felt the greatest impact of the tightening of the public purse strings. The CSSA rates were substantially reduced by 10% to 20% in 1999 and further reduced by 11.1% in 2003. This safety net can no longer provide adequate basic livelihood protection to the most vulnerable in the community. The survey on basic livelihood needs conducted by the Government 10 years ago has become outdated. But a similar survey conducted by the Hong Kong Council of Social Service, a non-governmental organization, has been scorned by the Government as telling the poor to pursue quality of life. May I ask what is wrong in pursuing quality of life?

In the affluent society of today, we can still see a large number of old people and even children picking cardboards and scrap iron to trade for money. The CSSA is not enough to meet their basic needs. I believe Members may recall the death of a CSSA recipient in Tai Po last year. He died of electric shock when he went catching fish by the river to have "an additional dish" for his meal. We should not forget that the CSSA families have to face a lot of difficulties every day. Even the economy has seen an upturn, the CSSA rates for the elderly, the vulnerable, people with disabilities, single parents and children should be reverted to the levels in 2003.

The motion on urging the Government to enhance the financial assistance to SARS patients and the families of those who died of SARS was passed unanimously by this Council last week. I hope the Government will inject additional funds into the Trust Fund for SARS as soon as possible to provide necessary financial assistance to patients recovered from SARS, "suspect" SARS patients, the deceased, the deceased elderly and their families.

President, I so submit.

MR CHAN KAM-LAM (in Cantonese): President, the Government announced earlier that the fiscal surplus in 2005-06 amounted to \$14 billion, which exceeded the estimated surplus of \$4.1 billion in the Budget by almost \$10 billion with a discrepancy as large as 250%. Discrepancies of this nature have been common over the years. However, it is rare to see more than twice as big a difference in recent years. In view of this, the DAB thinks that it is necessary for the Government to deal with this issue in a serious manner.

The explanation of the Government for the wrongly estimated surplus was the inaccurate estimation of revenue from a number of major tax items. The DAB must stress that although it is desirable to have a more-than-expected fiscal surplus, the frequent occurrence of a substantial discrepancy in the Budget estimates from the reality will greatly affect the allocation of public expenditure in different areas resulting in the failure of proper and timely utilization of public resources. Therefore, we urge the Government to learn from this incident and review the process of formulating the Budget, including the criteria for forecasting revenue from salaries tax, profits tax and stamp duties, as well as the mechanism for related factors of consideration to avoid similar recurrence in future Budgets.

Moreover, as the current investment return of the Exchange Fund is affected by the global economic climate and various uncertainties and subject to significant fluctuations each year, the reliability and stability of the Government's forecast on the investment income for the fiscal reserve have been apparently on the low side. As a result, there has been a considerable discrepancy in the income apportioned to the fiscal reserve with the estimated figure. Therefore, the DAB has proposed a change in the method of apportionment between the fiscal reserve and the investment income of the Exchange Fund each year from the present apportionment of the real income of the Exchange Fund in the same year on the basis of the rate of investment return to the determination of an actual apportioned amount on the basis of the average apportioned amount over each of the past five years.

We hold that this practice will significantly minimize the difference between the investment income and the actual investment income and ensure the reliable and stable fiscal revenue each year. This will also greatly help the formulation of a more accurate Budget in future and more accurate estimates on expenditure in different areas.

President, as the fiscal surplus has unexpectedly exceeded the original estimate by \$10 billion, it is understandable that various sectors have all at once made demands on the Government for increasing the rate of tax reduction and the spending on livelihood items. However, we think that the proposal of reverting the salaries tax rate to the 2002-03 level impossible and impractical. Therefore, we have suggested that the Government should give active consideration to the provision of rates relief for one quarter. The implementation of this measure only costs a little over \$3 billion. And the greatest number of people will benefit. Moreover, as it is a one-off relief that will not have a lasting effect on revenue next year, we think it is the most practicable measure. Some reports of the media have criticized that property owners rather than the general "wage earners" living in public housing estates will benefit from the provision of rates relief for one quarter. However, I wish to clearly state that when the provision of rates relief was implemented in the past, public housing tenants did receive the exact amount of rates rebate from the Housing Department. Therefore, I hope the media, especially those with stronger influence, will look into the matter thoroughly before making those comments. Our proposal is the most beneficial measure to the general public. And it is also the most practicable measure because neither separate legislation nor amendment to the Bill passed today is necessary. As the Democratic Party should know full well of these circumstances, we do not understand why it has not given our proposal its support. Is it possible that the mentality of being in the opposition has again been creating trouble?

Some have criticized that the rates rebate will not help stimulate spending and boost the overall economy. However, the DAB wishes to stress that when our economic growth hit rock bottom in the past, people generally preferred keeping money to spending it. Therefore, when they received cheques of tax or rates rebate in the past, they preferred saving the amount to spending it. However, it was just announced today that our economic growth in the first quarter had hit 8.2%, showing a great strength in internal spending. This proves that if the provision of rates relief for one quarter is implemented, it will help increase spending.

Mr KWOK Kwok-chuen, the Government Economist, even described that "our economic expansion has entered an all-rounded and stable phase." Should the performance of the external markets experience no major reversal this year, we are totally confident that the consolidated surplus this year will significantly exceed the present \$5.6 billion estimated by the Government.

President, a number of Members have proposed amendments to this motion, in which the majority of the proposals are no different from or in conflict with the stand of the DAB in the past. For instance, we think there is nothing wrong in the proposals of reverting the salaries tax rate to the 2002-03 level and implementing more measures to alleviate poverty, which include the provision of transport subsidies to encourage residents in remote areas to seek employment. In fact, all of these proposals are consistent with our stand in the past. However, the question is, the motion proposed by Mr KWONG Chi-kin today focuses on the effective utilization of resources under the circumstances of a more-than-expected surplus. This is a very important point. It seems impractical to propose the reversion of the salaries tax rate when all the Bills concerning the revised Budget have already been passed today.

I mentioned briefly earlier that it was actually impossible to implement many of the proposals proposed by the Democratic Party under the present circumstances. Therefore, the public should be made aware of which proposals can actually be put into practice. It is vital to put forward practicable proposals. We hope Members will, from a practical point of view, identify proposals that are really feasible and beneficial to the people in the various amendments before rendering their support. I think this is vitally important.

Of all the amendments, if not even one is passed eventually, Members may well be aware that even the motion of Mr KWONG Chi-kin, with wordings like a branchless and leafless Christmas tree, be passed, it carries little significance because the public will not draw from it any actual benefits. Of course, the Government will learn from his wordings the need of managing finances in a prudent manner and utilizing resources effectively. However, such principles are universally true. And I believe Secretary Frederick MA is also well aware of them, for he is now showing an understanding smile. And he is going to encourage Members to support the original motion of Mr KWONG Chi-kin. I hope Members will continue the discussion on the various tax demands and other measures proposed in the amendments with the Government or in the community. In fact, these demands and measures involve the overall formulation of the Budget. If there is more room in the next financial year, the Government should listen to views from all quarters to incorporate these proposals of Members into the Budget next year. Thank you, President.

MR BERNARD CHAN: Madam President, I think most of us share the Honourable KWONG Chi-kin's concern about the growing gap between the rich and the poor. Hong Kong is not the only place where this is happening, but by some measurements we have a particularly severe problem.

We cannot control many of the causes of this problem. There are demographic, as well as economic reasons for it. Past immigration flows and education standards have increased the supply of less skilled workers, while structural changes have been reducing the number of jobs available for them.

Will more government expenditure fix this problem? Most economists will tell you that public expenditure in an open economy like Hong Kong does not boost economic growth very effectively. There is not much of a "multiplier effect". The extra money entering the economy soon gets spent on imported goods and services. It will probably boost the Shenzhen economy as well as ours.

In addition, there is plenty of evidence all around the world that the public sector allocates resources less efficiently than the private sector. As a matter of principle, we should avoid government spending wherever possible.

Asking for more government expenditure is easy. But if people genuinely want to tackle the wealth gap and help the unskilled, they should look beyond government spending. They should seriously look for more fundamental and sustainable measures.

For example, would we increase job creation if we reduced the licensing and regulatory burdens on small businesses? Could we boost jobs by relaxing the lease restrictions on economic activities in particular types of building? Would it help if we let more skilled entrepreneurs into Hong Kong to create more employment opportunities?

Are there parts of the economy that could be opened up to more competition, to reduce business costs and open up new opportunities for job creation? Could we reform our welfare system to give the unemployed more freedom of choice and control over their lives? For example, would it help if we paid them cash rather than gave them a subsidized flat?

If people really want to help the unskilled and the unemployed, they should ask questions like that. More public expenditure is just a band-aid. You spend \$14 billion, then the money is all gone — but the problem is still there. We will not solve this problem by throwing the money at it. Thank you.

MR WONG KWOK-HING (in Cantonese): Madam President, first of all, I wish to point out that the motion on effective utilization of fiscal surplus proposed by Mr KWONG Chi-kin today is not a branchless and leafless Christmas tree. Mr KWONG's motion has actually called on Members from different parties and groupings in the Legislative Council to join hands regardless of their respective affiliation to "squeeze toothpaste" from the Government. The original motion of Mr KWONG seeks to urge the Government to make effective use of the fiscal surplus to put forward visionary planning for the future development of Hong Kong. Of course, a number of Members have proposed amendments to the motion, which have actually "served the single purpose of" pressing the Government to share the fruits with the people. It does not matter whether the amount is big or small. It is most important that the Government will not act like "Scrooge". I urge the Secretary to squeeze more toothpaste today to share the fruits with the people.

The motion on reducing and remitting the duty on ultra low sulphur diesel was passed by this Council in November last year to urge the Government to reduce and remit the duty on ultra low sulphur diesel, so as to reduce the operating cost of the transport industry as a result of the persistently high international oil prices. It is a pity that the Government has yet to take any follow-up action after the motion was passed by this Council. As far as I can recall, during the motion debate last year, I pointed out that the reduction and remit of the duty on ultra low sulphur diesel was estimated to cost the Government only \$700 million of tax revenue a year. However, if this \$700 million is spent on the transport industry, the business pressure of the industry will be alleviated and even more job opportunities will be created. Moreover, as the fiscal surplus in 2005-06 exceeds the estimate by \$9.9 billion, there is plenty of room for giving assistance to the industry. Why has the Government kept turning a blind eye and a deaf ear to it?

Regarding job creation, the Government has actually put in a weak and poor effort. The fiscal revenue of the Government this year has indeed experienced an increase. But if we look carefully, we will find that the

disparity between the rich and the poor is getting wider instead of narrower. And the Government has also admitted that polarization does exist. After our fiscal revenue has seen an improvement, should the Government not put more effort in job creation? For instance, it is mentioned in the Budget that over the next five years, the Government will earmark \$29 billion a year for infrastructure projects to create job opportunities. As the Government has earmarked the allocation of \$29 billion, should it waste no time to use the fund to facilitate the speedy creation of more job opportunities? Apart from the allocation of financial resources, has the Government considered the joint development with our valuable land resources to create more jobs? Take the domestic production of prefabricated parts as an example. I have often suggested the provision of preferential treatment by means of vacant land to attract the local construction industry to set up prefabricated concrete part plants in Hong Kong. Is it not going to create more job opportunities? Why does the Government not go ahead with it?

Madam President, next I would now like to discuss the proposals of the utilization of the fiscal surplus on the alleviation of poverty and provision of welfare. The Financial Secretary has been "really generous" this year in the alleviation of poverty and provision of welfare — but it has to be put in quotation marks — in the additional allocation of a petty \$100 million. Compared to the more-than-expected surplus of \$9.9 billion, the amount is only a drop in the bucket. It is also a provision diluted at the ratio of 1:99. It is really a joke — 1:99.

It is common knowledge that the problems of ageing population, economic restructuring, unemployment of the middle-aged and lesser-skilled workers, the absence of retirement protection for the general public, health care financing, and so on, have become matters of grave concern in the community in recent years. In fact, in the foreseeable future, the expenditure on CSSA, elderly care, medical care and other social welfare services will definitely surge and create a heavy financial burden for the Government. Therefore, in times of a substantial surplus, is it not the responsibility of the Government to start finding solutions to all these problems and launch long-term social welfare policies to perfect the existing services, so as to save for the rainy days?

However, when we take a look at the overall measures on the alleviation of poverty proposed by the Financial Secretary this year, as well as the rigid and stubborn practices of the Health, Welfare and Food Bureau in some of the current welfare issues, I really cannot see any intention of the Government to

give special concern to social welfare. For instance, the Financial Secretary proposed in the Budget the allocation of \$30 million to strengthening family support and \$20 million to strengthening home care services for the elderly. At a glance, these proposals of the Secretary have indeed taken care of the needy. However, in reality, the current provision of these services has actually fallen far short of the need of the people. Take the present Family Service Centre as an example. It has provided more services than you can count "single-handedly", ranging from CSSA, single-parent family, newly-arrived family, domestic violence, the elderly, the vulnerable and the disabled to the youth and the children. Social workers in the front line have to cope with a heavy workload with mounting pressure. Therefore, the allocation of a petty tens of millions dollars is simply far from enough.

Moreover, the current CSSA rate is just enough to sustain the life of the needy but not enough to let them live with dignity. Organizations and Members criticized in a discussion held earlier that the funeral service allowance granted by the Social Welfare Department to the deceased CSSA recipients was either "enough for the memorial tablet but not the coffin" or "enough for the coffin but not the memorial tablet". In view of such a practice, where is the so-called "welfare"?

These practices only show that the Government is very mean and pays little attention to the well-being of the CSSA recipients and the socially disadvantaged. Take the Rainlily as an example. The problem will be solved with an annual allocation of \$2.4 million. However, given a surplus of \$14 billion, the Government is still reluctant to work for the well-being of the people. How can a harmonious society be fostered under these circumstances?

I will not harbour any illusion that the Secretary will be the Santa Claus. But I still hope the Secretary will consider the fact that if the Government fails to benefit the people and ease their burden, as well as to share the fruits with them where there is an enormous surplus, how can it win their support?

Thank you, Madam President.

MS MIRIAM LAU (in Cantonese): Madam President, the growth in the container throughput of Hong Kong port has slowed down while that of the

mainland ports has advanced by leaps and bounds. As the Chief Executive said in a radio programme earlier, he had just visited Shanghai and found the container terminal under construction there had the potential to become a terminal with the largest throughput in the world. Although the Chief Executive did not agree that the shipping industry of Hong Kong was being marginalized, he could not but admit that it was necessary for Hong Kong to find ways to maintain its competitiveness.

However, the Chief Executive expressed the need to find ways to maintain the competitiveness of the shipping industry. I hope this is not just empty talk without any concrete actions. In fact, if the Government continues to adopt the *laissez-faire* policy and allows the growth of the throughput of Hong Kong port to be on the decline, it will not only affect the status of Hong Kong as a shipping centre and logistics centre, but also the local economy and people's livelihood. We should bear in mind that the logistics industry is one of the four major economic pillars of Hong Kong. At present, the number of people working in the logistics industry amounts to over 80 000. And there are hundreds of thousands of people engaging in the related sectors upstream and downstream. As the saying goes, "Pull one hair and the whole body is affected". If anything goes wrong in our shipping and logistics industries, the impact will be significant. This shows that it is necessary for the Government to make effective use of the fiscal surplus and take decisive measures immediately. And first priority should be given to solving the problem of persistently high oil prices.

As the international oil prices have been on the rise, the price of crude oil has surged to successive new highs from US\$50 per barrel last year to around US\$70 per barrel at present. The scope of the impact of surging oil prices has been extremely extensive. Both the bosses and the "wage earners" have suffered. In particular, the public transport industry and even the transport industry as a whole have been reduced to "working for refuel", which has undermined the competitiveness of our logistics industry and to seriously affected people's livelihood.

Moreover, the prices of petroleum products have seen three successive increases over the past four months. Every price increase of the oil companies has always given the public an impression of "acting in unison" which is suspected of oligopoly. This has given rise to the public urge on the Government to impose stringent control over the fuel market. To prevent the

commercial profit-making practices from affecting our economy, the Government should enact legislation and take decisive and effective measures as soon as possible to crack down on oligopoly.

In addition, the Government should reduce and remit the duty on diesel immediately. I proposed a motion in this Council in November last year to urge the Government to adopt effective measures to assist the transport industry in opening up new sources of income and cutting expenditure, and to actively consider reducing and remitting the duty on ultra low sulphur diesel for a period of one year. The motion was supported and passed by this Council. But the Government has turned a deaf ear to it. Unless the Government has other solutions up its sleeve, reducing and remitting the duty on diesel is the only way to alleviate the hardships of the transport industry, to relieve the pressure of public transport operators to increase fares, and to strengthen the status of Hong Kong's logistics industry. In fact, the tax revenue from the duty on diesel — as mentioned by Mr WONG Kwok-hing earlier — has been just around \$700 million a year. Given the present fiscal surplus, reducing and remitting the duty on diesel will actually have little impact on the overall income of the Treasury.

