

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 19 October 2005

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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 CHAN YUEN-HAN, J.P.

THE HONOURABLE BERNARD CHAN, J.P.

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

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

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI, J.P.

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

THE HONOURABLE WONG YUNG-KAN, J.P.

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

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

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

THE HONOURABLE CHOY SO-YUK, J.P.

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

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

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

THE HONOURABLE VINCENT FANG KANG, J.P.

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

THE HONOURABLE LI KWOK-YING, M.H.

DR THE HONOURABLE JOSEPH LEE KOK-LONG

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

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

THE HONOURABLE MA LIK, G.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 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:

THE HONOURABLE LAU CHIN-SHEK, J.P.

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

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE RAFAEL HUI SI-YAN, G.B.S., J.P.

THE CHIEF SECRETARY FOR ADMINISTRATION

THE HONOURABLE HENRY TANG YING-YEN, G.B.S., J.P.

THE FINANCIAL SECRETARY

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

THE SECRETARY FOR JUSTICE

THE HONOURABLE MICHAEL SUEN MING-YEUNG, G.B.S., J.P.

SECRETARY FOR HOUSING, PLANNING AND LANDS

THE HONOURABLE JOSEPH WONG WING-PING, G.B.S., J.P.

SECRETARY FOR THE CIVIL SERVICE

DR THE HONOURABLE PATRICK HO CHI-PING, J.P.

SECRETARY FOR HOME AFFAIRS

THE HONOURABLE STEPHEN IP SHU-KWAN, G.B.S., J.P.

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR

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

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

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

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

THE HONOURABLE JOHN TSANG CHUN-WAH, J.P.
SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY

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

CLERKS IN ATTENDANCE:

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

MS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
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Air Pollution Control (Vehicle Design Standards) (Emission) (Amendment) Regulation 2005.....	165/2005
Construction Workers Registration (Fees) Regulation ...	166/2005
Construction Workers Registration Ordinance (Commencement) Notice 2005	167/2005
Barristers (Admission) (Amendment) Rules 2005.....	168/2005
Import and Export (General) Regulations (Amendment of Seventh Schedule) (Lebanon) Notice 2005	169/2005

Other Papers

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| No. 3 | — | Environment and Conservation Fund
Trustee Report 2004-2005 |
| No. 4 | — | Annual Report of The Prince Philip Dental Hospital by
its Board of Governors, and Audited Statement of
Accounts and Auditor's Report for the Hospital, for the
period from 1 April 2003 to 31 March 2004 |
| No. 5 | — | Traffic Accident Victims Assistance Fund
Annual Report for the year from 1 April 2004 to
31 March 2005 |
| No. 6 | — | Annual Report 2004-05 of the Protection of Wages on
Insolvency Fund Board |
| No. 7 | — | Electrical and Mechanical Services Trading Fund
Annual Report 2004/05 |

- No. 8 — The Legislative Council Commission
Annual Report 2004-2005
- No. 9 — Report of changes to the approved Estimates of
Expenditure approved during the first quarter of
2005-06 (Public Finance Ordinance : Section 8)
- No. 10 — The Land Registry Trading Fund Hong Kong
Annual Report 2004-2005
- No. 11 — Report by the Trustee of the Prisoners' Education Trust
Fund for the period from 1 April 2004 to 31 March 2005
- No. 12 — Companies Registry Trading Fund
Annual Report for the period from 1 April 2004 to
31 March 2005
- No. 13 — Construction Workers Registration Authority
Annual Report 2004/05

Report of the Subcommittee to Study Tate's Cairn Tunnel Ordinance
(Replacement of Schedule) Notice 2005 and Tai Lam Tunnel and Yuen
Long Approach Road Ordinance (Replacement of Schedule 1) Notice 2005

ADDRESSES

PRESIDENT (in Cantonese): Address. Mr LAU Kong-wah will address the Council on the "Report of the Subcommittee to Study Tate's Cairn Tunnel Ordinance (Replacement of Schedule) Notice 2005 and Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Replacement of Schedule 1) Notice 2005".

Report of the Subcommittee to Study Tate's Cairn Tunnel Ordinance (Replacement of Schedule) Notice 2005 and Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Replacement of Schedule 1) Notice 2005

MR LAU KONG-WAH (in Cantonese): Madam President, in my capacity as Chairman of the Subcommittee to Study Tate's Cairn Tunnel Ordinance

(Replacement of Schedule) Notice 2005 and Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Replacement of Schedule 1) Notice 2005 (the Subcommittee), I hereby table the Report. The deliberations of the Subcommittee are set out in detail in the Report and I shall highlight the deliberations of the Subcommittee.

The main purpose of the two aforesaid Notices, which took effect on 1 August and 19 June respectively, is to increase the tolls of Tate's Cairn Tunnel and Route 3.

Whilst recognizing that the current toll increases for Tate's Cairn Tunnel and Route 3 are in compliance with the toll adjustment mechanisms provided in the relevant ordinances, the Subcommittee queries whether the toll increases are justified, and is concerned about the impact of the toll increases on the public and traffic flow. The Subcommittee has thus examined with the Administration and the two tunnel companies the justifications for and implications of the toll increases, the ways to improve the current toll adjustment mechanisms and measures to enhance the transparency of the financial position and performance of tunnel companies.

With respect to the justifications for the toll increases, given that Tate's Cairn Tunnel Company Limited and Route 3 Company (the Company) have been making profit in recent years, the Subcommittee queries whether the current toll increases are justified. With respect to traffic implications, members are concerned that the current toll increases may affect the traffic of the Lion Rock Tunnel and Tuen Mun Road, thus aggravating the traffic congestion there.

In this connection, the Subcommittee considers it necessary to improve the current toll adjustment mechanisms. With respect to Tate's Cairn Tunnel, the Subcommittee expresses concern that the relevant Ordinance (Cap. 393) has not set out the criteria for determining toll adjustments by the Chief Executive in Council. With respect to Route 3, the relevant Ordinance (Cap. 474) provides that if the Actual Net Revenue (ANR) of the Company for any year, which is not a year ending immediately before a specified date referred to in Schedule 3 to Cap. 474, is less than the Minimum Estimated Net Revenue (MENR) for that year as specified in Schedule 4 to Cap. 474, the Company may advance a toll increase. Given that the Company's ANRs in recent years were less than the MENRs for the respective years as specified in Schedule 4, the Subcommittee is concerned that the Company may apply for another toll increase in the near

future. To resolve the problem once and for all, the Subcommittee stresses the need for the Administration to work out a long-term solution. Given that the MENRs set out in Schedule 4 were drawn up 10 years ago and may not suit present-day circumstances, the Subcommittee requests the Administration to consider amending Schedule 4. The Administration points out that the MENRs set out in Schedule 4 form part of the agreement between the Government and the Company in awarding the franchise in 1995. The Government cannot propose amendments to the Schedule unilaterally. However, the Administration undertakes to take these issues into account when it discusses with the Company measures to enhance the utilization of Route 3.

As the Administration has been negotiating with the Company in the past few years on possible measures to enhance the utilization of Route 3 and the idea of extending its franchise, the Subcommittee urges the Administration to set a deadline or timetable for the negotiation. The Administration is however of the view that setting a deadline for the negotiation will reduce the flexibility of the Government in striking a good deal, which in turn may not be in the best interest of the public. Given that significant public interests are involved, the Subcommittee considers it essential for the Administration to report progress of the discussion to the Panel on Transport (the Panel). As a start, the Administration is requested to report progress to the Panel before the end of 2005. The Subcommittee is assured that the Administration would report to the Panel as much progress as possible, provided that the discussion at the Panel should not compromise the position of the Administration in the negotiation with the Company.

To enhance the transparency of the financial position and performance of the tunnel companies, the Subcommittee is of the view that relevant information, such as ANRs, of the tunnel companies should be disclosed to the public. In this connection, the Subcommittee notes that the Administration has so far not fulfilled the three undertakings on enhancing the transparency of the Company made by the then Secretary for Transport during the resumption of the Second Reading debate on the Tai Lam Tunnel and Yuen Long Approach Road Bill on 24 May 1995. In the Administration's reply, it states that the assurances given by the then Secretary for Transport appear to be, to some extent, not consistent with the provisions of the project agreement and the ordinance concerned. The Administration thus finds it impracticable to implement the assurances in the manner suggested by the then Secretary for Transport.

Members express surprise to the Administration's reply. Some members consider this a demonstration of a lack of credibility on the part of the Government. Members consider it imperative for the Administration to seek to enhance the transparency of the financial position and performance of the Company, and work out a long-term solution to address the problems caused by the current toll adjustment mechanism and under-utilization of Route 3, so as to ensure protection of the interests of the public. The Subcommittee requests the Administration to continue to liaise with the Company, with a view to fulfilling the undertakings made by the then Secretary for Transport as far as practicable.

To address the requests of the Subcommittee, the Company is willing to provide more financial information and expresses no objection to the Government discharging one of the undertakings, which is to disclose in the Legislative Council in October each year the Company's annual audited statement of ANR and to make a statement on that occasion on both the figures and any application for a toll increase. Given the Company's reply, the Subcommittee urges the Administration to fulfil the undertaking. The Administration states that it is currently examining the audited statement of ANR for 2004-05 of the Company and will submit a statement to the Legislative Council when it has completed the assessment. The Subcommittee urges the Administration to fulfil the undertaking fully on a yearly basis.

Given that the Legislative Council is not in a position to amend or repeal the two Notices, the Subcommittee decides that it should conclude its deliberations. The Subcommittee recommends however that the Panel should continue to follow up related issues.

Madam President, I so submit.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. A supplementary should only contain one question and should be as concise as possible. Also, Members should not make statements when asking supplementaries, as this contravenes Rule 26(5) of the Rules of Procedure.

PRESIDENT (in Cantonese): First question.

Alteration Works for Hunghom Peninsula

1. **MR RONNY TONG** (in Chinese): *Madam President, according to the sale and purchase agreement signed by the Government and the developer of Hunghom Peninsula, the latter must obtain the former's permission before conducting any major renovation and alteration works for the said estate. It has been reported that the Building Authority (BA) has approved the developer's second alteration plans. The approved alteration plans involve merging and converting a number of horizontally or vertically adjacent units into duplex or double duplex flats, as well as enlarging the kitchens, toilets and windows of such flats. In this connection, will the Government inform this Council:*

- (a) of the details of such alteration plans, and how they differ from those submitted in the first instance;*
- (b) whether the developer has submitted to the Environmental Protection Department (EPD) any detailed waste management programme for such alteration works; if it has, of the details of the programme; and*
- (c) whether the Lands Department (LandsD) has received and approved any application for lease modification from the developer, and whether the developer has been required to pay any regrant premium; if there is such a requirement, of the amount of the premium?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Chinese):
Madam President, my reply to the three-part question is as follows:

- (a) In May and June 2005, the developer of Hunghom Peninsula submitted to the BA a number of plans for alteration and addition works to the estate. As some proposals in the plans did not comply with the relevant regulations under the Buildings Ordinance, the BA was unable to approve the plans and had informed the developer in writing in August 2005. Subsequently, the developer submitted revised building plans for the alteration and addition works for the estate on 31 August 2005. The revised building plans were approved on 29 September 2005. The approved alteration and

addition works include the addition of lifts, escalators and covered walkways; combination of some flats into larger, duplex or triplex units; revision to internal layout; enlargement of bathrooms, kitchens and windows; renovation of external walls; revision to shop and carpark layout; addition of recreational facilities and alteration to emergency vehicular access.

There are three major areas of differences between the approved alteration and addition works and those proposed in the first application. Firstly, there were changes in carpark and shop layout in the non-residential portion. Secondly, voids were designed in duplex or triplex flats in the first application. In the revised building plans, the voids in the duplex or triplex flats were cancelled. Thirdly, the layout of kitchens and bathrooms in some flats was revised.

- (b) The environmental impact due to the construction waste generated in the alteration works is of particular concern to the EPD as well as to the public because all existing installations are brand new and have never been used. The EPD has requested the developer to adopt the best practice, as well as to submit a comprehensive waste management plan. This is to ensure that measures are undertaken to reduce the generation of construction wastes requiring disposal, to manage construction waste properly and to reuse and recycle useful materials. The developer has committed to submitting the plan after the details of the alteration works are finalized. To date, the EPD has not received any waste management plan yet but once it is received, the Department will consider it and advise the developer accordingly.
- (c) The Government considers that any alteration which constitutes deviation from the approved Master Layout Plan would necessitate lease modification. If there is any enhancement in value of the development arising from the lease modification, premium would be payable by the developer.

Since March 2005, the LandsD has informed the developer and his legal representatives of the abovementioned requirement in writing and orally on a number of occasions. In response to the

developer's revised Master Layout Plan submitted to the LandsD, and the developer's revised building plans submitted to and finally approved by the BA, the LandsD once again wrote to the developer on 7 October 2005, pointing out that "should the developer wish to alter the Master Layout Plan to accommodate the alteration works proposed in the building plans, a lease modification is required". So far, the LandsD has not received any application for lease modification from the developer. The LandsD would conduct premium assessment after the application for lease modification has been received and approved.

MR RONNY TONG (in Cantonese): *Madam President, although the alteration works now comply with the requirements of the Buildings Ordinance, could the Secretary undertake that the Government will not approve any application for lease modification from the developer before the EPD has given its formal approval to any alteration and waste disposal plans?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, these are in fact two different matters, though they are of course related when consideration is made. We will handle these two matters separately according to the law and when we handle them, we will of course also consider various factors together, but we cannot make this as the only factor for consideration. So in this regard I can answer Mr TONG that we will try to consider all the factors as much as we can but before we are to make any decision, we must make it in accordance with the relevant provisions in law.

MR CHEUNG MAN-KWONG (in Cantonese): *Madam President, the main reply shows that it was only in 29 September that the Government approved the revised building plans. However, as far as I know after contacting schools near Hunghom Peninsula, the developer had actually begun demolition works in July and even though the building was encased by tarpaulin, the noise and air pollution caused was still seriously affecting teachers and pupils in the schools nearby. From the main reply, it is known that works will be carried out later on the internal layout and external wall, so it can be anticipated that the impact on teachers and pupils will be even greater. Therefore, the problem so caused will not just be waste disposal but will also a problem of air and noise pollution.*

May I ask the Government if it will require the developer to undertake some on-site noise and air monitoring to ensure that the works will meet environmental protection requirements and that pupils and residents nearby will not be affected, as well as causing no adverse impact on the air and the environment?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, this is exactly one of the factors to be considered by the EPD. In the main reply, I have informed Members that the EPD has requested the developer to submit a comprehensive waste management plan. The plan will of course not be confined only to the parts to be demolished as mentioned before, but nuisance of all kinds caused during the course of the demolition works must also be considered, such as the problems of dust and noise pollution which Mr CHEUNG Man-kwong has mentioned.

DR RAYMOND HO (in Cantonese): *Madam President, the Secretary said in the main reply that approval from the Government must be sought in respect of the environmental impact management effort by the developer. Does this mean that there is a need to apply for environmental protection permits and that applications for approval should be made with respect to the amount of construction waste produced by the demolition and the methods of disposal? May I ask the Government if it will permit the developer to carry out the related works only after an environmental protection permit is issued?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, as I said in answering the first supplementary question, we will certainly take this factor into consideration together with various other factors. But we would also allow a very great degree of flexibility in our consideration so that we may take all the issues well into account. If in the end no solution can be found to certain procedures, then we will have to resort to the relevant legislation.

MS MARGARET NG (in Cantonese): *Madam President, the Secretary mentioned in part (c) of the main reply that the developer is required to pay a premium in respect of lease modification. May I ask the Secretary, apart from money, what are the other factors that the authorities would consider? Could*

the Secretary list out each one of these factors? In other words, if these conditions are not fulfilled, the authorities will not grant approval.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, we all know that a developer can apply for a great variety of works on a building and now the developer has acted according to the requirements in law and applied to the authorities to carry out various kinds of works. With respect to lease modification, it depends mainly on the terms and conditions in the land lease. As a matter of fact, in the previous Legislative Session, there were a couple of oral questions on restrictions imposed by the lease. Basically, a request for modification from a developer is permitted and we may approve it. After an approval is given, a premium assessment will be conducted to determine if there has been any growth in land value and the assessment made will be used to determine the regrant premium payable. Therefore, as a matter of procedure, we will act according to the relevant requirements in the lease.

MS MARGARET NG (in Cantonese): *Madam President, I did not ask the Secretary about procedural matters. The Secretary did not answer the part about the factors he had to consider. I asked him to list out the factors he should take into consideration.*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, as I have said just now, we must act according to the provisions in the lease and the factors we need to consider are those factors as set out in the relevant provisions of the lease. With respect to the consideration of these provisions in law, we made an explanation last year and so I will not repeat on this occasion.

MR ALBERT HO (in Cantonese): *Madam President, the Secretary said in the main reply that the revised building plans had been approved on 29 September, that is, just two or three weeks ago. However, some demolition works has been going on for some time and according to the complaint received by Mr CHEUNG Man-kwong, the works concerned may have been going on for two months already. May I ask the Secretary, first, is approval required for this kind of*

demolition works and has the developer been given any approval? Second, if no approval has been given to the revised building plans, will the authorities give approval to this kind of demolition works? If there is any breach of the law, would the Secretary undertake that investigation and enforcement action will be conducted?

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

Madam President, as far as I know, presently the external walls of the housing estate are indeed surrounded by barbed wire and other facilities and the works now being undertaken is only on the external walls. This kind of alteration made to the external walls does not require our approval. In other words, the developer does not have to wait until clearance is given to all the internal alteration works before such kind of works can commence. Works which does not require prior approval can be handled separately. What we are talking about now is only on internal alterations. That is why my earlier reply was about things like combination of some flats into larger, duplex or triplex units, enlargement of bathrooms and kitchens, and so on, which all require our approval. As an application from the developer is required, the related works has not yet commenced. In addition to this, with respect to environmental protection management, the developer has not yet submitted an application to us and so they cannot carry out any works in this respect. The kind of works presently being carried out is only confined to the external walls.

MR LEUNG KWOK-HUNG (in Cantonese): *Madam President, it is unfortunate that Secretary Dr Sarah LIAO is not here, otherwise she could answer this question. As a matter of fact, Mr TONG was asking whether or not the EPD had any power not to approve works that may affect the environment, but Secretary Michael SUEN only said that it would have to depend on a lot of factors. When Miss Margaret NG asked about what these factors were, Secretary Michael SUEN did not give any reply. I am a tenant of a public housing estate. If I dispose of a bag of litter at my door, I would be deducted seven points and if this happens on two occasions, I would be asked to move out of my flat. The Secretary has given his approval to some financially strong consortium to alter Hunghom Peninsula so that it will add to its value, but that is affecting the schools nearby — the place is very crowded and I am not sure if the Secretary has been there or not. Does Secretary Michael SUEN not think that it is not proper? Has Secretary Michael SUEN ever discussed with Secretary Dr*

Sarah LIAO about this? Have the three Principal Secretaries and the 11 Directors of Bureaux not discussed this issue? Have you asked Secretary Dr Sarah LIAO for opinions expeditiously and has she said that no approval will be given to the developer? Has the Secretary done this? Has Secretary Dr Sarah LIAO told you her views and said that this is not proper? The department under the charge of Secretary Michael SUEN is very harsh to tenants of public housing estates, for those who dispose of litter not properly will have seven points deducted and they will be evicted out of their flats if they do it again. Now this.....

PRESIDENT (in Cantonese): Mr LEUNG, have you asked your supplementary question?

MR LEUNG KWOK-HUNG (in Cantonese): *I think this is very improper. Has the Secretary ever asked Secretary Dr Sarah LIAO whether or not this is proper?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, I hope the President could give me her consent so that I can respond to the part of Mr LEUNG's question on public housing, though this part does not actually fall into the scope of the question today. This is because he has sent a wrong message.

PRESIDENT (in Cantonese): Secretary, I have no powers to intervene in this. Please reply.

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Of course, I do not think Mr LEUNG would be so lacking in civic-mindedness as to dump garbage out of his flat. Though seven points will be deducted for each dumping of rubbish, it would only add up to 14 points if a person is found doing so twice. And when 14 points are deducted, there is no need to move out of a flat. This only happens when 15 points are deducted. So I wish to clarify this here and I hope Members will know the truth. With respect to the question asked by Mr LEUNG, we certainly have communicated with Secretary Dr Sarah

LIAO. As a matter of fact, part (b) of the main reply is supplied by colleagues of Secretary Dr Sarah LIAO. We have actually made it clear that the developer will be required to submit a comprehensive waste management plan and this plan will include various factors listed by Members earlier. Up to now, we have yet to receive the plan and we will give due consideration to it once we have received it.

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

MR LEUNG KWOK-HUNG (in Cantonese): *No. My question was: Should Secretary Dr Sarah LIAO indicate in her report that the works will affect the environment, then would the Secretary inform this Council whether or not he will ask the developer to stop the renovation works on the external walls of Hung Hom Peninsula? He has got such powers.*

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, the follow-up question you have asked does not bear any direct relevance to the supplementary question initially asked by you.

MR LEUNG KWOK-HUNG (in Cantonese): *Then it is up to the Secretary to make a reply or otherwise.*

PRESIDENT (in Cantonese): Never mind. Please sit down first. Let me see if the Secretary has anything to add. Secretary, do you have anything to add?

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, I do not think we can make any assumption now and assert how the Government will handle it when the plan is received. This is because we need to look at the contents of the plan. We can only assure Members that we will act strictly and cautiously and in accordance with the law, and we will consider the plan comprehensively when we have received it. We will not leave out any consideration.

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

MR PATRICK LAU (in Cantonese): *Madam President, given that the revised building plans have been submitted to the Buildings Department for centralized co-ordination, as far as I know, the Secretary or the LandsD may be aware of the contents of the changes. But the Secretary pointed out in part (c) of the main reply that the LandsD did not know whether or not the developer would make any alterations to the Master Layout Plan. May I ask the Secretary if he is aware of any alterations which have been made to the Master Layout Plan to accommodate alteration works proposed in the building plans?*

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, as I have said in the main reply, the developer is required to make a separate application to the LandsD. The centralized application submitted by the developer only serves to inform other departments of the progress of each of the working procedures. But that cannot replace the formal application required by law. It follows that the developer must submit a formal application. According to the existing plans, of course, we know that there will be alterations. What I mean is that although we know that there will be alterations and that the developer should make an application, to date the developer has not made any application.

PRESIDENT (in Cantonese): Mr Patrick LAU, has your supplementary question not been answered?

MR PATRICK LAU (in Cantonese): *Madam President, I would like to ask a short follow-up. As far as I know, in order to save time, developers will as a general rule tender an application for alteration works at the same time to the LandsD. Since the developer in this case has not tendered any application, does it mean that there may be much delay in time before the application is approved?*

PRESIDENT (in Cantonese): Sorry, Mr Patrick LAU, please sit down first. The follow-up question which you have just raised is not part of the supplementary question you have asked earlier, so I will not ask the Secretary to answer it. Perhaps you may follow up through other channels. Second question.

Procedures for Processing Licence Applications

2. **MR JEFFREY LAM** (in Cantonese): *Madam President, it has been reported that the World Bank (WB)'s recent report on the global business environment points out that the licensing procedures in Hong Kong are complicated, for example, an application for a licence to build a warehouse has to go through 22 procedures and take an average of 230 days. In this connection, will the Government inform this Council of:*

- (a) *the reasons for the complicated procedures and long time required for processing applications for a licence to build a warehouse, and the new measures adopted by the authorities to simplify such procedures and abolish unnecessary regulations and restrictions for the business sector, in order to tie in with the implementation of the Mainland/Hong Kong Closer Economic Partnership Arrangement and to grasp any other new opportunities;*
- (b) *when it will implement the composite licensing scheme, and whether the composite licences will be applicable to all trades; and*
- (c) *the procedures and time needed to apply for a composite licence, with examples to illustrate?*

FINANCIAL SECRETARY (in Cantonese): Madam President,

- (a) Regarding Hong Kong's ranking in the recently released WB's "Doing Business Report 2006", the Administration is actively studying it with a view to improving any areas where we have not done so well and aiming even higher in areas where we have a

leading edge. The report reflects the need for the Administration to continue with its efforts to improve the business environment in Hong Kong, and for concerned bureaux and departments to work closely to put in concerted efforts to more vigorously break down the regulatory barriers to business. Only in this way can we enhance Hong Kong's competitiveness in providing a good business environment in the global arena.

Hong Kong's 7th overall position among the 155 economies is still rather high, although for two major indicators, that is, "dealing with licences" and "registering property", Hong Kong had not fared too well. This is also the main reason why Hong Kong's overall position had slipped from 4th to 7th place. In order to have a better understanding of the rationale behind the assessments, we have sought and analysed the relevant source data from the WB. We found that, possibly due to a misunderstanding in communication between the WB and the local agency providing the source data, there were significant discrepancies between the source data used by the WB and the actual situation.

Hong Kong's position in "dealing with licences" was mainly based on the 22 procedures and 230 days required for processing an application for building a warehouse. However, according to factual data, it only takes 13 procedures and 110 days to process such an application. We consider that the use of warehouse building as a case scenario cannot reflect the economic situation and the overall environment for doing business in Hong Kong, given that Hong Kong is a highly service-oriented economy and our construction sector merely accounts for a 4% of the economy.

Regarding property registration, our procedures are in fact very simple. Property owners only need to register two documents, *viz* "Transfer Assignment" and "Sales and Purchase Agreement" with the Land Registry. According to the performance pledge and operational experience of the department, the registration process for each of the two documents requires only 20 days, so the whole process can be completed within 40 days. The department has also pledged to further reduce the processing time for each of the

documents from 20 days to 18 days. As regards the 83 days as indicated in the WB report, apart from the 40 days required for document registration, the rest of the processing time is not related to any government procedures.

We have reflected the above discrepancies to the attention of the WB and sought its clarification. We have also made some suggestions in the hope that our communication with the WB would be further enhanced and that similar erroneous situations would be avoided in future as far as possible.

- (b) The concept of composite licence is to combine licences and permits with similar licensing requirements and conditions so as to reduce the number of licences required. Similar to composite licence, other facilitating measures, such as provisional licence, one-stop-shop service and private certification, can also simplify and speed up licensing process. The abovementioned improvement measures are not trade-specific. Having regard to the characteristics of individual trades and their operating environments, we will consider implementing suitable measures to improve the various licensing regimes.

The composite licence that is currently being considered by the Health, Welfare and Food Bureau and the Food and Environmental Hygiene Department (FEHD) will be applicable to the food retail business.

To implement the proposal, the Government will need to amend the Food Business Regulation (Cap. 132 subsidiary legislation). The FEHD is considering the details of implementation and enforcement under the composite licence and will consult the trade. The FEHD also plans to complete the legislative process for the composite licence in the next legislative year.

- (c) We do not have an accurate estimate of the time required for the application of a composite licence since there are still quite a number of steps from its successful implementation. Nevertheless, we anticipate that the procedures and time required for applying a

licence can significantly be reduced, as this new kind of composite licence will replace the current licences needed for different types of ready-to-eat food.

MR JEFFREY LAM (in Cantonese): *Madam President, the Financial Secretary mentioned a moment ago that the use of warehouse building as a case scenario could not reflect the overall environment for doing business in Hong Kong. However, we can notice that this WB report aside, the ranking of Hong Kong has also shown signs of decline in other similar reports (such as the report of the World Economic Forum). Is this a warning signal for the competitiveness of Hong Kong? May I ask the Government what measures it will take to deal with the causes of our lagging behind as mentioned in the report?*

FINANCIAL SECRETARY (in Cantonese): Madam President, according to the World Economic Forum's report, there has been deterioration in regard to the state of corruption and the rule of law in Hong Kong. However, on the basis of government statistics, we cannot support such a conclusion, nor do we think that members of the public will agree. Since the survey methodologies and criteria adopted by individual institutions are different, their ratings of Hong Kong also tend to vary. For example, not too long ago, Hong Kong was rated as the freest economy in the world by the America Heritage Foundation and the Fraser Institute of Canada. And, recently, the International Institute for Management Development has also raised the ranking of Hong Kong from the sixth to the second position, basically because we have shown marked improvement in the efficiency of the Government and the business sector, our economic performance and many other respects. Therefore, we have adopted an objective, modest and calm attitude in examining all these reports, with a view to improving any areas where we have not done so well and aiming even higher in areas where we have a leading edge.

PRESIDENT (in Cantonese): Members, there are totally 10 Members waiting to ask supplementary questions. Those who have the chance to do so are therefore advised to be as concise as possible, so as to allow more Members to ask supplementary questions.

MR ANDREW LEUNG (in Cantonese): *Madam President, one of the main duties of the Economic and Employment Council (EEC) established by the Government is to facilitate business operation by removing unnecessary restrictions. Will the Financial Secretary please inform us what restrictions have so far been removed?*

PRESIDENT (in Cantonese): Mr Andrew LEUNG, you are asking a question on the work done by a particular committee, aren't you?

MR ANDREW LEUNG (in Cantonese): *No, Madam President. Although my question is about the work of the EEC, it is nonetheless related to the existing business environment because it is on the removal of unnecessary restrictions.*

PRESIDENT (in Cantonese): In other words, you wish to know what have been achieved with the enhanced efforts of removing unnecessary restrictions.

FINANCIAL SECRETARY (in Cantonese): Madam President, I am a bit taken by pleasant surprise by the sudden interest shown by Members in this issue. *(Laughter)*

I may have to give a longer reply. In respect of the removal of unnecessary restrictions, we have removed 474 restrictions since 1996. I am not going to list all of them here. I shall simply give a general picture of what we have been doing.

Our work can be divided into six aspects, currently concentrating on four major areas, namely, the construction industry, real estate development, retail businesses and entertainment. We have been concentrating on six aspects relating to four these areas. To begin with, the Lands Department has deleted nine special conditions, simplified seven items and consolidated 10 items into four in simplifying land grant and the special conditions. Second, the Lands Department has also set up an enquiry system to advise landowners on the "before value" for exceptional cases. Third, as I have mentioned in the main reply, the FEHD will improve the licensing regime for food retail and introduce

a composite licence to cover 12 ready-to-eat food permits. This is a very complex issue, and I am glad that we have succeeded. Fourth, The Environment, Transport and Works Bureau has reduced the number of categories of consumer goods to be regulated under the proposed Volatile Organic Compound legislation from 40 to six. Fifth, the Housing Department has pledged to complete the processes for scrutinizing and approving fitting out works for retail businesses in housing estates in seven working days for simple cases and within 21 days for complicated ones, so as to facilitate business operation. Sixth, the Home Affairs Bureau and the FEHD will introduce a system of provisional licences for cinemas.

MS EMILY LAU (in Cantonese): *Madam President, my question is also about the removal of unnecessary restrictions. I am a member of the EEC and I fully support the Financial Secretary's efforts. However, I still hope that he can let us read the WB report and the World Economic Forum report mentioned just now. Yesterday, I made an enquiry with the Financial Secretary's Office but was informed that they could not let us read these reports. We cannot get these reports in their entirety because they are extremely expensive. We may have to purchase them on our own.*

Regarding the removal of unnecessary restrictions, I agree to what Mr Andrew LEUNG said in his supplementary question. Besides, I also think that one related issue should be the amendment or abolition of some laws. To put it crudely, some laws will have to be repealed. How many laws have we enacted to remove unnecessary restrictions and perfect the procedures? The Financial Secretary has pointed out that the number of procedures involved is not 22 as mentioned in the report, but should just be 13 instead. Actually, even 13 procedures are already too many. How many laws are we going to abolish in order to remove unnecessary restrictions?

PRESIDENT (in Cantonese): Ms Emily LAU, you have asked two supplementary questions. I guess you actually want the Financial Secretary to answer the latter one, right?

MS EMILY LAU (in Cantonese): Yes.

FINANCIAL SECRETARY (in Cantonese): Madam President, as far as the first supplementary question is concerned, I must point out that we are unable to give Members any photocopies of the reports because this will involve the issue of copyright. If Members should wish to purchase copies of the report, I hope they can make use of their allowance. Photocopying will really involve the issue of copyright.

As for the removal of unnecessary restrictions, I agree that the enactment of legislation is often required. Coming back to the removal of the 474 restrictions, if I am asked how many of these involve the enactment of legislation, I have to admit that I do not have any figures to hand. However, I can confirm that legislative enactment will definitely be required for the several upcoming tasks of removing unnecessary restrictions. The introduction of a composite food licence is one example. I hope that the relevant bill can be enacted as soon as possible after its submission to the Legislative Council.

MS EMILY LAU (in Cantonese): *I am not talking about the enactment of legislation. What I mean is the amendment of legislation as a means of changing or abolishing some restrictions. I hope that the Financial Secretary will not get me wrong. If the Financial Secretary intends to enact more legislation, I must say the situation will only worsen.*

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

FINANCIAL SECRETARY (in Cantonese): Madam President, I have not misunderstood Ms Emily LAU's question. The enactment, amendment and repeal of laws are all part of the legislative process.

MR TOMMY CHEUNG (in Cantonese): *Madam President, I think it will be very difficult for me to be concise when it comes to this problem. But I shall still follow the President's instruction and try to be as concise as possible.*

The EEC under the chairmanship of the Financial Secretary has been reviewing the licensing issues, but unfortunately, the catering industry is not included in the review. The industry is given attention only as part of the review

of the supermarket licences. I hope that the Financial Secretary can spare some time to discuss the problem with the industry. I wish to tell the Financial Secretary that to the catering industry, the introduction of a composite licence is not the most

PRESIDENT (in Cantonese): Mr CHEUNG, you are supposed to put a question to the Financial Secretary instead of explaining the situation to him. Therefore, you should

MR TOMMY CHEUNG (in Cantonese): *Madam President, I will do that. But I am just trying to tell the Financial Secretary that his reply seems to have placed sole emphasis on the introduction of a composite licence*

PRESIDENT (in Cantonese): In that case, please ask the Financial Secretary whether he is aware of this.

MR TOMMY CHEUNG (in Cantonese): *May I ask the Financial Secretary whether he is aware of the greatest difficulty faced by the catering industry? The licences for open air cafes and factory canteens are the greatest problems to the industry and they have caused the greatest impact. Will the Financial Secretary please tell the industry his views on this? How is the Financial Secretary going to remove the unnecessary restrictions facing all those catering businesses operating with the remaining 11 types of licences?*

FINANCIAL SECRETARY (in Cantonese): Madam President, we have already put in place 113 improvement measures for the catering industry. As can be expected, business facilitation will not be the sole consideration in the implementation of these measures because we must consider whether there will be any resultant transport problems, and whether any inconvenience or nuisances will be caused to local residents. Therefore, while seeking to facilitate business operation, we must also strike a balance between this consideration and others. I am not quite sure where the open air cafes mentioned by Mr Tommy CHEUNG are located. But in general, while seeking to facilitate business operation, we must also strike a proper balance.

MR TOMMY CHEUNG (in Cantonese): *Madam President, I wish to follow up the question of open air cafes because as many as eight to 10 government departments are involved in vetting and approving licences for these cafes. I hope that the Financial Secretary can follow up this question, so as to find out why the business environment for these cafes is so very difficult.*

PRESIDENT (in Cantonese): I am not going to ask the Financial Secretary to give a reply. But I do suggest you inviting him to join you in a visit to these cafes.