Moreover, reducing and remitting the duty on diesel will help resolve the problem of diesel shortage currently faced by the cross-boundary truck drivers. Diesel has recently been in short supply in the areas of Shenzhen, Dongguan, Panyu, Shunde and Guangzhou. As a result, cross-boundary truck drivers have to look for refilling stations with diesel supply for refill every day. Even if they can locate one, they have to queue up for two to three hours for refuel, which seriously affects the container delivery services of the logistics industry. Therefore, if the Government reduces and remits the duty on diesel, it will help close the gap of diesel prices between the two places significantly and more cross-boundary truck drivers will be attracted to refuel in Hong Kong.

Madam President, in the face of the strong competition of the mainland ports, the logistics industry of Hong Kong has to undergo restructuring to move towards the provision of high value-added services. To develop high value-added services in Hong Kong, the ready and immediate means is either the promotion among multinational companies of the setting up of distribution centres and purchasing centres in Hong Kong or the promotion among companies of the completion of the pre-sale final process in Hong Kong. If Hong Kong can provide proper facilities and skills to attract consignors to complete these

processes in Hong Kong, it will definitely increase the volume of freight import and export of Hong Kong. If the Government makes effective use of the fiscal surplus to provide proper facilities and skills for multinational companies or local companies, it will certainly help the logistics industry move towards the provision of high value-added services.

In the long run, Hong Kong can make effective use of the fiscal surplus to promote the development of the shipping community. We only have to look at international shipping centres like London and New York to find that they have enjoyed a strong status as the international shipping centres despite their far small container throughput in comparison with Hong Kong. On the contrary, the status of Hong Kong as an international shipping centre is fragile. Although our shipping registered tonnage has been pretty good, our status as a shipping centre is, to a very large extent, related to the number of schedules and the container throughput. We should bear in mind that the movement of ships follows that of cargoes. When the freight volume handled in Hong Kong reduces, the number of schedules in and out of Hong Kong will subsequently drop, and the status of Hong Kong as an international shipping centre will be undermined. It is necessary for Hong Kong to actively develop trades and businesses related to the shipping industry, such as marine insurance, legal arbitration, shipping rental, shipping management, and so on. Once a shipping community is established in Hong Kong, it cannot withdraw from Hong Kong lightly, and this will help strengthen the status of Hong Kong as an international shipping centre. Therefore, I hope the Government will make effective use of the fiscal surplus to conduct in-depth studies on the establishment of a shipping community in Hong Kong.

Madam President, I so submit.

MR LEE CHEUK-YAN (in Cantonese): President, this motion today is proposed by Mr KWONG Chi-kin and there are altogether six amendments. I have no idea how the Secretary views these six amendments and the original motion of Mr KWONG Chi-kin. But I have drawn a very simple conclusion, that "everyone 'stabs' (at the Government) no matter whether he is close or distant". Mr KWONG Chi-kin has built a platform to allow every political party to "stab" (at the Government) in unison. The Chief Executive alleged at the Question and Answer Session last week that some people aimed to oppose the Government and to undermine the prestige of the Government when he made mention of the "affinity" theory. I do not know whether he meant all the

Members here. Is it no matter whether we propose amendments or give our support, all of us will belong to the opposition camp, all of us will lack concept and faith with the sole purpose of "stabbing" at the Government? Has this been the view of the Chief Executive? Has he had this kind of thinking? Has the Government had this kind of thinking? It scares me to think that he has this kind of thinking because if this is really the case, even after all of the 60 Members have spoken and voted, the Government can ignore us all the same.

This motion is, in fact, very clear. What we have in common is our great dissatisfaction with the Government. And our only difference is in the ways to make effective use of the surplus. However, we are definitely not divided on the opinion that the Government should not act like "Scrooge". It is obvious that due to the wrong estimation by the Government, there is an unexpected surplus of \$9.9 billion. Under these circumstances, why is it not possible to use this \$9.9 billion on the people of Hong Kong? The explanation given by the Chief Executive was very simple. As there were deficits in the past that cost us over \$100 billion all of a sudden, we should save this \$9.9 billion. The question is: As our current Exchange Fund and fiscal reserve have added up to a total of \$1,000 billion, exactly how much saving is enough? Moreover, the Government has actually not planned the saving of this \$9.9 billion because it is apparent that the additional surplus of \$9.9 billion is not anticipated by the Government. Given the \$9.9 billion is actually a windfall, and the Budget was formulated on the basis of a surplus of \$4.4 billion, there is really no need for this \$9.9 billion to go to the Treasury. Therefore, although the Chief Executive has reasoned that over \$100 billion had been spent on covering deficits in the past, why should the Government not put more efforts into stimulating the economy and benefiting the livelihood of the people when the economy has now recovered? I hope the Secretary will realize that even if we will finally come up with different answers, different political parties will come up with different answers, we have definitely one thing in common, and that is, all of us think that the Government should not "keep a tight grip" on this \$9.9 billion and do nothing. I have no idea whether the Secretary will be the "Santa Claus" or "Scrooge" today. His final answer will only be known after the delivery of his speech later.

President, there are altogether 20 proposals in the six amendments, not counting those that are repeated. If we discuss these proposals one by one, it is impossible to finish the discussion. However, these proposals can certainly be divided into three major categories: First, the demand for tax reduction and rates

relief; second, the demand for alleviation of poverty; and third, the demand for greater commitment of the Government to education and medical services. President, how should the \$9.9 billion be distributed among these three major categories of proposals? Some opined that it was most important to reduce taxes while others opined that it was most important to alleviate poverty. I very much agree with the view of Mr Frederick FUNG, that priority should be accorded in accordance with the present situation of the community as a whole. President, the Government Economist just made a statement today admitting there is polarization in the community. The unemployment rate of the grassroots is 6.2% while that of the professionals is 2%. To the professionals, it means full employment. However, to the general grass-roots workers, the unemployment rate stands at over 6%. If we look at it this way, it is obvious that the whole community has been polarized. How should the Government deal with this problem? Should priority be given to dealing with polarization? Should the Government reduce taxes to win the applause of the middle class, or should it provide more timely help to the most vulnerable? I think the Government should make its choices. Of course, the Government now chooses to do nothing.

When compared to the political parties, the difference is that the political parties have made their choices. The choice of the Liberal Party is obvious. They hope for a tax reduction first. The Democratic Party similarly hopes for reduced taxes. But they also ask for the alleviation of poverty. I am more reasonable. I urge the Government to alleviate poverty first. And I think there is no need to reduce taxes. Even if the Government has strength to spare, it should provide a tax rebate which enables people to spend immediately. Reducing taxes, however, will give rise to another problem and that is, people do not know whether they will get it back in the future. But it is certain that the difference will not be made up. I think the public has the obligation to pay taxes for the well-being of Hong Kong as a whole.

Therefore, in terms of concept, I think the overall strategy of the Government should be the improvement of the CSSA Scheme. As Dr Fernando CHEUNG said earlier, the CSSA rates were reduced twice. In one case, it was reduced by 10%, and in another case, 11.1%. A large number of people think that the Government should increase employment opportunities, provide services for the unemployed, contain domestic violence and inject funds into the Trust Fund for SARS. As these people are the most vulnerable, we very much hope that priority will be accorded to the provision of assistance to them.

As regards the provision of rates relief proposed by Mr CHAN Kam-lam, we should consider the following question: Who will benefit most in the event of a rates relief, particularly when the rates relief is provided across the board no matter whether it is a residential or commercial building? We can see that the present shop rentals are outrageously high. Once the economy has recovered, the landlords have started to increase the rents. If a rates relief is really provided, it is those major landlords who will benefit. And it will not do any good to the economy..... (*the buzzer sounded*)

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan, your speaking time is up.

MR LEE CHEUK-YAN (in Cantonese): Thank you, President.

MR LEUNG KWOK-HUNG (in Cantonese): I do not know where the Financial Secretary has gone. Today is Wednesday. Has he gone to the racecourse?

I think the Chinese saying of "Die in one's prime"(英年早逝) is really appropriate. (Note: The pronunciation of the first name of the Financial Secretary is the same as that of "in one's prime"(英年) in Cantonese) Of course, I do not imply that he is dead. In fact, something in him has long been dead. He is not interested in listening to the begging of this Council. He estimated wrongly but he did not apologize. And he even let people beg him. Everybody has to beg no matter whether he is rich or poor. However, I think it is very greedy of the rich to make this begging. They have already had a lot of money. But they still beg. This practice is called "grabbing food from the beggar's bowl".

Honourable Members, the Financial Secretary is not here. That means "he has turned a blind eye and a deaf ear to us". When Chief Executive Donald TSANG was working as the Financial Secretary, he gave a scare to the people of Hong Kong every year by "crying wolf". He told us that we were very poor and at death's door. He also told us that we had deficits. In reality, the surplus of Hong Kong is unparalleled in the world. We have brought upon ourselves an internal debt — we do not have any external debt. Moreover, Joseph YAM is paid handsomely for the speculation on finances. It is all right even his speculation is disappointing. What sort of a system is this? What we

are now discussing is the intention of the Government to mislead the public so that the public misunderstood the situation and gave their support to the Budget that robs the poor to feed the rich. One blade of this sword is called execution without prior approval, and the other blade is called collusion between business and the Government. This sword has two blades. Therefore, it is a double-bladed sword. No matter which way it strikes, that will surely inflict damages.

Honourable Members, the person who is waving this sword is not here. I do not know whether he is now leading the winning horse at the racecourse. I can do nothing about it. He is no longer holding the sword. If he is afraid to hold the sword, how can he hold the sword and defend the traditional moral principles? As an accountable official, the Financial Secretary has not come here to bow and offer an apology despite his making a mistake. Moreover, he is unwilling to listen even when people beg him. Such an attitude is really shameful.

It is not that he does not know the subject under discussion today, or that he does not know everyone will beg no matter whether he is rich or poor. However, I have to ask: Why do the people of Hong Kong have to beg? Hong Kong is very rich. What exactly is the key to the issue? It actually lies in Article 107 of the Basic Law, which stipulates that "The Hong Kong Special Administrative Region shall follow the principle of keeping expenditure within the limits of revenues in drawing up its budget, and strive to achieve a fiscal balance, avoid deficits and keep the budget commensurate with the growth rate of its gross domestic product." I have never heard of the inclusion of such a financial management philosophy in the constitution. This is exactly the Incantation of the Golden Hoop. Why is it not "keeping revenues within the limits of expenditure"? Why is it not the Government governing for the well-being of the people and levying taxes commensurate with different social strata? For instance, LI Ka-shing has made a great fortune, is there a "side shelf" in his coffin? The answer is no. Why can we not ask him to pay the money back? Why can we not charge profits tax at progressive rates? This is precisely because it is written into the Basic Law.

This provision has borrowed from the regulation of Hong Kong under the British colonial rule. The British were afraid that if Hong Kong overspent, they had to take care of us. Our Motherland copied the exact version of this provision. However, this is not what ZHU Rongji said. He proposed that the overall economy should be driven by financial capital. This shows that it is an

outrageously ridiculous issue we are talking about today. There are over 1.2 million poor population and 400 000 working poor in the wealthiest region in the world. What are we talking about? What are we talking about in this Council? We even have to reduce to begging now. Mr KWONG Chi-kin asked for a morsel of food and said he represented this and that..... I can tell you this is all a waste of breath. The begging today is an insult to this Council. If there is a fair system in Hong Kong; if there is a government truly returned by election, he definitely cannot act like this. Had we taken part in the formulation of the Basic Law, and the Basic Law is not interpreted by several old men, such a ridiculous financial policy would not have been written into our Basic Law.

Honourable Members, to whom does our surplus belong to? It belongs to the staff working for the MTR, and workers in the construction industry. We are now facing the problem of inter-generational poverty, that is, poverty has passed on from one generation to another. However, our Government prefers deceiving the public to either implementing a policy that robs the rich to feed the poor or adopting a more reasonable social policy.

Honourable Members, as Chairman MAO once said, "Sprinkling on earth is always grievance". The Government today is exactly always sprinkling grievance on earth. Everyone will be infuriated at hearing it. Speaking of tax reduction, what is the use of reducing taxes? Even if taxes are reduced for the middle class, the amount will be offset immediately by the decision of the bankers to raise the interest rate by 1%. Can they not repay their loan? Once it is decided that taxes will be reduced for the middle class, the banks immediately decided to raise the interest rate. Financial capital, property developers and speculation on stocks are most vital to our system. Ms Miriam LAU suggested Hong Kong be developed into a shipping centre. Why should Hong Kong be developed into a shipping centre? What is the use of building linked roads? They are all monopolized by LI Ka-shing. He owns the terminals at Yantian as well as at Kwai Chung. Who will forward the freight to a port that charges higher fees? This is actually a structural collusion between business and the Government.

Honourable Members, what is the use of us begging here today? This Government will never listen to us because, to this Government, there is really a difference between the close and the distant. This Government is formed by inbreeding. This Government is an idiot. It is because there are too many rich people in our community. They control the election of the Chief Executive.

And they may also control the Legislative Council. Our discussion today precisely proves that there will not be justice in Hong Kong as long as there is no election by universal suffrage; as long as the Chief Executive is not elected by universal suffrage; and as long as Members of the Legislative Council are not elected by universal suffrage. Hong Kong will only sit on the reserves, resulting in inter-generational poverty.

President, I wish to express here today that the Financial Secretary absolutely pays no respect to this Council. The sharp sword he holds is used for execution without prior approval, deceiving the public and colluding with the businesses. This sword will be broken here today — it has already been broken. Henry TANG, if you are watching this at the racecourse, you should bow and feel remorse. Thank you, President.

MR ALBERT CHAN (in Cantonese): President, a lot of motions were debated in this Council before. However, it is rare that no Secretaries of Department or Directors of Bureau is in attendance at a debate when it does not run very late (it is just seven o'clock in the evening now), particularly when this motion involves the subject of finance. Has the speech of "Long Hair" scared Secretary Frederick MA away? Perhaps due to "the difference in closeness of relationship", the Chief Executive went to Macao to "wine and dine" with some of the former Executive Council Members on intimate terms while the "three Secretaries of Departments" are not in attendance at a very serious discussion on the subject of finance in the Legislative Council with statutory and constitutional status. The Financial Secretary has actually disappeared. "Ying-yen" has long disappeared. As Long Hair said, "Ying-yen" has long gone. This is also an abnormal phenomenon in this Council. Where exactly has Secretary Frederick MA gone? Has he gone to the lavatory to "do business"?

President, I have no idea to whom I should speak now. Of course, I have to face the President when I speak. I have absolute respect for the President. However, I wish to put on record the disappearance of these high ranking government officials. I have to strongly denounce the indifference of these high ranking government officials towards the constitutional status of this Council. And this has fully reflected the administrative attitude of the Government that "there is a difference in closeness of relationship". Perhaps the Government has regarded the Legislative Council as "the distant".

One of the major objectives of public finances is the distribution and redistribution of resources. And behind this distribution and redistribution of resources, a lot of value judgements are reflected. The Government should make objective judgements and subjective analyses in the light of the needs of the community and the social groups. Subsequently, decisions on policy and administration should be made. As the Financial Secretary, in just a few short months, his fiscal estimates have substantially deviated by \$10 billion. If this happens in the private sector, he will certainly be fired — Thanks Secretary Frederick MA for hurrying back and listening to my speech for the remaining four minutes or so. In the face of such a blunder, the Financial Secretary has neither felt ashamed nor a dereliction of duty on his part. Such a situation and such a problem in Hong Kong have demonstrated the ridiculous nature of our political system. Given an unexpected and large surplus, the failure to make any specific revisions to bring benefits to the public has proved the impotence of the Government in financial management, as well as its ignorance of the hardships of the 7 million people of Hong Kong, particularly those living in an abyss of misery.

As there is an additional surplus, some political parties and friends have demanded tax reduction and rates relief, which I strongly oppose. At present, a large number of people are living in an abyss of misery. When our social services still fall short of the need, it is possible the number of people living in abject poverty or worse is in the millions. The hasty proposal of reducing taxes or rates before this problem is solved is, to a certain extent, only a transfer of benefits to the major consortium. If a rates relief is provided, the major financial magnates will most directly benefit from it. And a tax reduction will give the greatest benefit to people with an annual income of tens of millions dollars. Therefore, when the Government has a surplus, it should first help the poorest.

Speaking of revenue, the profits tax paid by the HSBC last year was over \$100 billion and that by the CLP was over \$10 billion. However, the total revenue of the Hong Kong Government from both profits tax and salaries tax for the whole year was just \$100-plus billion. Under these circumstances, why is it necessary to reduce taxes? I think not only should taxes not be reduced, but profits tax should be raised. When a company makes a profit of \$100 billion, an increase of 1% will generate \$1 billion in tax revenue, right? To members of the public, this will provide direct help. Therefore, I urge the Government, if it has a social conscience, to first pay due attention to the problem of abject poverty

and poverty in the community and revert the CSSA rates to the levels prior to their reduction by 11 %; to help backward and poor social groups by giving them (for example, the disabled and mentally handicapped) direct assistance; and to provide employment schemes and economic revival schemes for the backward communities to increase the job opportunities in such communities as Mui Wo so that the residents there need not pay expensive ferry fares to travel to work in other areas. In terms of public and social services, for example, in education, small-class teaching should be implemented; in medical services, improvement should particularly be made to avoid the immense suffering of the hospitalized patients owing to the inadequacies of funding, equipment and manpower. I have recently visited a young man who has been in a coma for six months. Due to a lack of services, his family have been on tenterhooks and living in misery every day.