MR HOWARD YOUNG (in Cantonese): *Madam President, it is mentioned in the Financial Secretary's main reply that it in fact takes 13 procedures and 110 days to process an application for building a warehouse. We can therefore notice that the Financial Secretary has actually done some research. Has the Financial Secretary ever assessed whether Hong Kong will still drop so much in ranking, or whether it will retain its usual position, in case the survey of the organization concerned was based on the factual data mentioned by him just now? Has the Financial Secretary ever conducted any assessment?*

FINANCIAL SECRETARY (in Cantonese): Madam President, we have directly approached the Managing Director of the WB to reflect our view this time around. The two WB figures mentioned by me just now are gravely inaccurate, which explains why our rankings under the two relevant items are so low, one being something like the 50th and the other being something like the 70th. Since we have serious doubts about our rankings under these two items, we have conducted a very thorough investigation. The WB has accepted our view, agreeing to introduce a mechanism in its next study — the report is released on a yearly basis — to verify the figures with us. However, they will not adjust the overall ranking of Hong Kong this year for reasons of any special circumstances. We accept this decision of the WB. We think the most important point is the establishment of a mechanism which can ensure that assessments can be conducted more accurately and objectively in the future.

MRS SELINA CHOW (in Cantonese): *Madam President, the Government loves to make performance pledges. But this has all along been the subject of many criticisms. The lead time for licence issuance, in particular, has come under*

frequent criticisms because much time is often spent on passing files around. If the Government can improve its internal administration, the situation can be improved even without any enactment of legislation. May I ask the Financial Secretary whether any administrative measures are being vigorously explored to centralize the vetting processes of various departments, so as to shorten the lead time? Moreover, has a timetable been drawn up for thorough improvement of the situation?

FINANCIAL SECRETARY (in Cantonese): Madam President, an overwhelming majority of the 474 improvement measures have been put in place through administrative procedures instead the legislative process. Naturally, as far as these 474 measures are concerned, we have basically completed what has to be done promptly. The remaining work will be increasingly difficult. I am very grateful to members of the EEC for spending so much time on examining some highly complex restrictions which meet great resistance and which we need to remove. I dare not say when we can complete the task because there can be no end to the work of removing unnecessary restrictions. But we will continue with this long-term task. What I am trying to say is that if anyone happens to have any opinions about our performance pledges, happens to think that we have failed to honour these pledges, he or she is welcome to put forward suggestions. We will carry out an investigation and make the necessary improvements immediately.

MRS SELINA CHOW (in Cantonese): *The Financial Secretary has not answered my supplementary question. My question is: Has the Financial Secretary drawn up any timetable, or deadline, requiring the completion of the task within a specified period of time? I notice that very often, the Government does not set down any deadline. Studies simply drag on and on, thus wasting a lot of time. Has the Financial Secretary drawn up any deadline before which the task must be completed?*

FINANCIAL SECRETARY (in Cantonese): Madam President, whenever we conduct any study, we will set down a deadline, specifying when the task must be completed. As I mentioned just now, many improvement measures must undergo the legislative process before they can be put in place. But we cannot say for sure how long the legislative process will take.

PRESIDENT (in Cantonese): We have spent more than 21 minutes on this question. Last supplementary question.

MR ANDREW CHENG (in Cantonese): *Madam President, I wish to continue to follow up the points made in part (b) of the main reply. I am a member of the EEC, and we have in fact recommended the Financial Secretary to adopt private certification, that is, certification by authorized persons. There has actually been some success cases in foreign countries, where authorized persons can play a key role in removing unnecessary restrictions. However, perhaps because of the opposition of the huge government bureaucracy and also the Financial Secretary's commercial background, this restriction has still remained. Government bureaucrats want to justify their existence, so if they were stripped of their approval authority, they will never let the Financial Secretary remove the restriction. Has the Financial Secretary worked out any ways to introduce the abovementioned practice, particularly to implement certification by authorized persons as soon as possible, so as to genuinely remove the restriction?*

FINANCIAL SECRETARY (in Cantonese): Madam President, as long as the professionals of the industry can exercise a greater approval authority without any government regulation, I personally will render my strong support. To begin with, this can create more jobs in the industry. Second, the procedures can be significantly streamlined, thus greatly shortening the lead time. We have therefore proposed to conduct a study on whether it is feasible to introduce private approval or private certification, whether we can learn from any foreign experience and whether both the lead time and procedures can be significantly reduced. I do however understand that some government or even private structural engineers are of the view that private approval will affect their livelihood. But they need not be over-worried because once private certification is introduced, a new trade may well emerge in the market. By private certification, it means that the Government will only play a regulatory role and the industry can effect vetting on its own. An organization will not normally conduct any certification entirely on its own and in many cases, it will commission a consultant for double certification. Since the Government will no longer approve any plans, the persons signing the certification will be held responsible for any blunders in the construction process. I believe that this may

lead to some structural changes in the industry. But this may not necessarily affect anyone's livelihood.

It is a pity, however, that opposition to this proposal in the Legislative Council seems to be very strong. In July, the Legislative Council Panel on Planning, Lands and Works sent me a letter, expressing its opposition to the introduction of private certification for the construction industry. I am really confused, for I do not quite know whether Members support the proposal or not. If the Legislative Council is really strongly against the proposal, I suppose Members should state their positions more clearly.

PRESIDENT (in Cantonese): Third question.

Coverage of Mobile Telephone Service Networks

3. **MR LAU KONG-WAH** (in Cantonese): *Madam President, hikers in distress in country parks or hiking trails are unable to get in touch immediately with the rescue personnel because they are in places outside the coverage of mobile telephone service networks. In this regard, will the Government inform this Council of:*

- (a) *the respective numbers and locations of mobile base stations that have been and will be set up in the areas of country parks and hiking trails, as well as the coverage of the mobile telephone service networks concerned;*
- (b) *the locations within country parks and hiking trails which are not covered by any mobile telephone service networks, and those which are covered only by some of these service networks (please provide the details of the coverage), and whether these locations will be announced on a regular basis; if not, of the reasons for that; and*
- (c) *its specific solution to the problem of hikers in distress not being able to seek emergency assistance immediately, including whether it will provide additional fixed telephone emergency helplines?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, in respect of the three parts of the question raised by Mr LAU, I would like to reply as follows:

- (a) At present, seven mobile base stations have been installed in country parks and in the area of hiking trails. They are located at Kowloon Hill, Ma On Shan, Shing Mun Reservoir, Kei Ling Ha, Bride's Pool Road, Golden Hill and Yuen Ng Fan (High Island Reservoir), providing mobile telecommunications service coverage over parts of Kam Shan Country Park, Ma On Shan Country Park, Shing Mun Country Park, Pat Sin Leng Country Park, Plover Cove Country Park, Sai Kung Country Park and High Island Reservoir. In addition, another mobile base station at Tsuen Kam Au is under construction, and is expected to be in operation early next year. It will provide mobile telecommunications service coverage over parts of Tai Lam Country Park and Tai Mo Shan Country Park.
- (b) In 2004, the Government tested the reception of mobile telephone network signals along the four hiking trails in country parks and found that it was possible to connect to at least one mobile network along about 90% of the hiking trails. For the remaining 10% of the hiking trails, there were reception difficulties or that it was not possible to connect to any one of the mobile networks of Hong Kong. These hiking trails run through Wang Shan Keuk and Hok Tau in northern New Territories, southwestern Lantau, the central part of Tai Lam Country Park, Tung Ping Chau, as well as Luk Wu, Tai Long, Ham Tin and Hoi Ha of eastern Sai Kung.

It should be noted that the location and distribution of blind spots or places with weak signals of mobile telecommunications networks may be affected by weather conditions or other environmental factors. As such, it is not possible for the Government to maintain at all times information about such areas comprehensively and accurately. However, in order to provide hikers with more detailed information, the Government plans to conduct annual surveys of mobile telecommunications network reception quality along the hiking trails in country parks, and will continue to post such information on the Internet for reference by members of the public.

- (c) In addition to the existing facilities, the Government will adopt the following six measures to further improve communications services in country parks:
- (i) A nominal annual rental fee of \$1 only will continue to be charged for each of these mobile network base station sites in country parks.
 - (ii) The Government will continue to co-ordinate with participating mobile telecommunications operators to facilitate their shared use of mobile network base stations in country parks.
 - (iii) The installation of two emergency telephone helplines using satellite communications technology at Pak Lap and Sai Wan Road in Sai Kung is expected to complete by the end of 2005. If the effectiveness of such facilities is good, we will continue to install similar facilities at other suitable locations.
 - (iv) In addition to the existing 102 fixed-network emergency helplines, two more will be completed at Tsak Yue Wu in Sai Kung and Tseng Lan Shue in Clear Water Bay by early 2006. The Government will continue to explore installing such emergency helplines at suitable locations.
 - (v) The Government will publicize to members of the public the use of "112" emergency call number. The objective is to enable them to understand how to make emergency calls in country parks through another mobile network even when they are outside the coverage of the mobile networks to which they have subscribed.
 - (vi) In collaboration with hikers' organizations, the Government will develop guidelines on the use of licence-exempted walkie-talkies in country areas. The objective is to encourage hikers to use such equipment and tune in to a designated channel reserved for emergency calls from time to

time to look out for distress calls from other hikers so that the hikers could render assistance to each other or relay the distress message to the relevant authorities.

MR LAU KONG-WAH (in Cantonese): *Madam President, according to the Government, it is not possible to connect to any one of the mobile networks of Hong Kong in only 10% of the hiking trails. But these are exactly the places where accidents often occur to hikers who cannot get any assistance. When asked what measures would be adopted and whether co-ordination at common stations could be arranged, the Government appeared that it did not have such responsibility at all. Madam President, the Government has put in resources to do cleaning and greening work in country parks, but it has not put in resources for the protection of public safety. So, may I ask the Government whether it will deploy resources for the protection of hikers' safety? For instance, can it help install some common facilities, or the mobile telecommunications operators, under the terms and conditions of their licences, are required to engage in some commercial activities which are related to the protection of public interests?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, the objective of our existing telecommunications policy is to provide competitive telecommunications services to users through liberalization of the market and introduction of competition. So, it is mainly the responsibility of the mobile telecommunications operators to install base stations. The Government does not have any plan to put in more resources in the installation of base stations.

Another problem is that the total area of all country parks, which reaches 41 000 hectares, is very large. Moreover, we can also see that it may not be necessary to do so in terms of cost-effectiveness. However, if the utilization rate in other places is higher, we will consider providing suitable service by other means or through service consolidation because competition in the industry remains very keen and the operating costs of the base stations are very high. If service is provided in places where the cost-effectiveness is low, a large part of the costs will eventually be transferred to the non-users. In this connection, we will look for other ways to provide more services which can help the public.

MR LAU KONG-WAH (in Cantonese): *The Secretary has not answered my supplementary question. In terms of purely commercial activities, the mobile telecommunications operators will certainly not install base stations at places where utilization rate is low. In view of this, will the Government stipulate in the terms and conditions of their licences that the mobile telecommunications operators are obligated to do so in order to protect public safety? The Secretary has not answered my supplementary question earlier.*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, it seems that I already mentioned this point at the beginning. Since our policy on mobile telecommunications service is implemented through market liberalization, we do not intend to include any mandatory clauses after the market has been liberalized.

MR CHEUNG HOK-MING (in Cantonese): *Madam President, in part (c)(i) of the main reply, the Secretary pointed out that a nominal annual rental fee of \$1 was charged for these mobile network base station sites. May I ask, apart from charging a concessionary rental fee of \$1, how long does it take the Government to process these site applications by relevant companies? According to our experience, applications for particular land use in country parks or conservation areas must be vetted and approved by several government departments. As the issue involves people's lives, I am very concerned about the time needed by the Government to grant the sites.*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, the time needed for processing a land grant application depends on the location of the site. Moreover, the problem is greater than the construction of a base station alone. I do not know if Members have any idea about a base station. It is a tower with a height of more than 10 m for installing reception cables and power facilities. In some remote places where power supply is not available, it may be necessary to build other towers and lay cables. We may need to fell trees and carry out excavation in woody locations as well. This is a very complicated task. Besides, we have to arrange for security measures in these places after installing these facilities because in the past, these facilities had been stolen or damaged after commission.

So, maintenance is also a problem. However, it usually will not take too long to grant a site. It normally takes several months and is quite expeditious. The Government will try to render assistance to the operators as far as possible through the Office of the Telecommunications Authority (OFTA) to deal with these matters. But the other relevant work is very complicated.

MISS TAM HEUNG-MAN (in Cantonese): *Madam President, I would like to follow up Mr LAU Kong-wah's supplementary question earlier. Will the Administration require the telecommunications operators to make a pledge that all popular hiking trails and country parks will be covered by their networks as far as possible upon renewal of their licences?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Under the existing licensing terms and conditions to which the mobile telecommunications operators are subject, they are not obligated to provide full-coverage service to the users. Under our existing policy, no new clauses will be added.

MISS TAM HEUNG-MAN (in Cantonese): *Will the Government consider including these new clauses?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, the business environment in Hong Kong should not be changed frequently and arbitrarily. This is very important. So, in view of the current situation, no amendment to this policy will be made.

MR JAMES TO (in Cantonese): *Madam President, in his reply to supplementary questions, the Secretary has mentioned two major points, one of which is about competition. The Secretary seems to tell us that if keen competition among the mobile telecommunications operators is maintained, telecommunications service may be provided in future in areas not covered now. But I find such an argument absurd.*

Does the Secretary understand that if such a service will be automatically provided after so many years of hard competition among various mobile telecommunications operators, then you need not in part (c) of your main reply mention those measures which were actually suggested by me several years ago? In view of the fact that the mobile telecommunications operators will not provide such a service and radio frequency spectrum is a public asset, is it unreasonable to make it mandatory for all operators, rather than some, to jointly provide the service so that the whole territory is covered? Is it unreasonable to request the Government to put in resources for the protection of public safety?

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, I think this is also mainly a question of cost-effectiveness. As I have just said, with a total area exceeding 40 000 hectares, the size of country parks in the whole territory is really huge. To put such a large area under coverage, it will need a lot of resources. And as "the fleece comes off the sheep's back", many operators will transfer the operating costs to the users if it must be done. I can say that most Hong Kong people may not use the country parks, in particular, those located at remote areas. So, is it fair if lots of resources are put in those places? In our opinion, in most situations, problems can be properly dealt with by adhering to the market-oriented concept. As for things that cannot be done by the market alone, we will find out what a government can do and provide other services such as those six measures mentioned in part (c) of the main reply.

MR LI KWOK-YING (in Cantonese): *Madam President, I would like to ask a supplementary question concerning part (b) of the Secretary's main reply which points out that it is not possible for the Government to maintain information about the blind spots of mobile telecommunications networks comprehensively. However, according to a recent survey by the Democratic Alliance for the Betterment and Progress of Hong Kong, it is found that among the blind spots in popular hiking areas, 26 are found in Outlying Islands and Sai Kung District. Of course, the Secretary mentioned earlier that five of these blind spots had already been covered by mobile telecommunications networks. But 21 locations remain to be blind spots with reception difficulties.*

Worse still is the situation in North District. It is found that there are 22 blind spots among which 90% can only receive signals from mainland

telecommunications networks. Under such circumstances, we have certainly discussed the problem with the OFTA. But in August last year, it gave us a reply similar to that of the Secretary earlier, saying that where and what stations to be installed by the mobile telecommunications operators are entirely commercial decisions which cannot be intervened by the authorities.

It is still acceptable if only 10% of the hiking trails are not covered by telecommunications networks. However, according to our survey, 90% of the hiking trails are not so covered and the blind spots at these 90% areas will adversely affect public safety. Has the Bureau also adopted the OFTA's attitude that nothing can be done and thus no action will be taken? This is the question I wish to ask the Secretary.

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, the test mentioned by me was conducted along four hiking trails in country parks. We did find that telecommunications signals could be received along 90% of these hiking trails. The unit adopted in the test is in terms of district. If our calculations are based on different locations, then the units adopted are different and there will be discrepancies in the information collected. However, Members can share their information with us so that we can consider how to provide better services.

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

MR DANIEL LAM (in Cantonese): *Madam President, in the past, accidents had also occurred to hikers. But the number is far less than the current figure. May I ask the Government if it can inform this Council of the reason? Will the Government do what the Heung Yee Kuk has done by encouraging the local people to form a rescue team for their own district in order to provide support when the number of accidents takes on a rising trend?*

SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY (in Cantonese): Madam President, we have also considered this proposal and we

will appreciate any increased assistance from the Heung Yee Kuk or the relevant District Councils. This will certainly be more conducive to the overall development and we will warmly welcome that.

PRESIDENT (in Cantonese): Fourth question.

Political Reform

4. **DR YEUNG SUM** (in Cantonese): *Madam President, early this month, the Government indicated that it will publish The Fifth Report of the Constitutional Development Task Force (the Report) after the delivery of the policy address. In this connection, will the Government inform this Council:*

- (a) *how the proposals in the above Report will respond to the public's requests for setting a timetable for universal suffrage, abolishing corporate votes in functional constituency elections, abolishing the appointment of members to District Councils, significantly broadening the electorate of the Election Committee, and so on;*
- (b) *of the concrete procedural arrangements and timetable for implementing the Report's proposals to amend the methods for selecting the Chief Executive and for forming the Legislative Council; and*
- (c) *how it will relay to the Central Government the aspirations of the people of Hong Kong for the expeditious implementation of democratic arrangements for electing the Chief Executive and Legislative Council Members by universal suffrage?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, regarding matters relating to the Report, I believe that Members are already aware of the arrangement that the Chief Secretary for Administration will make a statement on the Report after the question time to brief Members in detail the Government's proposals on the methods for electing the Chief Executive in 2007 and the Legislative Council in 2008.

As for the questions raised by Dr YEUNG Sum, we would like to offer the following response.

Regarding the first part of the question, since its establishment in January 2004, the Constitutional Development Task Force (the Task Force) has been collecting views from the general public and different sectors of the community on the issue of constitutional development. The package of proposals put forth by the Government is the product of wide-ranging and open public consultation conducted in different stages during the past year or so. In formulating the package of proposals, the Task Force has considered carefully the views of the community.

Regarding the second part of the question, if the Legislative Council can reach consensus on the two electoral methods, it is our hope that we can complete the legislative work relating to amendments to Annexes I and II to the Basic Law before the end of this year, and that we can work on local legislation related to the 2007 Chief Executive election in early 2006. The local legislation related to the 2008 Legislative Council election will be dealt with in 2007.

Regarding the third part of the question, after having deliberated on issues related to constitutional development for a year or so, the Central Authorities, the Government of the Hong Kong Special Administrative Region (SAR) and the Hong Kong community all have acquired an understanding of the position taken by various parties. Like most Hong Kong people, the Central Authorities and the SAR Government wish to see progress in constitutional development. The proposals to be presented to Members by the Chief Secretary for Administration later on represent the best endeavours made by the SAR Government within the room available. It is a package that can best meet the actual situation of Hong Kong and respond to public aspirations on the two electoral methods. The immediate task ahead of us is to deal with the legislative work relating to the two electoral methods. As for the direction for future constitutional development, the Task Force will continue to explore issues involved with various sectors of Hong Kong, including the Legislative Council.

DR YEUNG SUM (in Cantonese): *Madam President, according to this survey, the mainstream public opinion in Hong Kong remains supportive of an expeditious implementation of universal suffrage. However, I have learned*

from the newspapers that, in the constitutional development proposals to be published shortly, the Government has failed to abolish the appointment of members to District Councils as well as setting a timetable for universal suffrage. Yet, Secretary Stephen LAM still maintained in his reply that the proposals to be presented by the Government can (and I quote) "best meet the actual situation of Hong Kong and respond to public aspirations on the two electoral methods." (End of quote) Does the Secretary feel that his words are entirely evasive, distorting the facts, and even twisting public opinions?

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, when we dealt with the two electoral methods, we did give audience to wide-ranging views. In the Report to be published shortly, we will give a full account of the views collected and received during the consultation period. We have carefully listened to the views expressed by 18 District Councils and reflected all of them in our Report.

The two electoral methods must be dealt with in accordance with the provisions of the Basic Law and the "interpretation" and "decision" made by the Standing Committee of the National People's Congress (NPCSC) in April last year. Within this framework, we have strived for the maximum room to launch the package of proposals to be introduced to Members today. We believe our work and the step to be taken today will push forward democratization in Hong Kong.

DR YEUNG SUM (in Cantonese): *Madam President, the Secretary has not answered my question.*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, the package of proposals to be put forward today was dealt with and designed on the basis of the views and public opinions received by us. It was indeed soundly founded.

DR YEUNG SUM (in Cantonese): *Yet the Secretary has failed to listen to public opinions.*

MR MARTIN LEE (in Cantonese): *He did not get this question.*

PRESIDENT (in Cantonese): Excuse me, Dr YEUNG Sum, this is not part of the supplementary question you initially raised.

DR KWOK KA-KI (in Cantonese): *Madam President, the Secretary's reply is most disappointing, for he has completely failed to answer the question.*

I would like to ask the Secretary a question. Given that the public opinions earlier have time and again indicated this message very clearly — the results of the Legislative Council Elections and the public rally in 2003 have also reflected the public's wish for the expeditious implementation of universal suffrage — does the Secretary consider it necessary to consult or contemplate consulting the public after the Report has been published, or even let all people of Hong Kong vote to decide our way forward so that they can express their response to the Report, including the detailed proposals on universal suffrage?

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, we actually received a lot of views in different stages when the consultation commenced last year. When we published the Second Report, we also relayed to the Central Authorities the findings of the public opinion survey conducted in the territory, that more than half of the population hoped for an expeditious implementation of universal suffrage. Now we are taking the next step to take forward constitutional development in Hong Kong in accordance with the Basic Law and the "decision" and "interpretation" of the NPCSC and examine ways to put them into implementation. Regarding Dr KWOK Ka-ki's question as to whether the Report will be dealt with by way of referendum, we must act according to the Basic Law actually. According to the Basic Law, the Government should first put forward a proposal for Members' deliberation and decision as to whether the proposal is supported by two thirds of all Members. Next, subject to the consent of the Chief Executive, the proposal will be submitted to the Central Authorities for approval, or for the record, by the NPCSC. This is an established procedure laid down by the Basic Law itself. We consider it inappropriate to attach other procedures.

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, the Chief Secretary for Administration is going to publish the Report later in the meeting, though its contents were already known to all the people of Hong Kong a long time ago. In my opinion, the contents of the Report tend to be biased and distort public opinions. For fairness sake, however, can the Secretary tell us what criteria have been adopted by the Chief Secretary for Administration in deciding whether public opinions should be accepted or rejected? Furthermore, are the contents to be published this time decided on the basis of quantity or quality? Insofar as "quantity" is concerned, how many organizations or people supported or proposed the contents of the Report?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, the proposed package will be introduced to Members later, and the Report will be made public too. Since many of these issues concern minor details, we may respond again in the next stage.

Broadly speaking, Madam President, apart from extensively listening to public opinions, we have also received thousands of submissions on the Internet and by correspondence. All these views have been listed for the reference of the public and Members. During the first three months of this year, that is, between January and March, I personally visited 18 District Councils and listened to the views of District Council members. During the visits, I heard many views express the hope for broadened involvement of District Council members in the electoral systems. I believe Members will be able to, after reading our Report, verify the channels through which the opinions were received and find out that the proposals put forward by the SAR Government this time around actually seek to broaden the two electoral systems — in terms of both the electorate and room for participation in the political process.

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

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, the Secretary has not answered my question. As I mentioned earlier, as I had no intention at all to wrongly accuse the Secretary of being biased or distorting public opinions,*

I requested him to state the relevant criteria, for this is very important. The Report to be published later focuses mainly on its contents. It will not mention how the Government collected, evaluated, or decided accepting the information. Therefore, I hope the Secretary can tell us more about the criteria adopted in deciding accepting or rejecting the information — whether in terms of quantity or quality. Furthermore, how many people or organizations were involved in putting forth the proposals to be published later?

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, as the relevant package has yet to be announced, I can only respond to Mr LEUNG Yiu-chung's question in a general manner. Except for a small number of individuals who have expressed the wish to keep their views confidential, all the views received have been made public. However, Members can still gain from the Report a full picture of the views we have received and the discussions we have held with the 18 District Councils. In putting forth this proposed package, our paramount consideration is to be able to take forward democratization in Hong Kong and broaden the representativeness of these two electoral systems and the room for participation in the political process.

MR MARTIN LEE (in Cantonese): *Madam President, in view of the following: first, the Government is aware of the wish of the public that the sooner universal suffrage is implemented the better; second, even the Chief Executive, following the publication of the policy address, once expressed on the radio his personal wish to see democracy expeditiously; third, the Chief Executive has indicated his preference for "people-based" government; and fourth, the Chief Executive once commented that the interpretation made by the NPCSC in April last year would not be contravened even if a timetable was set at that time, may I ask why the Government has failed to immediately make it clear to Members that it will strive to conduct the dual elections by universal suffrage in 2012?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, regarding this point, all officials and Members have secured wide support from the Hong Kong community that the ultimate goal of democratization in Hong Kong is to achieve universal suffrage. It has also been agreed by all that Hong Kong has to implement "one country, two systems" in

accordance with the Basic Law after the reunification, whereas universal suffrage is the ultimate goal of our constitutional development in general. At present, our most pressing task is to deal with the two electoral methods. During the public consultation period, we actually heard some people express the wish for a timetable to be drawn up. However, there were other extremely divergent views too. While some still supported the implementation of universal suffrage in 2007 and 2008, some supported the Government considering the implementation of universal suffrage in 2012, and some put fourth views on the arrangements to be made in 2017 or thereafter. For these reasons, we find it difficult to reach a consensus on the issue of setting a timetable for universal suffrage at this stage. Furthermore, Hong Kong alone cannot make a decision on this long-term issue. According to the Basic Law, we must reach a consensus with the Central Authorities. Therefore, it is at present most urgent and important for us to properly deal with the two electoral methods for 2007 and 2008.

MISS TAM HEUNG-MAN (in Cantonese): *Madam President, may I ask whether timetables will be set for the implementation of the constitutional development proposals? If the answer is affirmative, will there be sufficient room for the Government to adjust the consultation period for the relevant proposals?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, I suppose Miss TAM's question is about the schedule of our work in future. I have made it clear in the main reply that we very much hope to secure Members' support so that we can have at least two thirds of all the Members endorsed our proposed constitutional development package. In the days to come, we will have to expeditiously scrutinize and endorse the Chief Executive Election (Amendment) Bill in the first half of 2006. In the second half of the year, we will have to deal with the composition of the Election Committee set up for the election of the third-term Chief Executive. The relevant work schedule is therefore extremely tight, and an enormous amount of work will be involved too. After the publication of the Report today, we will surely continue to collect views from the community in the coming two months. Yet, it is still very important for us to listen to the views of Members. It is imperative for us to speed up our work expeditiously for the purpose of making a decision on the amendments to Annexes I and II within this year.

MR ALBERT HO (in Cantonese): *Madam President, the Secretary has today repeatedly mentioned that the constitutional reform is supported by the Central Authorities. This is why Dr YEUNG Sum asked, in part (c) of today's question, how the Secretary would relay to the Central Government the aspirations of Hong Kong people for the dual elections to be conducted by universal suffrage expeditiously. The thrust of the question, asking the Secretary how he would bring up the matter with the Central Government, is actually intended to — let me explain — question him whether he has actually lobbied the Central Government on behalf of Hong Kong people. Madam President, the Secretary has in his reply completely evaded the question put to him. There is no mention of how he will relay the aspirations of Hong Kong people or how he will lobby the Central Government. I therefore hold the view that the Secretary has not lobbied the Central Government because he dared not do so.*

My supplementary question is: Given that the Secretary does not have the courage to lobby the Central Government, he might as well make arrangements for Members of this Council to go to Beijing to have direct dialogues with the Central Government. In doing so, Members will have the opportunity to bring the matter direct to the Central Government to fight for the expeditious implementation of the dual elections by universal suffrage in 2007 and 2008, or by 2012 at the latest.

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, I very much appreciate Mr Albert HO's expectation for our work. I am also well aware that Mr HO and his colleagues are strongly adamant about their aspirations for universal suffrage. Similarly, we, Principal Officials of the SAR Government, will work in full accordance with the Basic Law to continue to steadily push forward democratization in Hong Kong, and move in the direction of the ultimate goal of universal suffrage. The two electoral proposals raised by us in respect of 2007 and 2008 also represent a step forward towards this ultimate goal.

When it comes to the mainland visits by Honourable Members, we could also see in the past year or so the proactiveness of the SAR Government, not to mention the visit to Guangdong by the delegation comprising Members, the Chief Executive and the President of the Legislative Council several weeks ago. On the National Day and the Labour Day last year, Members were actually invited to attend the celebrations. Similar arrangements will therefore continue.

When the Chief Executive attended the Question and Answer Session in the Legislative Council a couple of days ago, his position was extremely clear when being asked whether Members would visit Beijing one day. He explicitly stated that arrangements would continue to be made and, hopefully, this goal could be achieved in time.

MR ALBERT HO (in Cantonese): *Madam President, I asked this question in the hope that the Secretary could undertake to make arrangements for us to visit Beijing to lobby for constitutional reform. Is it the case that it is now impossible to give me an answer now? I asked this question because the Secretary has not formally answered my question at all.*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, our overall direction is to strength communication between the relevant mainland departments, Members of the Legislative Council and various political parties. Should Members visit the Mainland to enhance communication, Members would definitely have to decide what questions they are going to ask. They may also express their views on such and such subjects.

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

MR RONNY TONG (in Cantonese): *Madam President, the Secretary has spent 18 minutes answering questions. However, we have not heard anything not covered by the newspapers. In the second paragraph of the main reply, the Secretary mentioned that he hoped to see an expeditious passage of the amendments to Annexes I and II. Such being the case, will the Government consider proceeding with the amendment work by way of two motions. If the first motion is not passed, will the Government insist on proceeding with the amendment work by moving the second one?*

PRESIDENT (in Cantonese): Mr Ronny TONG, could you phrase your question in another way? You have asked about things that have yet to happen.

MR RONNY TONG (in Cantonese): *Madam President, this is a procedural issue, as the Secretary mentioned in the second paragraph some procedures and preparatory work. On the other hand, the main question raised by Dr YEUNG Sum is about the concrete procedural arrangements and timetable for amending the method for selecting the Chief Executive. I was about to ask about the procedural arrangements.*

PRESIDENT (in Cantonese): I get your point. You meant to ask the Secretary whether he would proceed with one or two motions, right?

MR RONNY TONG (in Cantonese): *Madam President, right, will the Secretary proceed with two motions? If one of them is negated, what would happen to the other one?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, when we brief Members on the Report later, we will explain to Members and the public the motions we have already drafted, and Members will be able to see the two drafts to be submitted by us. It is our hope that the two constitutional development proposals in respect of the elections in 2007 and 2008 can definitely be passed. In the days to come, we will also make great efforts to lobby for Members' support and consent. Members will be able to see the drafts in a couple of hours.

MR RONNY TONG (in Cantonese): *Madam President, the Secretary has successfully defended and maintained his reputation of not answering supplementary questions.*

PRESIDENT (in Cantonese): This is just an expression of personal views, not a supplementary question. Fifth question.

Requiring Motorists to Switch off Vehicle Engines While Waiting

5. **MR JAMES TIEN** (in Cantonese): *Madam President, in May 2000, the Legislative Council All Party Clean Air Alliance (the Alliance) proposed to legislate to require motorists to switch off the engines of their vehicles while waiting. However, the Government did not accept the proposal, only indicating that it would organize publicity and educational activities to advise motorists to switch off vehicle engines while waiting. In this connection, will the Government inform this Council:*

- (a) *of the number of complaints received by the relevant authorities in each of the past three years about motorists not switching off vehicle engines while waiting, together with a breakdown by class of vehicles;*
- (b) *of the number of times staff of the Environmental Protection Department (EPD) carried out operations in the past three years to advise motorists to switch off vehicle engines while waiting at the roadside, the total number of working hours spent on these operations, the total number of such advice given, and the percentage of motorists who heeded such advice by switching off vehicle engines immediately; and*
- (c) *whether it has assessed the overall effectiveness of such publicity and educational activities in promoting compliance by motorists of vehicles of various categories; if so, of the criteria adopted for assessment and how the assessment results compare to the intended effects of such activities; whether it will reconsider legislating to require motorists to switch off vehicle engines while waiting?*

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

- (a) The Government is very concerned about the air quality in Hong Kong. We will strongly support and seriously consider the implementation of any useful measures that can improve the local air quality. During 2000-01, the Government had conducted a series of consultation on the proposal put forward by the Alliance in

May 2000 to introduce legislation to require motorists to switch off the engines of their vehicles while waiting, and it had been put up to the Legislative Council for discussion. We have consulted the 18 District Councils (DCs) and the transport trade associations, and discussions had been held in the relevant Legislative Council panels. However, all of them have divergent views. Therefore, after consolidating the views received, we decided to draw up guidelines and join effort with the transport trade associations to appeal to drivers to reduce the nuisance caused to pedestrians and residents by idling engines. The consultation results and the proposal were reported to the Legislative Council Panel on Environmental Affairs on 27 February 2001. The Chief Executive's policy address this year has reiterated that the Government would issue guidelines to all government vehicle drivers to switch off vehicle engines while waiting and call upon private car drivers to adopt the same self-discipline.

In 2002, 2003 and 2004, the EPD received 238, 236 and 296 complaints against idling engines respectively. A breakdown of the complaints by vehicle types is in the Annex.

- (b) In 2002, 2003 and 2004, the EPD carried out 260 (528 man-hours), 267 (534 man-hours) and 366 (732 man-hours) operations respectively to advise drivers to switch off the engines of their vehicles while waiting at the roadside. During these operations, the EPD staff gave advice to all drivers who failed to switch off the engines while waiting. According to the EPD's records, only a very small number of drivers disregarded the advice. Most of them would switch off the engines or drive away immediately. The advisory approach adopted by the EPD in dealing with complaints about idling engines is quite successful. In the 770 complaint cases handled in the past three years, 77% (593 cases) did not attract further complaints from the complainants.

If the idling vehicle belongs to a company fleet operator, the EPD staff will issue an advisory letter to remind the management of the company to instruct its staff to switch off vehicle engines while waiting.

- (c) Since September 2001, the Government has been actively organizing promotional and educational activities on "No idling engines". The number of complaints received by the EPD was 285 in 2001, 238 in 2002 and 236 in 2003. The number of complaints received in 2004 increased to 296 because the number of complaints against tour coaches in 2004 was 56 more than that in 2003. We believe that the significant increase was due to the strong growth of the local tourist industry.

To tackle the idling engine problem of tourist coaches, we, together with Hong Kong Tourism Board, Travel Industry Council of Hong Kong, Tourism Commission and Transport Department (TD) have strengthened our publicity campaign of "No idling engines" in 2004 for the tourist industry and prepared guidelines targeted specifically at the tourist industry.

The EPD has also requested the Tourism Commission to issue a special circular to the tourist industry shortly before peak tour seasons to remind tourist coach drivers to switch off vehicle engines while waiting.

As I said earlier, of the 770 complaints received by the EPD in the past three years, 77% (593) did not attract further complaints from the complainants. Moreover, the TD will issue warning letters to the public transport operators (for example, franchised buses and public light buses) if their vehicles are under complaint, asking for compliance with the "No idling engines" guidelines. According to the TD's records, of the 61 routes against which a warning had been issued in the past three years, 55 routes did not attract further complaints. As such, we consider the approach of advising drivers to switch off the engines while waiting through education and publicity effective.

The Government will continue to appeal to drivers to exercise self-discipline through promotional and educational activities.

Annex

The Number of Complaints Against Idling Vehicles
Received by the EPD

<i>Vehicle Class</i>	<i>2002</i>	<i>2003</i>	<i>2004</i>
Non franchised buses	65	73	123
Public light buses	62	49	64
Goods vehicles	47	45	57
Franchised buses	18	7	8
Taxis	9	5	7
Private cars	9	6	6
Government vehicles	2	4	3
Other types of vehicles	26	47	28

MR JAMES TIEN (in Cantonese): *Madam President, as seen from the roads and as shown in the figures provided in the paper, promotional and educational activities did not prove effective. Why do I say so? Judging from the figures, who would believe that there should only be two complaints of idling engines involving government vehicles in a year? If this is the case, the Chief Executive would not have found it necessary to issue guidelines requiring government vehicles to switch off engines while waiting. I believe that the number of complaints against vehicles prefixed with AM on their number plates parking in front of the Legislative Council alone should have been more than two in a year. Madam President, I now raise my supplementary question. I wish to ask whether the Government is willing to legislate on this issue. The Secretary has indicated in her main reply that the 18 DCs and the transport trade had been consulted in 2000, however, no legislation has been introduced in the face of divergent views between the DCs and the transport trade. It is now 2005 and the problem has yet to be resolved. Will the Government reconsider introducing legislation and consulting the 18 DCs and the transport trade associations once again?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, I strongly agree to Mr James TIEN's remarks. Our society is ever-changing and public awareness of environmental protection has been on the increase, and members of the public are having

stronger request for legislative control pertaining to environmentally friendly behaviour. I believe that in due course, it is necessary for us to conduct another detailed consultation with the industry, and the community can also examine, through DCs or other channels, whether legislative means would receive common consent. According to overseas experience, legislation may not be a means that would attain very high effect. First of all, in northern countries such as Canada, exemption will be granted when the weather is hot, which means that it all depends on the prevailing weather. While people are allowed to switch on their heaters when it is very cold, exemption will be granted when it is very hot, say, 27 degrees Celsius. However, if exemption is granted whenever the ambient temperature in Hong Kong is at 27 degrees Celsius, the exemption period will be too long and with just too little success, because the period during which the ambient temperature in Hong Kong is at 27 degrees Celsius is rather long.

Furthermore, the experience gained from the last consultation tells us that Honourable Members also considered that exemption should be granted to many industries. All vehicles belonging to the transport trade wish to be exempted, which will render the majority of the vehicles being exempted, leaving only private vehicles being subject to control. This approach cannot achieve the best result, and may even send a wrong message that some people can pollute the environment while some cannot, and some may even be penalized. On the whole, I consider that the public should receive a clearer message, that is, everyone should switch off their vehicle engines while waiting. We have thus carried out many promotional activities since 2001 — large-scale promotional activities had been launched in each of the past five years. Switching off idling engines has been regarded as a major area of concern of this year's World Environment Day, and one large-scale activity has been jointly organized with the business sector in the society, schools and other organizations. Furthermore, we have continuously organized promotional activities at schools and appealed to motorists in various locations.

When considering the introduction of legislation, we must also adopt an approach conducive to social action, thereby promoting something worthwhile for everyone to do. Many Honourable Members may not agree to the introduction of legislation in view of the aspirations of their own trade, but they will still earnestly practise what they preach by switching off idling engines. I think that one important message is that we should not categorize people into those who can be absolved from their responsibilities and those who should be held responsible.

MR JAMES TIEN (in Cantonese): *Madam President, the Secretary did not answer the part of the supplementary question on the issue of guidelines by the Chief Executive to government drivers. In this year's policy address, the Chief Executive mentioned that the Government would issue guidelines to all government vehicles — sorry, Madam President, the guidelines referred to in the first paragraph of part (a) of the main reply — when will such guidelines be issued to government vehicles?*

PRESIDENT (in Cantonese): Mr James TIEN, is this a part of the supplementary question you asked earlier?

MR JAMES TIEN (in Cantonese): *Sure, I mentioned earlier that the Chief Executive has also faced this issue squarely. If there were only two government vehicles which did not switch off idling engines in a year, the Chief Executive would not have raised the issue. There must be some reasons for him to bring it up. May I ask when it will be tackled?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Following the delivery of the policy address on 12 October, the relevant guidelines were issued on 14 October 2005. All government drivers are required to read the guidelines every six months. More importantly, if any such case is substantiated, the driver concerned will be subject to disciplinary action.

PRESIDENT (in Cantonese): We have spent 15 minutes on just the exchanges between Mr James TIEN and the Secretary. As there are still nine Members waiting for their turns to ask supplementary questions, please be brief and concise as far as possible when asking such questions.

MR WONG KWOK-HING (in Cantonese): *Madam President, part (b) of the main reply has listed the number of enforcement operations carried out by the EPD staff, but what is the number of EPD staff actually deployed on such enforcement actions? How many EPD staff has to perform beat duty on the street? Will such deployment of staff impact on other law enforcement work originally taken up by the EPD under the Environmental Protection Ordinance?*

That is to say, the pooling of manpower by the EPD for the purpose of carrying out work in this respect may bring about such consequences.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, there are about 50 EPD staff responsible for air pollution control. When they walk the beat on the street, idling engines is not the only target of their inspection, other areas such as emissions from chimneys would also be put under their supervisory control. Therefore, the EPD has not indicated who were the staff specially deployed on handling the problem of idling engines.

MR WONG KWOK-HING (in Cantonese): *Madam President, the Secretary has not answered whether such duties would impact on other law enforcement work originally taken up by them as a result — if, as the Secretary has said, only 50 staff members are to be responsible for work in this respect?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): I believe that there is sufficient manpower under the existing establishment to handle the work. If more on-street patrol will result in more prosecutions, more manpower is certainly needed. However, it all depends on whether this is effective. When allocating resources, we should consider whether we are only intent on instituting prosecution, and we believe that promotional activities are equally important.

MS MIRIAM LAU (in Cantonese): *Madam President, personally I strongly support the proposal of controlling idling engines. Madam President, as mentioned in the Secretary's main reply, the Government has been actively organizing promotional and educational activities on "No idling engines" since September 2001. Apart from reinforcing the publicity campaign for the tourist industry as mentioned in the main reply, as well as carrying out activities at schools as mentioned in the Secretary's response to Mr James TIEN's supplementary question, may I ask the Secretary whether promotional and educational activities have been carried out in the past few years, or will be carried out in the future for drivers directly? As far as I can recall, in 2001, the Government has produced some sticking labels for drivers to adhere onto the windscreens of their vehicles to remind them to switch off vehicle engines while*

waiting. Have similar promotional and educational activities been carried out in the past few years, and whether they will be carried out in the future?

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, I am so glad that Ms Miriam LAU supports the proposal of controlling idling engines. Earlier, the Chairman of the Liberal Party said he hoped that legislation would be introduced. If we really have to do this, in-depth discussions would have to be conducted with the transport trade. Just as Ms Miriam LAU has mentioned earlier, publicity campaigns have been carried out for the transport trade in the past. This year, that is 2005, we will join hands with the Hong Kong General Chamber of Commerce and the Hong Kong Business Coalition on the Environment in organizing a Clean Air Day on 20 November. The purpose is, among other things, to step up promotion efforts towards drivers and the transport trade. We have prepared a full set of guidelines and sticking labels for launching another round of publicity for the industry.

MR MA LIK (in Cantonese): *Madam President, at present, guidelines on the control of idling engines of government vehicles have been drawn up by the Government. If any government vehicles are found not switching off their engines while waiting, how can the public lodge complaints and how would the drivers concerned in the substantiated cases be disciplined?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, if public vehicles — not only government vehicles, are found to have failed in switching off idling engines, members of the public can take down their licence plate numbers, the location, time and date, and then submit such information to the EPD or the Government Logistics Department for follow-up.

MR MA LIK (in Cantonese): *What disciplinary actions would they be subject to? The Secretary has mentioned about disciplinary actions earlier.*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): The Civil Service Bureau has laid down a set of disciplinary awards in relation to non-compliance with work instructions of the Government.

Subject to the seriousness of the case, for example, whether it is the first or repeated offence, and different levels of penalty will be awarded accordingly.

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

MS AUDREY EU (in Cantonese): *Madam President, if we have to educate other people and want them to do something, very often, the most effective way is to point out the substantial effectiveness achieved. Will the Secretary advise the public of the reduction in air pollution if they actually switch off vehicle engines for, say, one minute?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, everybody may have read from newspaper reports recently that The Hong Kong Polytechnic University has started to conduct a study, and the EPD has also stated the way to calculate the emission of pollutants, indicating clearly the exhausts emitted from idling engines of vehicles with their air conditioning on. To put it simply, for vehicles which have left their ignited engines idling, the amount of suspended particulates emitted from private vehicles is less than that of ordinary petrol vehicles, but the emissions contain plenty of nitrogen oxide which amount to 0.2 mg per cu m when the ignited engine is left idling. This would produce particulates we see in the air, and after PM 2.5 undergoes photosynthesis, visibility will become quite low. It is easy for us to tell students about this, for when we drive from Causeway Bay to Central, we would only be able to see a cluster instead of the IFC. This is because the particulates formed as a result of the reaction between nitrogen oxide and the sunlight in the air have blocked our sight. If we switch off the idling engines, nitrogen oxide produced can be reduced by one third. This issue has been explained further in very clear terms in our website.

PRESIDENT (in Cantonese): Last oral question.

Review of Administrative Management of Statutory Bodies

6. **MISS TAM HEUNG-MAN** (in Chinese): *Madam President, it has been reported that after loopholes were found in the administrative management of the*

Office of the Privacy Commissioner for Personal Data (PCO) and the Equal Opportunities Commission (EOC), there has been grave concern about the administrative management of statutory bodies. In this connection, will the Government inform this Council whether:

- (a) it has plans to review the administrative management of statutory bodies, or request them to conduct reviews; if it has, of the details; if not, the reasons for that;*
- (b) it has put forward policy proposals to any statutory body to improve its administrative management or conducted relevant researches; if it has, of the details; if not, the reasons for that; and*
- (c) it will consider establishing an independent body or formulating relevant policies to assist statutory bodies in conducting internal audits at regular intervals; if it will, of the time for implementation and the relevant details; if not, the reasons for that?*

SECRETARY FOR HOME AFFAIRS (in Chinese): Madam President,

- (a) The Home Affairs Bureau (the Bureau) has been conducting a review on the role, functions and management of the public sector advisory and statutory bodies (ASBs) to enhance their representativeness, openness and efficiency, so that they can meet the needs of the community and new challenges. We have so far submitted 14 interim reports on the review to the Panel on Home Affairs of the Legislative Council, focusing on issues relating to the classification system, appointment system and operation of these ASBs. The issues discussed include rationalization of the classification system, the principles of appointment of non-official members (the aims of which are to achieve a balanced gender composition, to enhance diversity of these bodies in terms of sectors and backgrounds and to maintain a healthy turnover of non-official members), and the operation of ASBs such as remuneration of non-official members, procedures for handling conflicts of interests and transparency of the work of these bodies.

Through the review, we have established a set of guiding principles on ASBs, including the six-year rule, six-board rule, 25% gender

benchmark, appointment on merit, equal opportunities, declaration of interests and transparency.

Under the abovementioned framework, reviews are conducted from time to time by Policy Bureaux according to their overall policies and the circumstances of the ASBs under their purview.

With regard to statutory bodies, since they are established by legislation, the Government should respect their independence. Review on their general administrative management should be conducted by the statutory bodies themselves.

However, to ensure the proper use of public funds, the Government should have an appropriate system of cost control and monitoring to oversee the spending of public money by statutory bodies, having regard to economy, efficiency and effectiveness in the delivery of public services and use of public funds.

- (b) As mentioned in our reply to part (a), we have submitted 14 interim reports on the ongoing review of ASBs. We have completed the review on the role, functions and management of non-departmental public bodies (which include the Consumer Council, the EOC, the Hong Kong Arts Development Council and the Hong Kong Housing Authority, and so on). The review report points out that of all the non-departmental public bodies, only the EOC has an executive Chairman while the others have a part-time Chairman and a full-time Chief Executive Officer. In the report of the Independent Panel of Inquiry on the Incidents Relating to the Equal Opportunities Commission completed earlier, it has recommended to separate the current post of executive Chairperson into the two posts of non-executive Chairperson and Chief Executive Officer. In other words, the policy-making function should be exercised by a non-executive Chairman and part-time members while the executive function should be exercised by a full-time Chief Executive Officer. We consider the recommendation worth exploring and is seriously examining the proposal.

As for the ASBs in other categories, we will continue with the review on their roles, functions and management.

- (c) Internal auditing generally refers to an organization's monitoring of internal control, examination of financial and operating information, review on its procedural efficiency and effectiveness, as well as checks on the compliance of the organization with the laws and regulations, management policies and other requirements. As far as financial monitoring is concerned, most statutory bodies employ independent external auditors to audit their accounts. The Audit Commission also conducts audits on these organizations from time to time. Given that statutory bodies in Hong Kong vary substantially in scale and function, we are of the view that internal audit matters should be decided by these bodies according to their needs. As such, we do not consider it necessary to establish an independent body to assist statutory bodies in conducting internal audits at regular intervals.

Policy Bureaux themselves could also decide whether it is necessary to draw up arrangements or policies on internal auditing for statutory bodies under their purview.

MISS TAM HEUNG-MAN (in Cantonese): *I am very glad to learn that the Secretary had expeditiously followed up the cases of the various independent organizations and had submitted very detailed reports. Recently, I have written to the Secretary in connection with the separation of the post of executive Chairperson by the EOC into the two posts of non-executive Chairperson and Chief Executive Officer. The Secretary also gave me a speedy response stating that my recommendation would be considered. Today, as the Secretary mentioned in the main reply that functions of the EOC will be reviewed, I would like to take this opportunity to ask about the relevant timetable. For example, how long will it take for the consideration to be completed or when the relevant legislation will be introduced into the Legislative Council? In respect of the separation of the post of the executive Chairperson of the EOC, does the Secretary have a timetable?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, in fact, the report submitted by the Independent Panel of Inquiry of the EOC and the other two internal reports of the EOC that I have received have all recommended the separation of the current post of the executive Chairperson into

the two posts of non-executive Chairperson and Chief Executive Officer. We are now actively studying this proposal. The scope of the study is very extensive, including the pros and cons for the separation of the functions of the Chairperson, the overall impact of the proposal on the EOC, the division of labour between the posts of the Chairperson and the Chief Executive Officer proposed to be added, as well as the extent of amendments necessarily made to the existing legislation upon implementation of the proposal. All these aspects have to be studied carefully.

We will also make reference to the approaches adopted by overseas equal opportunities commissions or similar organizations. We notice that in some countries, such as the United Kingdom, the mode of having a non-executive chairperson and a chief executive officer is adopted in institutional management. However, there are also countries, such as Canada and Australia, adopting the mode of an executive Chairperson. In other words, there is no absolute criterion or standard in this respect. We have to conduct further in-depth study, weighting the pros and cons of the two different modes, to decide which mode can best suit and applicable to the local environment and conditions of Hong Kong. We will continue to conduct study in this respect and will report to the Panel on Home Affairs of the Legislative Council our work progress as soon as possible. In the meantime, if there is any progress, certainly we will also discuss with the EOC and seek their opinions before we take any step further.

MS LI FUNG-YING (in Cantonese): *Madam President, in the last paragraph of part (a) of the main reply, the Secretary mentioned that to ensure the proper use of public funds, there was a need for the Government to set up an appropriate system to oversee the situation. May I ask the Secretary whether any effective monitoring system has now been put in place? If such a system is not in place, what are the reasons? If such a system has already been in existence, is there anything wrong with it? If such a system is non-existent at present, when will it be set up? Will this still be left to the decision of individual Policy Bureaux? Which Secretary will be responsible for formulating this effective system?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, to ensure that funds allocated to subvented organizations are used properly and in a cost-effective manner, the Government often has to discuss with subvented organizations and to reach a consensus or agreement with the relevant organizations on making certain arrangements. The purpose of these consensus

or agreements enable that these financial arrangements or the use of public funds conform to the principle of economics and that the organizations provide expeditious and effective services to the public. Therefore, under this principle, the supervision of the Bureau over the subvented organizations under its purview includes the signing of Memorandum of Administrative Measures and updating information in such Memoranda on a yearly basis, as well as requiring these organizations to submit to the Bureau their budget at the beginning of each fresh financial year and their annual report at the end of each financial year. Moreover, the Bureau would hold regular meetings with these organizations to review their use of resources and operation.

MS LI FUNG-YING (in Cantonese): *Madam President, it seems that the Secretary has not answered my supplementary question. The Secretary said that speaking from an overview of the entire system, there is a need for the Government to do so, but he has only given his reply in connection to the organizations under the purview of the Bureau. Does it then mean that similar systems have been established for organizations under the purview of other Policy Bureaux? If not, will the Government urge those organizations to set up such a system?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): *Madam President, every Policy Bureau will draw up a set of memorandum in respect of the ASBs under its purview, and will then make financial arrangement and lay down criteria for the use of funds according to the relevant memorandum.*

DR KWOK KA-KI (in Cantonese): *Madam President, the Secretary said earlier that there was no need for the Bureau to conduct the relevant audits. However, the two incidents that occurred recently to the EOC and the PCO exposed very serious problems. Both the Chairperson and the Chief Executive Officer concerned have done something which appeared to be misdemeanors in the eyes of the public. The Secretary said that individual Policy Bureaux could decide for themselves whether it was necessary for them to draw up arrangements or policies on internal auditing for statutory bodies under their purview. Is such a statement suggesting to these statutory bodies that it is for them to look after their own business? If viewed from this perspective, the Bureau has definitely failed. Should the Secretary first "fix up" his own Bureau, and then make use of his experience to help other bureaux "fix up" their statutory bodies?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, I have to thank Dr KWOK Ka-ki for his reminder.

In fact, each Policy Bureau has its own administrative arrangement and memorandum, with the memorandum being an agreement reached between the policy bureau and the statutory bodies under its purview. This is a long-established and effective approach adopted by the Bureau and other Policy Bureaux. Under this arrangement, plenty of rooms emerge and it is necessary to make clear many details. However, for some statutory bodies, we have to provide them with sufficient room for manoeuvring and their independence has to be respected.

DR KWOK KA-KI (in Cantonese): *Madam President, I asked the Secretary whether he should first "fix up" the statutory bodies under his purview and then make use of his experience to help other Policy Bureaux? Is the reply he gave earlier suggesting that he would first fix up the statutory bodies under his own purview and then allow other Policy Bureaux to take reference from his experience?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, in relation to this issue, we will hold further discussion with the relevant bodies on the practical arrangement of the Memorandum of Administrative Arrangements and make amendments where necessary.

MR CHEUNG MAN-KWONG (in Cantonese): *Madam President, the most disappointing point in part (c) of the main reply is the Government stated that independent bodies will not be set up to assist statutory bodies in conducting internal audits. Can this response be sufficient in handling the recent scandals? Should something be done to monitor the reasonable use of public funds or the reasonable incurring of expenses on oversea visits? When the applicant for the public funds is actually the highest ranking manager of an organization, how can an externally engaged auditor be capable of monitoring the organization which engages him? Will the Government inform this Council whether an internal monitoring system of an independent nature should be set up and how should internal monitoring be carried out? Will the authorities require that the*

granting of certain overseas visits allowances and other expenditure in relatively great amount be monitored and approved by the relevant Policy Bureau to ensure the proper use of public funds and to guard against any scandal that may occur which would undermine the credibility of the organizations?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, in respect of a few incidents that happened recently and as mentioned earlier, we are very much concerned about the reporting of these incidents. Besides, in view of the concern shown by the public and the Legislative Council on these recent incidents, and the principle of accountability and the need for the further reinforcement of regulation over the use of public funds, we have written to the Chairperson of the EOC and the Privacy Commissioner recommending that in future, prior approval of the Secretary should be sought for overseas duty visits of the EOC Chairperson and Privacy Commissioner. Regarding the internal audit mechanism mentioned earlier, the applicability or otherwise of internal audit mechanism in individual organizations has to be decided by the size of individual organizations. For example, for some statutory bodies of very small scale, which have only a dozen or several dozens of staff, they may not have the resources sufficient enough to implement an internal audit mechanism even if one has to be set up. However, for some statutory organizations of a major size, such as the Hospital Authority, the Hong Kong Trade Development Council, and so on, they do have the resources and the need for establishing an internal audit mechanism. The establishment of these audit mechanisms does not depend solely on the availability of resources, but the overall operation of the organizations as well.

PRESIDENT (in Cantonese): We have spent more than 16 minutes in this question. Last supplementary question.

MS EMILY LAU (in Cantonese): *Madam President, we think that the independence of these statutory bodies is of grave importance. I, therefore, support the views of the Secretary, but it is important that such views can be manifested. I do not agree, however, that the Secretary should go to extremes by requiring that even for overseas duty visits, prior approval has to be sought. Madam President, the relevant administrative arrangements and memorandum have surely become invalid by now. May I ask the Secretary how can the*

transparency and accountability of these statutory bodies be enhanced? Will information pertaining to their meetings be made public? Is anyone on the board of directors or management committee being responsible for auditing the relevant expenses? Could the breakdown of these expenses be uploaded onto the Internet and be made known to the public, so that everyone may also play a monitoring role?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, in this respect, should this be left to individual organizations to decide whether they will make public the agenda of their meetings or financial arrangements on the Internet? In fact, the expenses they spent will certainly be made public. The present concern is what means do we have to guard against the recurrence of the two isolated incidents of grave public concern which we have just mentioned before they incur such expenses? Hence, we have reached a consensus or agreement with the Chairperson of EOC and the Privacy Commissioner through the Memorandum of Administrative Arrangements, hoping that such arrangement will prevent the reoccurrence of similar incidents in future.

MS EMILY LAU (in Cantonese): *Madam President, I asked whether the relevant mechanism has been put in place in the board of directors or management committee of these organizations. That is to say, someone will be responsible for approving the expenses, but it should be scrutinized by the organization instead of the Secretary. I also urge the Secretary to amend the relevant ordinance for the purpose of making public the information pertaining to the meetings of these organizations. Can this be done?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, all suggestions can be considered and studied. However, as in the cases of the Chairperson of the EOC and the Privacy Commissioner, since they have been vested with certain powers by law to discharge their duties, they may thus invoke the powers invested by law to discharge their duties. Therefore, the ultimate decision as to how this is to go about should be made by the individual organizations.

PRESIDENT (in Cantonese): Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS**Tamar Project**

7. **MR FREDERICK FUNG** (in Chinese): *Madam President, will the Government inform this Council:*

- (a) *given that the plan to construct the Central Government Complex (CGC) and the new Legislative Council Building on the Tamar site was shelved indefinitely on the grounds of the Government's unfavourable financial position and the prevailing political climate, whether the authorities consider that those circumstances no longer exist;*
- (b) *when the authorities expect to implement the plan; whether the design and requirements of the plan will be different from the original ones; if so, of the differences; whether the authorities will consult the public on the plan and consider other alternative sites; and the details of the construction cost of the whole project and the job opportunities thus created for the construction and related industries; and*
- (c) *given that the authorities conducted the tender exercise in two stages in 2002 for selecting a contractor for the project's design-and-build contract, and five consortia were prequalified after the Stage I prequalification exercise, how the authorities will deal with the concepts and building designs collected in the prequalification exercise; and whether they will go through the remaining tendering procedures and give these consortia priority in entering the final bidding stage for the plan; if not, whether they will start afresh the prequalification procedures for the plan?*

CHIEF SECRETARY FOR ADMINISTRATION (in Chinese): Madam President,

- (a) The Government is preparing the detailed proposal of the Tamar development project and will later consult the Legislative Council.

In respect of the public works item to develop a new CGC, Legislative Council Complex (LCC) and other compatible community facilities on the Tamar site, we consulted the Legislative Council Panel on Planning, Lands and Works and the Public Works Subcommittee in April 2003 and May 2003 respectively and obtained Members' support. Owing to the outbreak of SARS and its impacts on the economy, the Government shelved its funding application to the Finance Committee in May 2003. In November of the same year, we formally announced the decision to defer the Tamar development project in view of the Government's financial position and the prevailing political climate. Notwithstanding, we made it clear then that developing the Tamar site into Hong Kong's prime civic core, with the new CGC and LCC as its major components, would remain our planning objective.

Against the recovery of the economy in the past two years, the fiscal deficit of the Government has decreased considerably. We hope to be able to advance our target of restoring fiscal balance in the Consolidated Account. As public finances have improved and public confidence in the future has been restored, we consider it timely to relaunch the Tamar development project which can provide the solution to the acute office space shortage problem facing the existing Central Government Offices and the Legislative Council Building. The implementation of the Tamar development project will also create more than 2 700 new job opportunities for the construction industry.

- (b) We propose the new CGC and LCC should be retained in the Tamar development project as its two core components. As stipulated under the Central District (Extension) Outline Zoning Plan (OZP), about half of the Tamar site, that is, 2 hectares, will be used as open and recreational space for the public. We will consult the Legislative Council on the project proposal, and submit our funding application to the Finance Committee according to the standard procedures in due course. We hope the Committee will render support to the funding application.

Under the Central District (Extension) OZP, half of the Tamar site has already been zoned "Open Space" use, whereas the other half "Government, Institution or Community" use. The OZP had gone through a comprehensive public consultation process before its approval by the Executive Council in 2000 pursuant to the Town Planning Board's recommendation. Development of a new CGC and LCC on the Tamar site meets the overall planning concept for the Central district. Given that the preliminary ground investigation and preparatory works for the Tamar development project had been completed, and support for the project had been obtained from the Legislative Council when it was consulted in 2003, we consider Tamar the most suitable site for the proposed development.

According to the project scope and user requirements set in 2003, the construction cost of the project was estimated to be around \$5 billion. It was also estimated that more than 2 700 jobs would be created for related sectors throughout the development period. We will later consult the Legislative Council and explain details of the project proposal.

- (c) Following the announcement of the decision to defer the Tamar development project in November 2003, the Government informed the five prequalified applicants in writing that the tender exercise for the project had been terminated with immediate effect. The relaunch of the project will necessitate a fresh tender exercise. The Government will treat all tenderers in a fair manner and will not make special arrangements for any particular companies or individuals.

Support for Victims of Sexual Violence

8. **MS EMILY LAU** (in Chinese): *Madam President, this Council passed a motion at the meeting on 12 April 2000, urging the authorities to provide comprehensive and timely one-stop emergency support service to victims of*

sexual violence. However, Rainlily, which is operated by a non-profit-making organization and is the only crisis centre providing such service in the territory, is facing closure because of the impending cessation of subsidization by the Hong Kong Jockey Club Charities Trust at the end of this year. In this connection, will the executive authorities inform this Council:

- (a) of the measures the authorities have taken to follow up the above motion;*
- (b) of the respective numbers of cases of sexual violence reported to the police and other relevant government departments since 2003, the respective numbers of such cases they have referred to Rainlily for follow-up, and the reasons for not referring the remaining cases to Rainlily; and*
- (c) whether the authorities will take over to provide subsidy to Rainlily; if not, of the reasons for that, and, upon the closure of Rainlily, whether the authorities will provide such service by other means; if not, of the reasons for that?*

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

- (a) At present, the Family and Child Protective Services Units of the Social Welfare Department (SWD), the Integrated Family Service Centres operated by the SWD and non-governmental organizations (NGOs), as well as the social workers of the Medical Social Service Units, provide a wide range of treatment and counselling services to victims of sexual violence. These services include crisis intervention, counselling and support, and if necessary, arranging victims to receive other services according to their needs such as medical treatment (including post-coital contraceptive service, screening of sexually-transmitted diseases, medical examination, in-patient medical services, forensic examination for collection of evidence), clinical psychological service, financial assistance,

arrangement of accommodation and legal service. The SWD and NGOs also provide counselling services to adults who had been victims of sexual violence during their childhood. In addition, the Administration has strengthened the co-ordination of different departments and professionals in the provision of support services for the victims of sexual violence and stepped up publicity and public education.

- (b) Since 2003, the statistics of sexual violence cases handled by the police are as follows:

<i>Sexual Violence Cases</i>	<i>2003</i>	<i>2004</i>	<i>2005 (January to September)</i>
Rape	70	92	70
Indecent Assault	1 018	1 034	855
Unlawful Sexual Intercourse ^{Note}	239	266	173
Total	1 327	1 392	1 098

Note: About 95% of the cases of unlawful sexual intercourse involve cases of "intercourse with a girl under the age of 13 or 16".

According to the Procedural Guidelines effective from July 2002, the police or other government departments and agencies, when handling sexual violence cases, should introduce to the victims of the services of the Rainlily [operated by the Association Concerning Sexual Violence Against Women (the Association)] and other relevant social service agencies, and make referrals in accordance with the wish of the victims. Subject to consent by the female victims, the receiving workers would refer the victims to Rainlily. In the event where the victims wish to receive counselling and follow-up services from the SWD or other service units of NGOs, the departments or agencies handling the cases would make prompt referrals as the victims desire.

The SWD has not collected statistics on the number of sexual violence cases received by individual service agencies (including

NGOs) and the number of cases referred to the Rainlily. But as explained above, there are at present various agencies providing services to victims of sexual violence and they will make referrals in accordance with the wish of the victims.

- (c) We understand that the Association is applying for funding from the Hong Kong Jockey Club Charities Trust to continue its service. The SWD has been playing a co-ordinating role and closely keeping in view the progress of the application.

As noted in part (a) of the reply, the SWD and other agencies are currently providing a wide range of treatment and counselling services for victims of sexual violence. In the event that the Rainlily cannot obtain funding to sustain its service, the other service agencies will continue to provide services to the victims.

Participation of Hong Kong in 2008 Beijing Olympic Games

9. **MISS CHOY SO-YUK** (in Chinese): *Madam President, it has been reported that when the chairman of the Co-ordination Commission of the International Olympic Committee (IOC) inspected the competition venues in Hong Kong for equestrian events of the 2008 Beijing Olympic Games in mid-August this year, he emphasized the importance of territory-wide participation and creating the Olympic atmosphere. However, the atmosphere in Hong Kong to greet this event is not fervent at present. In this connection, will the Government inform this Council:*

- (a) *whether it has formulated any plans which will involve public participation in greeting the Olympic Games, such as cultural programmes and Olympic Games exhibitions, to tie in with the 2008 Beijing Olympic Games, thereby creating the Olympic atmosphere in Hong Kong;*
- (b) *given that the Beijing authorities have decided to enlist volunteers from 10 groups to serve the Beijing Olympic Games, including people from Hong Kong, Macao and Taiwan, whether the Hong*

Kong authorities have any plans to assist the Beijing authorities in enlisting volunteers from Hong Kong; if so, of the details of the plans; and

- (c) *given that the Beijing authorities will submit the proposed Olympic torch relay route to the IOC for approval at the end of this year, whether the Hong Kong authorities have discussed the relay route with the Beijing authorities; if so, whether they know if the Beijing authorities will propose to the IOC that Hong Kong be a definite point on the Olympic torch relay route?*

SECRETARY FOR HOME AFFAIRS (in Chinese): Madam President, our response to the question asked by the Honourable CHOY So-yuk is as follows:

- (a) In the Host City Contract for the Games of the XXIX Olympiad in the Year 2008 signed with the IOC in 2001, Beijing undertook "to submit a cultural programme, which is traditionally designated as the 'Cultural Olympiad'....., to reinforce the linkage of sport and culture as a central theme of Olympism".

The Hong Kong Special Administrative Region (SAR), responsible for hosting the equestrian events of the 2008 Olympic Games, has to draw up cultural programmes related to the theme of the Olympic Games to tie in with those to be organized by Beijing so as to create an Olympic atmosphere in Hong Kong.

The SAR Government has formally reported in detail to the District Councils on the hosting of the equestrian events, and encouraged them to consider preparing participation plans for their respective districts and organizing various activities in support of the hosting of the equestrian events in Hong Kong.

Regarding cultural programmes, the Government will liaise with non-governmental cultural organizations and educational institutions to organize cultural programmes appropriate to the theme of the Olympic Games and the equestrian events.

- (b) The Beijing Organizing Committee for the Games of the XXIX Olympiad (BOCOG) officially unveiled on 5 June 2005 the 2008 Beijing Olympic Volunteer Action Plan. The targeted recruitment exercise commenced in September 2005 and the public recruitment exercise is scheduled to start in August 2006.

The targeted recruitment exercise is a form of recruiting in which some community organizations are identified as targeted organizations which will nominate candidates according to the requirements. The BOCOG will decide on the final choices after completion of the established selection procedure. Public recruitment is another form of recruiting in which individuals who meet the requirements and are willing to serve as volunteers for the Beijing Olympic Games may apply to the BOCOG direct.

We believe that, in conducting the targeted and public recruitment exercises, the BOCOG will ensure that Hong Kong residents have the opportunity to contribute to the Beijing Olympic Games.

- (c) On the Olympic torch relay, Beijing pledged in its presentation to bid for the 2008 Olympic Games that "..... In China, the Olympic Flame will travel via Tibet, across the Yangtze River and the Yellow River, and up to the Great Wall. Hong Kong, Macao and Taiwan will be on the route and the Flame will be carried by torchbearers from the 56 ethnic communities in our country" It was clearly stated in the pledge that Hong Kong would be one of the legs of the Olympic torch relay.

At present, the BOCOG is mapping out the proposal for the Olympic torch relay but the specific transportation route is subject to the IOC's final approval. Once the proposal is confirmed with Hong Kong on the torch relay route, the SAR Government will spare no effort to take concerted action and render every assistance to ensure smooth holding of the Olympic torch relay in Hong Kong.

Employment of Ethnic Minorities

10. **MR LEUNG YIU-CHUNG** (in Chinese): *Madam President, regarding the ethnic minorities (that is, non-Chinese in ethnicity) who are Hong Kong permanent residents, will the Government inform this Council whether, in the past three years:*

- (a) it has surveyed their employment situation; if so, of the size of the working population among the ethnic minorities, their unemployment and underemployment rates; if not, the reasons for that, and whether it will expeditiously conduct such surveys; and*
- (b) the Employees Retraining Board (ERB) has conducted retraining courses specially catering for the needs of the ethnic minorities; if so, of the information on such courses (including their contents, enrolment capacity, and so on); if not, the reasons for that; whether it has assessed if not conducting such courses constitutes direct or indirect racial discrimination and whether it will conduct such courses in the near future?*

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

- (a) During the past three years, the Administration has not conducted any special survey on the employment situation of ethnic minorities who are Hong Kong permanent residents. Although the General Household Survey (GHS) conducted regularly by the Census and Statistics Department (C&SD) covers a wide range of information items on employment, "ethnicity" is not included. It is, therefore, not possible to compile employment statistics for this group of people.

Data on ethnicity is not collected in the GHS as the ethnic minorities only account for a very small proportion of Hong Kong's

population. According to the results of the 2001 Population Census, the number of ethnic minorities (excluding foreign domestic helpers) only accounted for about 2.4% of Hong Kong's population. It follows that the number of ethnic minorities found in the sample of the GHS will be too small for compiling the relevant statistics. If we were to enlarge the sample size of the GHS to make it more representative of the ethnic minorities, the additional resources required would be quite substantial. At present, the C&SD has no plan to enlarge the sample size of the GHS for compiling statistics on the ethnic minorities.

The Population Census conducted by the C&SD in 2001 provided the following statistics on the employment situation of ethnic minorities:

- (i) labour force participation rate;
- (ii) working population by occupation;
- (iii) working population by industry; and
- (iv) median monthly income from main employment.