The present performance of the Government in public finance is disappointing because its accountability is minimal, so it has the power but not the responsibility, right? The substantial deviation of \$10 billion from the estimates of the Government has made people suffer in their daily life because of the reduction of public expenditure on medical services, education, social welfare, housing, and so on. But the Government seems to have no regrets. The presence of this abnormal phenomenon in the community is precisely due to the absence of a democratic system. The Government seems to be very "complacent". It regards this change from expected deficit to unexpected surplus as a benevolent measure. This is a twisted attitude worse than that of "Ah Q".

Therefore, I will not support the proposal of tax reduction in today's debate on our additional fiscal surplus. Thank you, President.

MS LI FUNG-YING (in Cantonese): Madam President, it is rare for the Legislative Council to propose today another motion related to the Budget after the debate on the 2006-07 Budget was concluded. It is because there is a substantial discrepancy in the Financial Secretary's estimated surplus with the actual figure. In fact, this discrepancy was already common knowledge at the Budget debate in the Legislative Council during the last 10-day period of March. In their speeches at the Budget debate, a large number of Members, including me, criticized the Financial Secretary for significantly underestimating the fiscal surplus and urged the Government to readjust the allocation of resources. On

that occasion, different political parties/groupings put forward a lot of proposals on various grounds, which can draw a parallel to the amendments today.

No matter whether the surplus underestimated in the Budget is \$10 billion or more, our resources are limited nevertheless. It is impossible to satisfy all the demands in the various amendments proposed in this Council today. If we wish to give more meaning to this motion, we cannot only repeat once again all the proposals put forward in the Budget debate, but must give all these proposals some consideration and then make our choices, as well as offering reasonable grounds for these choices. In this connection, I have no intention to change my stance at the Budget debate in March. I said at the time, "In the face of limited resources when a choice is made necessary in distribution, doubtless our attention should first be given to the disadvantaged groups. However, I have reservations about the measures taken by the Financial Secretary..... In fact, the entire set of sharing measures in taxation is just a reflection of the trickling-down economic theory. Those who can derive more benefits in the economic recovery will enjoy more benefits from such sharing measures, while those who cannot derive any benefit in the economic recovery are excluded from such sharing measures. The taxation measures in the part on Sharing will further aggravate the wealth gap in Hong Kong."

The latest unemployment situation of Hong Kong has further confirmed the views expressed in my speech. Even the Permanent Secretary for Economic Development and Labour admitted on a public occasion that there was polarization in the job market of Hong Kong. The higher-skilled workers have nearly reached "full employment", with an unemployment rate as low as 2% while that of the lesser-skilled workers has slightly increased to 6.1% which is higher than the overall unemployment rate. The lesser-skilled workers are facing a considerably severe situation. I do not mean that the higher-skilled workers should not share the fruits of the fiscal surplus, for instance, in the proposals put forward by a number of Members, such as the provision of tax reduction, rates relief, home loan interest deduction, and so on. However, in bringing up these proposals, has consideration be given to the people getting no benefits at all in the process of economic recovery? In investing our resources, should we not get our priorities right? Should the life of the people with their burden already eased during the process of economic recovery be first improved, or those getting no benefits at all in the process of economic recovery? To me, the answer is obvious. The question only lies in what specific measures should be taken to help improve their lot.

In this connection, various proposals are put forward in the amendments. I wish to emphasize here my point of view. I would like to ask the Financial Secretary to provide financial support to the in-service low-income earners pursuing adult education, enhancement courses and skills improvement courses, and to expeditiously improve the transport subsidy scheme for low-income earners in remote areas. At present, Yuen Long, Tuen Mun, Islands District and North District are defined as remote areas under the scheme. On this basis, transport subsidies are provided to low-income earners in these areas to travel to work in other areas. I think this is unfair. For instance, a low-income earner in Tuen Mun will be provided with transport subsidies when he travels to work in urban areas such as Yau Tsim Mong. But a low-income earner in Tsuen Wan which is not defined as a remote area under the scheme will not be provided with transport subsidies even when he has to travel to Aberdeen to work. I suggest that on the basis of the 18 administrative districts, some basic criteria for assessing the eligibility of low-income earners for transport subsidies should be drawn up in accordance with the travel time by bus or ferry for cross-district work, so as to let more low-income earners to benefit from the scheme.

Madam President, the original motion points out that the fiscal surplus in 2005-06 amounts to \$14 billion, which exceeds the estimated \$4.1 billion by \$9.9 billion. However, resources available for allocation are not limited to this amount. In 2002-03, the former Financial Secretary stated in the Budget that it should be sufficient to have fiscal reserves equivalent to around 12 months of government expenditure to meet operating and contingency requirements. And the Financial Secretary stated in the Budget that by March this year, our fiscal reserves would stand at \$300.8 billion, equivalent to 16 months of government expenditure.

Madam President, I so submit.

MRS SELINA CHOW (in Cantonese): President, there are always inaccurate estimations in the Government's Budget. Basically, except during the financial crisis and the SARS outbreak, the Budget has tended to give a more conservative estimate of the revenue, forecasting a lower rather than a higher figure, finally resulting in a large surplus. This is, in fact, a common occurrence. The fiscal surplus in the financial year of 2005-06 eventually exceeds the \$4.1 billion in the Revised Estimates by \$9.9 billion. It is natural that this so-called "windfall"

should be effectively utilized. I believe everybody would like to see the fortune returned to the people. But the question is: In what ways should it be returned?

Before the discussion about this issue starts, we should bear in mind that in the two financial years of 2003-04 and 2004-05, as the Government urged the middle class to weather the hard times, they were forced to "receive two stabs" to bear a heavier burden of the salaries tax. As a result, the tax revenue of the Treasury increased by as much as \$6.8 billion a year. Without their silent sharing of the burden of the Government, it may not be possible to have the deficit eliminated three years ahead of schedule. Of course, the business sector also bore an increase in profits tax. And there has yet been any sign of the lowering of the tax.

Since the elimination of the deficit has been achieved ahead of schedule and our financial position has seen great improvement, we in the Liberal Party think that "what was taken from the middle class" in the past "should be returned to the middle class" first to do them justice.

During the financial crisis and the SARS outbreak, our economy hit rock bottom. The middle class were dealt a series of blows such as the worries over negative assets, pay cuts and even unemployment. It is until the economy saw an upturn last year that they could have some breathing space. However, the burden of most of them has remained very heavy so far.

In fact, figures show that under the existing salaries tax regime, the middle class with a monthly income of \$20,000 to \$50,000 have felt the greatest impact. Take a "wage earner" with a monthly income of \$20,000 as an example. If he is single and not entitled to dependent parent/grandparent allowance, his tax payable will increase by as much as \$5,260 a year. If his tax payable in 2002-03 is \$11,940, it will be \$17,200 in 2004-05, representing a considerable increase of 44%. The impact on the higher-paid middle class actually draws a parallel. Before the salaries tax increase, only people with an annual income of \$1.44 million have to pay tax at the standard rate. However, after the tax increase, people with an annual income as low as \$770,000, that is, a monthly income of over \$60,000, have to pay tax at the standard rate of 16%. Take a case reported in the newspapers as an example. Before the tax increase, the tax payable of a jewellery shop manager with an annual income of almost \$1 million is over \$100,000 a year. However, after the tax increase, his tax payable

increases by \$30,000 to \$40,000. In other words, it also represents an increase of 30% to 40%.

We have to bear in mind that the middle class also have to meet mortgage repayments. Over the past year, the interest rate of the banks has soared. And it may continue to rise in the future. The middle class deserve some relief from the burden of mortgage repayments as they have always contributed a large share of tax revenue and received a small share of welfare assistance.

President, the Liberal Party has actually started a discussion on the various burdens of the middle-class families and looked into areas that need special assistance from the Government. We think the middle-class families have attached more importance to the education of their children. Therefore, expenses on the education of the children have created a very heavy burden for them. At present, there have yet to be any government subsidies for kindergarten tuition fees. And it is very likely that the tuition fees of the Direct Subsidy Scheme schools "have matched", or even exceeded those of the universities. To avoid putting more pressure on the middle class, apart from reverting the salaries tax rate to the 2002-03 level, there is still room for assistance for the middle-class families in terms of pre-primary education, kindergarten education and tuition fees of the Direct Subsidy School schools. As regards the exact plan, it is still in the stage of discussion and consultation. Therefore, we will offer more of our views on this issue to the Financial Secretary later.

Moreover, some middle-class residents in more remote areas, especially the New Territories, have told us that they cannot benefit from the public transport because they often have to travel by private cars. And private cars to them are not a luxury but a necessity. Therefore, perhaps consideration should be given to the concern of these middle-class residents. As we propose in the amendment, the duty on fuel should not be increased. Moreover, the Liberal Party has raised the following proposal more than once. Therefore, we hope serious consideration will be given this time to the introduction of some measures concerning the hybrid vehicles powered by both electricity and petrol. On the one hand, this will encourage the protection of our environment, and on the other, it will help the middle-class families that need to travel by car every day.

Moreover, studies and consultations conducted by the Liberal Party are now underway. In the information further submitted to the Financial Secretary, we will attach particular importance to the frequently neglected needs of the middle-class families.

Thank you, President.

MISS CHOY SO-YUK (in Cantonese): Madam President, the Hong Kong community has experienced several years of tough time. This year, we are at last able to feel relieved. Some days ago, the "Money Lord" announced an all-time high total revenue of \$145 billion. As a result, this year's fiscal surplus skyrocketed to \$14 billion, a figure 350% that of the original forecast. At the same time, the fiscal reserves have been restored to a stable level of \$300 billion, which is indicative of a robust financial situation. Given all these, the question as to how the "Money Lord" is to make use of the "windfall" to repay society is naturally of great concern to the public.

First of all, I fully support Members' proposals for tax and rates reliefs. However, while gilding the lily, we must not forget to offer timely help to the needy. Care should be given to the disadvantaged groups that stand most in need of assistance. At the same time, I hope that the Government can use the surplus to further enhance our competitiveness and consolidate our strengths in order that we will not be marginalized gradually.

President, with regard to the question as to how to help the disadvantaged groups, I would like to specifically relate what is in the mind of a member of the kaifong. On Mother's Day, I ran into a member of the kaifong. According to him, he is not well off financially, but, being physically strong, he wants to earn his living by working and has no wish to be on government handout. Laudable though his aspiration is, he has run into a lot of difficulties. On top of the usual difficulty of finding employment, there is the issue that many trades nowadays require job-seekers to first obtain relevant licences before looking for jobs. For instance, one working as a security guard must first obtain a Security Personnel Permit; a casual worker of a construction site is also required to get a "Green Card"; positions requiring more technical skills even ask for a "senior certificate" or "medium certificate" in addition. Such arrangements should give no cause for criticism. The problem is that the examination fees or licence fees involved may range from \$100-odd to \$500-odd. On the face of it, the fees

seem to be rather "trivial". However, to those "living from hand to mouth", the sums can easily be the money enough to last a few days. Moreover, being keen for employment, many people will try their best to get qualified for different licences so as to maximize their chances. Given the fact that small sums spent over a period of time can mount up, these fees alone can impose a burden on them. The crucial point is that they are required to pay the fees before there are any jobs for them to land on. It can be described as a situation in which "One must get spanked 80 times first before appearing before a magistrate." That is likely to deal a blow to their zeal to take tests and seek employment.

So, it is hoped that the Government can give careful consideration to the idea of waiving the examination fees or licence fees for Security Personnel Permits and "Green Cards" so as to help job-seekers who are prepared to become self-reliant and showing aspirations by reducing their burden. Without referring to any data, we can say that the cost implication here is very little. Compared to a surplus of \$14 billion, it is just a drop in the ocean. Whether or not it is to materialize totally depends on whether or not the Government is really so inclined.

President, even though the Treasury has a handsome yield this year, yet in face of the ever intensifying global competition, we must maintain our vigilance and exercise prudence in planning our spending while finding ways to hand out money. So, at the motion debate on "Maintaining the competitive edge of Hong Kong" held early this month, we put emphasis on the need for the Government to deploy additional resources to vigorously improve air quality and enrich the cultural and artistic lives of the local community so as to attract from all places people of special talent and consolidate our position as an international financial investment centre as well as an international service centre.

The two power companies are the culprits responsible for air pollution, and this has been proved beyond doubt. As the arguments involved are well understood among us, I do not intend to repeat here. Today, I just want to remind the Government of another issue. It is hoped that we will not overlook another prime target, namely, those pre-Euro medium and heavy-weight trucks that are still running on our roads. Earlier on, Members made mention of the issue on fuel duty. I, however, would like to talk about pre-Euro trucks.

According to information provided to me by the Government, at present there are only some 18 000 such vehicles, which represent less than 3.5% of the total number of vehicles. Yet the suspended particulates and nitrogen oxides emitted by them actually make up more than 30% of the total emission of all the vehicles. The emission from one pre-Euro truck is equivalent to that from 70 Euro trucks. In other words, having the 10 000-odd vehicles now is equivalent to having more than 1 million Euro trucks running on the roads. The year before last, the Government completed the task of giving assistance to those diesel vehicles in retrofitting emission reduction devices. Notwithstanding the measure already taken, the present level of exhaust emissions is still very high. This is not acceptable. It is, therefore, hoped that the Government can take advantage of the current financial stability and consider allocating resources to give subsidies — not to give them money, but just to subsidize — to help speed up the replacement of those vehicles so as to meet the more stringent environmental requirements and help bring us the blue skies.

With regard to the training of talents in the fields of culture and arts, it should start from young age. However, locally there is a shortage of the soil for the nurturing of youngsters in the fields of culture and arts for them to become talents. In brief, almost all our performance venues are operated on commercial principles, charging exorbitant booking fees well beyond the affordability of youngsters or amateurs in general. As the availability of venues for experimental shows is already a problem, needless to say, performance opportunities can be quite out of the question. Under such circumstances, how can members of our younger generation become talents and how can the levels of our culture and arts be raised?

After all, in order that culture and arts can live on, there have got to be ingenuity and inheritance. In Hong Kong, because of the lack of venues for experimental shows, the ingenuity of potentially gifted young persons is being stifled. What is more, even locally rooted traditional theatre and Cantonese opera are running into an inheritance crisis because of the discontinuation of a permanent performance venue. Earlier on today, I put to the Government a question, namely, the one concerning the fact that when the lease of Sunbeam Theatre, the only permanent performance venue for Cantonese opera, expires in 2008, there will be no performance venue like it. Given this, how can Hong

Kong get on with the task of cultural promotion? It is, therefore, hoped that the Government can give this more consideration.

Thank you, President.

MR LAU WONG-FAT (in Cantonese): Madam President, at this Council's Budget debate two months ago, a few Members and I did loudly urge the Government to truly launch some measures to leave wealth with the people and share the bliss with them at a time when our economy has fully recovered from the depression and our financial situation has scored marked improvement. No matter how earnest the speakers sounded, those listening took no heed. As a result, what the people are supposed to gain is like a mirage as it is not quite tangible. Yet the fiscal surplus has notched a figure as high as \$14 billion. The reality is that the Budget is already passed. The people can only sigh and say: What can we do?

The way in which the Government addresses the issue is undoubtedly disappointing. Taxpayers who have been paying extra taxes ever since the time the Government started tax hikes under the excuse of "riding out the storm together" surely find it particularly "hard to swallow". The Government fails to effect timely measures "to share hardship, also to share happiness." No explanation can offer justification. What is more, it is totally out of the question to rationalize the huge amount of fiscal surplus simply with the excuse of "saving up for a rainy day" in total disregard of the aspirations of the people and Members.

As a matter of fact, the Government of the current term is known for its flexibility in making moves. In my opinion, so long as those in the leadership can keep abreast of the changes in situation and put in more efforts to put the fiscal surplus to effective use wherever possible, then there will be actual benefits to the people for them to share the fruits of robust economic recovery, and the Government will be able to demonstrate the spirit of "people-based governance" and "strong leadership."

With regard to specific measures for effective utilization of the fiscal surplus, there are, of course, quite a few options, of which I consider the

reversion of salaries tax rate to the 2002-03 level to be the most satisfactory and justifiable approach as a matter of course. It is very simple. To increase salaries tax was a measure adopted by former Financial Secretary Antony LEUNG to "ride out the storm" when Hong Kong was having a difficult time. This measure is now out of date. Let me draw an analogy. Is it still necessary to let those on CSSA continue to receive CSSA even after they have found good jobs and made marked improvement financially? Similarly, the Government's accounts have emerged from the red, and even recorded a huge fiscal surplus. There is no more need for us to ride out the storm. Is there any justification for the Government to continue levying extra taxes on us?

Madam President, I must point out that to revert the tax rate to its original level is neither tax cut nor tax refund. It just allows taxpayers to stop paying extra taxes, and, thus, do them justice. Other measures, such as reducing the rates, extending the entitlement period for home loan interest deduction, and introducing dependent children's educational allowance are of course worthy of the Government's consideration and adoption.

Madam President, according to the Government, it is necessary to save up for a rainy day. In fact, the people also have to save up for a rainy day. In order to cope with a future situation in which the Government may, under the pretext of riding out the storm, impose backbreaking tax hikes during another economic depression, it is even more necessary for the people to save up. Therefore, I believe that it is not a bad suggestion to ask the Government to set aside at least half of the fiscal surplus to work out certain ways to return wealth to or leave wealth with the people. It can help to forge lasting links of mutual trust and mutual help between the Government and the people for them "to share hardship, also to share happiness."

Madam President, I so submit.

MR PATRICK LAU (in Cantonese): President, the fact that the Treasury has a huge fiscal surplus ought to be something gratifying to all. However, the question as to how the Government is to spend the money appears to be of great concern to quite a few Members.

In my opinion, in order to stimulate the economy and boost employment, the Government should consider using some of the fiscal surplus to take steps to properly effect our town planning and community building. This includes beautifying, greening and properly maintaining our city. At present, the Government has not got a set of comprehensive and sustainable policies on the planning, development, management and upkeep of our city. So, for a world-class metropolis like Hong Kong, our cityscape and community facilities are in fact execrable. Here are some examples. Many buildings with special features are being cast aside. There is little greening for infrastructure. Many pavements are bumpy, which, it is said, due to the lack of maintenance. In our parks, nearly every stretch of green lawn has been fenced off and declared out of bounds to pedestrians.

When granting land for development, the Hong Kong Government has all along required developers to build near their development projects items like footbridges, landscaped open spaces and pedestrian passages for use by the public. Now, because certain departments have no budget for maintenance work, even if developers offer them for free, the Government has to decline such offers. Some departments have even asked for indeciduous trees, or, better still, trees which need no watering. This is most ludicrous. President, I think a lamp is for illumination. It is only reasonable to assume that nobody would place a lit lamp under the bed. That is to say, it is absolutely necessary to put resources to good uses. Spend wherever it is so justified.

Here is the issue that I just brought up. The Government believes that extra operating costs can be withheld by saving some repairs and maintenance costs. However, this may be the cause of a lot of problems. The tragic blast at Wai King Mansion is a good example because the gas pipes there were in a state of disrepair which led to long pent-up gas in an enclosed area. Let us picture this. There are many pipes and cables below the surfaces of our roads, aren't there? It is not easy even to plant a tree on the pavement. Should we not build some concrete casings to accommodate all these when we can afford to do so to make future repairs easier and obviate the need for frequent excavations?

Hence I would like to reiterate that the system of "operating expenditure envelope" is faulty. As each department must first disperse its recurrent expenditure out of the expenditure envelope, it can only appeal for more fund when it runs out. This is not flexible, especially in the case of public services in

excessive demand. Furthermore, the envelope keeps shrinking year after year, practically making it impossible to maintain efficient and high quality routine management. This is just like buying a car but saying later that there is no need to check the vehicle, replace engine oil or give it servicing. I believe that the said car will soon be out of order. Therefore I consider a proper protective management policy to be very important. It is my belief that unless there is improvement to the envelope policy, motions to be moved by Members for expenditure are going to run into great difficulty.

As a matter of fact, when I spoke on the Budget, I already mentioned that for Hong Kong, a place with world-class fiscal reserves, money was never a problem. Developing a city is, in fact, a lucrative investment, likely to reduce unemployment and pull economic growth. The government of Dubai actually succeeded in turning a desert into an oasis by carrying out large-scale infrastructure and greening projects. Geographically, Hong Kong is certainly better than the Middle East. Moreover, we have resources from China. Hong Kong should succeed so long as the Government shows determination.

So, President, I suggest that the Government make appropriation from the fiscal surplus of \$14 billion to set up a permanent fund specifically for town planning, beautification and on-going maintenance. With this provision, the Government will then be able to improve community facilities and effect ongoing maintenance. Also, additional manpower can be hired to carry out inspections, and tasks of repairs and maintenance that are more frequent and more thorough than those done in the past. For the development of new districts as well as the redevelopment of old ones, the authorities concerned must adopt a holistic approach and make good use of the fund to repair road surfaces, set up food establishments, and build pedestrians' subways or footbridges and such like. Comprehensive studies should be conducted to identify infrastructure compatible with the requirements of the entire districts, especially old districts, where, given the fact that their facilities and buildings have been subject to wear and tear for years, more resources are required for redevelopment.

It is my expectation that the Government will outgrow habits of the colonial age, characterized by a passive crisis management concept, only looking for remedies upon the emergence of problems. On the contrary, we have got to have vision, and make good use of the resources available at a time when our

Treasury is relatively strong so as to forge a first-class city really capable of sustainable development.

Thank you, President.

MR RONNY TONG (in Cantonese): President, according to the latest information released by the Government, this year's total revenue amounts to \$145 billion, an all-time high exceeding last year's \$127.6 billion by \$17.3 billion, which represents an increase of 14%. This year's fiscal surplus even amounts to as much as \$14 billion, almost \$10 billion more than the estimated figure of \$4.1 billion given by the Financial Secretary when announcing the Budget in February.

Let us refer to the current year's revenue position. With regard to recurrent revenue, profits tax and salaries tax altogether total at \$111.75 billion, a record high making up more than three quarters of the total revenue of 2005-06. The aforesaid data show that some of the Government's dependable revenue sources are already out of the woods, which means that the economy has recovered. Certain trades and taxpayers in certain salaries tax bands are making more money because of the economic recovery. For instance, among the banking, finance and real estate sectors, profits have gone up by 50%. Regarding taxable incomes in respect of salaries tax, for the group with annual salaries ranging between \$600,000 and \$900,000, the taxable amount after deduction has gone up by 3%. For the group with annual salaries above \$900,000, it has gone up by as much as 6.5%. In addition, some items of non-recurrent revenue, such as stamp duty, property tax and estate duty, have gone up by \$2.4 billion as a whole.

A further analysis of the recurrent revenue will show that the total taxable amount has gone up by 23% in personal profits tax, and by 4% in personal tax. The yield from profits tax alone has increased by \$13.1 billion. The net collection is \$11.2 billion. This is quite a huge figure.

When the Government announced the Budget for the year 2006-07, it forecast this year's revenue and Operating Account surplus to be \$140.9 billion and \$600 million respectively. The figure is \$4.1 billion less than the actual revenue. We do understand that when the Government announced its Budget, the figures involved were not real figures. With a lot of uncertainties there and

then, it was very hard to forecast accurately. However, when there is evidence from actual revenue data showing that the amount of revenue collected far exceeds expectation, the Government, in our opinion, should pragmatically review and revise the estimated recurrent revenue for the current year.

Improvement in the economy does not mean that every person can benefit from it. I think this is a fact beyond dispute. We can note from data that the number of people earning less than \$5,000 had risen from 260 000 two years ago to 370 000 last year, and further jumped to nearly 500 000 this year. Apparently, the wealth gap is getting worse.

The Civic Party holds that for any discussion on "effective utilization" of the fiscal surplus, the most important issue for this Council and the Government to consider is how to make use of our fiscal surplus to stop the widening of the wealth gap, and how to enable the entire community to share the benefits evenly so as to improve the people's livelihood instead of just caring for individual sectors. I consider adequate and stable recurrent revenue to be very important. Today, we have a number of amendments, a few of which proposing measures to reduce revenue. This means that the Government's recurrent revenue is going to decrease. In our opinion, this may put pressure on balancing the budget in the coming years. Given the structure of our current taxation system, profits tax, salaries tax and rates constitute the bulk of our recurrent revenue. We are of the view that any adjustment to the rates of these taxes is likely to cause instability to budget balance in the coming years. So, in this respect, the Civic Party is not inclined to support proposals on reducing tax revenue and tax rates.

In the Budget announced in February, the Government put forward some measures to relieve the burden on the people, but, unfortunately, failed to place much emphasis on the disadvantaged groups and low-income people. The Government only committed \$30 million to the alleviation of domestic violence. On the other hand, it was only later that the "Money Lord" agreed to set aside \$300 million to provide transport subsidy, which is no match to those measures offering benefits to members of the middle class, who altogether have been given assistance amounting to \$2.7 billion. Conversely, over the past three years, the overall CSSA payments have been slashed by about 11.1% by two stages since 2003. Also reduced were a few allowances. To members of the disadvantaged groups, the cut was too great indeed. The way in which the Government treats different sectors of the community make us feel that there is

great disparity. It is very unfair. According to a recent survey, the current CSSA payments can no longer cope with a reasonable day-to-day standard of living.

When announcing the Budget, Financial Secretary Henry TANG said that he, not projecting a big fiscal surplus for next year, could ill-afford to extensively offer relief to meet the needs of all sectors. The actual figures, however, deviate considerably from those in the Budget. We are of the view that, to make good use of resources to improve the living standard of the entire community, the Government has got to revise the Budget for the coming year.

The Civic Party holds that as the Government has quite a sizeable fiscal surplus, it ought to be prudently optimistic about this year's economic situation. If so, why does it not put forward some specific measures to help the disadvantaged groups? Given the current actual situation of recurrent revenue and the coming year's budget, even if the Government finds it impossible to comprehensively revert CSSA payments to the level of 2003, it is going to cost a total of just \$2 billion to revert CSSA payable to the elderly, the disabled and single parents as well as different allowances, including those for students, to the level of 2003, and also to cover the Trust Fund for SARS. It pales into insignificance in comparison with the sum of about \$5.2 billion required for the construction of the proposed Government Headquarters at the Tamar site. In our opinion, on account of the Government's fiscal surplus and the increase in overall revenue, especially the increases in personal profits tax and income tax, there is, in fact, capacity to revert CSSA rates to the level of 2003. Moreover, it should not put any pressure on the balance of future budgets. We feel that at present the Government can afford to make improvements, but it seems that it hardly cares. I hope that the Government will seriously consider how to make good use of this fiscal surplus to help the disadvantaged groups.

Thank you, President.

DR JOSEPH LEE (in Cantonese): Madam President, the Financial Secretary announced the actual figure of fiscal surplus for the financial year of 2005-06 to be as high as \$14 billion, a figure exceeding the estimate by \$9.9 billion. It is the most successful year since the financial year of 1998-99. The Government should not be "ungrateful". It asked the people "to ride out the storm" when

there was economic depression, but ignored its duty to return wealth to the people and share wealth with the people when the economy had recovered.

Even though the Government is going to lower the marginal rates of salaries tax and extend the entitlement period for home loan interest deduction from three years to 10 years in the year 2006-07, these measures, claimed to share wealth with the people, basically mean very little to the disadvantaged groups and fall short of caring for their actual needs.

Let us take recovered patients who have to make claims to the Trust Fund for SARS (the Trust Fund) as an example. Every recovered patient has the worry that after he or she has received the maximum sum of \$500,000 from the Trust Fund but has yet to make full recovery, there will be no more help with medical expenses and no more financial assistance. What is going to happen to their livelihood in the days to come? So, we are of the view that, if finances permit, the Government should raise the ceiling of \$500,000 special *ex gratia* grant payable from the Trust Fund to each eligible recovered SARS patient or suspected SARS patient so as to help recovered patients overcome financial hardship. At the same time, the families of deceased suspected SARS patients should also be included for the grant of special *ex gratia* financial assistance so as to provide them with appropriate care and aid. As the Treasury is "flooded with money", the Government is duty-bound to extend a helping hand to recovered SARS patients by injecting more money into the Trust Fund so as to continue and enhance the assistance given to SARS patients and families of those who died of SARS for them to lead a more secure life.

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

Deputy President, medical care and health care are issues that should brook no neglect on the part of the Government. In order to strive for economic growth and prosperity in society, the people must first have good health. So, the most direct way to benefit all is to allocate additional funds for medical care resources. Although the Government has increased its recurrent allocation to the Hospital Authority (HA), the HA still faces a very serious problem of accumulated deficit actually. Given its limited resources and financial predicament, it is somewhat difficult for the HA to maintain the current standard of service. Even though the HA has recently stated that there may be a chance

to reduce its deficit and get out of the red in a few years, we should not be unduly optimistic. Whether or not it can succeed depends on a number of uncertain factors. In the event of a major outbreak of epidemic, such as avian influenza, it is still questionable if our medical care system has enough capacity and resources to put up a defence.

It is hoped that the Government will allocate additional resources to the HA at a time when the finance is strong so as to enable the HA to train or hire more health care personnel. In this way, there may be, on the one hand, crisis management for an outbreak of epidemic, and on the other, the current manpower shortage of health care personnel can be solved.

Furthermore, as the public hospitals, private hospitals and some care and attention homes are now experiencing a shortage of nursing staff, the Government should take note of the problems of wastage among nursing staff and their ever increasing workload. These problems have a direct impact on staff morale, thus indirectly affecting people's health. For this reason, we call upon the Government to set aside additional resources to make long-term planning for the long-term establishment of nursing staff and the ratio between nurses and patients.

In addition, in order that there can be an effective solution to the problem of excessive workload affecting health care staff, the Government should also consider adopting a service-oriented approach for the deployment of resources, to take into account factors such as the workload of different hospitals and the categories of diseases handled when making appropriations. Given the handsome fiscal surplus available, it is our wish that the Government will give real thought to the idea of allocating more fund to health care policies. There can be real benefit to all sectors of the community only if there are proper preparation and planning for our medical care as a whole.

Deputy President, I so submit.

MISS TAM HEUNG-MAN (in Cantonese): Deputy President, late last month, the Government announced to us a piece of good news, pointing out that the fiscal surplus for the year 2005-06 stood at \$14 billion, a figure exceeding the estimate of \$4.1 billion announced by Mr Henry TANG in his Budget by a huge margin of almost \$10 billion. Later the Commissioner of Inland Revenue brought another piece of good news, announcing that the revenue for the year

2005-06 again stood at an all-time high. All these were news inherently quite good. However, as an accountant, I find that behind all such good news are some imperfections.

I think it is flawed because in both fiscal surplus and government revenue, there are considerable discrepancies between the Government's estimates and the actual figures. Knowledge of accountancy tells us that, barring special circumstances, there should not be more than 3% of discrepancy between estimate and the actual figure. However, in the case of revenue from salaries tax, an item all along quite stable, there is already a discrepancy exceeding 5%, which is indicative of the fact that Government's projection of financial performance still has much room for improvement. Under the principle of prudent management of finance, the projection of financial performance plays a decisive role in the implementation of government policies in the following year. So, the Government should conduct in-depth research to examine how best the accuracy in projecting financial performance can be improved.

Deputy President, to improve the accuracy of projection requires considerable length of time. However, right in front of us is an additional fiscal surplus amounting to almost \$10 billion. It is indeed necessary for us to give this some thought to see how to make good use of it so as to improve the cost-effectiveness of the said sum. In my opinion, the said sum should first be used to promote our economic development and to better Hong Kong people's quality of living. Surely, we should not forget the need in poverty alleviation. With regard to the requests for tax cuts or tax rebates, I, approaching the matter from the perspective of prudent management of finance and effectiveness, do have considerable reservations.

With regard to the promotion of economic development, I hold that the Government should use the said sum to increase investment in infrastructure, especially that for the reinforcement of our transport network. For example, the Government may use the said sum to build new trunk lines, and set tolls levels on basis of subsequent cost of repairs and maintenance. There will be, on the one hand, convenience for the people as well as for the development of the logistics industry. On the other hand, the uneven distribution of traffic flow due to exorbitant tolls charged by the Eastern Harbour Crossing, Western Harbour

Crossing and Route 3 can be averted. What is more, to promote economic development with government spending can create employment and generate knock-on effects capable of further stimulating the economy.

At the same time, the Administration, if supplemented with relevant policies, may use the additional resources to promote the diversification of industries. The Government may consider setting up some funds to give a boost to new industries and creative industries, and to offer subsidies or low-interest loans to manufacturing industries returning to Hong Kong so as to help them develop. Once these industries have developed successfully, the structure of our industries will grow, thus thinning out the danger that we have to face when our economy fluctuates. At the same time, with these industries creating employment for Hong Kong, the unemployment rate will be further reduced.

As for improving the people's quality of living, the Administration should deploy additional resources to expeditiously launch projects of community facilities left behind by the two former Municipal Councils. Currently, many new towns are short of community facilities, as a result of which residents cannot enjoy their life in the districts. There have even been tragedies like that at Tuen Mun Park. The Government should indeed speed up the progress of the projects concerned. At the same time, such community projects can create jobs for the construction industry and also benefit some petty construction businesses or contractors, thus alleviating the situation of unemployment affecting the construction industry. Benefits can be brought to the people just by spending \$1 billion or \$2 billion. This spending should not be held back.

Deputy President, with regard to the proposal for tax cuts, I think that they ought to be considered later, the reason being that whilst tax cuts involve a long-term financial decision requiring careful handling, what we now have is just a one-off surplus. Moreover, merely reverting salaries tax to the 2002-03 level already involves several billion dollars. There will be no more fund for the Government to invest in other things after the tax cuts. Anyway, the fact that there is an additional fiscal surplus is, to a certain extent, indicative of the fact that our economic performance has been better than what the Government expected. The Administration may give active consideration to the idea of introducing more substantial tax cuts in the next financial year.