A table showing such information is annexed. The C&SD will conduct a population by-census in 2006 which will provide updated statistics.

- (b) The ERB provides courses for all eligible employees, irrespective of their ethnic origin, especially the unemployed who are aged 30 or above and with no more than junior secondary education. The ERB does not discriminate against any racial groups. It does not currently offer courses specifically for the ethnic minorities. Nonetheless, subject to demand, availability of resources and placement prospect, it could develop programmes to cater for the different needs of its prescribed clientele.

Annex

Employment of Ethnic Minorities, 2001

	<i>Include Foreign Domestic Helpers</i>		<i>Exclude Foreign Domestic Helpers</i>	
	<i>Ethnic Minorities</i>	<i>Whole Population</i>	<i>Ethnic Minorities</i>	<i>Whole Population</i>
<i>Labour force participation rate (%)</i>				
Male	86.8	71.9	86.3	71.9
Female	86.3	51.6	48.3	48.4
Both sexes	86.4	61.4	66.8	60.1
<i>Working population by occupation (%)</i>				
Managers and administrators	9.5	10.7	30.6	11.4
Professionals/Associate professionals	8.8	20.9	28.5	22.1
Clerks/Service workers and shop sales workers	6.0	31.3	18.6	33.2
Craft and related workers/Plant and machine operators and assemblers	2.2	17.2	6.9	18.2
Elementary occupations	73.4	19.5	15.4	14.8
Skilled agricultural and fishery workers; and occupations not classifiable	0.0	0.3	0.1	0.3
<i>Working population by industry (%)</i>				
Manufacturing	2.4	12.3	7.7	13.1
Construction	2.6	7.6	8.4	8.1
Wholesale, retail and import/export trades, restaurants and hotels	8.4	26.2	27.0	27.8
Transport, storage and communications	3.0	11.3	9.6	11.9
Financing, insurance, real estate and business services	7.9	16.1	25.5	17.0
Community, social and personal services	75.5	25.5	21.2	21.1
Others ⁽¹⁾	0.2	1.0	0.5	1.1
<i>Median monthly income from main employment (HK\$)</i>				
Male	25,000	12,000	28,000	12,000
Female	3,670	8,900	10,000	10,000
Both sexes	3,800	10,000	19,000	11,000

Note: ⁽¹⁾ "Others" include such industries as "Agriculture and fishing", "Mining and quarrying", "Electricity, gas and water" and industrial activities inadequately described or unclassifiable.

0.0 denotes less than 0.05%.

Regulation of Covered Warrants

11. **MR ALBERT CHENG** (in Chinese): *Madam President, it has been reported that the Hong Kong stock market saw abnormal and sharp movements on 18 August this year, with the index once dropping over 300 points during the day. The incident had aroused suspicion of market manipulation involving false prices. In the wake of the incident, some small investors published an open letter in newspapers to appeal for regulation of covered warrants (commonly known as "warrants") by the Government, and the Securities and Futures Commission (SFC) and the Independent Commission Against Corruption also intervened by investigating the incident. In this connection, will the Government inform this Council whether:*

- (a) it knows the reasons for the Stock Exchange of Hong Kong (SEHK) relaxing the restrictions on the issuance of warrants in 2001 so that issuers may issue unlimited number of warrants; whether the SEHK will review the merits and demerits of the relaxation and whether the market-making system will be abolished;*
- (b) it knows how the SEHK will prevent market manipulation by issuers, including their participation in transactions on a substantial scale, and their suppression of the prices of underlying shares before the warrants are due to expire, resulting in small investors being unable to deliver such shares upon exercise of the warrants; and*
- (c) it has assessed if the practice of allowing the SEHK, as the regulating body, to gain profits from charging listing fees has given rise to a conflict of interest; if assessment has been made, of the results?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): Madam President, in response to the questions raised by the Honourable Albert CHENG, the Administration has sought information from the SFC and the Hong Kong Exchanges and Clearing Limited (HKEx). Our reply to the three-part question is set out below.

- (a) Prior to 2002, the SEHK operated a quota system which limited the issuance of derivative warrants over a company's shares to the lower of 20% of its issued share capital or 30% of its public float. In May 2001, the HKEx carried out a public consultation on the listing and trading rules of the SEHK on derivative warrants and noted that other exchanges internationally did not adopt a quota system to limit the issuance of derivative warrants. The HKEx also noted that if a quota system was to be imposed to limit the issuance of derivative warrants over the shares of a particular company, the quota system would in certain instances restrict the ability of issuers to launch warrants to meet demands. As a result, pricing anomalies (that is, when the price of a derivative warrant reaches unreasonably high level when compared with its theoretical value which is determined by factors such as the price of the underlying stock, time to maturity, implied volatility, and so on) might occur in the derivative warrants. To help eliminate pricing anomalies when there is a supply and demand imbalance, the HKEx adopted a number of measures in 2002 after the market-wide consultation, including abolishing the quota system, requiring issuers to provide liquidity in their warrants, and relaxing rules to facilitate further issues.

In view of recent public as well as market concerns over a number of issues related to the derivative warrants market in Hong Kong, the Administration has requested the SFC and HKEx to look into the concerns raised. The review being conducted by the SFC is expected to complete by the end of November this year. On the other hand, the HKEx has issued a public consultation document on the issuance and trading of derivative warrants on 10 October 2005. A copy of the consultation document is attached at Annex.

- (b) Since 1998, all derivative warrants listed on the SEHK have been settled in cash and not the underlying shares. To guard against possible market manipulation at expiry, the Listing Rules stipulate that cash settlement at expiry should be calculated using the average closing price of the five days preceding the expiry date. This measure helps to minimize potential manipulative action by issuers or anyone to influence the price of the underlying stock of a

derivative warrant and reduce market volatility. Moreover, only liquid stocks with large market capitalization (that is, a public float capitalization of \$4 billion or above) can be qualified as underlying stocks for single stock derivative warrants. This also makes it difficult for anyone trying to manipulate the market.

It should be noted that active or bulk trading by issuers may not necessarily be related to market manipulation as issuers are required to provide liquidity. Both the SFC and HKEx have a surveillance team to monitor any suspicious or manipulative activities. Where appropriate, the HKEx will refer suspicious cases to the SFC for follow-up. The SFC will take necessary enforcement action against market misconduct. The SFC is currently investigating a number of suspected market manipulation derivatives warrants trading activities.

- (c) To address potential conflict of interest and ensure that the HKEx's interests coincide with those of the public, adequate statutory safeguards have been put in place in the Securities and Futures Ordinance, which include:
 - (i) A requirement for the HKEx to act in the interest of the public, having particular regard to the interest of the investing public, and to ensure that the interest of the public prevails over any other interests;
 - (ii) Authority of the Government to appoint independent directors to the Board of Directors of HKEx in the interest of the investing public or in the public interest;
 - (iii) Authority for the SFC to approve all fees and charges related to the HKEx's regulated activities including listing fees;
 - (iv) Power for the SFC to give direction to the HKEx if it considers that a conflict of interest has arisen; and
 - (v) Authority for the SFC to approve any amendments by the HKEx to the listing and trading rules of the SEHK.



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NEWS RELEASE

10 October 2005

HKEx Discusses Derivative Warrants and Invites Feedback***Introduction***

1. Since their introduction in Hong Kong in 1989 and as revised and re-launched in 2002, derivative warrants (DW) have proven to be a very popular product among a broad cross-section of investors, particularly retail investors. Despite this popularity and the significant growth in the DW market, this investment instrument has at times also generated its share of discussion and debate. In Part I of this article the requirements governing DW contained in the Stock Exchange's Listing and Trading Rules are discussed. Part II provides a summary of the recent discussion and debate and HKEx management's response. Finally, HKEx invites interested parties to provide their views on the DW market and the matters discussed in this article.

HKEx has worked closely with the Securities and Futures Commission (SFC) concerning the DW market since its inception. Recent discussions with the SFC include the issues raised in this article. HKEx will continue to assist the SFC in its consideration of the DW market and the feedback received on this article will be shared with the SFC. HKEx understands that the SFC will be publishing its views on the DW market by approximately the end of November 2005.

Part I - Listing and Trading Rules for DW***Issuer Eligibility***

2. DW holders are unsecured creditors of an issuer. They have no preferential claim to any securities an issuer may hold to hedge the exposure arising from a DW issue. As such, investors are exposed to the credit risk of the issuer; HKEx has sought to reduce that risk by imposing stringent entry criteria for issuers. There is, however, no guarantee against an issuer's default and as discussed below such default represents only one of the various risks to which investors are exposed when trading DW.
3. An issuer is required to have net assets of \$2 billion or more. This level is seen as a measure of the issuer's commitment to the business of issuing derivative warrants. Issuers are also required to have either a credit rating (which must be at least an "A" grade) or to be regulated by the Hong Kong Monetary Authority (HKMA) or the SFC. The minimum credit rating is currently equivalent to the sovereign rating ceiling assigned to the Hong Kong SAR Government. Requiring issuers who do not meet the minimum rating requirement to be regulated by either the HKMA or the SFC helps to ensure that the issuer will be subject to an appropriate regulatory regime which will protect the interests of parties dealing with an issuer.

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4. The issuer eligibility requirements are intended to provide a high degree of assurance, but not a guarantee, that issuers will be able to fulfil their obligations arising from DW issuance. Since 1989, there has been only one case of an issuer default on its obligations as a DW issuer. DW are complex leveraged products and pose numerous risks that investors should be aware of. For this reason DW may not be suitable for many retail investors and investors should make sure they understand warrants and the related risks before trading in them.

DW Liquidity

5. Issuers are required to provide liquidity for DW issues. To comply with this requirement issuers are required to appoint a Liquidity Provider (LP), who must be a Stock Exchange Participant and who may be either a member of the issuer's group or an independent party who acts as the issuer's agent. Liquidity may be provided by means of market-making in which either two-sided quotes are made on a continuous basis or are made in response to a quote request. Issuers should specify the applicable spread interval between their bid and ask prices in the listing document. Liquidity should be provided commencing no later than five minutes after the market opens and should be for a minimum of 10 board lots. There are exemptions for fast markets and for when an issuer has no DW available to sell. All dealings by an issuer in one of its DW must be conducted through the applicable LP. The LP for each DW has a broker number starting with "95" or "96" thus providing transparency of the LP's trading activity.
6. The requirement to provide liquidity was introduced in 2002 after the market-wide consultation conducted in 2001¹. The requirements are intended to help ensure that investors are able to purchase and sell DW throughout an issue's life in what are considered to be retail-sized amounts. These requirements were set at a light level to enable market forces and competition to drive issuers to provide service levels beyond those noted above. Other exchanges also address the issue of post-listing liquidity in DW by likewise requiring issuers to provide a market-making capability for their DW. Market-making is also a normal feature of the exchange-traded options markets internationally.

Further Issues of DW

7. As noted above issuers are required to ensure a certain level of liquidity for their DW. One of the exceptions to this requirement is where the issuer has sold the entire approved supply of the relevant DW in which case it is no longer required to quote offer prices for that issue. When over 80 per cent of a DW issue has been sold an issuer may, but is not required to, create an additional supply of that issue by way of a Further Issue.

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¹ Consultation Paper: The Listing Rules of the Stock Exchange of Hong Kong Relating to Derivative Warrants published May 2001 by HKEx
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8. Further Issues are permitted on the basis that they help to eliminate pricing anomalies when DW issues have been fully sold. Creating a timely additional supply of a DW helps ensure that the price of the DW is determined by fundamental market factors (eg strike price relative to underlying asset price, expected volatility of the underlying asset(s), time to maturity and interest rate) rather than by supply and demand for the DW. Further Issues are discussed again below.

Eligible Stocks

9. To be eligible for DW issuance a stock must be either a constituent of the Hang Seng Index or be on a list published by HKEx approximately every quarter. To be included on the list a stock must have maintained a public float capitalisation of \$4 billion or more for approximately three months. Newly listed stocks may be exempted from the three-month requirement if their public float capitalisation is at least \$10 billion. Currently, about 90 listed stocks are eligible for DW issuance.
10. These requirements are intended to limit issuance to liquid stocks in order to minimise the potential impact of DW on the price of the underlying shares. To guard against any such impact at DW expiry, cash settlement at expiry is calculated using the average closing price for the five days preceding the expiry date. In practice, DW expiry has not proven to be a problem as the number of DW outstanding usually shrinks substantially prior to expiry. HKEx also notes that the vast majority of DW are issued on the Hang Seng Index and on 10 to 15 stocks which are among the highest in terms of liquidity and market capitalisation.
11. The Exchange previously operated a quota system which limited DW issuance over a company's shares to the lower of 20 per cent of its issued share capital or 30 per cent of its public float. In reviewing the Listing Rules in 2001 HKEx noted that other exchanges did not adopt a quota as a means of limiting DW issuance. The interests of issuers, HKEx and market participants are aligned in this area. Although each issuer will have a different risk appetite, in general issuers limit issuance or use alternative hedging mechanisms to minimise any impact their DW issuance and hedging activity may have on the prices of an underlying shares. If a quota system were to be imposed it would in certain instances restrict the ability of issuers to launch Further Issues, potentially resulting in pricing anomalies in the DW. In light of these factors the quota system was repealed in 2002 after market-wide consultation.

Transparency

12. All DW launches and upcoming expirations are published on the HKEx website. Issuers' listing documents including the particulars of each DW are also published on that website. Each day issuers publish a daily trading report showing their aggregate sales and purchases of each DW and related average prices, and the total amount of that issue in the market. As mentioned, trading by the DW's LP can be seen by the market due to the LP's unique broker number which is displayed on AMS/3. As discussed below, extensive technical details about each DW are available from most DW issuers' websites, newspapers and other financial publications, as well as various information vendors.

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Trading Rules

13. The LP for each DW is allowed to short sell the DW and receives an exemption from the "tick rule" in this regard; other market participants are not allowed to short sell DW.² There is also a provision for DW Hedging Participants (DWHP) who are appointed by the issuer to conduct hedging activities and who receive an exemption from the tick rule for hedging in the underlying stock. However, only two out of approximately 20 DW issuers have appointed a DWHP. HKEx provides an AMS/3 terminal or a standard "throttle" to each LP for every five DW for which they provide liquidity. (Throttle refers to the standard order input capacity within which orders can be submitted to the trading host system through the Open Gateway within a specific period of time.)

Part II - Some Concerns regarding the DW Market and HKEx Management's Response

14. *Some market participants argue that the DW market unduly influences the prices of the underlying stocks and increases market volatility.*

Response

The DW market adds liquidity to trading in the underlying stocks via DW issuers' hedging transactions and as such provides benefits to all market participants. It must be noted, however, that this liquidity is just one of many forces that interact in a free price discovery market to establish a market price. Moreover, many DW are hedged with options and other instruments rather than the underlying stock.

DW are leveraged and have lower transaction costs (eg no stamp duty for cash-settled DW) than the underlying stocks. For these reasons, market forces may first appear in the DW market or other derivative markets rather than the market in the underlying shares; this is similar to and also observable in futures and options markets in Hong Kong and overseas.

Overall, market volatility in Hong Kong has been low whilst DW activities have been growing as reflected in Appendix 1. Some academic studies indicate that the presence of derivatives trading does not affect or may decrease market volatility, whilst other studies provide a contrary view. On these points there is no consensus among academics.

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² The "tick rule" stipulates that a short sale of a Designated Security shall not be made on the Exchange below the best current ask price except where the Designated Security is an Exchange Traded Fund traded under the Pilot Programme or is an Exchange Traded Fund approved by the SFC to be excluded from the application of this Regulation.

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In any event, if derivatives such as DW are not traded on the Exchange or the Exchange environment is not conducive to their trading then these instruments are very likely to trade in the over-the-counter markets or in overseas markets. Derivatives on Hong Kong stocks are already traded in Singapore, Germany, and the United States, among other markets. In the past, trading in Japanese NIKKEI index futures moved from Japan to Singapore and German Bund futures moved from Germany to London when local conditions were not conducive or competitive in relation to the derivatives. Further, given that the most actively traded DW in Hong Kong relate to “blue chip” stocks that are also available for trading in other major international markets, it is possible that various DW hedging activity using the underlying stock may also migrate to these other markets.

15. *Other market participants say DW prices and trading activity may be manipulated by issuers, liquidity providers or others.*

Response

As derivatives, the prices of DW can be compared to similar derivatives on the underlying stock such as other DW and Exchange-traded stock options. One such comparative measure is known as “implied volatility”. In its educational programmes for DW, HKEx encourages investors to learn more about the various factors that affect DW prices and to compare products against one another to assess the price and whether one product may be out of line with the others. Various DW issuers’ websites also include much information in this regard. HKEx is considering ways to improve the disclosure and dissemination of technical information about DW and will discuss these ideas with DW issuers and the SFC.

Sometimes a popular and active DW may trade at a premium to similar DW and Exchange-traded stock options. Market feedback indicates that this may occur due to buying demand that results when a DW has sold out or before a Further Issue can be completed. In these situations, arbitrage activity may not operate freely, for example because supply is fixed and the DW is not eligible for short selling, except by the issuer’s LP. Although the issuer may launch a Further Issue (in effect increasing the available supply of the issue) after 80 per cent of an issue has been sold out, some issuers report that there may be insufficient time to complete the Further Issue to keep up with the demand thus potentially leading to a higher price (and higher implied volatility) than similar products. However, when the issuer does launch the Further Issue, the additional supply may satisfy the demand and lead to a correction of the DW price. This may be seen by some as manipulation. Issuers comment that the rules should be changed to enable Further Issues to be completed more quickly which would help to prevent these potential overvaluations. In other derivatives markets such as those for futures and options, supply is not fixed and new short positions are allowed thus making pricing anomalies less likely. In other words, natural market forces serve to ensure that price discovery is allowed to operate freely.

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Recently there have been suggestions that issuers create “wash sales” in DW to create the appearance of trading activity to attract additional investor interest in the DW. Some observers say that issuers may pay incentives to those who generate such trading activity (discussed further below). In this regard, issuers’ trading in their DW may be conducted only through the designated LP whose trading is transparent to the market. The HKEx surveillance team monitors for wash sales and other suspicious activity and refers cases where appropriate to the SFC. See also paragraph 18 below concerning rebates and other incentives.

16. *One concern is that DW issuers are permitted to reissue additional DW which can have the effect of driving down DW prices.*

Response

This is most likely because of the factors mentioned in the second paragraph above. HKEx believes a less restricted issuance system would be more efficient and less likely to produce pricing anomalies, for example no specific limit on each issue or by enabling faster completion of Further Issues.

17. *Some people complain that DW do not always reflect movements in the underlying share price.*

Response

This phenomenon may be explained by a failure to understand the various factors that affect a DW price. The HKEx educational programme for DW covers a variety of factors including implied volatility, premium, gearing, time to expiry, and the “delta” (or hedge ratio) of DW. Information on these factors is often also provided on issuers’ websites.

Some examples of how market forces may affect DW include –

- DW prices may fall even though the underlying asset price has not changed. This can result from a decrease in the implied volatility determined by market forces. Similarly, DW prices may fall over time as they approach expiry, which is why options are often referred to as a “decaying asset.”
- The delta of a DW will determine how sensitive the DW is to changes in the underlying asset price. DW with strike prices far “out of the money” may not respond at all to some changes in the underlying asset price whereas those far “in the money” may move nearly one-to-one with the underlying asset.

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18. *Another concern is that DW issuers pay incentives or rebates to selected brokers or other investors who trade in their warrants. Observers argue these practices are not fair or are designed to create an appearance of active trading in the DW.*

Response

Discounted commissions and other sales incentives may be part of normal competition and consistent with market rules. However, market feedback indicates that some trading in DW may be generated solely to receive sales incentives. HKEx management questions whether it is appropriate for DW issuer incentives or commission rebates to be the only reason DW trades are conducted and intends to discuss this further with the SFC.

19. *Some people suggest that insufficient effort is made in providing education about DW.*

Response

HKEx agrees that education is very important. HKEx has a continuing educational effort to explain to market participants including the investing public the features and risks of DW. A main message is that DW carry a high degree of risk and may not be suitable for all investors, particularly small retail investors whose market knowledge or financial resources may be inadequate to enable them to understand the risks and bear losses. The HKEx educational programme also covers the technical aspects of DW.

HKEx market education activities with EPs on DW include the following.

- Distribution of DW education materials among other materials relating to a general overview of trading securities and other listed products.
- Publication and distribution of flyers on DW through the following channels:
 - HKEx's sales counter
 - Investor seminars organised by HKEx
 - Expositions with HKEx's participation in public exhibitions
 - Visits to EPs
 - Requests from EPs
 - Visitors to HKEx; etc.
- HKEx's Product webpage on DW publishes information relating to DW under the following headings:
 - DW Leaflet.
 - Listing Documents.
 - Daily Trading Summary.
 - Pre-Listing Trading Summary.
 - Trading Arrangement Announcements (Including New Listing, Last Day of Dealings and Others).
 - Derivative Warrants Manual Transactions for the Day.
 - Derivative Warrants with Liquidity Provider Information.
 - Basket Warrants Information.
 - Obligations of Liquidity Providers for Derivative Warrants.

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- Newspaper articles relating to DW
HKEx publishes articles relating to products in the newspapers, including articles about DW.
- Continuous Professional Training (CPT) course relating to DW
From July 2004 to date, HKEx organised 10 CPT courses for EP staff on various topics relating to DW, such as on DW in theory and in practice, relationships with other listed derivative products, trading strategies and market analysis. Leading issuers were invited as speakers.

HKEx also organises periodic investor education events. So far in 2005, HKEx has organised three public seminars specifically on DW and another for the Institute of Financial Planners of Hong Kong.

Conclusion

20. HKEx has striven to create an evolving framework for the issuance and trading of DW and other structured products that is transparent and tailored to meet market needs, consistent with international standards, and which recognises that there is substantial retail interest in dealing in DW. HKEx management believes this helps to maintain Hong Kong's position as a leading international financial centre.
21. Some concerns about the DW market appear to result from misunderstandings of the technical aspects of DW. In this regard, HKEx has an educational programme for DW and will increase its efforts in this area whilst also encouraging issuers and EPs to participate and it will coordinate with the SFC. Other concerns about the DW market suggest changes should be made to improve the market and HKEx has in this article indicated that it will consider a number of possible changes. These will be discussed further with market participants and the SFC. Finally, there are concerns that there is misconduct in the DW market. In this regard, HKEx will continue its surveillance programme in cooperation with the SFC to detect and punish any misconduct.
22. DW are geared instruments and investing in them carries many risks. In certain cases investors may sustain a total loss of their investment. Investors should ensure that they fully understand all the risks involved before they invest in DW.
23. HKEx invites all interested persons to provide comments on this article and the DW market. Comments received will be shared with the SFC.

Comments should be sent to the address below:

Hong Kong Exchanges and Clearing Limited
11th Floor, One International Finance Centre
1 Harbour View Street
Central
Hong Kong

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Re: Understanding Derivative Warrants / Request for Comments

Comments may also be sent by fax to (852)2868-5223 or by email to feedback@hkex.com.hk.

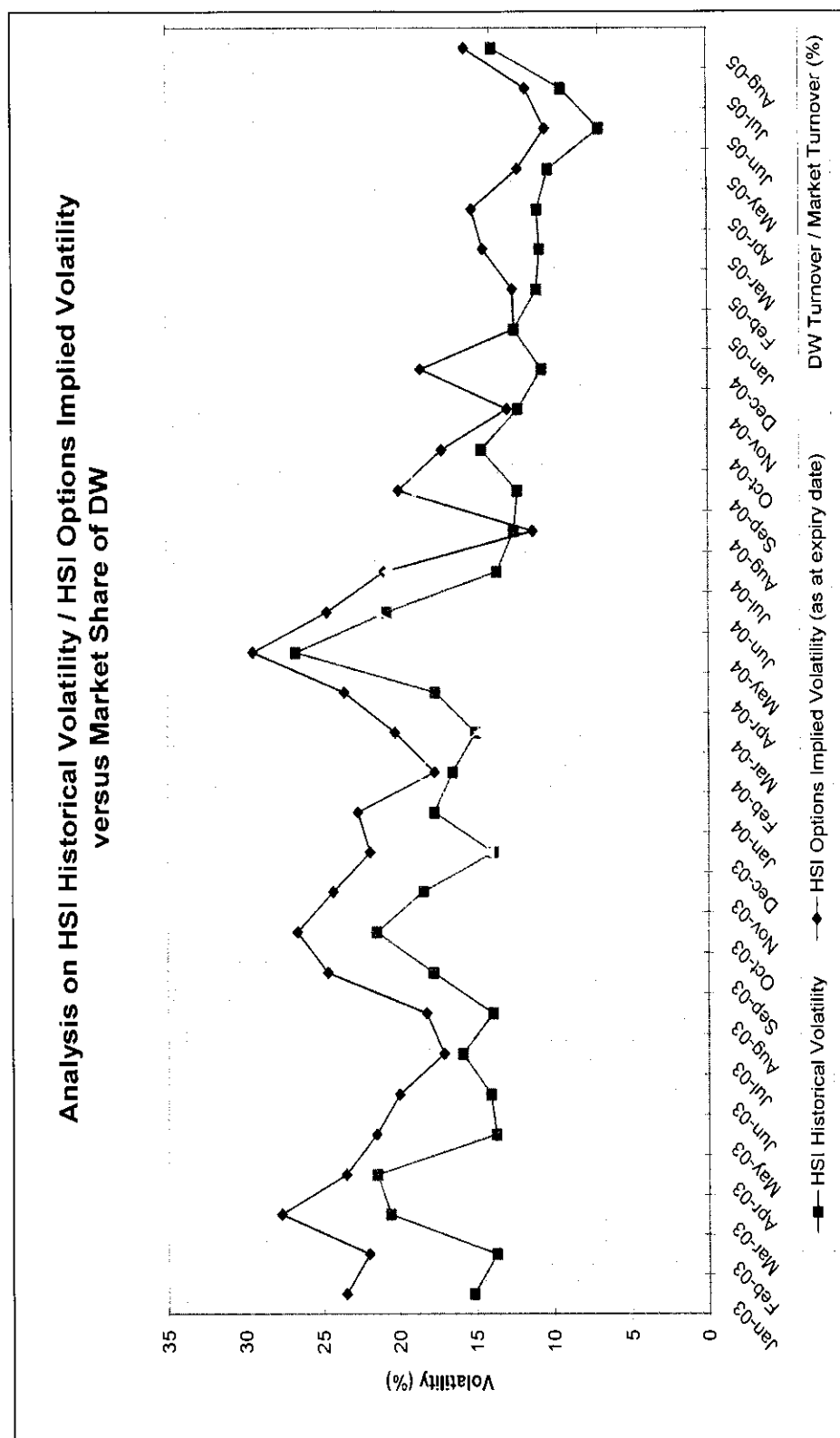
The names of persons who submit comments on this paper together with the whole or part of their submissions may be disclosed to members of the public.

Appendix

Appendix 1 – Volatility Chart

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Appendix 1 - Price Volatility of the Hang Seng Index



Establishment of Hong Kong International Medicine Botanical Garden

12. **MR LI KWOK-YING** (in Chinese): *Madam President, some academics have proposed to establish a Hong Kong international medicine botanical garden in Wu Kau Tang to promote the development of Chinese medicine in the territory. In this connection, will the Government inform this Council:*

- (a) *whether it has studied the feasibility of the above proposal; if so, of the study results;*
- (b) *whether it will consult local residents and the organizations concerned on the proposal, and whether and how they may participate in the items of the proposal, including the construction of a Chinese medicine museum, an eco-tour centre, a centre for Chinese medicine treatment and the elderly, a leisure and entertainment centre, residential units, and so on; and*
- (c) *given that the proposal involves about 100 hectares of land, whether the authorities have assessed the impact of the proposal on the ecology of the area, and how they can ensure that the proposal will be consistent with the Government's policy initiative on sustainable development?*

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Chinese): Madam President, following the announcement of the New Nature Conservation Policy in November 2004, we launched a Pilot Scheme on Public-private Partnership (PPP) to enhance the ecological value of 12 priority conservation sites. Under the Scheme, development on an agreed scale will be allowed at the less ecologically sensitive portions of a site provided that the developer undertakes to conserve and manage the rest of the site on a long-term basis.

Upon close of the six-month application period on 31 May 2005, six PPP applications had been received, including one at Wu Kau Tang. As a follow-up, the Government has set up an Inter-departmental Task Force to examine the proposals on the basis of the following criteria:

- (i) the benefits that the proposal will bring in enhancing the conservation of the site concerned and in better achieving the nature conservation objectives;
- (ii) the sustainability of the proposal, taking into account the proponent's commitment to the long-term conservation of the site, the participation of landowners and local communities, as well as the reliability and enforceability of the agreements, and so on;
- (iii) the capability, credibility and track record of the proponent;
- (iv) the readiness of the proposal for implementation; and
- (v) resource implications for the Government.

The Government will only consider proposals which are accompanied by a comprehensive and solid conservation plan as pilot projects. In taking forward the selected pilot proposals, we will work with the project proponents to consult the relevant stakeholders, including the local communities, the Advisory Council on the Environment and the Town Planning Board. We will announce the outcome of the PPP applications, including the one at Wu Kau Tang, once we have completed the evaluation process.

Overcrowdedness of Hong Kong Disneyland

13. **MR FRED LI** (in Chinese): *Madam President, during the rehearsals of Hong Kong Disneyland (HKD) before its opening, about 30 000 visitors were received on one single day, and many of the visitors on that day complained that they had to wait an excessively long time for the use of the various facilities there and the theme park was overcrowded. In this connection, will the Government inform this Council:*

- (a) *of the measures adopted by the HKD to improve crowd control;*
- (b) *of the expansion projects to be carried out by the HKD within the next 36 months, the implementation programme and financial arrangements for these projects, and the amount of expenditure on the works to be borne by the Government; and*

- (c) *of the criteria adopted by the Government, as a shareholder of the HKD, for determining the expansion projects to be supported, and whether the Government's capital injection into such projects is subject to the approval of the Finance Committee of this Council?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Chinese): Madam President, in the light of observations made during the rehearsal days, Hong Kong Disneyland Management Limited (Management Company) considers that certain areas of the operation of the HKD need to be adjusted. For example, the Management Company observed that local visitors tend to stay longer in the theme park and spend more time in the park restaurants. They also like to maximize photo-taking opportunities, including photo-taking inside the attraction and ride areas. The Management Company has therefore implemented a number of measures, for example, adding more than 600 seats in the restaurants, bringing in additional mobile food and beverage stalls as well as outdoor benches and seats, adding new photo spots, and so on. During peak days, the Management Company would closely monitor park attendance to ensure a smooth and orderly flow of visitors.

On further expansion of the theme park, the Government of the Hong Kong Special Administrative Region and The Walt Disney Company (Disney) agree to keep up the momentum to develop the theme park and expand the number of rides and attractions to attract visitors to the theme park. A new attraction, Autopia, will be completed in 2006. Other attractions will continue to be built having regard to market demand.

The expenditure on the expansion works will be borne by the Hongkong International Theme Parks Limited (HKITP). The financing arrangement for the HKITP comprises equity injections from both the Government and Disney and also loans from the Government and other commercial institutions. The development and operation of the HKD is anticipated to cost \$14.1 billion. The portion of government equity injection and loans in this sum were approved by the Finance Committee of the Legislative Council in 1999.

The HKITP will also have operational receipts which can be used for the further development of the theme park. In future, if the HKITP cannot finance the park expansion from the operational receipts or other funding sources and requires the government equity injection or loans, this will be put to the Finance

Committee of the Legislative Council for consideration. Besides, the budget of the HKITP is subject to the approval of its Board. Through the government board members, we will ensure that resources of the HKITP are properly used.

Employers Defaulting on Mandatory Provident Fund Contributions

14. **MR ALBERT CHAN** (in Chinese): *Madam President, since the implementation of the Mandatory Provident Fund (MPF) Scheme in 2000, some employers still have not made MPF contributions for their employees in accordance with the relevant legislation. In this connection, will the Government inform this Council whether:*

- (a) it knows the number of complaints received by the Mandatory Provident Fund Schemes Authority (MPFA) against employers defaulting on MPF contributions in each of the past two years;*
- (b) it knows, in each of the past two years, the number of warning letters issued by the MPFA to employers defaulting on MPF contributions, the number of prosecutions instituted by the MPFA against employers suspected of defaulting on such contributions and the number of successful ones; and*
- (c) it will adopt measures to improve the situation of employers defaulting on MPF contributions, such as increasing the powers of the MPFA, stepping up prosecution action and imposing higher penalties; if so, of the details of such measures; if not, the reasons for that?*

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

- (a) In 2003-04 and 2004-05, the MPFA received 9 373 (involving 3 872 employers) and 8 079 (involving 3 707 employers) complaints against employers defaulting on contributions respectively.
- (b) In response to the complaints received by the MPFA in 2003-04 and 2004-05 against default on MPF contributions, the MPFA issued

2 302 and 2 225 letters respectively, warning the employers concerned of the requirement to comply with the MPF legislation.¹

In 2003-04 and 2004-05, the MPFA applied to the police for issue of 1 000 (involving 107 employers) and 1 027 (involving 125 employers) summonses respectively to employers defaulting on MPF contributions. Out of these, 801 and 835 summonses were successfully prosecuted. The remaining summonses are either withdrawn because of service failing or in the process of prosecution.

- (c) The MPFA is currently taking the following enforcement measures in accordance with the Mandatory Provident Fund Schemes Ordinance (Cap. 485) against employers in breach of the legislation:
 - (i) A surcharge is imposed on employers defaulting on MPF contributions. Under the existing legislation, the amount of contribution surcharge is equivalent to 5% of the arrears.
 - (ii) If there is sufficient evidence, the MPFA will suggest to the Department of Justice for instituting prosecution. In addition to prosecuting the companies, the MPFA has also applied for prosecution of the executive directors/managers of the companies. The MPFA issued summonses to eight directors in 2004-05 and to 16 directors and one manager between April and September 2005.
 - (iii) Depending on the amounts of contributions in arrears, the MPFA will make claims to the High Court, District Courts or the Small Claims Tribunal on behalf of employees. The number of claims made to the High Court and District Courts increased from one in 2003-04 to 48 in 2004-05, and reached 44 up to September in 2005-06. The total number of claims made to the Small Claims Tribunal in 2003-04 and 2004-05 was 2 298. The number of small claims from April up to September 2005 stood at 522 cases.

¹ The remaining complaints are unsubstantiated cases or cases in which the employers have failed to rectify their irregularities, necessitating other follow-up enforcement measures by the MPFA. For details of such enforcement measures, please refer to part (c).

- (iv) If a claim is awarded and the defaulting employer has not settled the arrears within the specified period, the MPFA will make an application requesting a bailiff to execute the court judgement, or apply to the Court for a charging order or a garnishee order for the recovery of the arrears on behalf of the employees. The number of applications for a garnishee order increased from one in 2003-04 to nine in 2004-05, and reached 74 up to September in 2005-06.
- (v) The MPFA has the power to impose fines on defaulting employers. In the past two years, a total of 17 employers were imposed a fine of \$5,000 each.
- (vi) The MPFA takes the initiative to conduct inspections to monitor employers' performance of their duties under the Mandatory Provident Fund Schemes Ordinance. In 2003-04 and 2004-05, the MPFA inspected 3 115 and 3 254 companies respectively covering all districts and sectors in Hong Kong.

The MPFA will review and improve the enforcement measures from time to time in the light of its practical operating experience.

Practice of Medical Practitioners with Limited Registration

15. **MS LI FUNG-YING** (in Chinese): *Madam President, according to existing legislation, the Medical Council of Hong Kong (MCHK) may exercise discretion to approve the registration of persons who possess only qualifications for practising medicine outside Hong Kong as medical practitioners with limited registration, subject to specified restrictions and conditions. In this connection, will the Government inform this Council:*

- (a) *of the number of such medical practitioners, classified by job nature (such as treating patients, teaching, scientific researches, and so on);*

- (b) *whether it knows if the MCHK has put in place any mechanism for monitoring the practice of such medical practitioners, such as conducting inspections; if it has, of the details of the mechanism and the number of inspections conducted in the past two years, and how breaches were followed up by the MCHK;*
- (c) *whether it knows the respective numbers of complaints received by the MCHK against such medical practitioners in each of the past two years, and the subjects of these complaints as well as the follow-up actions taken by the MCHK; and*
- (d) *whether it has assessed the impact of medical practitioners with limited registration on the practice of registered medical practitioners; if it has, of the assessment results; if not, the reasons for that?*

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

- (a) As at 1 October 2005, there were a total of 88 medical practitioners who possess qualifications outside Hong Kong acceptable to the MCHK under section 14A of the Medical Registration Ordinance (MRO). The nature of their practice varies: they may teach, conduct research, perform hospital work and such practices are not mutually exclusive; we therefore have difficulty in classifying them by job nature.
- (b) These medical practitioners with limited registration are subject to practice conditions set out in the MRO as appropriate, as well as the relevant provisions in the Professional Code and Conduct for the Guidance of Registered Medical Practitioners drawn up by the MCHK. Their nature and place of practice are also confined to what is set out in the Certificate of Employment as completed by their employers. In the case of the above 88 practitioners, they are employed by the Department of Health (2), the Hospital Authority (3), University of Hong Kong (30) and The Chinese University of Hong Kong (53). The Certificate is also required for renewal of registration.

As in the case of medical practitioners granted with full registration, the MCHK does not practically inspect those with limited registration to confirm their compliance with practice conditions. Information or complaint received indicating that there is unprofessional conduct or non-compliance with the approved type and place of practice is handled by the MCHK in accordance with the established complaint handling mechanism. Such information/complaint will also be taken into account by the MCHK in deciding whether or not a registration should be approved or renewed.

- (c) No complaint was received in 2004 in relation to this group of medical practitioners under limited registration. One complaint, relating to dissemination of false information, has been received this year and is being handled by the MCHK.
- (d) We consider that given the confined and supervised nature of the practice of these medical practitioners with limited registration, the impact of their practice on registered medical practitioners should be minimal. No formal study has therefore been conducted in this regard.

Park Area of Hong Kong Disneyland

16. **MR LEE CHEUK-YAN** (in Chinese): *Madam President, will the Government inform this Council of the current area of the park in Hong Kong Disneyland where amusement and catering facilities are provided for the use of visitors (excluding logistics area for providing support to the operation of the park and land designated for expansion and hotel use), and whether this area had been specified in the agreement signed between the Government and the Walt Disney Company in December 1999?*

SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR (in Chinese): Madam President, the Government of the Hong Kong Special Administrative Region reached agreement with The Walt Disney Company (Disney) in 1999 to develop the Hong Kong Disneyland. The Government and

Disney participate as equity investors in Hongkong International Theme Parks Limited (HKITP), which develops and operates the Hong Kong Disneyland.

The size of the Phase I site granted to the HKITP is about 126 hectares. Both parties have agreed on the areas to be allocated for various uses, which are also spelled out in the land grant document registered with the Land Registry. The area earmarked for the theme park is about 72 hectares. Like all Disney theme parks around the world, the size of the Hong Kong Disneyland covers all the facilities and attractions therein. It includes over 20 attractions in four themed areas; the required backstage area that supports the operation of the theme park; and the area for the expansion of Phase I, for example, the construction of a new ride, Autopia, has already begun.

The remaining area is for the hotels, including the two existing hotels and the stretch of land between the two hotels for future hotel expansion, and the car parks for visitors.

Both the Government and Disney agree on the need to keep up the momentum of development and expand the number of rides and attractions to attract visitors to the theme park.

Temporary Civil Service Directorate Posts

17. **MISS TAM HEUNG-MAN** (in Chinese): *Madam President, the Government announced in July this year the establishment of a temporary Permanent Secretary post in the Chief Executive's Office for six months. The post is remunerated at D8 of the Directorate Pay Scale, with duties similar to those of the Director of the Chief Executive's Office who assumes political accountability. In this connection, will the Government inform this Council:*

- (a) the position of the recruitment of the Director of the Chief Executive's Office;*
- (b) of the respective numbers, ranks and duties of the temporary directorate posts established in various Policy Bureaux and government departments over the past three years; and*

- (c) *whether it has set up any mechanism to monitor the establishment of temporary civil service directorate posts in various Policy Bureaux and government departments; if it has, of the details; if not, the reasons for that?*

SECRETARY FOR THE CIVIL SERVICE (in Chinese): Madam President,

- (a) The Government will make an announcement once the Chief Executive has appointed the Director of the Chief Executive's Office.
- (b) and (c)

In accordance with section 8 of the Public Finance Ordinance, the Financial Secretary may create supernumerary directorate posts to meet a temporary need lasting not longer than six months. The authority was further delegated to Controlling Officers. In exercising this delegated authority, Controlling Officers must obtain ranking support from the relevant head of grade and prior approval from the Secretary for the Civil Service (SCS) and the relevant Bureau Secretary. They must also confirm the availability of necessary funds to the satisfaction of the Secretary for Financial Services and the Treasury (SFST). Posts may be so created only for temporary and short-term purposes and should last for a period not exceeding six months. Approval of the Establishment Subcommittee (ESC)/Finance Committee (FC) is required if the posts are to be renewed.

Where a Controlling Officer has created a supernumerary directorate post under delegated authority as set out above, he must review the continued need for the post at least three months before its expected expiry date to confirm whether there is a need to retain the post beyond the six-month period. If there is no such need, the post will lapse automatically at the end of the six months (or earlier if the supernumerary post is created for a shorter period).

If the Controlling Officer considers it necessary to retain the supernumerary directorate post beyond the six-month period, he

must give full justification to both the relevant Bureau Secretary and the SCS, and also confirm to the SFST that he has the necessary funds for the proposed retention. If any of the aforesaid bureaux concerned is not satisfied with the justification or funding for the proposed retention, the post will lapse automatically on expiry of the six-month period and it may not be re-created under delegated authority.

If all the bureaux concerned are satisfied with the justification and funding for the retention of the post, the Controlling Officer and the relevant Bureau Secretary will make a submission to the ESC. If the ESC/FC does not approve retention of the post, or if for any reason the submission cannot be made to the ESC/FC in time, the post will lapse automatically after six months. The Controlling Officer may not then re-create the post under delegated authority.

The table below shows the number of supernumerary directorate posts created for not more than six months under delegated authority and the number of supernumerary directorate posts created/retained through the ESC/FC from 2003 to 2005 (up to September 2005).

	<i>2003</i>	<i>2004</i>	<i>2005 (up to September)</i>
(i) No. of supernumerary directorate posts created under delegated authority for a period not exceeding six months	17	20	13
(ii) No. of supernumerary directorate posts created under delegated authority for a period not exceeding six months and subsequently approved by the ESC/FC for retention		6 (including one post which was retained permanently)	2

	<i>2003</i>	<i>2004</i>	<i>2005 (up to September)</i>
(iii) No. of supernumerary directorate posts lasting more than six months created with the approval of ESC/FC		7	2
Total	17	33	17

A total of 67 supernumerary directorate posts were created in the past three years involving some 20 ranks in professional and specialist (such as accounting, legal, medical, engineering and information technology), disciplined, departmental and general grades to undertake temporary jobs.

As regards item (i), these posts were created for jobs of a one-off nature which do not exceed six months such as co-ordinating the implementation of Team Clean initiatives, providing legal input for the Legislative Council Select Committee on SARS Inquiry, reviewing the licensing and regulatory framework for non-franchised buses, and heading an Exercise Planning Team for the Sixth Ministerial Conference of the World Trade Organization.

As regards item (ii), these posts were created initially under delegated authority but retained with the approval of ESC/FC to undertake duties such as supporting the Commission on Poverty, the possible merger of the MTR Corporation Limited and the Kowloon-Canton Railway Corporation, and preparation for and implementation of the Land Title Registration System.

As regards item (iii), these posts were created through the ESC/FC for duties such as planning of the Hong Kong-Zhuhai-Macao Bridge project and implementation of the new Academic Structure for Senior Secondary Education and Higher Education.

In conclusion, the above mechanism provides bureaux/departments with the necessary flexibility to respond swiftly and effectively to operational needs. As each proposal to create directorate post is

subject to close scrutiny by the policy and resource bureaux, and also put to the relevant Legislative Council panel and then ESC/FC if the post is required beyond six months, these checks and balances in the system will ensure the proper application of the delegated authority.

Utilization of Resources by Trade and Industry Department

18. **MR JAMES TIEN** (in Chinese): *Madam President, regarding the utilization of resources by the Trade and Industry Department (TID), will the Government inform this Council:*

- (a) *of the number of officers who were responsible for quota administration in the TID before the lifting of quota restrictions on textiles and clothing imports in January this year, as well as the current work arrangements for these officers; and*
- (b) *whether it will reconsider merging the Economic and Trade Offices of the TID in major cities of the world with the Hong Kong Trade Development Council (TDC)'s offices located in the same cities, so as to save resources?*

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

- (a) In the light of the abolition of textiles quotas on 1 January 2005, new arrangements in respect of 251 posts in the TID responsible for the administration of textiles quotas and quota-related licensing system need to be effected. Of these posts, 75 are unfilled or the post-holders have left the Government (or are currently on pre-retirement leave) due to natural wastage or voluntary retirement. Another 52 officers have been redeployed within the TID (including three officers who will leave the Government due to natural wastage) and the remaining 124 officers have been redeployed to various bureaux and departments under Civil Service Bureau's Central Clearing House mechanism.

- (b) Hong Kong's 11 existing Economic and Trade Offices (ETOs) are located in major cities which economies are Hong Kong's key trading partners. The cities concerned are Guangzhou, Washington DC, New York, San Francisco, Toronto, Brussels, London, Geneva, Tokyo, Sydney and Singapore. With the exception of the Geneva ETO (which primary role is to represent Hong Kong at the World Trade Organization), the ETOs seek to enhance understanding of Hong Kong among local decision-makers, political and financial sectors, and opinion formers; monitor developments that might affect Hong Kong; as well as liaise closely with the business sector in the host economy. They also organize different events to promote the overall image of Hong Kong and our favourable business environment. In addition, the ETOs (except Washington and Geneva ETOs) actively seek to attract investment into Hong Kong. Overseas ETOs are managed by the Commerce and Industry Branch of the Commerce, Industry and Technology Bureau.

The TDC is tasked to promote, assist and develop Hong Kong's trade with other places in the world and to make recommendations to the Government on measures which it considers would promote the trade of Hong Kong. It has a global network of 41 offices in major business centres around the world, mainly to help small and medium enterprises and its other customers expand markets, strengthen trade contacts, and obtain market information and value-adding training. It also seeks to promote Hong Kong's premier position as the international trade platform in Asia. Currently, seven of the TDC's offices are located in cities where there are ETOs, namely Guangzhou, New York, Toronto, London, Tokyo, Sydney and Singapore.

The functions of ETOs and TDC are different yet complementary. They have different responsibilities and maintain close liaison with each other to enable the best utilization of resources to reap maximum results. If necessary, the Commerce and Industry Branch will co-ordinate the work of ETOs and TDC to enhance overall efficiency. We do not consider it cost-effective to merge ETOs with the TDC offices, nor may such a move be beneficial to promoting and expanding our external trade.

Hosts of Financial Programmes Making Misleading Comments and Showing Favouritism

19. **MR ALBERT CHENG** (in Chinese): *Madam President, it has been reported that, in introducing and recommending individual covered warrants (commonly known as "warrants") on their programmes, hosts of business/financial programmes in the local media might have shown favouritism towards individual issuers and misled small investors. Moreover, as the market-making system is adopted in the local warrant market, market manipulation is prone to arise. In this connection, will the Government inform this Council:*

- (a) how it prevents hosts of such business/financial programmes from showing favouritism towards individual warrant issuers and misleading small investors on their programmes;*
- (b) whether it knows if the Broadcasting Authority (BA) has investigated if hosts of such programmes have assisted issuers in manipulating the market; and*
- (c) whether it knows if the BA, the Independent Commission Against Corruption (ICAC) and Securities and Futures Commission (SFC) have issued any guidelines concerning the contents of such business/financial programmes, and whether a system of declaration of interests has been established for hosts of such programmes?*

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

- (a) Licensed television and sound broadcasters (licensees) have to comply with the codes of practice (the codes) issued by the BA. Radio Television Hong Kong has also agreed to comply with the codes on a voluntary basis.

To prevent programmes from misleading the public, paragraph 3 of Chapter 9 of the Generic Code of Practice on Television Programme Standards and paragraph 22 of the Radio Code of Practice on Programme Standards require the licensees to ensure that due

impartiality is preserved in respect of factual programmes (including financial programmes). Licensees must make every reasonable effort to ensure that the factual content of programmes is accurate. The programmes should not be slanted by the concealment of facts or by misleading emphasis.

On safeguards against conflict of interest, paragraph 8 of Chapter 9 of the Generic Code of Practice on Television Programme Standards and paragraph 27 of the Radio Code of Practice on Programme Standards stipulate that the licensee shall devise and institutionalize a mechanism whereby its presenters of factual programmes are required to disclose the existence of any commercial agreement or arrangement that may call into question the fairness or impartiality of the programmes. The licensee must also exercise its editorial judgement and decide whether the relevant programme presenter(s) should refrain from taking part in discussion of issues over which he/she may have conflict of interest; or a disclosure announcement of the existence of a relevant commercial agreement should be made at the time of broadcast of the programme material.

The licensee shall receive and consider any complaint from any member of the public with respect to the potential conflict of interest of its programmes. The licensee shall inform the complainant and the BA of the findings of its investigation and make the findings available for public inspection free of charge by, for example, posting them on its website. The purpose is to enhance the transparency of programmes, so as to let members of the public participate in scrutinizing if a presenter's comments constitute a conflict of interest.

The BA requires the licensees to comply with the provisions as stipulated in the codes in spirit as well as in letter and that the codes should be read in conjunction with relevant legislation and licence conditions currently in force, including the Securities and Futures Ordinance that regulates the securities and futures markets.

On the other hand, the SFC requires all firms and individuals licensed by the SFC for conducting regulated activities to comply with the following requirements set out in the Code of Conduct

issued by the SFC when they prepare and publish investment research on securities (including stocks and derivatives) or otherwise disseminate all or part of their investment research in the mass media (printed materials and broadcasting):

- (i) When the abovementioned person provides analyses or comments on securities in respect of a listed corporation in the mass media in his/her personal capacity, including appearing in person, he/she should disclose the following at the time the analyses or comments are provided:
 - (1) his/her name;
 - (2) his/her licence status; and
 - (3) where he/she and/or his/her associate has a financial interest in the listed corporation, the fact of having such an interest.
 - (ii) When the abovementioned person is asked by members of an audience, or otherwise by a journalist, for analyses or comments on specific securities, he/she may offer such analyses or comments, provided that he/she makes the disclosures as mentioned above.
- (b) In such cases, the BA will refer the matter to relevant authorities for investigation. The SFC will also investigate any person (whether programme hosts or otherwise) suspected of engaging in market misconduct activities.
 - (c) The ICAC has not issued any relevant guidelines. The codes issued by the BA and SFC are cited in the reply to part (a) above.

Travel Agents Charging Administrative Fee

20. **MR FRED LI** (in Chinese): *Madam President, it has been reported that the Travel Industry Council of Hong Kong (TIC) has recommended that, starting from 1 October this year, travel agencies may charge an administrative fee of at*

least \$30 for each airline ticket sold to outbound travellers, on grounds that the collection of fees on behalf of other parties, such as fuel surcharge on behalf of airline operators, has increased the travel agencies' workload and financial risk. In this connection, will the Government inform this Council:

- (a) given that travel agencies have been collecting various fees on behalf of other parties, of the justifications for the TIC's recommendation to levy the administrative fee, and whether the Government has been consulted prior to the making of the recommendation;*
- (b) whether it knows how the TIC arrives at the proposed rate that a minimum administrative fee of \$30 should be levied on each airline ticket sold, and if the TIC has taken into account the fact that travel agencies of different sizes may incur different administrative costs;*
- (c) in the light of the TIC's recommendation, whether it will invite the Competition Policy Advisory Group (COMPAG) to investigate if such anti-competitive practices as collusive pricing exist in the travel industry; and*
- (d) whether it has assessed if the TIC has given regard to the interests of both the industry stakeholders and travellers; if it has, of the assessment results, and whether it will reorganize the TIC by including lay members so as to achieve a balanced representation of the interests of the travel industry and travellers?*

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

(a) and (b)

Travel agents, in selling air tickets, are required to collect various surcharges on behalf of the airlines, such as insurance surcharge, fuel surcharge and airport tax, and so on, and are also required to state clearly on the air tickets the breakdown of the surcharges. The additional administrative work has increased the operating cost of the travel agents. Some travel agents have in the past been

charging a service fee to cover the additional cost. The service fee is listed separately on the invoice.

The TIC agrees that its member travel agents may need to charge customers a service fee for this service. The TIC has also suggested the fee level to be charged for reference by the travel trade. Member travel agents have the discretion to decide whether to charge such a fee and the level of fee to be charged. When drawing up the suggested fee, the TIC considered the scope of service provided by the travel agents, for example, the changes in the number of surcharge items and the degree of complexity in calculating the surcharges, and the impact of the additional administrative work on travel agents of different scale, in particular the small-to-medium sized travel agents.

The suggested rate is no less than \$30 but it should be noted that the suggested rate is not mandatory and travel agents could decide whether or not to charge the service fee and the amount to be charged by taking into account their own operating cost. Travellers are free to compare the level of service fee charged by individual travel agents and other factors in choosing an appropriate travel agency service. The TIC Board of Directors can deal with matters concerning the relevant charging arrangements and service fee as this is part of the TIC's day-to-day regulatory work.

- (c) Travel agents are currently facing keen competition. They compete not only on pricing, but also the variety of services offered, including designing personalized tour itineraries, booking of hotels and sightseeing activities, and so on. The TIC and the Tourism Commission monitor market behaviour closely to ensure a fair business environment in the market. The COMPAG issued the "Guidelines to maintain a competitive environment and define and tackle anti-competitive practices" (the Guidelines) to the TIC in September 2003. The COMPAG Secretariat had subsequently met with the TIC to explain the Guidelines and encourage adherence to the Guidelines by the TIC and its members.

Upon noting the TIC's suggestion concerning the service fee, the COMPAG has looked into this matter through the Tourism

Commission. The Tourism Commission noted that the TIC's recommendation is only for its members' reference. The proposed fee level is not mandatory but only a suggestion to the trade. According to the TIC, since its announcement of the proposed service fee, a considerable number of travel agents have in actual practice set their own fee levels based on their individual considerations; or have not imposed any service fee. The TIC has also explained to its members recently that the travel agents are free to decide whether to charge the service fee according to their own situations. Therefore, we believe that the TIC's proposed service fee has not affected market competition.

- (d) At present, travel agents are regulated under a two-tier system whereby the licensing of travel agents is administered by the Travel Agents Registry of the Government of the Hong Kong Special Administrative Region and the regulation of the day-to-day operation of travel agents is conducted by the TIC. The TIC is required to formulate and enforce various directives and codes of conduct to ensure healthy development of the trade on the one hand, and protect the interests of the general public on the other, thus achieving a balance between the two.

There are measures in place under the present system to ensure that the TIC considers the interests of the travel industry as well as the travelling public. Firstly, the TIC's Memorandum and Article of Association (M&A) has specified that eight non-trade members should be appointed to the TIC's Board of Directors as Independent Directors. These Independent Directors are to be appointed by the Financial Secretary. At the same time, the majority of the TIC's 14 functional committees comprise non-trade members from, for example, the legal, accounting and insurance sectors. Non-trade members account for half of the membership in some of these committees. Secondly, it is clearly stipulated in the TIC M&A that amendments to certain clauses in the M&A have to be approved by the Financial Secretary. Furthermore, the TIC has been promulgated as a "public body" for the purposes of the Prevention of Bribery Ordinance under the Independent Commission Against Corruption (ICAC). With the assistance of the ICAC, the TIC has also issued the "General Code of Conduct for TIC Board of

Directors", which includes guidelines on declaration of interests that help its directors to discharge their duties in an impartial and honest manner.

STATEMENTS

PRESIDENT (in Cantonese): Statement. The Chief Secretary for Administration will make a statement on "The Fifth Report of the Constitutional Development Task Force".

In accordance with Rule 28(2) of the Rules of Procedure, no debate may arise on the statement but I may in my discretion allow short questions to be put to the Chief Secretary for Administration for the purpose of elucidating its contents. Chief Secretary for Administration.

MS MARGARET NG (in Cantonese): Point of order. Madam President, we generally seek elucidation on the contents of the speech, but it seems that the documents have not yet been put on our table. This will make it difficult for us to seek elucidation.

PRESIDENT (in Cantonese): The Clerk has just told me that the relevant documents will be distributed. I can see that the staff are carrying some documents with them, and they will start distributing them to Members now.

MS MARGARET NG (in Cantonese): Madam President, will you call upon the Chief Secretary to speak only after the documents have been distributed to us, so that we can read them while listening to him? Otherwise, it would just be a waste of time and effort.

PRESIDENT (in Cantonese): Yes.

MS MARGARET NG (in Cantonese): Thank you.

The Fifth Report of the Constitutional Development Task Force

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, the Constitutional Development Task Force (the Task Force) will publish the Fifth Report later today to put forth a package of proposals on the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008. This signifies that discussion of Hong Kong's constitutional development has entered into a defining stage.

To ensure that the proposed package is firmly grounded on public views, the Task Force has published four reports since its establishment in January 2004 to collect widely and openly and in several stages views from different sectors of the community. Over the past 18 months or so, the Task Force has received more than 2 200 submissions from members of the public, and has held two open forums, and 16 seminars and group discussions. Besides, the Task Force has met over 50 organizations and quite a number of individuals to receive their views. We have also attended meetings of the Legislative Council as well as meetings of the Legislative Council Panel on Constitutional Affairs to brief Members on the work of the Task Force and to listen to the views of Members. Further, the Secretary for Constitutional Affairs and his colleagues have attended three public hearing sessions of the Panel on Constitutional Affairs as well as meetings of all the 18 District Councils (DCs). *(Coughing)* Excuse me.

Following each round of public consultation, the Task Force has published, in the appendices to its reports, the original text of the public views collected, and uploaded them onto the Constitutional Development Website. The work of the Task Force can be said to be highly transparent.

Madam President, let me briefly introduce the key elements of the proposed package.

On the method for selecting the Chief Executive in 2007, we propose:

- The number of members of the Election Committee (EC) to be increased from 800 to 1 600.
- The number of EC members in the First, Second and Third Sectors to be increased from 200 to 300 respectively.

- The number of EC members in the Fourth Sector to be increased to 700, mainly by including all appointed, ex-officio and elected DC members.
- The threshold for nominating candidates to be maintained at the ratio of one eighth of total membership.
- To introduce a new provision that election proceedings shall continue even if there is only one validly nominated candidate.
- The existing requirement that the Chief Executive shall not have any political affiliation to be maintained.

On the method for forming the Legislative Council in 2008, we propose:

- The number of Legislative Council seats to be increased from 60 to 70. The number of seats returned by geographical constituencies through direct elections and that returned by functional constituencies will respectively be increased to 35.
- All the five newly added functional constituency seats to be returned through election by DC members from among themselves. Accordingly, the number of seats returned by the DC Functional Constituency will be increased from one to six.
- The existing provision that individuals who are not of Chinese nationality may occupy up to 12 seats to be maintained.

Madam President, the main thrust of the proposed package is the enhanced level of participation of DC members in the EC and the Legislative Council. Half of the newly added members of the EC and all the newly added Legislative Council seats will basically be directly or indirectly elected by over 3 million voters in Hong Kong through geographical constituencies. They have a broad electorate and can greatly enhance the democratic representation in the two electoral methods. Furthermore, close to 60% of the seats in the fourth term Legislative Council will be returned by geographical constituencies.

The existing DC members come from different strata and sectors of the community. Around one fourth are from the industrial and commercial sectors,

around one fifth are from the professional and managerial ranks, whilst the others include personalities from the education, social work, sports and cultural sectors, representatives of trade unions, housewives, and representatives of rural communities. The background of DC members can be said to be a microcosm of the community at large. It epitomizes the spirit of "balanced participation" and gives full effect to the principle of "looking after the interests of different sectors of the community".

Madam President, the Task Force has commissioned the Central Policy Unit to conduct an independent opinion poll to ascertain the level of public support for the main elements of the package. The poll was conducted by an independent opinion survey agency. The results suggest that the proposed package has the support of the majority of the public.

Madam President, I believe the package of proposals put forth by the Task Force today has struck the right balance amidst the various views submitted by different sectors of the community and has responded to the aspirations of the community on constitutional development. It should be acceptable to the community at large. I hope that the proposed package will have the support of Members here, so that Hong Kong's constitutional development can move forward.

Indeed, the Task Force firmly believes that the proposed package can provide more room and opportunities for the public to participate in the elections of the Chief Executive and the Legislative Council, broaden the representativeness of the two electoral methods, and take forward Hong Kong's constitutional development substantively towards the ultimate aim of universal suffrage, and is consistent with the Basic Law and the Decision of the Standing Committee of the National People's Congress (NPCSC) made on 26 April 2004.

Madam President, I would like to explain the Government's position on the issue of setting a timetable for introducing universal suffrage. *(Coughing)*

There are all along different views within the community on setting a timetable for universal suffrage. There are views that universal suffrage for both the Chief Executive and the Legislative Council should be introduced in 2012. There are also views that it should be introduced in 2017 or even later. On the other hand, there are still voices in the community calling for the Central

Authorities to reconsider introducing universal suffrage in 2007 and 2008. There are also views that there is no need to set any timetable. It is clear that views on the issue remain diverse in the community and that it would be quite difficult to reach a consensus in the near future.

To attain universal suffrage, we must first create favourable conditions and provide the necessary supporting measures. Only when the conditions are ripe and the supporting measures ready, and the community has reached a high degree of consensus on the pace of introducing universal suffrage, will a timetable for introducing universal suffrage be meaningful. To this end, our important task now is to make the necessary preparations for introducing universal suffrage. Our tasks include, among others, to actively groom political talents, to open more channels for those who are capable of and committed to participating in the political process, and to review the role and functions of the DCs with a view to further expanding their functions on matters relating to district affairs. We will also set up a panel on political development under the Commission on Strategic Development to examine how to attain universal suffrage under the principles of "balanced participation", "looking after the interests of different strata of the community", and "providing adequate checks and balance", and so on. Indeed, for constitutional development to move forward, supporting measures on many fronts are required. We are serious and sincere in achieving the ultimate aim of universal suffrage. The proposed package is a major step forward towards this goal. In future, we will continue to move forward in this direction step by step. *(Coughing)*

Madam President, we would formally present to the Legislative Council the motions concerning the amendments to Annex I and Annex II to the Basic Law this December. As regards the detailed arrangements, such as the allocation of seats among the subsectors of the EC, the electoral method to be adopted by the DC Functional Constituency, and the delineation of geographical constituencies, these will be dealt with in the context of local legislation. We envisage introducing the Chief Executive Election (Amendment) Bill into the Legislative Council in early 2006, and will strive to have it passed by May 2006, at the latest, so that relevant subsidiary legislation could be amended respectively by the Government and the Electoral Affairs Commission, and the voter registration exercise be conducted thereafter. We will form a new term EC in the second half of 2006, elect a new term Chief Executive in March 2007, and amend the relevant provisions of the Legislative Council Ordinance in 2007. *(Coughing)*

Madam President, during the scrutiny of the Chief Executive Election (Amendment) (Term of Office of the Chief Executive) Bill by the Legislative Council, the Government of the Hong Kong Special Administrative Region (SAR) undertook to study a number of legal issues arising from the term of office of the Chief Executive. The SAR Government has thoroughly examined these issues and has exchanged views with the relevant departments of the Central Authorities. In sum, the views of the SAR Government on the issues relating to the term of office are:

- (a) The legislative intent of Article 46 of the Basic Law is that the Chief Executive may only serve for not more than two consecutive terms and may not serve for more than 10 years. A new Chief Executive elected under a situation as provided for in Article 53 para 2 of the Basic Law may only serve for one further term after the expiry of the remainder term, and the remainder term is counted as "a term".
- (b) A new Chief Executive elected in a situation under Article 53 para 2 of the Basic Law has the power to dissolve the Legislative Council once during the remainder term, whether or not the outgoing Chief Executive has already exercised such power during his term of office. This is to uphold the integrity of the powers vested in the new Chief Executive under the Basic Law.
- (c) It is not inconsistent with Article 53 para 2 of the Basic Law not to hold a by-election if a vacancy arises within six months before the expiry of the term of the Chief Executive. Furthermore, the Task Force recommends that the Chief Executive Election Ordinance should be amended to provide for the following arrangements from 2007:
 - (i) If an election for a new term (five-year) Chief Executive will be held within six months after a vacancy in the office of the Chief Executive has arisen, it will not be necessary to hold a by-election; and
 - (ii) Before the new term (five-year) Chief Executive takes up his office, the Acting Chief Executive will continue to assume the duties of the Chief Executive. (*Coughing*)

Madam President, although constitutional development in 2007 and 2008 will not take us immediately to the ultimate aim of universal suffrage, it is a substantive and significant step towards that goal. I hope that Honourable Members will support the proposed package, so as to create more favourable conditions for the long-term constitutional development for Hong Kong. I believe that Members here would agree that the legislative work before us has to be undertaken back-to-back within a tight timeframe. I hope that Members would, in the overall interests of Hong Kong, seize the time and work with the Administration to jointly accomplish this historic task, so that Hong Kong's democratic development can move forward.

Thank you, Madam President.

PRESIDENT (in Cantonese): A total of 18 Members have pressed the buttons indicating their wish to ask a question in order to seek elucidation from the Chief Secretary. Will Members please state clearly the paragraph on which they wish to seek elucidation from the Chief Secretary before they ask their questions for easy understanding by other Members.

MR CHEUNG MAN-KWONG (in Cantonese): *Madam President, I would like the Chief Secretary for Administration to elucidate his remark in the seventh paragraph, that the newly added members of the EC and newly added Legislative Council seats can greatly enhance the "democratic representation" in the elections. It is because these newly added members of the EC include DC members appointed by the Chief Executive and ex-officio DC members. These DC members are not returned by elections, but they are handpicked to enjoy political privileges. How can they enhance the "democratic representation" in the elections of the Chief Executive and the Legislative Council? Or will they only enhance the representation of undemocratic handpicking in these elections?*

PRESIDENT (in Cantonese): Chief Secretary for Administration, your elucidation of "democratic representation" please.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, this is actually a very simple question of numbers. There are now

400 DC members returned by DC elections and a total of 102 appointed members. These 400 DC members are returned by elections, and under our proposal, all DC members will be incorporated into the EC, which means that they can take part in the election of the Chief Executive and become Members of the Legislative Council by electing from among themselves in the 2008 Legislative Council election. There will be five newly added seats for them. Compared with the present situation, this is certainly a great stride towards democracy.

MR CHEUNG MAN-KWONG (in Cantonese): *He did not elucidate the thrust of the question. The thrust of the question is that since appointed and ex-officio members are included, how could he say that "democratic representation" would be enhanced? This is the premise of my question, and he nevertheless focused on the part on elected DC members in his answer.*

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

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): No, Madam President.

MR LEE WING-TAT (in Cantonese): *Madam President, I wish to seek elucidation on the last sentence of the 13th paragraph. The Chief Secretary said that it would be quite difficult to reach a consensus on the timetable for universal suffrage in the near future. Madam President, my question is: The Democratic Party has all along supported drawing up a timetable for universal suffrage, and this is known to all; we also consider that only in this way can there be true harmony in society, or else this issue would only arouse heated debates in society once every several years. Results of surveys conducted by the Democratic Party prove that many members of the public support drawing up a timetable for universal suffrage as soon as possible. In this connection, may I ask Chief Secretary Rafael HUI whether any independent opinion poll has been conducted by the Government internally and whether the results prove that the public oppose drawing up a timetable for universal suffrage expeditiously?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, since January last year, the Task Force has conducted systematic, well-planned public consultations to extensively gauge the views of all sectors of the community. All the opinions received are recorded in previously published reports for public reference. On the electoral timetable, we can see that public views are diverse, and these differences in opinions point to the fact that a full consensus is lacking in the community. On the question of timetable, since some proposals have to be implemented early while some others will be implemented later, we, therefore, feel that providing just a timetable at this stage still cannot lead us to universal suffrage at once, for other factors are equally important.

MR LEE WING-TAT (in Cantonese): *Madam President, the Chief Secretary for Administration did not answer my question. The question, asked in Cantonese, is very simple. Chief Secretary for Administration, according to what you have said earlier, results of opinion surveys prove that your package has the support of many members of the public. My question is very simple: Has the Government conducted independent opinion polls on the question of expeditiously drawing up a timetable for universal suffrage? The Chief Secretary for Administration has only repeated what we already know. I was asking about the specific details. If no independent opinion poll has been conducted, what are the reasons?*

PRESIDENT (in Cantonese): Mr LEE Wing-tat, are you asking the Chief Secretary for Administration to elucidate whether the Government has conducted surveys in this regard?

MR LEE WING-TAT (in Cantonese): *Yes.*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, certainly, the most important task of the Task Force is to consider the electoral arrangements for the elections in 2007 and 2008. On the timetable for universal suffrage, we have collected many different public opinions. But in an opinion poll conducted recently, emphasis was put on ascertaining the level of

public support for the main elements of the package. The question of timetable was not included in the survey.

MR ANDREW CHENG (in Cantonese): *Madam President, I would like the Chief Secretary to elucidate the part about the timetable for universal suffrage in the 14th paragraph. In this paragraph, it is said that universal suffrage will need many supporting measures, and that only when the conditions are ripe will a timetable for introducing universal suffrage be truly meaningful. References abound in the Basic Law to the notion that universal suffrage should be achieved in a gradual and orderly manner. The provision of a timetable enables plans to be made for the work and hence give play to the spirit of working in a gradual and orderly manner. Without a timetable for universal suffrage, how can this spirit be manifested? Without a timetable for universal suffrage, how can there be a clear target to strive for universal suffrage? So, I hope the Chief Secretary can clarify this: He said that there must be so many supporting measures and so many barricades, and that the conditions must be ripe before the timetable will be truly meaningful. But why is a timetable for universal suffrage itself not an important condition?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, this is perhaps a question of cause and effect, or a question of priorities. In fact, the timetable for universal suffrage is just a matter of time. *(Laughter)* In other words, a timetable must be provided at a particular stage for work to be carried out. So, I do share Mr Andrew CHENG's theoretical viewpoint. In the view of the Government, there are some very important elements which I have already explained in detail in my statement. So, I am not going to repeat them now. All these tasks certainly carry their respective timetables, and they will not be carried out indefinitely. We consider that if these tasks are properly completed and when the actual circumstances in society allow a realistic and pragmatic target, there will certainly be a timetable by then. That is why I said a timetable is just a matter of time. But is it going to be provided today? I can tell Mr Andrew CHENG that the answer is "No".