With regard to the proposal for tax rebates, my view is that although about a million taxpayers may, as a result of the proposal, each get an extra income amounting to a few hundred or a few thousand dollars, it is questionable whether or not all of those getting tax rebates will put all the money into the consumer or investment market. There are doubts. If they just keep their money as savings, then its function in the economy will not be great. From the perspective of effectiveness, I do not think giving tax rebates is now the best way to handle the additional fiscal surplus.

Deputy President, it is very easy for us to find ways to spend money because we can think of thousands or hundreds of ways. However, how the Government is to spend money must have an order of priority. My wish is for the Administration to carefully listen to Members' ideas, prudently make use of the additional fiscal surplus, promote our economic development and do good to the people.

I so submit. Thank you, Deputy President.

MR WONG YUNG-KAN (in Cantonese): Deputy President, Mr KWONG Chi-kin moved a motion putting forward the proposal that the fiscal surplus of \$14 billion be used to alleviate the disparity between the rich and the poor, or to stimulate the economy and employment opportunities. It is our hope that the Government can indeed put the fiscal surplus to good uses. It is my hope that the Government, in addition to doing something for different trades and industries, can also do something for agriculture and fisheries. I will applaud such an approach. I will also be pleased to see it.

According to my experience working in this Council over the years, even if the Financial Secretary munificently accedes to this Council's request, it does not necessarily mean that agriculture and fisheries are to stand to benefit. It is because the Government has yet to formulate a set of policies for sustainable development. The industries concerned also have not got the capital. In view of such a government approach, I have repeatedly moved motions in this Council, winning full support from Members. They were carried unanimously too. However, so far, we have only got words from the Government but no actions. Whenever money is involved, everybody becomes nervous. The Government may even propose many restrictions. This is, in fact, about health food for the people and the question how members of the industries are to

produce quality food for the community. If the Government handles the matter properly, more wealth may be created and the industries may have sustainable development. My proposals made over the years have been proved viable to sustainable development overseas.

I have made a lot of suggestions on agriculture and fisheries. Now I would like to speak on another industry — leisure fishery. The development of leisure fishery over the past few years also includes eco-tourism. We all saw that the opening of the Wet Land Park had drawn many visitors. Although there are still many loopholes, I think it is possible for the management to make it better. This is an item which offers room for further development.

During this year's Golden Week, the number of visitors appeared to be fewer than the past. I went to Shenzhen and raised the matter with some friends. Normally, they would go to Hong Kong mainly to do shopping. However, there is not much for them to do after shopping. They feel that there are not many tourist attractions in Hong Kong, and they have already seen many of them. Several years ago, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) conducted a survey, targeting people from Shanghai, Beijing and Guangzhou. Is it true that mainlanders only come here for shopping? According to the survey, 30% of the people are not so inclined. In fact, they want to see our landscape. A group of Tibetan visitors, all Lamas, recently took a yacht tour here. On reaching Sai Kung, they saw that the water was crystal clear. Though wearing their Lama robes, they still jumped into the sea, and said that never before had they come into contact with sea water that fresh. Will the Government develop such places so as to add a few good sites for tourism? According to some people, such places are probably only popular among Hong Kong people. In fact, it is not so. We can see many foreigners at Tap Mun and some other places. In addition to hiking, they also like diving. Granting proper development in these places, the tourist industry may sustain its development. This is especially true of local tours. However, in this respect, I have not seen any work done by the Government. Again and again we have asked the Government to improve the business situation of some rock fishing operators. The Government, however, has just been saying that something will be done, and it has been saying so for seven years. It is still saying that something will be done. But even that has yet to materialize. Should the Government not do better in this respect?

In addition to Sai Kung, the Northeastern New Territories and other local bays are also very beautiful. I hold that the Government should vigorously carry out development here, and join hands with the districts to do promotional work so as to develop leisure agriculture and fishery, or even eco-tourism. I think this can also contribute to the current economy. Members mentioned unemployed persons who are grassroots or who are middle-aged (aged around 40). There can be employment opportunities for them too. Will the Secretary give consideration to this matter?

In addition, I would like to speak on the administration of the Marketing Organization with reference to food safety. In my opinion, the present situation is too chaotic and the scale is too small. I have had discussions with some academics. If Hong Kong can make a good job of this, then we can set up a big wholesale market like that of Tsukiji for imported foods, such as imported fish catches, and to conduct random sampling tests. In this way, mainland buyers will be drawn to Hong Kong. Last time, a Shenzhen CPPCC delegate told me that he had wanted to buy a coral grouper but was afraid of the presence of ciguatoxin. He had no such worry when making the purchase in Hong Kong, the reason being that Hong Kong performs better in many areas. This shows that he has confidence in our set of procedures. As a matter of fact, it has always been my hope that the Government can put in more practical efforts in the wholesale market to complement the development of fisheries, such as drawing up policies to render it possible for the industry to have healthy growth, and let it be known among the people that our foods, including fish, are healthy products. Our products will then be able to attract many buyers, thus offering a solution to the problem caused by the fishing moratorium. It so happens that oil prices have been skyrocketing this year, and, as a result, it has been very difficult for members of the industry to eke out a living. I think such an approach can help.

As the Government has a fiscal surplus, I, therefore, wonder if consideration can be given to the idea of putting more efforts here so as to make it possible for less educated individuals of different trades and industries to pursue development in various areas too. As just mentioned by me, there can be good development in certain areas. However, the Government, as far as I can see, has not got the will to do so. Although we have discussed that for a long time, it seems that the Government just listens but takes no action. We even encourage the development of organic farming. However, the present position is still unknown. So, I think the Government should speed up

communication with members of the industries so as to draw up some policies that enable the sustainable development of the industries.

Thank you, Deputy President.

MR ALBERT HO (in Cantonese): Deputy President, I have reasons to believe that the present underestimate of the fiscal surplus by \$10 billion is not incidental. It is actually the result of a certain policy. Can we not notice that in the past few years there were invariable discrepancies whenever the Government made its financial forecasts? Not only did it happen frequently, but it also happened on a regular basis. The fact is that the deficit was always overestimated whilst the surplus was underestimated.

As a matter of fact, it was in February that the Financial Secretary made the reiteration that there was a fiscal surplus of only \$4 billion. He estimated that to be the figure at the close of accounts at the end of March. Eventually, he said that revenue had in reality been underestimated by a huge margin. That was the explanation given to me by the Secretary. But by that time all demand notes should have been issued, so it should be easy to find out the amount of revenue from salaries tax and profits tax just by clicking on the computer. How could there be such a serious discrepancy?

With this strategy, I think the Government is trying to manipulate things as planned. In the first place, does it matter to make wrong estimates? Correction of the mistake eventually will bring good news. The people are quite happy to accept such lovely mistakes, and will not blame the Government. In the second place, the Government can work out a conservative budget with conservative estimates. Given the fact that the Government all along maintains a principle of keeping expenditure within the limits of revenue, it is hard for the people and the Members to raise objection. Surely, such a "cry wolf" strategy of the Government cannot mislead most people with insight. By referring to the lot of published data, most members of the financial sector, I believe, will point out clearly that the estimates made by the Government are so inaccurate. Unfortunately, the Government appeared to have misled itself, ultimately drawing up some policies bad for the people.

Deputy President, today we do note the momentum of the economic recovery. It can be noticed that the rate of economic growth has been high

persistently. The target of eliminating fiscal deficit was achieved ahead of schedule. For two or three years, many enterprises, professionals and senior members in the management have been enjoying rising incomes. Obviously, they are getting benefits from the economic recovery. It can also be noticed that there have been far more activities of investment. It is, however, a pity that those from the lower-middle stratum as well as the working class are abuzz with grievances. It is because they feel that they have not been able to share the fruit of economic recovery. Why? It is because the Government's policies on economy and finance over the past few years have been lopsided. Anxious to eliminate the fiscal deficit, the Government far too swiftly launched far too many stringent financial policies, rapidly reducing the size of the civil service establishment, arranging a lot of out-sourcing, sharply cutting public expenditure, and shrinking various services provided by social service agencies through the lump sum grant arrangement.

Deputy President, today we have moved this motion to call upon the Government to make appropriate and timely adjustments so as to improve the people's livelihood. I very much agree with what a few Members said earlier on. It is imperative for us to make every effort to help the poor and the disadvantaged so as to materialize the promotion of a just and caring society mentioned by the Chief Executive and foster social harmony. So, we in the Democratic Party today put forward a few suggestions such as to revert the CSSA rates for the elderly and people with disabilities to the 2002-03 level, and to provide transport subsidies to residents in remote areas for them to travel to work. At the same time, we think the Government has the responsibility to address squarely the problem of the growing wealth gap. To reduce the tax burden of those belonging to the middle and the lower-middle strata, I, therefore, reiterate my request to revert the salaries tax allowance, tax bands, and marginal tax rate to the 2002-03 level.

A politician with vision, breadth of mind and the will to shoulder commitments should lead the Government to invest on talent. So, the policy put forward by the Democratic Party to improve education for the elimination of inter-generational poverty should be implemented immediately. Today, as the circumstances and the means have so allowed, we ought to implement this crucial policy.

The Democratic Party, therefore, again proposes that small-class teaching should be fully implemented as soon as possible, and a children's development fund be established. It is hoped that the Government will, instead of becoming

a *bona fide* "Scrooge", resolutely take up commitments to social and economic development by making use of the fiscal surplus today as well as the fruit of economic growth foreseeable in the future to bring benefits to all sectors of the community.

Thank you, Deputy President.

DR KWOK KA-KI (in Cantonese): Deputy president, first of all, today, I wish to thank the Honourable KWONG Chi-kin for moving this motion. He has not only moved a motion, but also done another thing, namely, placing a tree there for Members to decorate. I reckon that he has done that on purpose. The reason is that his original motion is quite moderate and reasonable. Several Members have proposed various amendments, and all of them are, in my view, also very reasonable.

Today should have been a time of great joy, Deputy President. A fiscal surplus of \$14 billion is worthy of celebration over a bottle of champagne. Or, the Financial Secretary, who enjoys red wine, ought to share the joy with Members here over some red wine. Surely, such a scene is not going to take place, the reason being that most of our people are not supposed to share the fiscal surplus of \$14 billion. As we all know, it is not likely that the Government has not known about the huge deviation from the estimate — a sum of \$9.9 billion. I have reasons to believe that the Government made such prudent or over-prudent estimates merely to discourage Members from making too many demands prior to the announcement of the Budget. This, however, is futile. The reason is that whilst one who does not know is innocent, it is not so in the case of one who knows but does not act. It is inexcusable for the Government to produce estimates markedly different from actual figures if the Government had been well aware of the situation and yet deliberately made its forecasts through different means. (Earlier this year, when we were discussing the Budget, the Government also used all sorts of excuses to refuse to allocate adequate funds to items related to the people's livelihood.)

The responsibility of any government is different from that of an ordinary person running a family (the wife of the Secretary is, perhaps, also like that) in the belief that the more reserve there is, the better it is. The Secretary might let his wife keep 100% of his pay, assuming that it would be better still if there was no spending at all. However, a government should not do that. A government

should see to it that money is used on the whole community, and used properly too.

In the past few months, I have handled and discussed in this Council a number of heartrending issues. For illustration, let me cite some recent events. Recently, we dealt with the issue concerning the dispensing of wrong medicines to the elderly at residential care homes for the elderly. On the face of it, this is a matter concerning medical care. In fact, as we all know, the Government, for financial reason, had the Bought Place Scheme scrapped or shelved several years ago. After that, most of the seniors, especially the poor ones, have to pay for their stay in private care homes with CSSA payments and disability allowances received from the Government. As a matter of fact, there is, on the one hand, inadequate supervision over those private care homes, and on the other, they have not got enough resources. As a result, seniors staying at those private care homes are facing a lot of hardships and problems.

Dr Fernando CHEUNG is not here now. We once discussed another topic raised by him, namely, the fact that some mentally handicapped persons staying at private institutions also experience the same problem. They are tied to their beds and get attention from nobody. Their clothes are torn, but still there is no attention. Nobody pays them any attention even when they are sick. Several seniors died in residential care homes because the homes could not recruit nurses because of inadequate resources. They also had nobody specifically assigned to dispense drugs. I wonder if you, Secretary, will feel happy on hearing all these. You, Secretary should find it very heartrending if you are conscientiously observing these cases and figures.

Now, we are not inclined or prepared to fully support the request for tax cut put forward by a number of Members. Not that it is not my wish that I myself and the public may pay less tax. The problem is that today in such an affluent society like Hong Kong, there are still a large number of disadvantaged people — some are old, poor or young. On account of different problems of resources and policies, these people are suffering under different circumstances peculiar to themselves and cannot partake of or share this fiscal surplus of the Government. According to some people, the surplus is not to be utilized for two purposes, one being that it is probably not the time for handing out candies now. It can be guessed that candies will be handed out later when election is set to go. I wonder if the Secretary understands this. I think the Secretary does.

Furthermore, there are now many different items on which Members have yet to hold discussions and over which consensus has yet to be reached — some seeking an increase for a certain item whilst some seeking implementation of another item. In my opinion, all items ought to get an increase. We are now facing problems of medical care as well as problems concerning the fiscal deficit of the Hospital Authority (HA). Under the present policy, we are paying a very dear price. In the first place, most of the front-line health care personnel still have to put up with unreasonably long working hours and unreasonably low pay. Besides, with the HA trying to "balance the books" in a bid to eliminate the deficit, many patients are affected in different ways.

(THE PRESIDENT resumed the Chair)

Two days ago, we held a meeting with members of the pharmaceutical sector to discuss the Drug Formulary. In fact, as we all know, the Drug Formulary is an attempt by the HA, at its wits' end, by hook or by crook, to shift the responsibility of buying drugs to the people. However, we are surprised to learn that that nine of the 10 most commonly used drugs are the ones that patients cannot do without.

Recently, the HA has been planning to expand its private services, in fact, for the same reason, namely, to make more money. However, we should know that this is a zero-sum game. Being the person in charge of economic matters, the Secretary knows how big the cake is. If the HA provides more private services in a bid to "patch up the accounts", then, at the same time, needy persons who can ill-afford will have to struggle for survival amidst even less resources. So, in the main I support today's original motion and amendments. It is, however, hoped that after the Secretary has delivered his speech, there will be good news from the Financial Secretary, which can bring joy and happiness to all Hong Kong people, including the poorest and the most miserable. I so submit. Thank you, Madam President.

MR ALAN LEONG (in Cantonese): Madam President, in view of the fact that the consolidated surplus for the previous year estimated by the Government when presenting the Budget was \$4.1 billion whilst the figure released at the end of March was as high as \$14 billion, the people are baffled by the "act of marking

down figures" by the Government. They are even more baffled by the fact that there has been no discussion by the Government on how best to return wealth to the people even though the Treasury is "flooded with money". Having wealth returned to the people is not just the expectation of the general public. Basically, it is also an obligation to be constantly kept in mind by a considerate, caring and just government.

If existing public services were adequate and there was no need to increase the resources needed to provide the different services, then the Government, with a surplus almost amounting to \$10 billion in hand, surely should reduce taxpayers' burden. According to the Government, the surprisingly good financial position is due to the strenuous efforts of government departments in reining in expenditure, reducing last year's spending by \$4.5 billion. However, behind the Government's "efforts in reining in expenditure" and "tightening the belt" are, in fact, cuts affecting the scale and range of services. It is indeed necessary for us to dig in thoroughly to see what sorts of services have been sacrificed over the past year to achieve this saving of \$4.5 billion.

Madam President, here is an example: the issue of youth at risk. Last year, the Government's appropriation to services for young people approximately amounted to \$1.17 billion, showing a drop of 7% in comparison with that for the previous year. Out-reaching social workers in charge of services for young people handle some 13 000 cases annually, with each case costing about \$440 on average. In comparison, the Government has to spend \$60,000 on average handling a case concerning a young offender sentenced to reformatory school. Has the Government thought about proper deployment of resources, especially the idea of diverting the \$60,000 to be spent on a single young offender to the team of social workers to enable them assist more young people to get away from the lure of crimes? As there is a fiscal surplus of \$10 billion, should consideration not be given to the idea of doing some work here?

Madam President, the Government's funding arrangements for people with disabilities similarly make one sigh in despair. Last year, the Government made an additional allocation of \$100 million to rehabilitation services. However, the bulk of it was spent on services for residential places for disabled persons. Measures conducive to their integration into community, such as integrated home care services and Rehabus, have been, however, reduced by 5% and 20% respectively. Is it not the Government's policy to encourage disabled

persons to rejoin the community? Does the Government not want to permanently confine disabled persons to residential care homes?

Similarly, we should not forget that there are over 1 000 disabled children on the waiting list for pre-school training services, and that over 20 000 seniors are on the waiting list for residential care home places. Furthermore, we should not forget those CSSA recipients, who have to put up with a 11% cut since 2003 even at a time of inflation. The answer to a debate seeking to identify which group of people should benefit first from our fiscal surplus of \$10 billion is, in my opinion, very clear.

Madam President, given the fact that the Government is currently enjoying a seemingly unexpected affluence, it is only reasonable for our welfare services and system to be first restored to a level they befit. Because of inadequate resources, more and more social workers bent on rescuing youth at risk from crimes now find the situation quite beyond them. Many disabled persons hoping to integrate into the community or willing to contribute their productivity are confronted with problems relating to home care and inadequate transport services. Widowed persons, persons not cared for and disabled children all have yet to get the care due from a caring and just society. The payments to those on CSSA are lagging more and more behind the overall consumption levels of society. Even funeral expenses may constitute a problem. There are right in front of us many measures to meet the pressing needs of the disadvantaged groups. Surely we need not worry that there is no way to spend this \$10 billion.

Madam President, in my opinion, the Government should give top priority to relieving the hardships of the most needy in our community with the fiscal surplus. In order not to affect the Government's work in this respect, revenues should not be reduced. I, therefore, speak in support of the original motion. With regard to the amendments, I will abstain from voting on those proposed by Mr James TIEN, Mr SIN Chung-kai and Mr CHAN Kam-lam, but will vote in favour of all the others. I so submit.

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 Mr KWONG Chi-kin to speak on the amendments. He has five minutes.

MR KWONG CHI-KIN (in Cantonese): President, the Secretary is here today as a stand-in, the Financial Secretary being out of town. I know not how much money the Secretary has with him today for spending, and wonder if he will let the additional fiscal surplus of \$10 billion be used too. Well, a portion of it is good enough. There is still a balance of \$5 billion even if only half is to be used. Is this not correct?

President, I am very grateful to the six Members who have proposed amendments and many specific suggestions. If the Secretary has enough money with him, he may in fact make his picks and purchase a few items. Here is something like a shopping list. The Secretary might find the many items dazzling to the eyes. I have a few picks to recommend to him. Mr Secretary, please consider these carefully. The first one has also been mentioned by Mr James TIEN and Mr SIN Chung-kai, namely, to revert the salaries tax rate to the 2002-03 level. If the Secretary chooses to buy this item, then just one announcement is enough. The Secretary will definitely hit the headlines tomorrow, leaving all of us standing in the background. The second item that I consider to be worthy of the Secretary's consideration has also been mentioned by Mr SIN Chung-kai, Mr Frederick FUNG and Dr Fernando CHEUNG, namely, the reversion of Comprehensive Social Security Assistance (CSSA) rates to the 2002-03 level. The cut then was made because of the very serious fiscal deficit that year. (In my opinion), the lowering of the CSSA rates was a coercive move by the Government then. Now the financial situation has regained stability, and there is more fiscal surplus, the matter should warrant consideration by the Government. Now my third pick is, something mentioned in my earlier speech, also by Mr SIN Chung-kai, and included in one of the amendments, namely, measures to alleviate poverty, especially a transport subsidy for those working beyond their districts.

If the Secretary considers them to be exorbitant and structural, then I have two suggestions for one-off spending, that is, items requiring money to be spent just once. The Secretary may exercise his discretion according to the amount required. One of them was put forward by Mr CHAN Kam-lam, namely, to provide rates relief for one quarter. Being very clear-headed, Mr CHAN Kam-lam has done the calculation and found the cost to be only about \$3 billion.

He also presented a detailed explanation, pointing out that the measure can benefit property owners as well as residents of public housing estates. The establishment of a children's development fund as suggested by Mr SIN Chung-kai is the last pick that I would like to recommend. This is also one-off and it is a very good measure of poverty alleviation as it may help children of low-income families join extra-curricular activities.

I give my thanks to the Members who have proposed amendments. Generally speaking, the Hong Kong Federation of Trade Unions also supports the amendments. Members have volunteered a lot of brainwork to the Government to remind the Secretary of the ways to spend money. It is hoped that there can be a positive response from the Secretary. It does not matter whether or not our original motion and amendments can be passed today, I still hope that there can be some solid response from the Secretary. The reason is that the Government has unexpectedly got an additional fiscal surplus of \$10 billion, and people feel that it is impossible for the Government not to make some responses. At least, there should be some tax relief and measures for poverty alleviation. Something has got to be done. I look forward to getting a positive response from the Secretary. Thank you, President.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, first of all, I thank Members for giving many precious views on today's motion. Today, I am going to respond to this motion on behalf of the Government because, as mentioned by Mr KWONG Chi-kin, the Financial Secretary is travelling abroad to promote Hong Kong.

In their speeches, several Members accused the Government of purposely "marking down figures" or "making wrong calculations" in the Budget to underestimate the estimated surplus for the year 2005-06. Here I would like to make some responses, and give the public clarification as well.

I would like to explain why it is likely for every year's Revised Estimates to differ from the actual figures. There are two main reasons. Firstly, as the Budget involves enormous and intricate data, it is necessary to start the compilation of the Revised Estimates towards the end of the year preceding the presentation of the Budget.

This year, for example, the Budget was presented on 22 February but the work of revising the estimates was done between November and December last year (that is, 2005) on the basis of information then available. That the forecasts did not fully tally with the actual ultimate revenue and expenditure figures is understandable. Please take a look at these few volumes of Draft Estimates, which I purposely brought here today to remind Members. They are our estimates, printed both in English and Chinese, making a high pile when put together. Please picture this. Does it require time for civil servants to collect information from 80 expenditure heads to compile the estimates? So, my wish is for Members and members of the public to understand that this is not a tiny organization. This is an enormous organization, one involving revenue and expenditure totalling \$480 billion. Please try to consider this. There are thousands of items of revenue and expenditure. We need considerable time to sort out such huge volume of data. One just cannot randomly put in a figure. We must understand this. My wish is for members of the public to see these few volumes of Draft Estimates. All Members have already seen these few volumes of Draft Estimates as we send them copies every year. Why do I bring these volumes of Draft Estimates with me today? It is because I suspect that many members of the public do not know that our Budget is so detailed. It is hoped that the mass media can report on the fact that our Budget is very detailed. For the compilation of the Budget, work on data collection has got to start between November and December in order to get ready. After collecting all the data, we have to go through the processes of sorting, analysing, summing up, computing, proofreading and printing. Please think it over. How much time is required for such an enormous task? Madam President, these three volumes of detailed Estimates amount to some 2 300 pages in Chinese and English. We can visualize the immense intricacy of the task. So towards the end of last year, when compiling the Revised Estimates, my colleagues were aware of the need to complete the work before 22 February. There were holidays in between. It was really tough. Here may I thank my colleagues in the Civil Service for the hard efforts they put in to compile the Budget.

In compiling the Budget, it has always been government practice to scrutinize all the revenue and expenditure by adopting the most objective and professional standpoint in order to arrive at the most reasonable estimate. Just now, a few Members alleged that we did things on purpose. My colleagues and I feel very hurt, the reason being that nobody will do such things. I have

explained the processes involved in the compilation of the Budget, and time is one of the reason that matters.

The second reason for differences between the Revised Estimates and the actual figures is that many items of revenue and expenditure are subject to change due to external factors.

Let me speak on revenue first. The provisional year-end figure exceeds the Revised Estimate by \$5.4 billion, which is approximately equivalent to 2% of the total revenue of the Revised Estimate. The main reason is that during the first quarter of the year 2006, revenue from stamp duty, land revenue, salaries tax and profits tax all exceeded estimated figures. I would like to reiterate one point. At present, some of the Government's revenue items are not stable, likely to fluctuate as economic activities do. For illustration, let me cite the case of stamp duty. Stamp duty tends to fluctuate enormously. It stood at \$29.1 billion in the year 1997-98, which, as everybody can recall, was due to the fact that the stock market was then very vigorous. By the year 2002-03, it went down to \$7.5 billion, showing a drop of over 70%. The figure for the year 2005-06 was \$17.9 billion, exceeding the Revised Estimate of \$16.3 billion by \$1.6 billion. Why? It was mainly because there was active trading in the stock market. The turnover during the period between the second quarter and fourth quarter of 2005 on average amounted to \$18 billion a day. From news reports on television, we know that currently the daily turnover amounts to tens of billion dollars. By the first quarter of 2006, that is, the fourth quarter of the financial year, on average it came up to \$31.2 billion a day. To be honest, I wonder who was able to forecast such a huge turnover in the stock market then. I do wish there is someone capable of doing that. To tell the truth, we really cannot forecast with such accuracy — to say that the turnover would amount to \$30 billion. This is a fact.

In addition, revenue from land premium is also quite volatile. Members, our revenue from land premium in the year 1997-98 stood at \$71.4 billion. It stood at just \$5.4 billion in the year 2003-04. So it is also an item with sharp ups and downs. Let us come back to the year 2005-06. There is a difference of \$800 million if compared with our Revised Estimate.

With regard to profits tax, the revenue stood at \$69.8 billion in the year 2005-06, deviating from the figure of \$69 billion in our Revised Estimate by \$800 million. Why? The main reason is that in March 2006 the Inland

Revenue Department succeeded in recovering some huge sums of tax money involved in certain objection cases, such as winning lawsuits. These were not foreseeable at the time when the Budget was being compiled. It was then impossible for us to know that there was going to be such a sum for credit to the accounts in March. So, revenue was increased and deviated from our estimate. This is most unpredictable.

With regard to salaries tax, the revenue stood at \$37.5 billion for the year 2005-06, deviating from the figure of \$37 billion in our Revised Estimate by about \$500 million. Why? According to the explanation given to me by the Commissioner of Inland Revenue, even though credit cards now no longer make special offers, some taxpayers still used their credit cards towards the end of March to make tax payments due in April. According to my demand note, payment was due in early April. I, however, also made the payment at the end of March. So, I am probably one of those contributing to the discrepancy in the figures. It is on account of the above reasons that there is a positive difference of \$5.4 billion between the entire Revised Estimates and the actual figures. In giving the aforesaid explanation, I am not trying to justify myself. I just want to let Members and the public know the facts.

MR ALBERT HO (in Cantonese): President, I would like to ask the Secretary to clarify one point. Just now he said that it was difficult to make forecasts. Is it possible for him to clarify whether or not the Financial Secretary still reiterated that there was a fiscal surplus of only \$4.1 billion for the previous year when he announced this year's Budget in February? Was he still unable to make forecasts then? Does the Secretary mean that it was not possible to forecast the fiscal surplus in question as late as February this year, and that it is really not possible to make the forecast?

PRESIDENT (in Cantonese): Secretary, let me explain to you first. It is about our rules regarding interruptions. You may answer the Member's question, but you may also choose to continue with your speech.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Madam President, I would like to continue with my speech now. The flow is better in this way, there being no need to make clarification first in

response to a certain Member's request and do the same again in response to another Member's request. Perhaps I will do a comprehensive conclusion at the end. Is this fine?

PRESIDENT (in Cantonese): Members, if you wish to ask the Secretary to make clarification, you must stand up when the Secretary reaches the relevant part and ask the Secretary to make the clarification. Whether or not to make the clarification is entirely up to the Secretary.

Secretary, please continue.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Very well, thank you.

Just now I explained the revenue part. As Members can all see, the items just mentioned by me involved large sums. I did not even include items involving small sums. For instance, after the compilation of the Budget, the Inland Revenue Department suddenly received a sum of estate duty amounting to about \$500 million, which was not expected by the Department. There can be quite a few incidents like that during the interim between the commencement of our compilation and the end of March. So, there are bound to be some discrepancies. I very much hope Members can understand that we, contrary to what certain Members alleged, have absolutely not "marked down figures" on purpose. I think such criticism is very unfair to the Financial Services and the Treasury Bureau.

Now I come to the expenditure part. The provisional year-end figure is \$4.5 billion less than the figure in the Revised Estimates. Of that, an amount of \$2.3 billion involves capital expenditure. Such capital expenditure is affected by the progress of capital works and the computerization programme. The other \$2.2 billion involves operating expenditure, and approximately represents 1% of the whole year's total for operating expenditure. It is less than the differences of the year 2003-04 and the year 2004-05, which stood at \$3.5 billion and \$4.5 billion respectively. We have bettered the system, making estimated figures tally with the final figures by all means.

It is hoped that my explanation can reveal the main reasons for the discrepancies between the Revised Estimates and the actual figures.

I also wish to point out one thing. If a comparison with the past 10 years is to be made with reference to the discrepancy of \$9.9 billion between the 2005-06 Revised Estimates and the actual figures — in fact there have always been discrepancies over the past 10 years, I would like to point out that there is nothing unusual about the current year. Why were there discrepancies in the past 10 years? It was also mainly due to the two reasons just stated by me. Perhaps there were some other reasons, but those two were the main reasons. For the year 1996-97, the difference stood at \$10.6 billion. For the year 1997-98, it stood at \$10 billion. It was \$11.7 billion for the year 1999-2000. I would like to point out that the Financial Services and the Treasury Bureau surely hopes that the estimates can be so accurate that there can indeed be a fiscal surplus of \$14 billion when it is forecast to be \$14 billion. This is what I have been dreaming of. Honestly, in view of the process involved, we surely know that it is indeed very lucky if the said dream does by chance come true. However, I cannot tell Members that it is possible to achieve this in a very scientific way.

Earlier on Mr SIN Chung-kai made a query, for he has also spent a lot of effort in this area. I would like to respond here. He wondered why revenue for the month of March in the year 2005-06 was lower in comparison with the past few years. Let me do some clarification here. As a matter of fact, every year, the Government's revenue in the month of March is affected by revenue from investment and land premium, especially the former. Every year, the Government's investment revenue from the Exchange Fund is always credited to the accounts in one lump sum in March. As we all know, revenue from investment fluctuates. For the year 2003-04, the Government's investment revenue stood at \$25.9 billion. It was \$14.7 billion for the year 2004-05. By the year 2005-06, it was just \$10.4 billion. This is known to all. So, Mr SIN, the revenue for the month of March in the year 2005-06 is, in reality, higher than those of the past two years after the deduction of revenue from land premium and investment. The figure stood at \$11.2 billion for the year 2003-04. It was \$12.6 billion for the year 2004-05. But it was \$13.8 billion for the year 2005-06. All these figures are crystal clear.

I would like to spend a few minutes to respond to the suggestions on "effective utilization of the fiscal surplus" put forward by Members. First, I

wish to briefly review the Government's fiscal position in recent years. Following the outbreak of the Asian financial crisis in mid-1997, between the year 1998-99 and the year 2004-05, the Government ran into operating deficits for seven consecutive financial years, five of which actually had consolidated deficits. The accumulated deficit over a brief period of a few years already amounted to more than \$190 billion, or some 13 times the surplus for 2005-06. So frankly, when I joined the Government in 2002 and saw the Government's accounts, I became, so to speak, "chilled to the spine". Why? It was because for the year 2001-02, our deficit stood at \$63.3 billion. Members, perhaps you are forgetful. The figure then stood at \$63.3 billion. The deficit for the year 2002-03 was \$61.7 billion. So, when I saw the accounts on joining the Government, I was really shocked. The reason is, if calculated along such line, our fiscal reserves would be exhausted within a few years, and that would mean great trouble. By the year 2003-04, we still recorded a deficit of \$40.1 billion.

I hope Members still remember that at that time many scholars and international financial organizations all heartily expressed grave concern and worry about the problem of deficits that Hong Kong was facing then — I was the first to feel worried. Their worry was that enormous deficits would upset our economic structure and currency stability. They urged us to address the issue with a proactive approach. Government officials ranging from the Chief Executive to me and other colleagues in the Civil Service were all very apprehensive whenever the matter came up for discussion. Their apprehension intensified in 2003 amidst the SARS epidemic. At that time, our economy had a big slide. It can still be recalled that at that time we put forward a lot of suggestions. As a result of concerted efforts made by Hong Kong people, today we have managed to notch some fiscal surplus. This is most gratifying indeed. However, I just wish to say that there is no guarantee that the problems of yesteryear may never return.

Thus, that we managed to have fiscal surplus as well as operating surplus for the first time after seven years is actually the result of cutting on expenditure and the hard efforts by Hong Kong people in bringing about a recovery in our economy. It is, therefore, hoped that we do all bear this in mind. We certainly hope that this surplus can be lasting. But I entirely agree with the Chief Executive in saying that we need to "save up for a rainy day". It is because Hong Kong is still facing a lot of problems. Quite a few Members already mentioned that earlier on. I do not wish to repeat here. However,

factors such as high oil prices, inflation, the probable threat of an outbreak of avian influenza in the near future, and fluctuations in the stock market can affect our financial position in the future.

We should understand that in public finance, expenditure has not got much flexibility. We have to make payments for salaries, various items of social welfare, medical care and education, none of which can be cut just because of deficits. It is not that simple. We surely should strive to rein in expenditure. However, to spend where necessary but stay within our means also has long been our philosophy in managing our finance.

For the Government to spend lavishly and, as requested by a few Members earlier on, revert the tax rate to the 2002-03 level or refund rates are, as pointed out by the Financial Secretary, measures to win brief kudos and can be carried out easily. We, however, must understand the importance of maintaining a strict fiscal discipline. We have got to put public money to good uses. We have got to "save up for a rainy day".

It is imperative to bear in mind that the Government's revenue and fiscal reserves are not cash that the Financial Secretary or any one in the Government keeps in his or her pocket; nor are they "treasure vaults" of any sort. They are taxpayers' hard-earned money. They are public coffers. We have got to be very careful even when spending a dime. We, as stated by me just now, have to "save up for a rainy day" and ensure that every dime of public money spent is for good cause and in the long-term interest of the community.