DR FERNANDO CHEUNG (in Cantonese): *Madam President, I would like the Chief Secretary for Administration to clarify the ninth paragraph. In the ninth*

paragraph, it is mentioned that the Government has commissioned the Central Policy Unit to conduct some opinion polls and results suggest that the proposed package is supported and agreed by the majority of the public. Today is the first time that we are formally provided with this proposed package. I wonder if the Government has completely disclosed to members of the public all the specific details of this proposed package and obtained their support and acceptance for the package.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, I am no expert in opinion polls. But I understand that some degree of privacy and confidentiality are necessary before accurate results can be obtained. It is true that at the more recent stage of the drafting of the proposed package, an independent agency was commissioned to conduct an opinion poll, and the results of this opinion poll will be published in the Appendix to the Fifth Report which will also set out in detail the approach or methodology used in the survey.

DR FERNANDO CHEUNG (in Cantonese): *Madam President, he did not give a direct answer to my question. He only said that the results would be disclosed later. But I think that today is the first time that we in the Legislative Council are formally provided with all the specific details of the proposed package. Whether or not the Government has completely disclosed all the specific details of this proposal to people outside the Legislative Council through other channels is a very important question. I hope the Chief Secretary for Administration can give us a direct answer as to whether or not he had done so.*

PRESIDENT (in Cantonese): Are you asking the Chief Secretary for Administration to elucidate whether he had disclosed the entire package to anyone else before today?

DR FERNANDO CHEUNG (in Cantonese): *Right.*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, my brief answer to the question is "No". There are rules and methodologies to be observed in conducting opinion polls. When conducting

the opinion poll, it is certainly necessary to prepare some questionnaires to gauge public views on the respective options. But the survey was not conducted with a full disclosure of all the details of the package. If Dr CHEUNG is interested in the work and procedures of the entire poll, the details will be clearly explained in an Appendix to the Fifth Report to be published later this afternoon.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, the Chief Secretary has answered questions on the timetable for universal suffrage earlier on, and his answer is more or less the same as the provision on ultimately achieving universal suffrage in the Basic Law, for he said that there would ultimately be a timetable for universal suffrage, and this is what we already know. But Madam President, I would like him to elucidate the 14th paragraph which also mentioned the timetable for universal suffrage and pointed out that there must be a high degree of consensus in society on the pace of introducing universal suffrage. I would like the Chief Secretary to elucidate what a high degree of consensus means. Is it in a quantitative sense? If so, if there are, say, 60% of people supporting universal suffrage, can 60% constitute a high degree of consensus? I think that would be enough. What does a high degree of consensus mean? Is it in terms of the hierarchy of power or in a quantitative sense? If it is the former, does he mean that a consensus must be reached among the best elites in power in Hong Kong, including Members of the Executive Council, or should a consensus be reached by those in even higher echelons, including the Central Authorities? Can I seek elucidation on a high degree of consensus? I hope that the consensus reached among members of the public can already constitute a high degree of consensus, for this is already a high level of consensus in a quantitative sense.*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, the 14th paragraph explains the question of timetable. In fact, the ultimate aim of universal suffrage as provided for in the Basic Law is agreed by all. From this perspective, we all are in the pro-democracy camp (*laughter*), because no one will oppose universal suffrage. Mr LEE Cheuk-yan even said earlier that he had waited for a very long time. When I said a high degree of consensus, I mean a consensus on whether 2012 or 2017 should be specified in the timetable. I believe few people in Hong Kong will oppose the goal of universal suffrage and so, from this perspective, I entirely share your view. The only difference is that at this stage, we feel that it is unrealistic even if a

timetable is provided now. I have already explained the reasons in my statement.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, he did not answer my question concerning "a high degree" or what a high degree of consensus means. He did not answer my question. If, as he has said, the majority of the people belong to the pro-democracy camp, then universal suffrage can be implemented in 2007 and 2008, and as a matter of fact, the majority of the people do belong to the pro-democracy camp. But much to our regret, it now seems that there will not be universal suffrage in 2007 and 2008. What exactly does a high degree of consensus mean?*

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

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, concerning the timetable, our view is that if many of the necessary supporting measures are provided successfully, not sluggishly, the consensus in the community on when universal suffrage should be implemented for the two elections will definitely be higher than it is now the case. This is our view.

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, first of all, I wish to thank the Chief Secretary through you, Madam President, for dropping hints to the media earlier, and that is why we already knew this package pretty well. (Laughter) Therefore, it is not true that we learn of this package only now and so, I will not ask many questions. I only wish to seek elucidation on the 10th paragraph in which the Chief Secretary said, "I hope that the proposed package will have the support of Members here, so that Hong Kong's constitutional development can move forward." I wish to ask the Chief Secretary this: He said that he would like to have our support, so that Hong Kong's constitutional development can move forward. But how can he convince us that the constitutional system can move forward on this basis? It is because in reply to questions asked by a number of Members earlier, the Chief Secretary said that there is neither a timetable nor a roadmap, and we can only hope that*

universal suffrage will somehow come into existence in the unknown future. Given this, how can we be convinced that this package has a solid foundation and how can we be convinced that constitutional development is worthy of support?

Moreover, the proposed package is even more of a retrogression than the situation before 1997. One of the reasons is that there was no appointment system in the then district boards (DB) before 1997 but now, the appointment system is maintained under the proposed package. Besides, before 1997, representatives of DB members in the Legislative Council were elected from among all the elected DB members. But this is not the case now, because in addition to elected members, ex-officio and appointed members are maintained, and they will elect from among themselves their representatives to the Legislative Council. In view of this, how can the constitutional system move forward and have our support?

PRESIDENT (in Cantonese): Chief Secretary for Administration, what is the meaning of "to move forward"?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, the basis of our comparison now is that we are comparing the present situation with the pace, extent and scale of development in the proposed package, and as I also mentioned in other parts of my statement, from the number of newly added Legislative Council seats or the number of people participating in the election of the Chief Executive, we can see that the number of people who can take part in the direct elections of geographical constituencies or indirect elections will be increased significantly compared with the present arrangement. For instance, we propose to increase 10 seats in the Legislative Council, and these 10 seats will be directly or indirectly elected through geographical constituencies. This will be very different from the conventional distribution of functional constituencies and so, we consider that this is indeed a package that moves forward.

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, the Chief Secretary did not give us a clear answer. As I pointed out earlier, to move forward should mean taking steps forward, not moving backwards. But in fact,*

as I have said, before 1997, the electoral system of the DB election was completely different from that under the present proposal. While the Chief Secretary said that the system will move forward, when does the Chief Secretary think that it will move forward? On this point, the Chief Secretary did not give us a clear answer. If there is a basis for moving forward in the future, can the Chief Secretary tell us when we can achieve further development on this basis?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, I hope Mr LEUNG can take a broader vision and compare the number of directly-elected seats proposed in this package with that in the past. In which case there are more directly-elected seats? Will the room for public participation be expanded or reduced, or will it remain the same as it is now? I think he can understand it if a comparison is drawn in this way. In fact, we have taken a few steps forward in this respect, and the proposed package is intended to further take one big step forward. The situation is basically just this simple.

MR LEUNG YIU-CHUNG (in Cantonese): *Should I respond to the question put to me by the Chief Secretary?*

PRESIDENT (in Cantonese): I think you had better not. As we all understand, Members are seeking elucidation on the statement made by the Chief Secretary earlier and so, there is no pressing need to further ask questions that are more substantive at this time. Will Members please confine their questions to seeking elucidation on the contents of the statement.

MR MARTIN LEE (in Cantonese): *Madam President, first of all, I wish to congratulate the Chief Secretary for Administration for establishing the so-called "Long-term universal suffrage pro-democracy camp" today, and also thank him for disclosing for the first time the details of the Fifth Report to this Council today, but not to the media. However, may I ask the Chief Secretary for Administration to clarify which key elements of his proposed package, as provided in the fifth and sixth paragraphs of the statement, were not covered in press reports by this afternoon? (Laughter)*

PRESIDENT (in Cantonese): Mr Martin LEE, sorry, this is not seeking elucidation but asking a question. You have to raise a question requesting an elucidation on the contents of the statement.

MR MARTIN LEE (in Cantonese): *Madam President, this is a request for elucidation.*

PRESIDENT (in Cantonese): This is not a request for elucidation. What do you want the Chief Secretary for Administration to clarify? He has put forward a proposal only. Maybe you think about it for a while. I will let you ask your question again later, fine?

DR YEUNG SUM (in Cantonese): *Madam President, I would like to seek elucidation from the Chief Secretary for Administration on the seventh paragraph. He said that the proposed package has enhanced the democratic representation by doubling the number of members of the Election Committee, and incorporating all District Council (DC) members. Among them, however, the appointed DC members will be appointed by the Chief Executive. Is the Chief Executive's appointment of DC members, who will then elect the future Chief Executive, actually vote planting? If this is actually vote planting, why it is described as having democratic representation?*

PRESIDENT (in Cantonese): Chief Secretary for Administration, please elucidate on the phrase "democratic representation".

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, I remember that when I answered the question raised by Mr CHEUNG Man-kwong earlier, a figure was used to illustrate the proportion between the so-called elected and appointed members. As Dr YEUNG SUM raised the issue of vote planting, I will also try my best to respond to it because our proposed package is about the elections of the Chief Executive in 2007 and the Legislative Council in 2008. A new term Chief Executive will be elected in March 2007. In other words, according to our current package, all incumbent

DC members will be included because their functions, responsibilities, status and roles are consistent under the law. We see no reason why they should become second-class citizens and cannot participate in the election of the Chief Executive in March 2007, whereas those appointed DC members were appointed by the former Chief Executive instead of the new Chief Executive. Under our proposed package, the DC elections in December 2007 consists of an appointment element, which again is meant to maintain stability and balanced participation. On the basis of this principle, it is necessary, just as I have explained earlier, to have an appointment element.

DR YEUNG SUM (in Cantonese): *Madam President, is the Chief Secretary saying that those appointed members have nothing to do with the new Chief Executive because they were not selected by him? However, the Government is a single entity, right? As the Government is a single entity, its policy does not hinge on a person.*

PRESIDENT (in Cantonese): Dr YEUNG Sum, sorry, this is not a debate. I think, in the future, you surely will have an opportunity to

DR YEUNG SUM (in Cantonese): *I am seeking an elucidation from him.*

PRESIDENT (in Cantonese): Then, Chief Secretary for Administration, do you have anything to add?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, I have responded directly to Dr YEUNG Sum's question about vote planting, and I think a response has been made.

MR LAU KONG-WAH (in Cantonese): *Madam President, I would like to seek an elucidation from the Chief Secretary for Administration on the fifth point of the fifth paragraph on the new provision concerning the selection of the Chief Executive. It is stipulated in this new provision that the election proceedings*

shall continue even if there is only one candidate. We all know that there is either a winner or loser in an election. Will there be only losers but no winners or only winners but no losers in this election? What are the serious consequences if the Government really cannot get majority support?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, I would like to thank Mr LAU Kong-wah for raising this question. This proposal is made on the basis of the many views expressed during the by-election of the Chief Executive held earlier this year which, among others, doubted the possibility of a candidate being elected uncontested when there is only one candidate. There had also been many voices from various sectors of the community, highlighting the importance of completing the whole electoral process. After considering views from different sectors, it was considered in principle that there should be a mechanism to enable the completion of the whole electoral process, rather than concluding it at the close of nominations. As for the specific proposal, we intend to put forward a proposal to provide for the electoral methods when local legislation is introduced, that is, when amendments to the Chief Executive Election Ordinance are proposed. It is also earnestly hoped that more views can be heard in due course, including, in particular, views from Honourable Members on the electoral methods. There is no established proposal at the present stage. However, I would like to point out that, among the views we heard at that time, there was a suggestion on a vote of confidence. Our Government considers that the method of vote of confidence might not be very appropriate for the time being, and yet we eagerly hope that more discussions on this issue can be held, for the benefit of drawing up the future package.

DR KWOK KA-KI (in Cantonese): *Madam President, for reasons unknown, the democratic camp is now hugely popular. Two days ago, Mr Ronald ARCULLI, a Member of the Executive Council, said that he was a democrat too. I am very pleased that today even the Chief Secretary stated that he is a democrat too. Now I wish to seek an elucidation on the ninth and 13th paragraphs of the statement. Despite his earlier remark that he had completed the task of ascertaining public opinion, the Chief Secretary for Administration indicated in the 13th paragraph that there were all along different views within the community on setting a timetable for universal suffrage. In his response to us, he said that questions had not been asked during the opinion poll concerning the introduction*

of universal suffrage for the dual elections in 2007 and 2008, or in 2012. Such being the case, may I ask what questions were raised in the opinion poll? Actually, he has to tell us now, in this discussion, whether there will be a timetable. Yet, he has failed to consult the people on the timetable. Now we are discussing whether it is necessary to come up with a package to enable universal suffrage to be implemented in Hong Kong. I have therefore no idea what questions the Chief Secretary has asked. He has spent so much money — public money is still required even if the Central Policy Unit is commissioned — each taxpayer is required to contribute to each of the polls conducted by the Government. I very much want to know what questions the Chief Secretary has asked. More importantly, given his great emphasis on public opinions, does it mean that if we can demonstrate to him that public opinions do not accept the package but rather prefer, for instance, the introduction of a timetable expeditiously, the Chief Secretary will be willing to act according to public opinions and come up with such a new proposal?

PRESIDENT (in Cantonese): Dr KWOK Ka-ki, your question is exceedingly long. Will you tell me clearly the point about which you are seeking elucidation?

DR KWOK KA-KI (in Cantonese): *Madam President, what I want elucidated, through you, is: What questions were asked in this so-called opinion poll?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, my answer to this question seeking elucidation shall be very brief. Dr KWOK, I mentioned earlier that the content of the opinion poll and the means of conducting the poll are set out in detail in the Appendices to the Fifth Report. A lot of questions were raised in the opinion poll. But I find it unnecessary to list out all those questions now because it will not be long before Members can see for themselves the questions asked in the opinion poll. Madam President, I should have finished answering this question seeking elucidation. However, if Dr KWOK allows, I wish to add something.

In the four Reports published previously, the Task Force conducted many studies on public opinions about various aspects, namely elections, constitutional development, and so on. I believe Members will still remember certain parts of

the Reports. According to its procedures, the Task Force will progressively narrow the views on elections and modes of elections, and consider some of the most important issues. I understand that no consensus was reached on the timetable in the previous stage as some people had proposed 2012, some proposed 2017, and there were all sorts of other suggestions too. Therefore, at that stage, the timetable bore no direct relevance to this package because the views collected from the community were exceedingly diverse. This explains why when we eventually conducted the opinion poll, we focused merely on asking questions about the content of the proposed package, instead of the issues concerning a timetable. I have to explain this is how our priority was set.

PRESIDENT (in Cantonese): Dr KWOK Ka-ki, has the Chief Secretary not yet clarified your question?

DR KWOK KA-KI (in Cantonese): *Not yet. The Chief Secretary just pointed out that he would not accept if members of the public hold diverse views on the proposed package or the issue. Does it mean that whether the Chief Secretary is giving a briefing or conducting an opinion poll, the public views on the DC proposal, if different from those of the Government, should not be included in the package, according to the Chief Secretary's logic?*

PRESIDENT (in Cantonese): Dr KWOK, are you asking the Chief Secretary to elucidate, or debating with him. We had better give other Members the opportunity to raise questions seeking elucidation.

MR JAMES TIEN (in Cantonese): *Madam President, the Chief Secretary said in the beginning of his speech that the Task Force "put forth a package of proposals". In the fifth and sixth paragraphs of his speech, that is, on the method for selecting the Chief Executive in 2007 and on the method of forming the Legislative Council in 2008, the words used by the Chief Secretary are "we propose". Could the Chief Secretary elucidate on these words? At times in meetings of the panels of the Legislative Council, the Government will use the word "propose", which implies we may make some counter-proposals and a little bit of amendments. With respect to the words "we propose" in the fifth and*

sixth paragraphs, do they carry such an implication? If not, then is the Government saying that "we have decided"? Could the Chief Secretary make an elucidation on the fifth and sixth paragraphs? And since they are about proposals, can the details therein be amended? If not, then this is a decision already. If they are only proposals, can we make a counter-proposal?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, amendment of Annexes I and II to the Basic Law will require the introduction of a motion by the Government. The package of proposals proposed by us now is the result of consultations, studies and discussions lasting almost a year and a half. Insofar as this package of proposals is concerned, we do not think, nor can we see any of its main constituent parts should be amended. However, procedurally we have still chosen the words "we propose", for the reason that a motion from the Government shall require the endorsement of a two-thirds majority of all the Members of the Legislative Council, the consent of the Chief Executive and the amendments shall be reported to the Standing Committee of the National People's Congress for approval or for the record. So at this stage, certainly we will choose these words and we cannot say "we have decided", for this is not consistent with the facts.

MR JAMES TIEN (in Cantonese): *Madam President, the Chief Secretary has not answered my question. Just now he has talked about the main parts, then, are there any parts which are not considered main parts?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, as a matter of course and at this present juncture these proposals are only major principles, main elements and a framework. Elsewhere in my statement I have also said that the detailed arrangements for the elections will be dealt with in the context of local legislation. These detailed arrangements will all be discussed by Members in the context of local legislation as a matter of course. We hope that a bill will be ready at the beginning of next year for submission to Members for deliberation.

PRESIDENT (in Cantonese): Mr Martin LEE, are you ready this time?

MR MARTIN LEE (in Cantonese): *Yes, I am ready this time. (Laughter)*

Madam President, the Chief Secretary in the last part of the 14th paragraph says, "We are serious and sincere in achieving the ultimate aim of universal suffrage. The proposed package is a major step forward towards this goal. In future, we will continue to move forward in this direction step by step." May I ask the Chief Secretary to elucidate how many steps we need to move forward before this ultimate aim of universal suffrage is achieved?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, I do not think I can quantify the number of steps we need to move forward. I can only tell Members that at this stage, timetables are not realistic. It does not matter if we do not have any timetable, for we have a set of building blocks and if these building blocks can be put together to form a picture, there will be no need for us to take so many steps. Certainly, today I do not think I can quantify the number of steps that need to be taken, but I can assert that the direction before us is clear and so are the combinations and matching facilities.

MR MA LIK (in Cantonese): *Madam President, I would like the Chief Secretary for Administration to elucidate the 15th paragraph. He says there that the Government "would formally present to the Legislative Council the two motions concerning the amendments to Annex I and Annex II to the Basic Law this December." If I remember it correctly, a decision from the Standing Committee of the National People's Congress (NPCSC) is put forward in the form of a bill. May I ask the Chief Secretary for Administration to elucidate what in fact are the differences or similarities between these two?*

PRESIDENT (in Cantonese): I think what you would like the Chief Secretary for Administration to elucidate is whether or not a motion would include a bill, right?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, amending the method for selecting the Chief Executive and the

method for forming the Legislative Council is by nature the same as amending the stipulations found in Annex I and Annex II to the Basic Law and the amendments shall be required to undergo the procedures of reporting to the NPCSC for approval or for the record before forming the constituent parts of Annex I and Annex II to the Basic Law respectively. With respect to the procedures for amending Annex I and Annex II to the Basic Law, the first stage shall take place in Hong Kong, that is, such amendments must be made with the endorsement of a two-thirds majority of all the Members of the Legislative Council and the consent of the Chief Executive; the second stage shall take place in the Central Authorities, that is, the NPCSC will approve the amendments proposed by Hong Kong to Annex I and Annex II to the Basic Law or put them on record. Such are the procedures involved. Despite the fact that stage one of amending Annex I and Annex II to the Basic Law takes place in Hong Kong, as this is not local legislation in Hong Kong, therefore, the procedures for scrutinizing bills for local legislation in Hong Kong shall not apply, mainly for the reason that this is not a local legislation exercise. Therefore, the bill to be presented to the Legislative Council by the SAR Government on the method of selecting the Chief Executive and the method for forming the Legislative Council will be in the form of motions.

MS AUDREY EU (in Cantonese): *Madam President, I wish to seek an elucidation from the Chief Secretary for Administration on part of the 14th paragraph which reads, "..... to examine how to attain universal suffrage under the principles of 'balanced participation', 'looking after the interests of different strata of the community', and 'providing adequate checks and balance', and so on".*

Madam President, I wish to seek an elucidation from the Chief Secretary, because the essence of universal suffrage is "one person, one vote", implying that it is naturally the best way of achieving "balanced participation" and of "looking after the interests of different strata of the community". The Chief Secretary clarified just now that since appointed DC members and directly elected DC members enjoy the same status, the former should not be treated as "second-class citizens". In this connection, does the Chief Secretary mean that those who have no votes are "third-class citizens"? If not, why is it impossible for us to introduce universal suffrage as quickly as possible, so as to genuinely

realize the principles of "balanced participation" and "looking after the interests of different strata of the community"? In regard to "attaining universal suffrage under the principles of 'balanced participation', 'looking after the interests of different strata of the community', and 'providing adequate checks and balance', and so on", will the Chief Secretary please elucidate the constitutional reform package being put forward? Is it true to say that while the package ostensibly seeks to achieve balanced participation and look after the interests of the different strata of the community, it is in fact underlined by the rationale that adequate checks and balances can be ensured only by protecting the vested interests of a small coterie of people?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, many thanks to Ms Audrey EU for asking this question, for it gives me an opportunity to explain what is said in the latter half of the 14th paragraph. We are of the view that elections are of course one objective and universal suffrage is also a very important one. We all agree on this objective and there should be no disagreement at all. However, election concepts and slogans aside, we must not focus solely on modes of election once we decide to proceed with implementation. The reason is that in many foreign countries, universal suffrage is adopted as the mode of election, but the outcomes of such elections do vary. This means that even with universal suffrage, the composition of the legislature is also a very significant factor.

In fact, these issues are also dealt with in the Second Report and, more recently, the Fourth Report, of the Task Force. The Second Report discusses various issues of principle in the Basic Law relating to the overall political system, the structure of the legislature and the checks and balances of various interests in the legislature in case universal suffrage is adopted. As for the Fourth Report, it mentions that we should discuss and explore a number of issues as soon as possible, and one of these is the future of functional sectors. In theory, once universal suffrage is introduced, the existing functional sectors should no longer exist. Some have therefore questioned whether a bicameral system should be adopted.

I think society at large should explore and discuss these issues of principle with a more serious attitude as soon as possible, so that everybody can know

what type of legislature will be adopted, how the interests of different social strata will be protected and how the balanced participation of different social sectors can be ensured after the introduction of universal suffrage. We think these issues of principle must be studied as soon as possible and hope that society can reach a consensus. We are of the view that once a consensus is formed, it will be much easier to discuss the formulation of a concrete timetable.

MS AUDREY EU (in Cantonese): *Madam President, the Chief Secretary has not replied to one point. Just now, when he was replying to a Member's question, he insisted that appointed DC members must not be excluded, because if the 102 appointed DC members were excluded, they would become "second-class". I must therefore ask, "How about all those other than the 102 appointed DC members and 1 600 Election Committee members — all those who have no votes? Are they supposed to be 'third-class' in that case?"*

PRESIDENT (in Cantonese): This sounds like a separate question.

MS AUDREY EU (in Cantonese): *Madam President, my intention is to ask the Chief Secretary to elucidate his reference to "second-class".*

PRESIDENT (in Cantonese): Do you mean that you wish to know whether the present situation should be regarded as balanced participation?

MS AUDREY EU (in Cantonese): *Madam President, yes.*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, I certainly do not mean that they are "third-class". (*Laughter*) They are in fact all first-class because there are elements of direct election in DCs and the majority of DC members are returned by direct elections. The electors in each constituency therefore do have their votes. However, Madam President, I wish to raise one more point. I was actually referring to a very specific case. The DC members responsible among others for electing the Chief Executive in March 2007 will be the incumbent DC members, and under the relevant

ordinance, all incumbent DC members shall enjoy equal status. This was one of the major points I mentioned just now.

MR TAM YIU-CHUNG (in Cantonese): *Madam President, I wish to seek an elucidation on the 15th paragraph from the Chief Secretary. According to the Chief Secretary, motions concerning the required amendments will be presented to the Legislative Council in December and the detailed arrangements will be dealt with later. But when he says that the detailed arrangements will be dealt with later, does he mean that these arrangements will be announced beforehand, say, in December or even earlier? Or, may I ask at what stage will these detailed arrangements be announced?*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): *Madam President, the implementation of the broad directions and major principles of Annex I and Annex II to the Basic Law has to be dealt with in the context of local legislation. And, the enactment of local legislation will involve many significant factors such as the electoral method, the demarcation of geographical constituencies, and so on. In the meantime, I very much hope to hear more views from all concerned parties on how they think we should proceed. That way, we can be provided with very useful reference in the course of drafting the bill required. At this moment, we do not have any particular package in mind, but we do want to listen to more views. In the bill to be submitted, we will of course seek to incorporate as much as possible the various views we hear in the interim.*

MS EMILY LAU (in Cantonese): *Madam President, I would also like to ask the Chief Secretary to elucidate the 15th paragraph. He said they "shall formally present to the Legislative Council the motions concerning the amendments to Annex I and Annex II to the Basic Law and shall strive to have them passed this December". Madam President, the last Council meeting in December will be held on 21 December, and according to some "informal sources", it is speculated that the motion will also be presented in the meeting of 21 December. However, 21 December is only some nine weeks from now. I would like to ask the Chief Secretary to elucidate: Why should the Government ask the people to make such an important decision within a short span of only nine weeks? Why should the Government force the Legislative Council to make such an important decision*

within a short span of several weeks? I would like to ask the Chief Secretary whether he wants to see the recurrence of the incident triggered by the enactment of legislation to implement Article 23 of the Basic Law. The Chief Secretary said earlier that he belongs to the pro-democracy camp, a member of the public has sent a message to my pager, asking me to invite him to take part in the march on 4 December.

PRESIDENT (in Cantonese): Ms Emily LAU, can you tell me once again, on which part do you wish to seek an elucidation?

MS EMILY LAU (in Cantonese): *I would like to ask the Chief Secretary to elucidate, in terms of time, would it be too hasty for the Government to table its proposal in December? On an issue with such great significance, a decision has to be made in nine weeks, does the Government really want to oppress the Legislative Council and the people in this way? Madam President, I would like to seek an elucidation from the Chief Secretary: Does he intend to oppress the people into rebellion?*

PRESIDENT (in Cantonese): This seems to be a question, instead of only a request for elucidation. You may ask him to elucidate which day of December he was referring to.

MS EMILY LAU (in Cantonese): *Madam President, I will leave it to your decision.*

PRESIDENT (in Cantonese): It does not matter. He can decide what he wants to say. However, as the President, I must act according to the Rules of Procedure.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, let me make an elucidation in response to the question. I have explained in my statement earlier that if a new Chief Executive has to be selected smoothly in March 2007, there is a series of work which must be carried out.

Our main task is to ensure that certain work is done at each stage at different points of time.

We have to proceed with local legislation. Once the bill is passed, it will become the Amendment Ordinance. But we still have to make the subsidiary legislation. After the enactment of the subsidiary legislation, we shall have to reorganize the Election Committee and to proceed with the registration of voters. During this entire process, the Electoral Affairs Commission needs to play a certain role, namely to proceed with the work and to conduct consultation. It will take considerable time to proceed with the various work procedures. Of course, at a certain stage, the consent of the Chief Executive has to be sought for the proposal, which shall then be reported to the Standing Committee of the National People's Congress for approval or for the record. This is especially required for the selection of the Chief Executive. So all these issues have some implications on the time required. So, the charge of applying pressure is not valid at all.

MS EMILY LAU (in Cantonese): *Madam President, I would like to ask the Chief Secretary to elucidate whether it is fair to give Hong Kong people only nine weeks to make a decision on such an important issue?*

PRESIDENT (in Cantonese): Ms Emily LAU, this is a question. I know the Panel on Constitutional Affairs will hold a meeting on 21st of this month, and one of the agenda items is to listen to the briefing on this issue conducted by the Constitutional Development Task Force headed by the Chief Secretary. Please raise this question at that meeting.

DR RAYMOND HO: *Madam President, I would like to seek clarification from the Chief Secretary with regard to paragraph 16(c)(i) on the proposed amendment to the Chief Executive Election Ordinance. It will be in such a way that the Ordinance should be amended: "if an election for a new term (5-year) Chief Executive will be held within six months after a vacancy in the office of the Chief Executive has arisen, it will not be necessary to hold a by-election." Is this referring to the situation whereby the vacancy in the office of the Chief Executive arises towards the end of its current term, and arrangements have already been made according to the normal procedures for a popular election to*

take place within six months after the vacancy? Is that the situation he is referring to?

PRESIDENT (in Cantonese): Chief Secretary for Administration, your elucidation please.

CHIEF SECRETARY FOR ADMINISTRATION: Madam President, I will give him a short answer, and that is "yes".

MR LEUNG KWOK-HUNG (in Cantonese): *Madam President, in the fifth, eighth, and ninth and 10th paragraphs of the statement, Chief Secretary Rafael HUI talks about how they evaluated public opinion and how balanced participation can be achieved. Chief Secretary Rafael HUI was evasive in saying that the Fifth Report would be published soon, and that the Report would cover the issue of consultation, including the areas covered, how the relevant information was collected, the importance attached to the information, and so on. I would like Chief Secretary Rafael HUI to elucidate this: When he makes a summary evaluation or conducts an independent public opinion poll, did he take note of the fact that 680 000 people, which is an internal estimate of the Government, had taken to the streets on 1 July 2003 to demand universal suffrage in 2007 and 2008? Moreover, according to the Government's estimate, on 1 July 2004, at least 250 000 people took to the streets to demand universal suffrage in 2007 and 2008. Did he notice that in September 2004, in an officially recognized election, more than 65% of the voters cast their votes to show their support for universal suffrage in Hong Kong in 2007 and 2008? In a sense, the two thirds of the required votes have been obtained and in this legislature, the two thirds of the required votes have been secured to effect a dynastic change.*

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, have you put your question seeking elucidation?

MR LEUNG KWOK-HUNG (in Cantonese): *These three important factors are well known to everyone and they are also the important factors that shaped the*

present Council. Did he take note of them? Does he think that they are not important? These are the only quantified factors and they were quantified in a government election. Did he.....

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, I do not want to interrupt you but Members are not allowed to put such a long question when seeking elucidation. Have you finished asking your question?

MR LEUNG KWOK-HUNG (in Cantonese): *I hope that he will now.....*

PRESIDENT (in Cantonese): If you have already finished asking your question, I will invite the Chief Secretary to give a reply. You keep talking but the time that we have is very limited.

MR LEUNG KWOK-HUNG (in Cantonese): *All right, he can first elucidate.*

PRESIDENT (in Cantonese): Very well. Thank you. Chief Secretary for Administration, I guess what Mr LEUNG Kwok-hung wants you to elucidate is whether you have taken into consideration the several issues in the independent public opinion poll conducted by you. Mr LEUNG, is that what you mean?

(Mr LEUNG Kwok-hung nodded)

PRESIDENT (in Cantonese): I have to see if there is any objection from Mr LEUNG. If he objects, I will have to briefly.....

MR LEUNG KWOK-HUNG (in Cantonese): *Madam President, you have put it correctly. (Laughter)*

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, as I have said, this public opinion poll was conducted on the proposal

put forth by us. We also consulted the public on the direction that they believe constitutional development should take. The result we got was that we had to move forward instead of standing still.

MR LEUNG KWOK-HUNG (in Cantonese): *Elucidation.*

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, please stand up.

MR LEUNG KWOK-HUNG (in Cantonese): *The elucidation made by Chief Secretary Rafael HUI cannot answer my question. Regarding the three well-known factors, what are their weightings? This is because those public opinion polls cannot be compared with those three events. I am now holding a black gauze hat worn by feudal officials in ancient China. I hope he can turn round and take a look at how he would look like in this black gauze hat. This is a mirror image of him.....*

PRESIDENT (in Cantonese): Take off your black gauze hat. You are not giving a speech now.

MR LEUNG KWOK-HUNG (in Cantonese): *He can keep his black gauze hat.....*

PRESIDENT (in Cantonese): You should be asking a question to seek elucidation. Mr LEUNG.....

MR LEUNG KWOK-HUNG (in Cantonese): *He can keep his black gauze hat but as this the black gauze hat was put on his head, democracy fell to the ground.*

PRESIDENT (in Cantonese): All right, please sit down. We all understand the point that you want to make.

MR LEUNG KWOK-HUNG (in Cantonese): *I still have one more point to say. Today, everyone here has had a hearty laugh but I can hardly laugh. I just have a line for the Chief Secretary. In fact, I have devoted some efforts to preparing it and it has to do with the name of the Chief Secretary. The performance of the Chief Secretary today can be summed up as.....*

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung.....

MR LEUNG KWOK-HUNG (in Cantonese): *Bluffers say only empty words but Rafael is perhaps no rascal.....*

PRESIDENT (in Cantonese): It is now not the time for a debate, and it is not the time for you to make comments.

MR LEUNG KWOK-HUNG (in Cantonese): *.....this turns out to be absolutely true.*

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, please sit down.

MR LEUNG KWOK-HUNG (in Cantonese): *No, this.....*

PRESIDENT (in Cantonese): Please sit down. It is now the time to put questions to seek elucidation, not the time for you to make comments, express your opinions or give a speech. Please observe the Rules of Procedure. Please sit down. *(Laughter)*

MR LEUNG KWOK-HUNG (in Cantonese): *I want to seek an elucidation on whether he is going to accept this black gauze hat of mine? (Laughter) I would like to ask him to go home, look into the mirror and see if his conscience is clear in facing Hong Kong people.*

PRESIDENT (in Cantonese): Please sit down.

MR HOWARD YOUNG (in Cantonese): *Madam President, I would like to ask the Chief Secretary to elucidate the first and third sentences of the 15th paragraph. His third sentence in this paragraph said that they envisaged introducing the Chief Executive Election (Amendment) Bill into the Legislative Council in early 2006, and would strive to have it passed by May. This means that we shall have altogether at least four or five months to scrutinize the Bill. However, his first sentence in this paragraph said, "We shall formally present to the Legislative Council the motions concerning the amendments to Annex I and Annex II to the Basic Law this December". Can I take the Chief Secretary to mean that he intends to table the motion in early December and has it passed by the end of December, so that we have one month's time for discussion? Or does the whole procedure have to be completed in one day? What will the actual procedure entail? The English version is "we would formally present to the Legislative Council the two motions", but the Chinese version makes no reference to "the two motions". Can the Chief Secretary elucidate whether it will involve one motion or two motions, and how much time is estimated available for our discussion on such motions?*

PRESIDENT (in Cantonese): I think the Chief Secretary understands what he has to elucidate, right?

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Madam President, the procedure will involve several stages. Stage one involves the amendments to Annex I and Annex II to the Basic Law. This part of the procedure has to be completed within this year, so as to facilitate the advancement to the next stage, the more complicated stage of local legislation, so as to allow time for the deliberation on and passage of the motions by the Legislative Council. Therefore, actually there will be two different stages, and you may say that two different sets of documents have to be presented to the Legislative Council to facilitate its deliberation and passage of the motions.

PRESIDENT (in Cantonese): Members, the Chief Secretary for Administration spent 12 minutes 30 seconds on making his statement, and 55 minutes on

elucidating questions raised by Members. Although we still have some Members waiting for their turns to raise questions, I hope they can instead raise them in the meeting of the Panel on Constitutional Affairs. By then, you will no longer be restricted by the rules of raising questions for elucidation, and you will be free to raise all kinds of questions. Now, the statement of the Chief Secretary for Administration and questions put to him requesting elucidation conclude here.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Two proposed resolutions under the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China.

First motion.

PROPOSED RESOLUTION UNDER THE BASIC LAW OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA

MR JASPER TSANG (in Cantonese): Madam President, I move that the first motion proposed under my name to amend the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region (RoP), be passed.

In response to the request of the House Committee, the Committee on Rules of Procedure (CRoP) has examined the matter of whether two or more panels should be allowed to set up a joint subcommittee.

The CRoP has taken reference from practices and conventions of other legislatures and considered a possible alternative, which is for the House Committee to set up subcommittees.

After deliberations, the CRoP came to the view that issues studied by subcommittees of the House Committee are of general public interest. Despite some issues may not attract as great public interest, they may be of common interest to two or more panels, and should thus be handled by joint

subcommittees set up by two or more panels. These issues however can also be considered in joint meetings convened by panels, but it would be more desirable to consider them in joint subcommittees which generally consist of a smaller number of members and would be easier to arrange for a meeting.

As the CRoP is not of the view that the essence of the Rules of Procedure runs counter to the setting up of joint subcommittees by two or more panels, it thus proposes to amend the Rules of Procedure, to explicitly provide that two or more panels may set up joint subcommittees to study issues of common interest to the relevant panels. The House Committee has accepted the proposal of the CRoP.

To implement the aforesaid arrangement, the CRoP proposes to amend Rule 77 of the Rules of Procedure.

I urge Members to support the resolution. Thank you, Madam President.

Mr Jasper TSANG moved the following motion:

"RESOLVED That Rule 77 of the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region be amended -

(a) by adding -

"(9A) Two or more Panels may, if they consider appropriate, appoint joint subcommittees to study any matter of common interest to the relevant Panels and to report to the Panels.";

(b) in subrule (15), by repealing everything after "that Panel." and substituting "The practice and procedure of a joint subcommittee appointed by two or more Panels shall, subject to these Rules of Procedure, be determined by the relevant Panels. In any such determination, a Panel or, in the case of a joint subcommittee appointed by two or more Panels, the relevant Panels shall take into account any guidelines provided under Rule 75(8) (House Committee).". "

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

PRESIDENT (in Cantonese): Second motion.

PROPOSED RESOLUTION UNDER THE BASIC LAW OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA

MR JASPER TSANG (in Cantonese): Madam President, I move that the second motion under my name to amend the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region (RoP), be passed.

The Committee on Rules of Procedure (CRoP) considered the voting rights of the chairmen of the committee and subcommittees of the Council and also studied whether, if the chairmen of committees and subcommittees should have a casting vote, these chairmen should be required to follow the parliamentary convention of the House of Commons of the United Kingdom Parliament in exercising this vote.

After studies and consulting all Members, the CRoP recommends that the chairmen of the Finance Committee, the Public Accounts Committee, the House Committee (HC), Investigation Committees, Select Committees, the Committee on Members' Interests (CMI), and the CRoP and of the HC's subcommittees other than those on subsidiary legislation should have a casting vote but not an original vote. The casting vote should be exercised according to the aforesaid convention. The relevant proposed amendments to the RoP will be presented to the Legislative Council for approval as soon as possible.

The CRoP also recommended that the chairmen of Bills Committees (BCs), panels, and their subcommittees, and of the HC's subcommittees on subsidiary legislation should have only an original vote but not a casting vote. In addition, if a chairman does not cast his/her vote at the same time as other Members, he/she will be regarded as having given up his/her right to vote on that occasion. The amendment proposals to the RoP have been set out in the resolution.

Finally, pending the Council's approval of the amendments to the RoP, the voting rights of the chairmen of the CMI and the CRoP, and of the HC's subcommittees on subsidiary legislation, the HC's subcommittees other than those on subsidiary legislation, and the subcommittees of BCs and panels should be as recommended by the CRoP in the interim.

The HC has accepted the recommendations of the CRoP. I call on Members to support this resolution.

Mr Jasper TSANG moved the following motion:

"RESOLVED that the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region be amended —

(a) in Rule 75 —

- (i) in subrule (2), by repealing everything after "such absence.";
- (ii) by adding —

"(12A) 20 members, including the chairman, shall form a quorum of the committee. All matters for the decision of the committee or its subcommittees shall be decided by a majority of the members voting.

(12B) The chairman of, or any other member presiding at, the committee or its subcommittees (other than those appointed under subrule (12) for the purpose of assisting the committee in the consideration of subsidiary legislation referred to in subrule (10)) shall not vote, unless the votes of the other members are equally divided in which case he shall have a casting vote.

(12C) The chairman of, or any other member presiding at, a subcommittee appointed under subrule (12) for the purpose of assisting the committee in the consideration of subsidiary legislation referred to in subrule (10) shall have an original vote but not a casting vote.

(12D) If the chairman or the member presiding wishes to exercise his original vote on a matter before a subcommittee referred to in subrule (12C), the vote shall only be exercised at the same time as other members of the subcommittee exercise their votes; otherwise, he shall be regarded as having given up his right to vote on the relevant matter.

(12E) Notwithstanding the provisions in subrules (12B) and (12C), the chairman or the member presiding, as the case may be, shall have both an original vote and a casting vote in the election of the chairman or deputy chairman of the committee or its subcommittees.";

(iii) by repealing subrule (16);

(b) in Rule 76 —

(i) by repealing subrule (8) and substituting —

"(8) All matters for the decision of a Bills Committee or its subcommittees shall be decided by a majority of the members voting. The chairman or any other member presiding shall have an original vote but not a casting vote.";

(ii) by adding —

"(8A) If the chairman or the member presiding wishes to exercise his original vote on a matter before a Bills Committee or its subcommittees, the vote shall only be exercised at the same time as other members of the Bills Committee or its subcommittees exercise their votes; otherwise, he shall be regarded as having given up his right to vote on the relevant matter.

(8B) Notwithstanding the provision in subrule (8), the chairman or the member presiding, as the case may be, shall have a casting vote in addition to his original vote in the election of the chairman or deputy chairman of a Bills Committee or its subcommittees.";

(c) in Rule 77 —

(i) in subrule (10), by repealing everything after "disregarded).";

(ii) by repealing subrule (13) and substituting —

"(13) All matters for the decision of a Panel, a subcommittee appointed under subrule (9) or a joint

subcommittee appointed under subrule (9A), and all matters for decision at a joint meeting referred to in subrule (10) shall be decided by a majority of the members voting. The chairman or any other member presiding shall have an original vote but not a casting vote. Such voting shall not be binding on any Member, whether in Council, in a committee of the whole Council or in the House Committee.";

(iii) by adding —

"(13A) If the chairman or the member presiding wishes to exercise his original vote on a matter before a Panel, a subcommittee, a joint subcommittee or a joint meeting referred to in subrule (13), the vote shall only be exercised at the same time as other members of the Panel, subcommittee, joint subcommittee or joint meeting exercise their votes; otherwise, he shall be regarded as having given up his right to vote on the relevant matter.

(13B) Notwithstanding the provision in subrule (13), the chairman of, or the member presiding at, a Panel, a subcommittee appointed under subrule (9), a joint subcommittee appointed under subrule (9A) or a joint meeting referred to in subrule (10), as the case may be, shall have a casting vote in addition to his original vote in the election of its chairman or deputy chairman."."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Jasper TSANG, 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 started. 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.

PRESIDENT (in Cantonese): Two motions with no legislative effect. I have accepted the recommendations of the House Committee: the movers of these motions will each have up to 15 minutes for their speeches including their replies, and another five minutes to speak on the amendment; the mover of an amendment will have up to 10 minutes to speak; other Members will each have up to seven minutes for their speeches.

First motion: Facing up to the needs of people with disabilities in using transport.

MR LEUNG YIU-CHUNG (in Cantonese): Madam President, shall we wait for the Secretary to come in before we begin?

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung, if you have such a request, please sit down first. Clerk, please check if the Secretary is here. If not, I will have to suspend the meeting.

(A staff went out to look for the Secretary for the Environment, Transport and Works)

PRESIDENT (in Cantonese): Please ask the Secretary to come into the Chamber. I believe she is still around and has not left yet.

(The Secretary for the Environment, Transport and Works hurried into the Chamber)

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung, the Secretary is now present. You may now deliver your speech.

FACING UP TO THE NEEDS OF PEOPLE WITH DISABILITIES IN USING TRANSPORT

MR LEUNG YIU-CHUNG (in Cantonese): Madam President, this is the fourth time I am revisiting an old topic here, that is, moving a motion on the needs of people with disabilities in using transport. Actually, many people have told me that all that they have to say has been said over the past three years and there will not be anything new to say this year. Madam President, the reason that after the third year I am still moving this motion in the fourth year is very simple. Madam President, I would like to add one more point. On motions moved in respect of this topic, on the first two occasions, the motions were passed and the motion moved last year was not passed. However, all the Honourable colleagues who spoke last year did support the motion in general, only that they did not agree to some parts of the motion. This shows that Honourable colleagues do care a lot about this issue. Then in a meeting of the Transport Panel on 22 July this year, Honourable colleagues passed yet again a resolution calling on the Government to devise arrangements within this year on concessionary fares for people with disabilities using public transport. However, to date no progress has been made by the Government. I would, of course, hope that Secretary Dr Sarah LIAO would in her response later give us some good news, but judging from past experience, I think the Secretary will most likely recap some old views on the subject and read them out once again in this Council, and that is all.

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

As the saying goes, even a heart of stone may be moved. But the attitude held by the Government and the public transport operators towards the needs of people with disabilities in using transport is even worse than that of a heart of stone. In these past few years, apart from concessions offered to people with disabilities in 16 ferry routes and four minibus routes, no sympathy is seen from the public transport operators to people with disabilities. What these operators will do is to offer free rides on the International Day of Disabled Persons each year. Such petty favours are nothing but window-dressing, and as the Secretary has explained, the reason for these operators refusing to offer concessionary fares to people with disabilities is their view that their responsibility is only to provide the facilities but not to offer concessions to any particular individuals.

Madam Deputy, it is everyone's knowledge that offering more convenient facilities to all passengers is the responsibility of the operators, but it is unfortunate that the operators have failed to do well in this most basic task of all. What members of the public can see is that these operators have been very enthusiastic, efficient and innovative in installing some facilities with which they can make money, such as the Road Link and advertisements on the body of vehicles, and so on. Recently, they have been adding lots of advertising lightboxes. But one is just outraged to see what they have done in the provision of facilities for people with disabilities and on improving the design. Take the Disneyland station which has been commissioned recently as an example. The Direction Association for the Handicapped has pointed out that the buttons inside the lifts of the station are too small and placed too high, making it very inconvenient for wheelchair users. Other necessary facilities, such as the call for help telephone, are installed in some very inconvenient locations for people with disabilities. As for the station platforms, there is a very large gap between the floor and the train car and often wheelchairs get stuck in the gap, making it impossible for wheelchair users to board or alight from a train. The Hong Kong Federation of Handicapped Youth has also pointed out that the ticket vending machines in the Disneyland station are too high and the toilet doors are too heavy, and these cause inconvenience to people with disabilities.

As for other means of transport, according to the findings of a survey done by the Joint Concern Group on Barrier-free City in March, more than 40% of the interviewees were not satisfied with the facilities at bus stops. Schedules of low floor type buses are not posted at the bus stops. The space between the railings at the bus stops is too small and that hinders wheelchair movement. Besides, 30% of the interviewees pointed out that even if the buses were fitted with a low

floor and ramp, often times the low floor could not function well and so they could not board a bus. As for the railways, though the West Rail is commissioned not too long ago, it is the railway which has invited the most dissatisfaction from people with disabilities. A survey has been conducted using 20 points as the highest rating of satisfaction, and the West Rail only gets 12.06 points. Though facilities in the West Rail are so new, it only gets a very low rating. One therefore can imagine how the situation is.

The above examples can tell clearly that transport operators cannot even provide good facilities for people with disabilities and it is disgusting to note that these transport operators can say without the slightest twinge of conscience that they are not being uncaring to people with disabilities and facilities are provided for them. However, such remarks are never sincere. As for fare concessions, these operators say that such a request should not be made to them and if such a request must be made, it should be directed to the Government.

Madam Deputy, any one with a conscience will never agree to such a view. The Secretary said in her response to a motion debate held in this Council on 8 October 2003 that the Government had provided Comprehensive Social Security Assistance (CSSA) and disability allowance to people with disabilities. She was of the view that the problem could be solved this way. However, the latest figures from the Social Welfare Department show that only some 17 000 people with disabilities have applied for CSSA and there are some 14 000 and some 96 000 who have applied for the higher disability allowance and the normal disability allowance respectively. In other words, the so-called measures mentioned by the Secretary can in fact help less than half of the people with disabilities. Moreover, if these two amounts of money in social security are shared among all the applicants, each can only get \$64 and \$74 respectively a day. In some worse cases, they can only get \$34 a day. Leaving aside the question of whether these amounts of money are sufficient to cover the basic living expenses or not, for those recipients living in remote areas and who need to use public transport, be it bus or MTR, the amounts are not sufficient to pay for all of the transport fares, not even half of them. This is most pitiable.

Madam Deputy, is it really that difficult to provide an allowance to people with disabilities to use public transport? Will this exert a tremendous financial pressure on these transport operators? Technically, we can look at how the beneficiaries are to be defined. I recall on 13 October 2004 I moved a motion on the integration of people with disabilities into society. At that time, the

public officer making the reply was Secretary Dr York CHOW who had assumed office not too long ago, not Secretary Dr Sarah LIAO. On that day, in a meeting of the House Committee I met Dr LIAO and I asked her about the progress of work on the classified statistics on people with disabilities and the chronically ill. Madam Deputy, why did I ask this question? It was because the Secretary had said that the transport operators were very worried in this respect. According to Report No. 28 issued by the Census and Statistics Department in 2001, there are more than 1.2 million people with disabilities and the chronically ill in Hong Kong altogether. It would be a great financial pressure on these operators if they are required to offer concessions to all these people. In addition, these operators are worried that there may be abuse of the concessions because for some chronically ill persons, such as those with cardiac troubles, not all of them have financial difficulties. Some of them do have the financial means. If concessions are offered to even such people, the number of beneficiaries will be very large indeed and this will exert a heavy burden on the operators. It was because of this reason that I asked the Secretary whether or not there would be separate counts on the number of the chronically ill and people with disabilities — despite the fact that I do not agree to the view that concessions should not be offered to the chronically ill. In my opinion, if concessions are to be offered, they should not be offered to people with disabilities alone.

Actually, the matter has dragged on for three years and if a decision was made to go ahead, the matter would have been completed. But up to this very day, we cannot see any big progress made in this. We were somewhat pleased to note that in a meeting of the Panel on Transport of this Council on 22 July this year, the two Policy Bureaux concerned had made some effort. The two Policy Bureaux said that discounting the students and people with disabilities who are above 65 years of age, it was estimated that the remaining number of people with disabilities was about 215 700 persons. This is a drastic reduction by 80% from the figure of 1.2 million mentioned at that time. Obviously, the greatest worry of the transport operators has been dispelled, so to speak. Therefore, I think the Secretary should have more grounds and justifications to reach a consensus with the public transport operators within this year.

With respect to distinguishing people with disabilities from other people, all along we have been pressing the Government to find out such means of identification. We can see that as many as 12 million Octopus cards have been issued. This roughly translates into two cards for each person in Hong Kong.

The Octopus Card Company Limited has about \$600 million cash as deposit at hand and since the company can issue separate Octopus cards to the elderly, the students and adults, why can it not issue separate cards to people with disabilities? As for work in this aspect, I do not think it is technically very difficult. Madam Deputy, why do I say that it is not difficult? I remember in 2001, and it was Valentine's Day, the mayor of Taipei, Mr MA Ying-jeou came to Hong Kong. He was very impressed with the Octopus Card when he saw how the card was used here. He thought that the card was very convenient and asked why the same could not be done in Taipei. And so one year and a half after he had returned to Taipei, that is, on 30 September 2002, a similar card was launched in Taipei and it was called EasyCard. Not only does this EasyCard resemble the Octopus Card of Hong Kong, but there are also many types of EasyCards called Student, Senior and Charity. Those who hold a disabilities handbook in Taiwan may get an extra Escort card. What is this Escort card for? A disabled person holding a Charity card may enjoy 60 rides in a Taipei public bus for free every month, 20 rides for free every month in a Taipei county bus and half-fare concessions for Metro Taipei. Apart from these, when a holder of an Escort card accompanies the holder of a Charity card, after the Charity card holder has swiped his or her card, the holder of an Escort card will also enjoy half-fare concession. This is actually more advanced when compared to Hong Kong. As I have said, these cards are launched in Taiwan after Mr MA Ying-jeou has returned to Taiwan, modelling on the Octopus card of Hong Kong. Given this, may I suggest the Secretary to go to Taipei city in the near future and see for herself how things are going on in Taipei and then introduce the practice there into Hong Kong afterwards. Can this be done?

The Secretary may say the problem is not a technical one and what matters is whether or not the public organizations are willing to do it and that she cannot help it if these organizations do not want to do it. This is exactly what the Secretary has been saying for years. But if the Secretary still holds such a view, may I suggest that she consider what has been done by the London Assembly. The Assembly will provide a Freedom Pass to people with disabilities, holders of which are entitled to free rides on any means of transport in the City of London with fares paid by the United Kingdom Government, that is, the London Assembly. The Secretary may say of course that expenses for such a kind of scheme would be colossal. But if the expenses are worked out with the transport allowance for the students of tertiary institutions of Hong Kong in mind, that is, about \$2,577 for each student every year, then the total expenses for an allowance offered to people with disabilities in Hong Kong would only be

in the region of \$700 million for one year. I believe that is an amount which the Government will find affordable.

With respect to corporate social responsibility, actually my view is that if corporations or organizations are unwilling to bear this social responsibility, they must be pressed to do so. Since we have been lobbying for this for so many years and since these corporations and organizations are so callous and insensitive, can we not model on what has been done in other countries? In countries like the United States and Canada, they have a Disabilities Act. This law aims at protecting the freedom of movement of people with disabilities and if any organization is found failing to provide user-friendly transport to people with disabilities, it is subject to lawsuit filed by people with disabilities and court action afterwards. This kind of practice can serve to protect the rights of people with disabilities and facilitate their integration into society.

After all these years, what the Government has been doing is only to point out that the right of the public organizations to make their own decisions should be respected. But after respect being paid for so many years, these organizations still do not want to put it into practice or do anything, then shall we not adopt another attitude? Should we not adopt a harder stand and legislate to regulate and force these organizations into compliance? Actually, this kind of mandatory requirement by enacting laws is imposed not only in some foreign countries but also in China where there are laws which stipulate that transport operators should offer free transport services to disabled veterans and blind people. The Chief Executive had on one occasion led a group of Members to visit the subway in Shenzhen. We could see that the subway there offers free rides to people with disabilities. In any case, I think that should a soft stand fail to work, then a harder stand must be adopted. I hope the Secretary could hear what I have said.

Madam Deputy, lastly I would like to talk about the issue of Rehabuses. Now there are 90 Rehabuses in service and this represents progress when compared to the 85 Rehabuses we talked about four years ago. But the situation is still like the case where there are only four lids for 10 buckets and these lids are simply not enough. Many groups and people with disabilities are still complaining that the Rehabus service is not adequate. I hope that given the level of social development nowadays, people with disabilities can be assisted in their integration into society. That will enable them to find some freedom in their life but sad to say, given the insufficient Rehabus service, people with disabilities face a very great handicap. Despite the slight increase in the

number of Rehabuses, the needs of people with disabilities are still not met. I hope the Secretary can consider allocating more resources. *(The buzzer sounded)*

DEPUTY PRESIDENT (in Cantonese): Mr LEUNG, your speaking time is up.

Mr LEUNG Yiu-chung moved the following motion: (Translation)

"That this Council expresses deep regret that the government departments concerned, some statutory transport corporations, and public transport operators have failed to face up to the motions passed by this Council in the 2002-03 and 2003-04 Sessions calling for improvement to transport facilities for people with disabilities and the offer of concessionary fares to them, and this Council requests the Administration to expeditiously adopt effective measures to fulfil the following demands:

- (a) following up the motions passed by this Council and a relevant motion passed by the Panel on Transport on 22 July this year, and implementing the arrangements for offering public transport half-fare concessions to people with disabilities;
- (b) pressing various public transport operators to improve their facilities so as to reduce the barriers to people with disabilities; and
- (c) allocating additional resources to expeditiously improve the Rehabus service."

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr LEUNG Yiu-chung, be passed.

MR LAU KONG-WAH (in Cantonese): Madam Deputy, a colleague in the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) had an ankle fractured half a year ago because of a traffic accident and for the next four months he was confined to a wheelchair and had to use crutches to walk. During the period, as he had to undergo physiotherapy, he had to go to the hospital twice a week. On the first occasion he went from his home to the

hospital, when he left the MTR station, he found that the exit in the MTR for people with disabilities was quite a long way from the hospital and so he had to take a taxi before he could reach the entrance of the hospital. Since then, he would take a taxi directly to the hospital every time. But the taxi fare each time would cost more than \$100. He said that he would not go out unless it was absolutely necessary, for the taxi fare was very expensive.

Just imagine this. Someone who has some difficulty walking about for some period of time would think that transport expenses are too expensive and would rather stay at home and watch television every day instead of going out, then for some people with disabilities who do not have a high income, can they afford to take a taxi every day?

As a matter of fact, the income of people with disabilities in Hong Kong is in general not high. A survey done by the University of Hong Kong last October interviewed close to 500 wheelchair-bound people with disabilities. It was found that 76% of them had a monthly income below \$5,000 and as the cost of living in the New Territories was lower than that in the urban areas, more than 44% of them had chosen to live in the New Territories. This shows that they do not enjoy a high standard of living and they cannot afford to travel by taxi all the time. But that does not mean that they do not have any need for social life, or the need to get in touch with the world. People with disabilities are entitled to their rights and they should be able to take part in all community activities, enjoy life and know about the place where we all live. The SAR Government has always been saying that it wants to build a harmonious society where the able-bodied and the disabled can live together and people are always reminded not to discriminate against people with disabilities. But I fail to see anything concrete done by our Government, especially in offering concessionary fares to people with disabilities using public transport. The subject has been discussed in the Panel on Transport of this Council many times but, to date, have the authorities done anything commendable?

In stark contrast to Hong Kong, many places and countries in the world offer concessionary fares to people with disabilities. Such economically advanced countries as the United States, Britain, Japan, and so on, have all devised measures for people with disabilities. Some developing countries, such as India and the Philippines, have also some concessions for people with disabilities using public transport. Surprisingly, in Brazil and Belgium, apart from offering a free ride to people with disabilities, the person accompanying them is also entitled to a free ride. Even in Shenzhen which is only on the other

side of the river, half-fare concessions are offered. Despite being an economically advanced place and the financial hub of Asia, Hong Kong has put us all into shame with what it has been doing to people with disabilities.

In July, the Panel on Transport looked into this issue again. The transport operators put up a reason explaining why concessionary fares could not be offered to people with disabilities for the time being and it was, they had no idea about the total number of people with disabilities in Hong Kong. They cited a figure from a report of the Census and Statistics Department which gave the number of people with disabilities and the chronically ill in Hong Kong as 1.2 million. These transport operators are worried that such concessions will affect their profits and that some people may abuse the concessions or even impersonate as a disabled person for the purpose of obtaining these concessions. In my opinion, such worries are grounded in pure selfishness and nothing else. This accounts for their incessant drive for greater profits. All the major public transport operators in Hong Kong are making money. The MTR made some \$2 billion. The KCRC made some \$400 million. The KMB made some \$200 million. And the New World First Bus Services, the Citybus and the New World First Ferry Services which belong to the same group made a total of more than \$65 million. I can never believe that this request to ask them to offer concessions to people with disabilities will exert an unbearable financial burden on these companies. As a matter of fact, the ferry company which offers concessionary fares to people with disabilities is not making a huge amount of money. The Star Ferry has an annual profit of some \$6 million only but it is still willing to offer half-fare concessions to people with disabilities. Then what exactly is in the mind of the other operators? This baffles me.

As for problems of abuse and impersonation, these can all be solved by producing purpose-made cards with anti-forgery features. I think Members will recall that our smart identity card design beat the smart card designed by the Defense Department of the United States and won the Card Technology Breakthrough Award. The DAB thinks that since transport operators have misapprehensions, the Government should help them dispel these misapprehensions. A number of initiatives can be made and they include conducting a territory-wide survey in the first place to ascertain the number of people with disabilities in Hong Kong. Then discussions can be made with the major transport operators to look into the possibility of sharing the expenses arising from fare concessions between the Government and the operators. The mainland city Xiamen has adopted a tripartite fare-sharing plan, that is, the government and the transport operator will each take up 40% and a disabled

traveller will pay 20%. Can we not think about this fare-sharing plan? Lastly, on ascertaining the identity of people with disabilities, can the Government study into the further applications of our smart identity cards? All these abovementioned ideas are suggestions, but regardless of what the Administration will decide in the end, there must be no more procrastination on this issue of offering concessionary fares to people with disabilities. The issue must brook no neglect. The DAB hopes that the Government will start talking with the transport operators with a view to finalizing the details and the timetable of offering the concessions. This will enable the disabled to live a fuller life. Thank you, Madam Deputy.

MR WONG KWOK-HING (in Cantonese): Madam Deputy, I have pinned a flower on my lapel made by the group of people with disabilities who have come here today to present their petition. This is to show my support for them. Madam Deputy, as a world-class modernized and civilized city, Hong Kong should be a fair, just and reasonable community. Public services should be enjoyed by all people, regardless of their race, age, sex and class. But public transport facilities in Hong Kong cannot look after the needs of people with disabilities. Despite the passage of motions in this Council and in the relevant panel over the past couple of years, the Government has not taken any proactive moves to make transport truly barrier-free and enable people with disabilities to integrate into society. Nothing has been done to offer half-fare concessions to people with disabilities. This shows that it is the Hong Kong society and the policies of the Hong Kong Government that are crippled, not the people with disabilities.

Madam Deputy, there are still lots of hurdles standing in the way of people with disabilities even if they want to integrate into society. Under the dominant thinking of "big market and small government", everything is done for the sake of profits. Companies both large and small do not want to hire people with disabilities. For example, the KCRC which employs some 5 800 people only has four employees who are disabled persons. The proportion of such employees is miserably less than one in a thousand. As things are so bad for a company wholly-owned by the Government like KCRC, it is only reasonable to find the situation worse in the private sector. Although the Disability Discrimination Ordinance is in place to protect the rights of people with disabilities, it has not given them more employment opportunities other than protecting them from discrimination. That is why among the some 420 000 people with disabilities in Hong Kong, the unemployment rate stands at more

than 15%. Even for those who have got a job, they will have to bear with long working hours and a low wage.

In any fair and just society, people with disabilities should enjoy equal rights with the general public in employment. Article 23 of the Universal Declaration of Human Rights promulgated by the United Nations in 1948 stipulates that the right to employment includes first, "the right to work, to free choice of employment"; second "the right to equal pay for equal work"; third, "the right to just and favourable remuneration" and fourth, "the right to form and to join trade unions".

The above four points can be said to be the basic rights to employment to be enjoyed by people of any race, sex and age, regardless of whether they are able-bodied or not. The responsibility of a government lies precisely in the safeguarding of these rights. But it is unfortunate to see in transport matters, to name one example, our Government has not done its best to ensure that people with disabilities can enjoy these basic rights.

It is common knowledge that transport expenses in Hong Kong are on the high side. This burden is felt by ordinary members of the public and remarkably so by people with disabilities. The latter have fewer choices in public transport than the others and they have to make frequent transfers, hence incurring much higher expenses. As their income is already lower than the ordinary people, the high transport expenses have posed the greatest hurdle to employment for them. It is therefore perfectly reasonable to demand that people with disabilities be offered half-fare concessions as per students and senior citizens. We hope that the Government will consider this as it will not only help people with disabilities integrate into society but also enable them to enter the job market easier.

Despite calls in recent years for a barrier-free society and the disabled and the able-bodied living in harmony, there are still disabled persons groups which think that the transport problem has barred them from leading a normal life and having a social life. It is reported that at the end of last year, the Joint Committee to Fight for Rehabus Resources commissioned the Social Science Research Centre of the University of Hong Kong to undertake a study on the means of transport used by wheelchair users. Findings of the study show that more than 90% of the people think that transport is a major obstacle in their life, social life and work. Close to 80% say that they have experienced difficulties

in booking Rehabuses and close to 50% say that they have declined job offers because of the inability to make any transport arrangements.

Despite the fact that more than 60% of the people with disabilities interviewed in the study have used the Dial-a-Ride Service for Rehabuses, half of them have to make the booking two months in advance. Some even have to make the booking four months or even six months in advance. More than 60% find it difficult to book a Rehabus, thus adversely affecting their regular follow-up medical consultations and their social life. Now there are only some 80 Rehabuses in Hong Kong and against a population of about 420 000 people with disabilities, the Rehabus service lags far behind any reasonable target. Though the Government in its rehabilitation policy acknowledges barrier-free transport as being reasonable, only five more Rehabuses are purchased this year. This can really be considered a drop in the ocean. A couple of days ago, a certain Policy Bureau made a reply to my enquiry. I had asked why the authorities would not offer half-fare concessions to people with disabilities using public transport. The bureau told me that it was difficult to define a disabled person and so the idea to offer half-fare concessions to people with disabilities was rejected. I feel very dissatisfied to hear this reply and most sorry, too. It is my hope that the Government can rectify this wrong mentality and legislate at the soonest to improve the means of public transport, offering better facilities and half-fare concessions to people with disabilities. Such are responsibilities which the Government must never hope to shirk.

Lastly, I would like to point out that if society is to be made fairer, acts by the Government are essential and there must be proper co-ordination for these. I would like to present some words of encouragement to people with disabilities and these are: Everyone is born with a gift and it does not matter if they are able-bodied or otherwise. People with disabilities can make contribution to society and the key lies in them being given fair opportunities so that they can join in and play their part. Therefore, I must say with regret to the Deputy President: It is not the people with disabilities who are crippled, what are crippled are the social policies of our Government. Thank you, Madam Deputy.

MR ALBERT HO (in Cantonese): I am very grateful to Mr LEUNG Yiu-chung for bringing up yet again in this Council the subject of the needs of people with disabilities for transport facilities.

The Chief Executive in his policy address points out that community support services will be strengthened to people with disabilities and their families to facilitate their early return to the community. However, we can see that people with disabilities face a lot of difficulties when they want to return to the community. Transport expenses these days are high. Most of the public transport facilities still pose a lot of obstacles to people with disabilities. Obviously this will produce an adverse impact on people with disabilities in their return to the community. If there are no specific solutions put forward in the policy address, all these objectives will become nothing but slogans and hollow talks in the form of slogans.

Notwithstanding the gradual picking up of the economy, people with disabilities still have to face the plight of having their CSSA slashed and they are under the threats of unemployment and underemployment. Even if they have working abilities, the wages they earn are low. They have to meet their basic needs in clothing, food, accommodation and transport. Everyone will need to pay for these basic living expenses. For the people with disabilities, even if they are frugal and economize much on their expenses, there is no choice left for them when it comes to transport if they want to go out and reach out to the community. They are forced to pay for the expensive transport expenses and there is nothing they can do unless they hide in their home, cut off from the community. But this is definitely not what we want to see, not in the least. Therefore, once again I strongly demand that the Government should put forward some specific plans to solve these problems.

Last year when Secretary Dr York CHOW assumed the office of Secretary for Health, Welfare and Food, he stated clearly that the plight of the old, weak and disabled must be given attention. I still recall on 13 October last year when this Council held a debate on the motion on promoting the integration of people with disabilities into society, the Secretary made it clear that he would join hands with Secretary Dr Sarah LIAO to discuss the problem with the transport providers and contractors in the hope that concessions would be offered to people with disabilities in using public transport, such as in the form of free rides or half-fare concessions. But now it is 19 October, some 370 days after last year's motion, what kind of progress has been made? I hope later on Secretary Dr Sarah LIAO could tell us the latest developments so that we will not be disappointed.

Today the target that we have been striving for so long, that is, the offer of half-fare concessions to people with disabilities, is still not in sight. We know that last year both the MTR and the KCRC made quite a lot of profits. The MTR especially made as much as \$2.6 billion — a record-high performance. We all know that the Government wholly owns the KCRC and it is also the major shareholder of the MTR. So with respect to promoting a transport policy which requires the two railways to offer concessions to people with disabilities, the Government does have sufficient influence. But has it done anything to the best of its abilities?

I would also like to urge all major transport operators to devise a concessionary policy for people with disabilities at their own initiative, in the same way as they have offered half-fare concessions to the elderly voluntarily. It is our hope that this policy be put into practice to show that the Government and both the public and private corporations can work together to fulfil their responsibility in the building of a caring and just society.

With respect to Rehabus service, we think that there is still room for improvement. In March this year, the Joint Concern Group on Barrier-free City — a group formed by people with disabilities, conducted a survey and it was found that in the category of franchised buses, more than 40% of the interviewees were not satisfied with the facilities at bus stops. This is because people with disabilities are not able to get information about the bus routes and the schedule of low floor type buses. In addition, 30% of the interviewees were of the view that the ramps in the buses were not always helpful and there were cases in which the parking space at the bus stops was not large enough to lower a ramp or the ramps ran out of order very often. As for the railways, 30% of the interviewees were not satisfied with the fact that nothing was done to narrow the gap between the platform and the train car, making it impossible for some people with disabilities to get across the platform. Apart from suggesting that the Government should monitor public transport facilities on a regular basis, we also think that more groups of people with disabilities should be invited to give their opinions. This will lead to an improvement of various facilities, hence achieving the objective of a barrier-free community.

There are at present some 80 Rehabuses in service territory-wide, but they are not enough to meet the demand, hence people with disabilities find it very inconvenient. A survey conducted by the University of Hong Kong shows that 60% of the people with disabilities have used the Dial-a-Ride Service for

Rehabuses, but half of them have to book the service two months in advance. As many as 60% of the respondents say that there are difficulties in booking a Rehabus and this has impaired their regular follow-up visits to the doctor as well as their social activities. The survey also finds out that 14% of the respondents have declined a job offer because of the failure to make any transport arrangements. It is for these reasons that I have cited the above figures in the hope that the Government can do its best to effect improvement. *(the buzzer sounded)*

DEPUTY PRESIDENT (in Cantonese): Mr HO, your speaking time is up.

MR ALBERT HO (in Cantonese): I so submit.

MR LI KWOK-YING (in Cantonese): Madam Deputy, Hong Kong is a metropolis with an abundant supply of daily necessities like clothing, food, housing and transportation services. However, the situation of people with disabilities may not necessarily be that good. When people with physical or mental disabilities, or even those chronic patients, want to get about, the first difficulty or obstacle they face is transportation. Inconvenient transportation not only affects the social life of people with disabilities and hinders their social integration but also affects other aspects of their life, such as employment and seeking medical treatment.

That people with disabilities faces obstacles in travelling on the public transport system has long since been an incontestable fact. Over the years, many non-governmental organizations have been lobbying the Government and public transport operators, requesting them to improve facilities for people with disabilities and offer fare concessions to them. There have started to be some slight improvements to transport facilities for people with disabilities. For example, the two railway corporations have installed wheelchair aids, stair lifts and lifts at their stations. The bus companies are also gradually replacing their old fleets with low floor type buses. It seems that public transport operators are all striving to improve transport facilities for people with disabilities and achieve the goal of "Transport for All".