To be honest, lately when I appeared on radio programmes or had personal interviews with members of the public, many people also expressed their approval of the financial management principle of the Government. They also think that it is not advisable for the Government to lavishly "dish out candies". Of course, I have also heard voices of the opposite view. Nevertheless, members of the public who have been in touch with me all agree that we should "spend where necessary but stay within our means".

With regard to the call from Members urging the Government to narrow the wealth gap, stimulate the economy and create more jobs, we very much agree that these are major policies that the Government should handle. I can tell Mr Alan LEONG — he is not in the Chamber now — that the Government is indeed committed to being caring and just.

With regard to stimulating the economy and increasing employment opportunities, the Financial Secretary already spelled out in the Budget a number of initiatives and measures to effectively utilize our competitive advantage "in leveraging on the Mainland and engaging ourselves globally", to take hold of the opportunity offered by rapid growth and development of the Mainland, and, at the same time, to accelerate our economic restructuring so as to help sustain our economic growth and create more employment opportunities. Let me talk about them briefly. They included:

- to enhance economic co-operation with the Mainland, which includes ensuring the effective implementation of CEPA and promoting the co-operation with the Pan-Pearl River Delta (PRD) Region;
- to further develop financial services, we are going to expand the scope of RMB business, facilitate market development, upgrade the quality of our financial markets, and actively promote the status of Hong Kong as an international financial centre;
- to continue to invest in our tourism infrastructure and promote our hospitality culture so as to facilitate the growth of our tourism industry;
- to continue to promote the development of the logistics industry. This includes working with the mainland authorities to develop major cross-boundary linkages between our transport network and those of Guangdong and other Pan-PRD provinces. We have also proposed a series of measures to attract more vessels to use our port facilities;
- to invest further in education. Quite a few Members made mention of that just now and we do concur. To increase the competitiveness of local talents, the quality of our formal education is to be improved and the work of training and retraining enhanced. To recruit overseas and mainland talents who have made a mark in their chosen professions, we have introduced the Quality Migrant Scheme; and
- to cut red tape and streamline procedures to reduce the business sector's compliance cost and enhance efficiency.

We will continue to adhere to the principle of "market leads, government facilitates" to strive for the promotion of economic growth.

Besides, in the Budget, the Financial Secretary also mentioned quite a few ideas, such as bringing in new expenditure items and tax concessions to improve and supplement services helping the disadvantaged groups and reduce taxpayers' burden. Today, Members passed the Revenue Bill 2006 to give the public tax concessions. I, therefore, am very grateful for their support.

Regarding the question of assisting the disadvantaged groups and helping the unemployed achieve self-reliance, Mr Ronny TONG just now called upon the Government to give more help to the disadvantaged groups. Here I would like to point out that the Government's budgeted recurrent welfare expenditure for the year 2006-07 amounts to \$34.6 billion, more or less the same as the entire year's revenue from salaries tax. When compared with that of the preceding year, it shows an increase of \$2.3 billion. So, my message is that we do attach weight to this area. In comparison with that of the year 1997-98, the level of welfare expenditure shows an even bigger increase, far exceeding those in other policy areas. So, Madam President, it can be noted that, unlike what Mr WONG Kwok-hing said just now, it is definitely not 1:99. Already put forward in the Budget by the Financial Secretary are the following proposals:

- to additionally allocate about \$230 million over the next five years to increase and improve employment assistance and support for the unemployed; out of that, a sum of \$150 million will be set aside over the next five years to strengthen district-based poverty alleviation work, including support for social enterprises; and
- to increase the annual funding by about \$100 million to supplement and improve services helping the disadvantaged groups.

Furthermore, during the debate on the Appropriation Bill 2006, the Financial Secretary indicated that he, in principle, accepted the proposal for transport subsidy put forward by the Commission on Poverty. Our target is to introduce a trial scheme in the year 2006-07. With regard to recommendations to eliminate inter-generational poverty, including that on Children's Development Fund, our attitude is positive.

Madam President, every year when we compile the Budget, we do review every item of revenue. To better the system, a lot of efforts have already been made too. However, we definitely will continue to consider suggestions from people of all sectors, including those from Members. Those who are close and those who are not so close are all "alike". If our economy and the Government's revenue continue to grow, we definitely will give active consideration to different measures in order to share with the people the fruit of economic success and leave the wealth with them.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now call upon Mr James TIEN To move his amendment to the motion.

MR JAMES TIEN (in Cantonese): President, I move that Mr KWONG Chi-kin's motion be amended.

Mr James TIEN moved the following amendment: (Translation)

"To delete "as" after "That," and substitute with "in view of the favourable factors that Hong Kong's economy rebounds continuously, the Government can eliminate the fiscal deficit at an earlier date and"; to add "adopt measures to" after "this Council urges the Government to"; to add "ease the tax burdens on the middle class, " after "effectively utilize the surplus to"; and to add "; the measures should include: (a) reverting the salaries tax rate to the 2002-03 level; (b) extending the entitlement period for home loan interest deduction to the expiry of the mortgage period; (c) reducing the rates percentage charge by 0.5%; and (d) waiving the duty on ultra low sulphur diesel for one year, so as to ease the hardship of the relevant trades caused by the high operating cost as a result of the surging international oil prices" after "increase employment opportunities"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr James TIEN's amendment to Mr KWONG Chi-kin'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 Albert CHAN rose to claim a division.

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

Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Vincent FANG, Mr WONG Kwok-hing, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr KWONG Chi-kin voted for the amendment.

Dr LUI Ming-wah, Mr CHEUNG Man-kwong, Mr Bernard CHAN, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr Abraham SHEK, Ms LI Fung-ying, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr Patrick LAU and Miss TAM Heung-man abstained.

Geographical Constituencies:

Mr James TIEN and Mrs Selina CHOW voted for the amendment.

Mr LEUNG Yiu-chung, Mr Albert CHAN and Mr Albert CHENG voted against the amendment.

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr LI Kwok-ying, Mr Alan LEONG, Mr CHEUNG Hok-ming and Mr Ronny TONG 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, 12 were in favour of the amendment and 11 abstained; while among the Members returned by geographical constituencies through direct elections, 23 were present, two were in favour of the amendment, three against it and 17 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 "Effective utilization of fiscal surplus" 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 of each of the two groups of Members present. I declare the motion passed.

I order that in the event of further divisions being claimed in respect of the motion "Effective utilization of fiscal surplus" 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 SIN Chung-kai, you may now move your amendment.

MR SIN CHUNG-KAI (in Cantonese): President, I move that Mr KWONG Chi-kin's motion be amended.

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

"To add "the Government has overestimated the deficit and underestimated the surplus over the years and" after "That, as"; to delete "expected" after "which exceeds the" and substitute with "revised surplus estimates of"; to add "improve its method for formulating the revised Budget so as to obtain more accurate revised surplus/deficit, and" after "this Council urges the Government to"; to delete "the" after "effectively utilize" and substitute with "this year's unexpected"; to add "meet the demands of the community, which include: (a) reverting the salaries tax allowance, tax bands and marginal tax rate to the 2002-03 level; (b) introducing a children's education allowance; (c) reverting the

Comprehensive Social Security Assistance rates for the elderly and the disabled to the 2002-03 level, so that they can meet the living expenses under inflation; (d) expeditiously implementing more measures to alleviate poverty, which include the provision of transport subsidies to encourage residents in remote areas to seek employment; (e) setting up a children's development fund to enable children from low-income families to participate in extra-curricular activities; and (f) implementing small-class teaching to improve the quality of education, so as to" after "surplus to"; to delete "stimulate" after "the rich and the poor," and substitute with "and ease the tax burden on the middle class and grassroots, thereby stimulating"; to delete "increase" after "the economy and" and substitute with "increasing"; and to add ", so that the grassroots can also share the fruits of economic recovery" after "employment opportunities"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr SIN Chung-kai's amendment to Mr KWONG Chi-kin'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.

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

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

Functional Constituencies:

Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Ms LI Fung-ying, Mr WONG Kwok-hing, Dr Joseph LEE and Mr KWONG Chi-kin voted for the amendment.

Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr Patrick LAU and Miss TAM Heung-man abstained.

Geographical Constituencies:

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr Andrew CHENG, Mr Frederick FUNG and Mr LEE Wing-tat voted for the amendment.

Mr Albert CHENG voted against the amendment.

Mr James TIEN, Mrs Selina CHOW, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr Albert CHAN, Ms Audrey EU, Mr LI Kwok-ying, Mr Alan LEONG, Mr CHEUNG Hok-ming and Mr Ronny TONG 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, six were in favour of the amendment and 17 abstained; while among the Members returned by geographical constituencies through direct elections, 23 were present, nine were in favour of the amendment,

one against it and 12 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 LEUNG Yiu-chung, you may now move your amendment.

MR LEUNG YIU-CHUNG (in Cantonese): President, I move that Mr KWONG Chi-kin's motion be amended.

Mr LEUNG Yiu-chung moved the following amendment: (Translation)

"To delete "the fiscal surplus in 2005-06 amounts" after "That, as" and substitute with "the Government has wrongly estimated the financial situation, the actual surplus in 2005-06, amounting"; to delete "," after "\$14 billion"; to add "differs tremendously from the original estimates, and the fiscal deficit problem can be solved earlier," after "\$9.9 billion,"; and to add "by implementing the following measures: (a) freezing or lowering the various government fees and charges for livelihood-related items, so as to ease the hardship of the socially disadvantaged groups; (b) allocating more resources to increase teaching posts for the implementation of small-class teaching, so as to provide a quality learning environment as an investment in our future; and (c) creating permanent posts for converting non-civil service contract staff with longer years of service to permanent staff, so as to stabilize their employment prospects" after "employment opportunities"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr LEUNG Yiu-chung's amendment to Mr KWONG Chi-kin'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.

(No hands raised)

Mr LEUNG Yiu-chung rose to claim a division.

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung 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:

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 LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr Patrick LAU abstained.

Geographical Constituencies:

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, 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 Ronny TONG and Mr Albert CHENG voted for the amendment.

Mr James TIEN, Mrs Selina CHOW, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr LI Kwok-ying, and Mr CHEUNG Hok-ming 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, nine were in favour of the amendment and 14 abstained; while among the Members returned by geographical constituencies through direct elections, 23 were present, 14 were in favour of the amendment and eight 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 Frederick FUNG, you may now move your amendment.

MR FREDERICK FUNG (in Cantonese): President, I move that Mr KWONG Chi-kin's motion be amended.

Mr Frederick FUNG moved the following amendment: (Translation)

"To add "there is a substantial deviation in the Government's estimation on fiscal surplus, and" after "That, as"; to add "adopt measures to" after "this Council urges the Government to"; to add ", under the principle of 'combating poverty before reducing taxes', to help the poor families so that they can share the fruits of economic success, and to increase the current commitments in various livelihood-related policy areas, so as" after "effectively utilize the surplus"; to add "as well as to" after "the rich and the poor,"; and to add "; the measures should include: (a) enhancing livelihood protection for the socially disadvantaged, including reverting the Comprehensive Social Security Assistance ('CSSA') and the Disability Allowance rates to the levels prior to their reduction in 2003; (b) implementing the concept of 'second safety net' by providing financial assistance as well as such support services as housing, transport,

medical, job placement and childcare to the poor who are not eligible for or not willing to receive CSSA; (c) freezing all charges for livelihood-related items, and increasing the financial commitments in the provision of medical services, education and social welfare in the light of the service demands; (d) promoting the economic development in local communities so as to increase the social capital and employment opportunities for the poor, and encouraging social enterprises to take up outsourced government service contracts; (e) gaining a full understanding of the needs of the unemployed, and setting up one-stop employment service centres to help the unemployed to find jobs and provide them with adequate support, including job placement, career enhancement and skills training; and (f) developing a diversified economy, such as environmental and creative industries, to provide employment opportunities to low-skilled workers, and enhancing the support and training for them, so as to slow down the trend of polarization in the job market; the reduction in rates and salaries tax should only be considered after the above measures have been implemented and when the financial situation permits" after "increase employment opportunities".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr Frederick FUNG's amendment to Mr KWONG Chi-kin'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.

(No hands raised)

Dr Philip WONG rose to claim a division.

PRESIDENT (in Cantonese): Dr Philip WONG 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:

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 LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr Patrick LAU abstained.

Geographical Constituencies:

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, 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 Ronny TONG and Mr Albert CHENG voted for the amendment.

Mr James TIEN, Mrs Selina CHOW, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr LI Kwok-ying, and Mr CHEUNG Hok-ming 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, nine were in favour of the amendment and 14 abstained; while among the Members returned by geographical constituencies

through direct elections, 23 were present, 14 were in favour of the amendment and eight 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): Dr Fernando CHEUNG, you may now move your amendment.

DR FERNANDO CHEUNG (in Cantonese): President, I move that Mr KWONG Chi-kin's motion be amended.

Dr Fernando CHEUNG moved the following amendment: (Translation)

"To add "the socially disadvantaged groups are still living in hardship despite the improved economic situation, and" after "That, as"; to add ", allocate funds to enhance various measures to curb family violence so as to truly implement its policy of 'zero tolerance' to family violence, and revert the Comprehensive Social Security Assistance rates for the elderly, the vulnerable, the disabled, single parents and children as well as the Disability Allowance to the levels prior to their reduction in 2003, so as" after "effectively utilize the surplus"; and to add "; furthermore, the Government should also inject additional funds into the Trust Fund for Severe Acute Respiratory Syndrome ('SARS') to strengthen the assistance to SARS patients and the families of those who died of SARS" after "increase employment opportunities". "

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Dr Fernando CHEUNG's amendment to Mr KWONG Chi-kin'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.

(No hands raised)

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:

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 LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr Patrick LAU abstained.

Geographical Constituencies:

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, 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 Ronny TONG and Mr Albert CHENG voted for the amendment.

Mr James TIEN, Mrs Selina CHOW, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr LI Kwok-ying, and Mr CHEUNG Hok-ming 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, nine were in favour of the amendment and 14 abstained; while among the Members returned by geographical constituencies through direct elections, 23 were present, 14 were in favour of the amendment and eight 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): Mr CHAN Kam-lam, you may now move your amendment.

MR CHAN KAM-LAM (in Cantonese): President, I move that Mr KWONG Chi-kin's motion be amended.

Mr CHAN Kam-lam moved the following amendment: (Translation)

"To add "provide rates relief for one quarter of a year so as to enable the general public to share the fruits of economic recovery, and" after "this Council urges the Government to"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr CHAN Kam-lam's amendment to Mr KWONG Chi-kin'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)

Dr Philip WONG rose to claim a division.

PRESIDENT (in Cantonese): Dr Philip WONG 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.

MISS CHOY SO-YUK (in Cantonese): President, I have pressed the wrong button.

PRESIDENT (in Cantonese): Miss CHOY So-yuk, that does not matter. Before I declare that voting stops, you can change your vote.

(Miss CHOY So-yuk changed her vote)

PRESIDENT (in Cantonese): Have you changed your vote?

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

Functional Constituencies:

Mr WONG Yung-kan, Mr WONG Kwok-hing, Dr Joseph LEE and Mr KWONG Chi-kin voted for the amendment.

Dr LUI Ming-wah, Mr CHEUNG Man-kwong, Mr Bernard CHAN, Mrs Sophie LEUNG, Mr SIN Chung-kai, Dr Philip WONG, Mr Howard YOUNG, Mr LAU

Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Ms LI Fung-ying, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr Patrick LAU and Miss TAM Heung-man abstained.

Geographical Constituencies:

Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr LI Kwok-ying and Mr CHEUNG Hok-ming voted for the amendment.

Mr LEUNG Yiu-chung, Mr Albert CHAN and Mr Albert CHENG voted against the amendment.

Mr James TIEN, Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mrs Selina CHOW, Mr James TO, Dr YEUNG Sum, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG and Mr Ronny TONG 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, four were in favour of the amendment and 19 abstained; while among the Members returned by geographical constituencies through direct elections, 23 were present, six were in favour of the amendment, three against it and 13 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 KWONG Chi-kin, you may now reply and you have five minutes 14 seconds.

MR KWONG CHI-KIN (in Cantonese): President, I believe my speech will not be too long.

President, just now, Dr KWOK Ka-ki said that my motion was like a Christmas tree on which Members could hang their amendments. This is correct and his conjecture was also correct. I really have such an intention. Mr CHAN Kam-lam criticized my Christmas tree as having no branches or leaves, but this I object to. I have worked very hard to enable Members to hang objects onto it. If it really has no branches or leaves, I do not think Mr CHAN can hang his amendment onto it. *(Laughter)* Therefore, even though his amendment was not passed and he could not hang anything onto it, still, he should not have said so but should encourage other Members by saying that my motion has provided a platform for Members' discussion. He described my motion as having no branches or leaves, so there is little wonder his motion could not be hung onto it. *(Laughter)* If it were the case, how could any Member hang anything onto it? Mr CHAN Kam-lam's speech is self-contradicting, so I must object to it very strongly.

President, please take a good look at my Christmas tree. It does have branches and leaves, or things would be very bad. As Mr LEE Wing-tat said, if it had no branches or leaves, it would be bare like a log. *(Laughter)* I do not want to be a log, nor do I want the Secretary to think that I want to be a thorn in his side.

In fact, it does have branches and leaves. Even if it has no leaves, it definitely has branches. President, the trunk of my tree is to utilize the fiscal surplus effectively and it has three branches, one being to alleviate the disparity between the rich and the poor, the other being to stimulate the economy and yet another is to increase employment opportunities, therefore, it does have branches. Many Members have even added a lot of leaves and Christmas decorations onto it. Although this Christmas tree is so beautiful, unfortunately, the Secretary has come here empty-handed and did not bring any Christmas gift along. Many people among us are waiting for the Secretary's Christmas gifts but the Secretary has come empty-handed. The Secretary has close to \$10 billion in his pocket but he is buying nothing even though so many good things are on offer. It would be better if he picks any item offhand.

President, the Secretary has said a lot but I have only jotted down three points. Firstly, the Secretary said that Mr SIN Chung-kai's criticism of him

was incorrect and it was hardly surprising to have estimated the surplus wrongly; secondly, he gave us a lesson on history by reviewing the history of public finance, saying that it was in fact a history of blood and tears. He also said that the fiscal deficit was serious and we had to save for rainy days. However, there is one very important principle and, that is, to spend and to be frugal as the occasion warrants. However, President, it seems the Secretary has not lived up to it. All he has done is to pocket the money when the opportunity arises and he pocketed nearly the whole sum of \$10 billion. Finally, he revisited the Budget together with us, saying that it is not true the Government had done nothing but rather, it had done a lot. We know that the Secretary has done a lot. Back then, the assumption was that the surplus would amount only to \$4.1 billion. However, there is now an additional windfall of \$9.9 billion, yet the Secretary is still citing old arguments, so is such behaviour not that of pocketing the money when the opportunity arises? I am requesting that the Secretary spend as the occasion warrants.

The Secretary said that he had heard the voices of many members of the public calling on him not to hand out any major sweetener. I do not hold any hope that the Secretary will hand out any major sweetener, however, he is not even willing to hand out candies or candy morsels. He has only spent on us the surpluses of past Budgets but he did not use any of the money from the additional surplus. I believe it would be difficult to counter the queries of the public. As the Secretary said, it is hardly surprising to have estimated the surplus wrongly. There is so much additional surplus, but he has not put in place any relief or any measure to help the poor, I think it is not possible to explain this away.

Finally, the Secretary made a remark that is very apt. President, the Secretary is only being good-intentioned and today, he is only standing in for someone else, so I do not want to be too critical of him. The closing remark he made was revealing. He said, "This will not be considered this year but will be next year." The reason is obvious to all. If this will be considered only next year, perhaps Members all know why this is so.

I am not going to use all the five minutes of my speaking time. I have finished speaking. Now, all the six amendments have been voted down and only this Christmas tree sans leaves of mine is left. I hope Members will spare it and support it. Dr Philip WONG, please sit a while longer, do not rise yet. *(Laughter)* Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr KWONG Chi-kin be passed.

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

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 11.00 am on Wednesday, 7 June 2006.

Adjourned accordingly at twenty-four minutes past Nine o'clock.

Annex

CONSTRUCTION INDUSTRY COUNCIL (NO. 2) BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for the
Environment, Transport and Works

<u>Clause</u>	<u>Amendment Proposed</u>
2(1)	In the definition of "Objections Committee", by deleting "異議審核" and substituting "處理反對 事宜".
2(2)(a)(ii)	By deleting ", and the person for whom the construction operations are carried out is the contractor".
5	(a) In paragraph (a) - (i) by adding ", and on matters of concern to the construction industry" after "industry"; (ii) in the Chinese text, by deleting "或作" and substituting "及作". (b) In paragraph (e), by deleting "stakeholders in" and substituting

"persons connected with".

(c) In paragraph (h) -

(i) by deleting "procurement methods, site safety," and substituting "dispute resolution,";

(ii) by adding "multi-layer subcontracting, occupational safety and health, procurement methods, project management and supervision," after "protection,".

(d) By adding -

"(ha) to enhance the cohesiveness of the construction industry by promoting harmonious labour relations and the observance of statutory requirements relating to employment, and by facilitating communication among various sectors of the industry;".

(e) In paragraph (j), by deleting "monitor" and substituting "assess".

- 7(2)
- (a) In paragraph (g), by deleting
"stakeholders, companies or personnel of"
and substituting "persons connected
with".
 - (b) In paragraph (k), in the English text, by
deleting "construction personnel" and
substituting "personnel".
 - (c) In paragraph (t), by deleting "statutory
objects" and substituting "functions".

- 9(1)
- (a) By deleting paragraph (b).
 - (b) In paragraph (d), by deleting "20" and
substituting "21".

- 9(3)
- (a) In paragraph (a), by deleting ", in the
opinion of the Secretary,".
 - (b) In paragraph (b), by deleting ", in the
opinion of the Secretary,".
 - (c) In paragraph (c), by deleting ", in the
opinion of the Secretary,".
 - (d) In paragraph (d), by deleting ", in the
opinion of the Secretary,".
 - (e) In paragraph (e) –
 - (i) by deleting "2" and
substituting "3";

- (ii) by deleting “, in the opinion of the Secretary,”.

9

By adding –

“(5) When appointing a member referred to in subsection (3)(a), (b), (c) or (e), the Secretary shall have regard to any nomination made for the purposes of such appointment by any one or more of the specified bodies.

(6) In subsection (5), “specified bodies” (指明團體) means –

- (a) in relation to subsection (3)(a), the bodies set out in Part 1 of Schedule 1A;
- (b) in relation to subsection (3)(b), the bodies set out in Part 2 of Schedule 1A;
- (c) in relation to subsection (3)(c), the bodies set out in Part 3 of Schedule 1A; and
- (d) in relation to subsection (3)(e), the bodies set out in Part 4 of Schedule

1A.”.

10(1) In the Chinese text, by deleting everything after “成員” and substituting “的任期由局長決定，但不得超逾3年。”.

10(2) By deleting everything after “but” and substituting “he may not serve as such a member continuously for more than 6 years.”.

12 In paragraph (d), by deleting “the functions assigned to him” and substituting “his functions as such member”.

13 By deleting the clause.

14 By deleting the heading and substituting
“**Executive Director of Council**”.

14 By deleting subclause (2) and substituting –
“(2) The Executive Director shall be responsible to the Council for the management, conduct and administration of the Council and shall perform his functions as the Executive Director

subject to the Council's directions.”.

14 By deleting subclause (3).

15 By deleting the clause.

18(2)(g) In the Chinese text, by deleting “異議審核” and substituting “處理反對事宜”.

21(3)(c) In the Chinese text, by deleting “異議審核” and substituting “處理反對事宜”.

56 In the heading, in the Chinese text, by deleting “異議審核” and substituting “處理反對事宜”.

56(2) In the Chinese text, by deleting “異議審核” and substituting “處理反對事宜”.

56(3) In the Chinese text, by deleting “異議審核” where it twice appears and substituting “處理反對事宜”.

56(4) In the Chinese text, by deleting “異議審核” and substituting “處理反對事宜”.

58 In the heading, in the Chinese text, by deleting “異議審核” and substituting “處理反對事宜”.

58(1) In the Chinese text, by deleting “異議審核” and substituting “處理反對事宜”.

58(2) In the Chinese text, by deleting “異議審核” and substituting “處理反對事宜”.

58(3) In the Chinese text, by deleting “異議審核” where it twice appears and substituting “處理反對事宜”.

59 In the heading, in the Chinese text, by deleting “異議審核” and substituting “處理反對事宜”.

59(1) In the Chinese text, by deleting “異議審核” and substituting “處理反對事宜”.

71 (a) In the heading, by adding "1A," before
"2".

(b) By adding "1A," before "2".

82 By adding before subclause (1) -

"(1A) The employment of an employee
of the CITA is not to be terminated by
reason of the dissolution of the CITA.".

82(1) By deleting "dissolution of the CITA" and
substituting "dissolution".

82(2) By deleting "such a person" and substituting
"a person referred to in subsection (1)".

82 By adding -

"(3) This section applies
notwithstanding sections 19 and 20.".

New By adding -

"SCHEDULE 1A [ss. 9 & 71]

SPECIFIED BODIES

PART 1

EMPLOYERS

1. Airport Authority
2. Kowloon-Canton Railway Corporation
3. MTR Corporation Limited
4. The Real Estate Developers
Association of Hong Kong Limited

PART 2

PROFESSIONALS AND CONSULTANTS

1. The Hong Kong Institute of
Architects
2. The Hong Kong Institute of Landscape
Architects
3. The Hong Kong Institute of Planners
4. The Hong Kong Institute of Surveyors
5. The Hong Kong Institution of
Engineers

PART 3

CONTRACTORS, SUBCONTRACTORS, MATERIALS
SUPPLIERS AND EQUIPMENT SUPPLIERS

1. The Association of Plastering
Sub-contractors Limited
2. Hong Kong Bar-bending Contractors
Association, Limited
3. The Hong Kong Construction
Association, Limited
4. Hong Kong Construction Materials
Association Limited
5. The Hong Kong Federation of
Electrical and Mechanical
Contractors Limited
6. Hong Kong General Building
Contractors Association Limited
7. Hong Kong Hydraulic Truck Cranes
Association Limited

8. Hong Kong & Kowloon Scaffolders
General Merchants Association
Limited
9. Hong Kong Licensed Plumbers
Association Limited
10. The Hong Kong Marble & Granite
Merchants Association, Limited
11. The Registered Elevator and
Escalator Contractors Association
Limited

PART 4

TRADE UNIONS

1. Construction Site Workers General
Union
2. Consultant Engineering Firm Resident
Site Staff Association
3. Hong Kong and Kowloon Electrical
Engineering and Appliances Trade
Workers Union

4. Hong Kong Construction Industry
Employees General Union
5. Hong Kong Electrical Engineering
Professional Employees Association
6. Hong Kong General Union of Lift and
Escalator Employees
7. Union of Hong Kong Electrical
Engineering Assistants".

Schedule 2,
section 1

- (a) In the definition of "chairman", by deleting everything after "section 9(1)(a) of this Ordinance" and substituting a semicolon.
- (b) In the definition of "member", by deleting everything after "section 9(1) of this Ordinance" and substituting a full stop.

Schedule 2

By adding -

"6A. Keeping of register by Council

- (1) The Council is to establish and

maintain a register for the purpose of keeping a record of any disclosure made by a member.

(2) The Council may determine the form of the register, including the manner of making entries in it.

(3) After a disclosure is made by a member, the Council is to cause the name of that member and the particulars of the disclosure to be recorded in the register; if a further disclosure is made, the Council is to cause those particulars to be recorded in the register after such disclosure is made.

(4) For the purpose of enabling any member of the public to ascertain the particulars of the disclosure made by a member, the Council is to make available the register for inspection by the public at any reasonable time.

(5) In this section, "disclosure" (披露) means a disclosure of pecuniary interest required to be made under section 6."

Schedule 2 By adding -

**"7A. Meetings of Council to be
held in public**

(1) Subject to subsection (2), a meeting of the Council shall be open to the public.

(2) Subsection (1) does not apply to a meeting of the Council or a part of a meeting of the Council in the following circumstances -

(a) if, in the opinion of the Council, it is likely that the application of subsection (1) would result -

- (i) in premature release of information concerning any financial matter or investment of the Council; or
- (ii) in a disclosure of information in breach of any law, order or

direction of a
court or
tribunal, duty
of
confidentiality,
or other legal
obligation or
duty;

(b) if, in the opinion of the
Council, it is likely that
any matter to be discussed
or considered at the
meeting or part of the
meeting -

(i) concerns
personnel
matters; or

(ii) concerns a
particular case
that involves
the carrying out
of any provision
of this
Ordinance
relating to the

levy, surcharge,
penalty or
further penalty;
or

- (c) if the Council, having regard to all the circumstances of a particular case, reasonably considers that subsection (1) should not apply to the meeting or part of the meeting.”.

Schedule 2 By deleting section 9 and substituting –

“9. **Resolutions without meetings**

(1) Subject to section 2(2) and this section, any business that may be transacted by a resolution of the Council in a meeting may be validly transacted, without a meeting, by a resolution in writing if –

- (a) the resolution is signed and endorsed by more than half of the eligible members; and

(b) it is so signed and
endorsed within the
specified period.

(2) If a resolution is in the form of more than one document, the requirements of subsection (1)(a) are to be regarded as satisfied if each document is in the like form and the documents together bear the signatures of, and have been endorsed by, more than half of the eligible members.

(3) A telex, cable, or facsimile, or an electronically transmitted document, that bears the signature of an eligible member is to be regarded as signed by that member.

(4) A resolution in the form of more than one document is to be regarded as made on the date on which the resolution is signed by the last member to sign and endorse it within the specified period.

(5) A member may, within the specified period, give notice in writing to the chairman requiring that the

business to which the resolution relates be transacted at a meeting of the Council.

(6) Where a notice is given under subsection (5), the following applies -

(a) the business to which the resolution relates may not be transacted in the manner described in subsection (1);

(b) a resolution for the purposes of subsection (1) may not be made or regarded as having been made.

(7) For the purposes of this section -

“eligible member” (合資格成員) means a member who, on the date on which the resolution is made, is entitled to attend and vote at a meeting of the Council in respect of the business;

“endorse” (同意), in relation to a resolution, includes to endorse the transaction of the business by a

resolution without a meeting of the Council;

“specified period” (指明期間), in relation to any business referred to in subsection (1), means a period –

(a) that is determined by the chairman and specified in the documents circulated for the purposes of transacting the business; and

(b) within which a member may indicate to the Council as to whether he endorses the resolution.”.

Schedule 3,
section 1 In the definition of “Board member”, by deleting everything after “section 2” and substituting a semicolon.

Schedule 3 By deleting section 3 and substituting –

“3. **Term of office of Board member who is not public officer**

(1) Subject to subsection (2), a Board member who is not a public

officer -

(a) holds office for a period
determined by the Council;
and

(b) is eligible for
reappointment on the
expiry of his term of
office.

(2) A Board member who is not a
public officer may not serve as such a
member continuously for more than 6
years."

Schedule 3 By deleting section 5.

Schedule 3 By deleting section 12.

Schedule 5,
section 4 By deleting "103." and "104." and substituting
"104." and "105." respectively.

Schedule 5,
section 6(b) In the proposed section 2(2)(a)(ii), by
deleting ", and the person for whom the
construction operations are carried out is the
contractor".

Schedule 5, By deleting "71." and substituting "72."
section
26(b)

Appendix I**WRITTEN ANSWER****Written answer by the Secretary for Health, Welfare and Food to Mr Jasper TSANG's supplementary question to Question 3**

As regards the provision of barrier-free access in schools, the figures provided in the Secretary's oral reply at the meeting did not cover schools. According to the Education and Manpower Bureau, information requested regarding barrier-free access in schools is set out below:

- (i) there are about 1 200 primary and secondary schools in Hong Kong and 80% of them provide barrier-free access and facilities;
- (ii) all new schools constructed in or after 1997 have provided barrier-free access and facilities for people with disabilities;
- (iii) most of the schools built before 1997 are retrofitted with barrier-free access and facilities through the School Improvement Programme, which is targeted to complete by the end of the year; and
- (iv) the remaining schools can apply for annual non-current allowances from the Education and Manpower Bureau to install access and facilities.

Appendix II**WRITTEN ANSWER****Written answer by the Secretary for Housing, Planning and Lands to Mr LEUNG Yiu-chung's supplementary question to Question 3**

As regards the resources allocated by the Buildings Department (BD) towards inspections to ascertain whether any access and facilities provided in accordance with law designated for use by people with disability have been illegally altered or obstructed by additional works in target private shopping centres and commercial buildings, at present, the BD conducts such inspections by deploying its internal resources and assigning the inspection work to the Special Task Section (the Section). Apart from conducting physical inspections in private shopping centres and commercial buildings, the Section also contacts the owners or management companies concerned to explain the need to carry out rectification works, the responsibilities of owners and management companies, the possible prosecution procedures, and so on. Where necessary, the Section will also provide advice to the parties concerned to help them resolve problems which may be encountered in carrying out the rectification works. Apart from the aforementioned inspections, the Section is also responsible for other duties which include inspecting unauthorized building works in open yards, on flat roofs and on rooftops, as well as issuing advisory letters and removal orders to the owners or management companies concerned.

As the number of shops, restaurants and offices in large shopping centres or commercial buildings and the nature of irregularities present therein differ from case to case, the time required to complete the inspection work and follow-up actions also varies. On average, it takes about 20 working days for a two-man team in the BD to handle one case. For more complicated cases, it may take several months to complete the follow-up actions.

Since 1997, the BD has been taking the initiative to select a number of large private shopping centres and commercial buildings every year as targets for focused inspections. During the initial phase of such programme, the BD selected five large private shopping centres/commercial buildings for inspection every year. The BD subsequently increased the number of its target shopping centres/buildings to 15 every year. In identifying the targets, the BD will take

WRITTEN ANSWER — *Continued*

into account the flow of visitors of the premises concerned, the irregularities indentified, suggestions or investigation reports submitted by various non-governmental organizations, as well as the availability of resources. On the other hand, the BD will also, in response to complaints from the public, actively follow up cases of irregularities. The BD will keep in view the development of its operation and the resources required. It will review the resource arrangements with the concerned Policy Bureau as and when necessary.