But can people with disabilities really benefit? Can all these petty favours offered by public transport operators effectively reduce or remove the difficulties

faced by people with disabilities in travelling on the public transport system? The answer is very obvious. If there had been any marked improvements to transport facilities following the discussions in the Legislative Council over the past few years, it would not have been necessary, as remarked by Mr LEUNG Yiu-chung, for us to harp on the old tune again today and request public transport operators to squarely address the needs of people with disabilities in using transport. Had there been any marked improvements, we would instead have to extend our gratitude to the Government and public transport operators, thanking them for looking after and understanding the needs of people with disabilities.

Actually, if we care to take even a cursory look at the transport facilities provided to people with disabilities, we will realize that public transport operators have done nothing more than unilaterally providing some "tailor-made" but token facilities for people with disabilities, instead of really trying to understand their practical needs. The wheelchair aids provided by the MTRCL are a good example. Every time when a wheelchair-bound passenger wants to use a wheelchair aid, he will have to make advance booking and wait for the assistance of MTR staff. It is only after all this that the clumsy "monster" giving out all sorts of strange noises in operation can be activated. When a person with a disability and his family members and friends are waiting for wheelchair aids, they are often looked upon as freaks by passers-by, making them very embarrassed.

In regard to bus companies, the low floor type buses they have introduced and the seats reserved for disabled passengers on board their buses can undoubtedly bring immense convenience to these passengers. But it is a pity that the bus companies have so far failed to formulate any plans to replace all buses of old models by low floor type buses. Low floor type buses are purchased only when the ageing of existing buses necessitates the purchase of replacements. What is more, the seats reserved for disabled passengers are often occupied by ordinary passengers. The continuation of these problems shows that the bus companies actually lack the sincerity and determination to improve services for people with disabilities.

Public transport facilities for the disabled are unsatisfactory, but Rehabuses can supplement these facilities and lessen the resultant problems, because the compartments of these buses are fitted with various special facilities such as wheelchair tie-downs to ensure the safety of disabled passengers. There are currently 90 Rehabuses in Hong Kong, but their patronage has been on the

increase year after year. Their patronage this year has even exceeded 500 000 passenger trips, proving that they are immensely well-received by people with disabilities. According to a recent survey on the use of community services by severely physically handicapped persons, more than 60% of the respondents think that Rehabuses are useful in lessening the work of looking after people with disabilities. What is more, over 90% of the respondents even say that they will continue to use the services of Rehabuses. It seems that Rehabuses are beneficial not only to disabled persons themselves but also to family members looking after them.

However, there is still the problem of inadequate Rehabus services. People with disabilities often have to make a booking several weeks or even several months in advance before they can enjoy the scheduled services of Rehabuses. Handicapped children, for example, must attend follow-up appointments in hospital on a permanent basis, but the use of Rehabuses will impose various time constraints on the booking of follow-up appointments. As a result, parents find it very difficult to book any Rehabuses, and very often, they may simply fail to book a follow-up appointment due to the full booking of these buses. This will seriously affect the health of handicapped children.

Some may wonder why people with disabilities do not take any alternative public transport. The only answer is that public transport operators have not really introduced any facility improvements, nor have they provided any fare concessions to people with disabilities. In contrast, similar facilities and fare concessions are available in several neighbouring countries, including China, where people with disabilities are offered fare concessions during specific hours of the day. The very wealthy public transport operators in Hong Kong — which, as pointed out by Members, have been making huge profits — have instead been turning a blind eye to the needs of people with disabilities, refusing to offer them any fare concessions just for the sake of earning a few cents more. This runs completely counter to the corporate social responsibility often boasted by certain public transport operators.

In conclusion, it must be pointed out that people with disabilities, like ordinary members of the public, should enjoy the basic right of using other means of transport. Being physically disabled is not synonymous to being weak psychologically. Many people with disabilities in Hong Kong have made contribution to society in various fields, and they have to exert much more efforts than their able-bodied counterparts to make such contribution possible. I therefore hope that the Government can join hands with public transport

operators to offer assistance to people with disabilities and create a truly barrier-free environment.

Madam Deputy, I so submit.

MISS TAM HEUNG-MAN (in Cantonese): Madam Deputy, I believe Members all agree that people with disabilities are also members of our society. Equal opportunities of participating in and contributing to society are the intrinsic rights of people with disabilities. All policies must be formulated on the basis of such a belief. I am of the view that all policies connected with people with disabilities should be formulated from the perspective of creating equal opportunities for them, not from the angle of sympathy and welfare provision. For this reason, there is nothing wrong with providing convenient transport to people with disabilities.

Let me first discuss fare concessions for people with disabilities. It is well known that transport fares in Hong Kong are exorbitant. If they are not, we will not have to ask Secretary Dr Sarah LIAO year after year to put forward a fare adjustment mechanism that allows both increases and decreases, right? Even those with jobs and income have to suffer so much, so we can easily imagine the plight of jobless people with disabilities. Our Government has been championing lifelong learning and self-enhancement, emphasizing that all this is the only means of survival in the knowledge-based economy. People with disabilities also want to enhance their own values, I must say. My office employs several people with disabilities and I trust they are all willing to upgrade themselves and contribute to society. But Members must ask themselves whether our social facilities can facilitate their attempts to bring their talents and abilities into play.

Madam Deputy, owing to their physical disabilities and limitations, people with disabilities already have very limited avenues of reaching out to the outside world. They are thus plunged into a disadvantageous position in the highly competitive labour market. As a result, it is often difficult for them to earn higher incomes; worse still, they may even fail to find any jobs. If they are additionally burdened by exorbitant transport fares, how can they possibly widen their horizons, add to their own values and accumulate experience? An example can illustrate my point. At present, a disabled person working in a sheltered workshop can just earn some \$1,000, but transport expenses already account for half of their income. How can they make ends meet?

At this juncture, people may say, "TAM Heung-man, people with disabilities are already entitled to the Disability Allowance, aren't they? Why don't we include transport assistance in this allowance?" They are correct in saying that this welfare benefit is available in Hong Kong. But as far as I know, this allowance does not take account of transport expenses. Had it been the case, there would not have been a uniform rate for this allowance. What is more, not all people with disabilities are entitled to this allowance, so this cannot be an ultimate solution to the problem anyway. For this reason, the authorities must join hands with transport operators before this policy can be implemented and the several similar motions passed by the Legislative Council over the past few years followed up.

Many problems will naturally emerge once transport operators are involved. Some argue, "If transport operators are made to offer fare concessions as a matter of policy, their fare revenue and profits will be directly affected. Even if this policy really has to be put in place, an accurate estimation on the number of people with disabilities must still be made to ensure a sound financial forecast. Before this problem is tackled, it may not be feasible to offer any fare concessions." As a professional accountant, I know the importance of this only too well. But I must add that this should be no excuse for any refusal to discharge corporate social responsibility.

In many countries all over the world, in Europe, the United States and even our Motherland, fare concessions for people with disabilities have long since been put in place. The same measure is also adopted by the two ferry companies in Hong Kong. If it is really true that the measure will lead to serious financial problems, all these companies should have closed down long ago, right? On the number of people with disabilities, it must be pointed out that there is already a registration system for people with disabilities in Hong Kong. We can actually conduct a scientific estimation on the basis of the eligibility requirements under the registration system. The delayed implementation by transport operators and the Government of the motions passed by the Legislative Council over the past few years is just "a manifestation of their reluctance, rather than their inability".

Let me also say a few words on transport facilities and Rehabus services. Honestly, what we are talking about here are just measures to enable people with disabilities to use and choose different means of transport like all others. These equal rights are only natural. If it is still necessary for us to fight for these rights here today, I suppose we must ask whether our society is in a way

handicapped. For instance, what the physically handicapped need are low floor type buses and the visually impaired would need on-board audible stop announcements. These facilities are as normal as luggage racks on airport buses. They are all meant to provide the best services to all passengers. Can Members accept an airport bus without any luggage facilities? This is also the case with Rehabuses. Precisely because the existing means of public transport cannot cater for the needs of all people with disabilities, we must need Rehabus services. For this reason, it is only reasonable for us to invest more resources in service improvement.

Madam Deputy, the key to addressing the transport needs of people with disabilities is the creation of a barrier-free society with equal opportunities. I hope that one day, as people with disabilities can travel, learn, work and contribute to society like able-bodied persons, we will not need to discuss all these topics anymore.

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

MR PATRICK LAU (in Cantonese): Madam Deputy, I very much approve of the motion's call for reducing the barriers to people with disabilities. As pointed out by many colleagues earlier, besides impairment of the limbs, physical disabilities also include visual and hearing impairments. However, I wish to raise the point that our focus of concern should be broadened to cover more than the needs of people with disabilities. The needs of elderly people, children, pregnant women and other needy people also warrant our concern. Actually, the number of people with disabilities accounts for a mere 10% of the population in Hong Kong. However, under the trend of an ageing population, the number of elderly people aged over 60 is expected to rise to 30% to 40% of the population in the coming few years.

For these reasons, we should provide against the future by immediately embarking on formulating a set of standards compatible with social needs. In architectural design and town planning, the needs of elderly people, children and pregnant women have to be taken into consideration by adopting the universal design, which has been widely recognized and applied internationally. In the long run, even all buildings, streets, transport networks and means of public transport are required to adopt this design standard, thereby minimizing as far as possible the barriers to users.

Actually, the needs of elderly people and people with disabilities are very similar. They prefer, for instance, larger characters, bright colours, clear voices, and easily negotiable and smooth accesses. Therefore, a small modification to the facilities originally designed for people with disabilities can already serve the purpose of catering for the needs of the elderly. In doing so, not only can cost-effectiveness be enhanced, labelling of people with disabilities can be eliminated as well, thus building a more harmonious society and spreading the warm message of "the disabled can get along with the able-bodied".

Madam Deputy, in order to enhance the acceptance of the legislation and achieve the purpose of educating the public, the Government should take the lead in progressively pushing for compliance by the private sector. Therefore, this design standard should be adopted in planning and building the Government Headquarters and the Legislative Council Building at the Tamar site, and the West Kowloon Cultural District (WKCD) development project. When major projects are developed in future, the personnel responsible for designing the projects must comprise a professional universal design consultant to start consulting the practitioners when the outline development plans are formulated.

The universal design has actually been put in full use by many countries in the world, including Britain, the United States, Australia, Japan, and so on. For instance, the Sydney Olympic Stadium has adopted this user-friendly design. By matching the universal design with everything from macro-planning to community facilities and transport networks, Japanese cities have also managed to bring into full play the real potential of their public transport. To date, however, it appears that the Hong Kong Government still lacks the awareness of introducing this set of design standards that can possibly benefit more people.

I was told by some practitioners that the Government was once asked in a seminar whether it would consider adopting the universal design in the WKCD project. The government officials replied at that time that the Buildings Ordinance had already carried adequate provisions. They seemed not to quite understand what the universal design is all about!

Madam Deputy, as I said in the speech delivered on a similar motion on a previous occasion, it is precisely because of inconvenience that there are indeed very few people with disabilities who often engage in activities out of their homes — neither transport nor architectural designs can accommodate their

actual needs. With the passage of one year, I still cannot see much improvement. A more remarkable example is perhaps the MTR and KCR stations, for they have all been paved with tactile guide paths and installed with additional lifts progressively. However, other public transport facilities and the Rehabus service still have much room for improvement. If Hong Kong does not wish to lag behind its neighbours and become the most backward city, the universal design mentioned by me earlier must be immediately put to full use in planning, transport networks, and so on.

Madam Deputy, for the purpose of effectively enforcing the legislation, visionary government officials must endeavour to adopt flexible approaches to assist the practitioners in removing all barriers, instead of creating more headaches for them. Let me cite a simple example. It is required by law that a 1:12 gradient ramp must be installed in front of a street-level shop to facilitate the access of wheelchairs. The ramp will be considered substandard even if its gradient is slightly above the standard. This is utterly impractical and business will be impeded too. As a result, most shops would have the ramps in place only on the day their Occupation Permits are issued, and immediately demolished the next day. As a result, the shops have become unauthorized buildings, and enormous amounts of money have been wasted too. This is utterly wrong.

At present, both town planning and road designs have failed to achieve the goal of facilitating wheelchair users to go out. Therefore, the significance of the ramps outside the shops to the users is just secondary. On the contrary, it is the design of roads and buildings that matters most to the users. Given that they cannot break through the first line, how can they break the second or third one to gain access to the shops on the streets? Therefore, to really help wheelchair users, the authorities should provide more resources to streamline the licensing procedures for electric wheelchairs, and even offer assistance to wheelchair users in their daily life, help them find jobs near their homes, offer them transport allowance or subsidy for electric wheelchairs, and encourage them to integrate into society.

Therefore, I support the motion proposed by Mr LEUNG Yiu-chung today, that we must face up to the transport needs of people with disabilities. Meanwhile, I also hope Members can support adopting the universal design in a comprehensive manner, from the "point" to "line" and to "surface", so as to help more people. Thank you, Madam Deputy.

DR JOSEPH LEE (in Cantonese): Madam Deputy, today, Mr LEUNG Yiu-chung has proposed a motion debate on facing up to the needs of people with disabilities in using transport. The fact that this is actually the fourth attempt a similar motion is proposed in this Council in recent years demonstrates that the Government has yet to take concrete actions to improve transport facilities for people with disabilities and offer them concessionary fares in response to the motions previously passed in this Council. Actually, a consensus was already reached by this Council on assisting people with disabilities in integrating into society a long time ago. However, the Government has all along failed to step up its vigour in assisting these people in concrete terms. I am very disappointed indeed.

People with disabilities are considered to be the disadvantaged in society. According to the information provided by the Census and Statistics Department (C&SD), some 4% of the population are people with disabilities, excluding mentally retarded persons and chronic patients. The figure will definitely be higher if these two categories of persons are included. According to the Special Topics Report No. 28 published by the C&SD, only 17.3%, a very low percentage, of the physically handicapped persons were engaging in economic activities. Coupled with the fact that their income was usually relatively low, they were even living below the poverty line. Given their low income and reliance on others to take care of them when going out, how can they make ends meet when travelling expenses are so high nowadays? Travelling expenses and transport inconvenience have indeed imposed a heavy financial burden on them. Actually, people with disabilities have relatively few choices when it comes to means of transport. Moreover, they have to pay more in travelling expenses than ordinary people, for they often have to switch to other means of transport before reaching their destinations. For these reasons, I agree that the Government should implement the arrangements for offering half-fare concessions to people with disabilities in order to ease their financial pressure.

Actually, the provision of fare concessions to people with disabilities seeks not only to ease their financial pressure, but also encourage them to work, thereby improving their existing financial condition and raising the productivity of society as a whole. At the same time, the relevant arrangements can give them more chances to get in touch with the outside world, thus broadening their social life and reducing their chances of being alienated by society. This will in turn enable them to lead a physically and mentally healthy life and help them

integrate into society. As the major shareholder of the two railways, the Government should, in considering economic benefits, give due regard to its social responsibility. It should give priority to assisting people with disabilities in integrating into society and take the lead in providing fare concessions to people with disabilities in using public transport.

Madam Deputy, many people think that physically handicapped persons seldom participate in social affairs, and most of them prefer staying indoors. Actually, there are reasons for this. It is not the case that they do not want to go out. It is mainly because the existing transport facilities cannot satisfy their needs in employment, receiving rehabilitation service and education, and participating in other social gathering activities. As revealed by many overseas surveys, people with disabilities often encounter negative and unpleasant experience when travelling on public transport.

Despite the claim by many public transport operators in Hong Kong in recent years that substantial transport assistance and facilities have been provided for people with disabilities, according to a report issued by the Transport Department in August 2003 to disabled groups on the public transport facilities provided to people with disabilities, only approximately 50% of the buses operated by the three bus companies, namely the Kowloon Motor Bus Company (1933) Limited, the New World First Bus Services Limited and the Citybus Limited, have been fitted with a low floor and a ramp. Moreover, such buses do not operate on every bus route. As a result, people with disabilities wishing to travel on such buses might have to spend a very long time waiting. As most of the minibuses, trams, taxis and cable cars in Hong Kong do not yet have facilities that facilitate access by people with disabilities, these people cannot use these vehicles even when they have such a need. At present, there is still a lot of room for improvement with regard to the facilities provided by the major means of public transport in Hong Kong. The Government should encourage and help public transport operators to strive to provide transport service and facilities for the convenient use by people with disabilities and, in the long run, popularize the concept of "Transport for All" and give incentives to various transport operators to provide people with disabilities with services offering a certain degree of convenience.

The Rehabus is by far the principal choice for people with disabilities, for public transport can still not meet their needs. As pointed out by colleagues

earlier, there are at present a total of four Rehabus routes, namely the Hong Kong, Kowloon, New Territories and cross-harbour routes. It was also mentioned that there had been 500 000 passenger trips per year. However, if the passenger trips are equally divided by the number of people with disabilities, we will find that each disabled person can use the Rehabus only 0.2 time on average per month. It is thus evident that the Rehabus service is seriously inadequate. This explains why the authorities should address squarely the problem of the Rehabus lacking adequate resources by injecting additional funding to provide more Rehabuses for the sake of providing adequate service to satisfy the needs of people with disabilities. Furthermore, the Government should study the possibility of introducing other modes of transport that can help these people.

Madam Deputy, I suggest that the Government should formulate longer-term policies to provide people with disabilities with transport assistance by, for instance, setting up under the Transport Advisory Committee a concern committee on the transport problems of people with disabilities. Most importantly, the committee should invite different people with disabilities to jointly participate in the formulation of policies with a view to coming up with ones catering to their needs, instead of asking us to consider their needs. Besides, the Government should continue promoting the concept of "Transport for All" by providing a greater number of accessible facilities and infrastructure. In addition, the operation of various public transport should be monitored regularly to enable people with disabilities to use similar facilities in an equitable manner. Lastly, the Government should educate the public on the concept of "Transport for All" so that people with disabilities can, like ordinary people, enjoy fair rights and use public transport in a fair manner and, hence, integrate into society.

With these remarks, Madam Deputy, I support Mr LEUNG Yiu-chung's motion.

MR ALBERT CHENG (in Cantonese): Madam Deputy, I deeply regret that Secretary Dr York CHOW, the accountable official in charge of this area of work, is not present in this Chamber at the moment. However, during the earlier discussion on constitutional development, he was here to show his support for the Chief Secretary for Administration. Considering that there is such a great number of people with disabilities in Hong Kong and the significance of

this question today, coupled with the fact that this is his area of work, I feel most sorry that he has chosen to find a substitute to attend the meeting.

Do people with disabilities need help from society? I think no one will object. We are all caring people. We all agree that we are obliged to take care of the disadvantaged groups. In his policy address and policy agenda, the new Chief Executive has often emphasized "strong governance for the people". Insofar as "for the people" is concerned, I believe "the people" refers to members of the public, and most importantly, the disadvantaged groups. How can he achieve "strong governance for the people" if he fails to take care of the disadvantaged groups? This is just empty talk. No wonder the Chief Executive was questioned in the Question and Answer Session on the policy address by Mr LEE Cheuk-yan whether he was a man of deep affection or ruthlessness.

Now that Secretary Dr York CHOW is not here in the Chamber, I wonder if Secretary Dr Sarah LIAO can answer my question on his behalf. The department under the charge of Secretary Dr York CHOW once indicated that more than 1 million people will be involved if transport concessions are offered to people with disabilities. I remember, during the discussions on right of abode in Hong Kong, Mr TUNG Chee-hwa, who has now resigned, said he would act according to the results of opinion polls. During the discussion on constitutional development today, opinion polls were mentioned again. Our legs feel like jelly whenever opinion polls are mentioned.

As revealed by the findings of an opinion poll conducted back in those years, 1.67 million people would qualify as children born on the Mainland of Hong Kong residents, in accordance with the Basic Law. Should we act according to the Basic Law, allowing those children to come to Hong Kong, Hong Kong would subside. Moreover, society would be divided as our social facilities would be taken up by them too. Today, even the Government will admit that the figure is actually between 200 000 and 300 000, which is far less than 1.67 million.

By the same token — as Secretary Dr York CHOW is not here, I actually need not raise my voice for Secretary Dr Sarah LIAO is not responsible for this area of work at all — by the same token, what is the point of such tricky manipulation of power? Those who were engaged in such tricky manipulation of power have already left. They were TUNG Chee-hwa, Mrs Regina IP, and

the one responsible for conducting surveys by adopting the "Randomized Response Technique". They have all resigned from office and returned to private life. Will it make any sense if the Government resorts to such tricky manipulation of power again? Of course, the excuse will be — I wonder if Secretary Dr Sarah LIAO will say something like this later — now that the Equal Opportunities Commission (EOC) has already been established. If people with disabilities are given concessions, who will take care of the chronically ill? Actually, they may seek a judicial review, or even find someone to finance their applications for judicial review. Therefore, please stop talking nonsense like this.

Our request today carries priorities. Of course, we have to take care of people from different strata in society. As pointed out by Mr Patrick LAU earlier, these people include not only the people with disabilities and the chronically ill, but also the elderly. We are growing old too. This is our ideal, and also our goal. I believe what we are discussing and demanding today is the same as the request made by Mr LEUNG Yiu-chung in today's motion debate and that is, priority has to be accorded to taking care of people with disabilities. These people, numbering 220 000, are recognized by the Administration too. Madam Deputy, what we are talking about is 220 000 people, not a million or so. I do not know whether the Secretary will inform us of the relevant figures later and whether Secretary Dr Sarah LIAO has been given the figures prepared by Secretary Dr York CHOW. If yes, I hope Secretary Dr Sarah LIAO will provide the figures to us. We request that the Government declare once again that priority will be given to taking care of these 220 000 people recognized by the Social Welfare Department as people with disabilities by offering them transport concessions and improving public transport facilities. At present, not only are they required to pay high fares, there is a lack of suitable facilities for their convenience too. Therefore, it is most important that even if concessions are offered to them, suitable facilities have to be provided as well.

As for the Government — I am referring to Secretary Dr York CHOW, not Secretary Dr Sarah LIAO. I hope both Secretaries are not breathing through the same nostrils. Despite the Executive Council's call for government officials to be collectively accountable — I hope the Secretary will not tell us that this is impossible, that we might be sued by the EOC. Actually, it will simply not happen. If I were to institute proceedings, I would have sued the Government today. Why is it that only 220 000 are eligible for disability

concessions? I can still sue the Government or subsidize an old lady to do the same. Yet, I have no intention to do so. Neither is there anyone who is prepared to do so. It is because we are merely making a request for transport concessions to be granted to those people with disabilities who are holding valid documents and recognized by the Government. The matter is as simple as that. Nothing more needs to be said. Therefore, I hope Secretary Dr Sarah LIAO can save time, for she needs not repeat York CHOW's nonsensical words. I do hope that I will have an opportunity in the future to question Secretary Dr York CHOW how he has come up with the figure of 1 million or so. According to the authorities, once the relevant bill is passed, 1 million-odd people will be benefited on the enforcement of the law. Even if this will really be the case, it does not matter, and I will still give my support. Even if concessions are offered to these people, Hong Kong will still not subsidize because these people will not go out very often. People with disabilities, the sick and the elderly will not go around everywhere. Moreover, they will not travel during the peak hours. Therefore, I hope Dr Sarah LIAO will not give us these excuses later. Dr Sarah LIAO, please do not act as the target for Secretary Dr York CHOW. You should leave these nonsensical words to him.

I support this motion. Thank you, Madam Deputy.

MS AUDREY EU (in Cantonese): Madam Deputy, the original motion of Mr LEUNG Yiu-chung is actually consisted of two parts. The first part expresses deep regret, where the second part is on fulfilling certain demands. On the part on deep regret, in the motion moved by Mr LEUNG Yiu-chung on 30 October 2003, the Government was demanded, urged and pressed to make improvements. Then on 8 October 2003, when Mr LEUNG Yiu-chung proposed a motion on a similar subject, the demands had escalated. He said that a motion had been passed in 2002 but the Government had not done anything. Therefore, he expressed his strong dissatisfaction. Though the motion was also passed at that time, likewise no improvements have been made. The motion moved by Mr LEUNG Yiu-chung this time therefore has escalated again and deep regret is expressed. I agree very much with this way of doing things.

Madam Deputy, looking back at past records, with respect to the first part of the motion, when the Chief Executive met Members of this Council recently, and when mention was made on the relationship between the executive and the

legislature, his reply was that there was no need to say anything more and that action would speak better than words. However, despite the fact that similar motions have been passed twice, the Government has never taken any concrete actions. That is why I agree very much to the part in Mr LEUNG's motion on expressing deep regret.

The second part of the motion is on fulfilling the demands. Madam Deputy, this part is also very much in line with the remarks made by Chief Executive Donald TSANG. As mentioned by Mr Albert CHENG earlier, a very important part in Donald TSANG's policy address is "for the people". The suggestions made in the motion are all for the people and they are related to the building of a harmonious society. Madam Deputy, with respect to the needs of people with disabilities in using public transport and the present situation, Members have cited many figures and pointed out many inadequacies in their speeches. It is inevitable that repetitions are made as these figures are cited every year. So, Madam Deputy, I will not repeat the data today.

I notice that when the issue was raised in a meeting of the Panel on Transport recently, the Government brought up a new legal issue and that is about its worries that an offer of concession to disabled persons receiving disability allowance might contravene the Disability Discrimination Ordinance. Madam Deputy, I would of course support a respect for the law shown by the Government when making decisions and if every administrative decision made by the Government is law-abiding, then I would naturally be very pleased. But the strange thing is, why does this legal dispute appear three years after the relevant motions are passed? The Ordinance was enacted in 1995 and the topic is nothing new, but why all of a sudden will an implementation of concessionary fares contravene the Ordinance? When Honourable colleagues spoke earlier, it was mentioned that currently the Government had some policies which permitted the people concerned to receive normal disability allowance or the higher disability allowance. If this is really a violation of the Ordinance, then why is it that no one has acted on it and sued the Government? If considerations are made from the angle of resources, of course we will have to devise some standards and then allocate resources according to priorities. How can the Government say that no concessions will be offered because it does not want to affect those people who do not receive the allowance? This is actually putting the cart before the horse. Madam Deputy, I hope the Government can look at this issue positively.

In the first place, public transport operators all have a social responsibility to fulfil. These operators should not look at the issue from the perspective of profits alone, for this is short-sighted. They must think about their social responsibility and they must show their care and play a part in creating a harmonious society. Since the Government has the power to grant a franchise to these operators and it also holds shares in some of these companies, it should make use of such power to require these public transport operators to fulfil their social responsibility. The Government should fulfil its responsibility as well, even by providing some subsidies to help these operators. Madam Deputy, we think that on this question of offering concessionary fares to people with disabilities, the Government should act as more than a bridge and pass on the demand from the people to these operators that concessions should be offered, more importantly, it should consider things direct from the people's perspective. Thus it will answer the idea of doing things for the people — a favourite slogan of Donald TSANG when he ran for the office of the Chief Executive. This is also a way of achieving the objective carried in this slogan used by the Chief Executive.

In addition, we very much support allocation of more resources and improving the Rehabus service expeditiously. This point has been mentioned by many Members in their speeches. It is also a demand that has been raised for so many years. I mentioned this before and so I will not repeat it this year. I recall when Secretary Dr Sarah LIAO came to this Council and responded to this topic for the first time, she talked about a past event which was very sad. We are convinced that personally the Secretary must agree with the demand. But words are never enough and expressions of personal feelings will not suffice either. When the new Legislative Session comes next year, I hope that there will be no need for us to debate on a motion similar to the one we have today. I also hope the Secretary, in making her response later, would tell us some good news and what concrete actions will be taken. Thank you, Madam Deputy.

MR TAM YIU-CHUNG (in Cantonese): Madam Deputy, two persons with disabilities appear in the list of the Ten Outstanding Young Persons published lately. One of them is LIU Tung-mui, a born spastic because of cerebral anoxia. Overcoming obstacles one after another, she has practised painting for 13 years. Not only does she demonstrate great talent in the arts field, her individual works have won numerous awards in China, Hong Kong and Macao,

and abroad. Her motto is: "Art is my life. Keep creating in pursuit of innovation." The other candidate, SO Wa-wai, nicknamed "Hong Kong's wonder kid", has also been suffering from spastic paralysis since he was small. However, he has not given himself up. Through strenuous practices, he swooped four individual gold medals in the athletics competitions of the Paralympic Games in the years 2000 and 2004 successively. People with disabilities are strong in will-power despite their physical impediments, and their indefatigable spirit of overcoming difficulties and making contribution to society should deserve our admiration. It is a moral obligation of society to assist people with disabilities in integrating into society.

One of the main obstacles hindering the social integration of people with disabilities is the problem of transport. The DAB has been urging the Government to speed up improving transport facilities for people with disabilities, offering them travelling allowances, and so on. However, the Government has so far failed to make adequate efforts in these respects. In working for its constituents in the districts, the DAB has often received complaints from people with disabilities about uneven road surface, the presence of too many kerbs and staircases which hinder the movements of wheelchairs, and the dangers facing people with visual impairment when walking on the streets. There are also complaints about the shortage of low floor type buses and the lack of any stop announcement system on buses. The shortage of Rehabus service has all the more become the target of extensive criticism.

Insofar as fare concessions are concerned, except for the offering of half-fare concessions to people with disabilities by the New World First Ferry Services Limited and the Star Ferry Company Limited, full fares are still being charged by the other operators, including various bus companies, the MTR Corporation Limited and the Kowloon-Canton Railway Corporation. These transport operators all flaunt their social concern on the one hand but refuse to offer any genuine help to people with disabilities on the other.

Most people with disabilities are resilient and independent, hoping that they can be self-reliant. However, even if they manage to secure a job in the employment market, their income is often relatively low. At present, travelling expenses are not included in the disability allowances granted by the Government to people with disabilities. Such a heavy burden in travelling expenses has often dealt a blow to their desire to work. If the Government can urge public

transport operators to offer fare concessions to people with disabilities, their quality of life will surely be improved effectively.

In respect of the development direction of social welfare policies, the offer of fare concessions to people with disabilities represents precisely a full manifestation of the policy objective of "community rehabilitation and care". If the Government is to encourage people with disabilities to stay and live in the community, and to promote family values, the latter must be assured that there is convenient access to health care and rehabilitation service. It is therefore all the more necessary to establish comprehensive community support facilities for them. As well as the inconvenience to move around, people with disabilities have found it very costly to engage in activities outside their homes too. If they can be offered half-fare public transport concessions, I believe they will encounter less difficulty in the course of integrating into community life.

Public transport operators have been making numerous excuses for their refusal to offer fare concessions to people with disabilities, citing the large number of people with disabilities as the main reason. Moreover, they are concerned that the finance of their companies will be greatly affected if concessions are offered. According to the calculations of these companies, the number of recipients is as high as 1.2 million. Actually, the number of people with disabilities currently receiving disability allowances, after deducting the number of elderly people and children, is just 52 000. Moreover, the total number of disabled persons and mentally retarded persons in the territory is just 220 000. For the public transport operators with enormous profits, they have more than enough room to spare to offer concessions. Moreover, as reflected by the mutual-aid groups of disabled persons, many people with disabilities have to be accompanied by their family members or other people when going out. As a result, the revenue of public transport operators will, in a way, be increased. Offering fare concessions to people with disabilities is actually an all-win proposal for the three parties, namely people with disabilities, society and public transport operators.

During the past three years, the Government has been studying the possibility of introducing a fare-reduction mechanism for public transport. Should this policy be able to bear fruit, people with disabilities can certainly be benefited. However, as part of its welfare and rehabilitation policies, the Government should all the more spare no efforts in fighting for fairer social treatment for people with disabilities.

In respect of the facilities provided by public transport operators, the Government has frequently emphasized its efforts of urging bus companies to introduce low floor type buses. But while doing so, it simply ignores other matching facilities. For example, many bus termini are not yet equipped with ramps. Besides, in some cases, lowered kerbs are raised after maintenance. Therefore, to ensure the creation of a barrier-free environment, all these problems warrant further attention.

In regard to the Rehabus service, we notice that although its daily patronage has been on the increase over the past five years, as many as 5 000 to 6 000 service calls a year are nonetheless not entertained. Moreover, more than 20 000 requests for Rehabus service have to be abolished due to long waiting time. Therefore, the Government must increase the number of Rehabuses as soon as possible. In addition, it should also explore the possibility of developing rehab taxi services as an effective means to meet the transport needs of people with disabilities.

Thank you, Madam Deputy.

DR RAYMOND HO: Madam Deputy, transport is indispensable to our modern daily lives. We need transport to go to work, school and shopping. So do people with disabilities. Some time ago, I served on a Red Cross committee governing five schools for the physically handicapped children, as well as 11 hospital schools. The experience has enabled me to understand the needs of people with disabilities.

In the past, many public transport facilities were not user-friendly to, or even out of reach of, the disabled. Hence, I have for years been advocating that all disabled persons, including those with walking difficulty, visual and hearing impairment, as well as the mentally handicapped persons, should have access to public transport facilities.

In all fairness, the various public transport operators, such as the MTRCL, KCRC and bus companies, have been making improvement to their facilities. I understand that they have installed various facilities to cater for the need of the disabled persons. I am impressed by these new facilities. When I travelled on the MTR the other day, I helped wheel a disabled person on a wheelchair to a stair lift at Tsim Sha Tsui Station. I am sure such new facilities must have made

their lives much easier. However, I doubt whether disabled persons will have the same hassle-free experience when they are in other railway stations.

Indeed, more improvements in public transport facilities are needed to make a noticeable impact on the lives of some 270 000 disabled persons in Hong Kong, a figure given by the Government in the last motion debate on a related subject two years ago. Currently, only 41% of buses are wheelchair accessible, while about 64% (3 804 out of 5 977) buses have been equipped with next-bus-stop announcement and display system on board. It means that the chance of taking a suitable bus for a disabled person still depends very much on the route and luck. Worse still, there is simply no luck for wheelchair users who wish to take a tram because of the narrow width of the tramstop platform and the steps at the tram entrance and exit which proves impossible for them. It was a completely different experience when I travelled by tram in Bilbao, Spain, which I recently visited with four other members of the Subcommittee on West Kowloon Cultural District Development. The trams in Hong Kong have lagged far behind those in Bilbao in terms of their design for meeting the needs of the disabled. Is it time for our century-old trams to overhaul their decks and tram stops?

Even when disabled persons travel by taxi, there are still problems. Some taxi drivers may pretend not to see them and speed away without stopping because of the trouble involved and extra time incurred. The Government must therefore step up regulation on the problem of taxi drivers refusing hire.

For those who need to use the Rehabus service, they fare no better. There is always a long queue and they have to face a long waiting time. It is high time for the Government to review the Rehabus service and to expand its fleet of vehicles if necessary.

Other than physical barriers, the disabled are also discouraged from taking public transport because of their high fares. This is particularly so considering the relatively low income of people with disabilities in general. It will help if some kinds of concessionary fares can be introduced. In this regard, the Government must make its best efforts to persuade transport operators to do so.

Many disabled persons, despite their physical deficiencies, are trying very hard to overcome many difficulties to lead normal lives. Their determination and resilience command our respect. Hong Kong, as a relatively affluent

society and an advanced economy, should have done better to make their lives easier.

(THE PRESIDENT resumed the Chair)

With these remarks, Madam President, I so submit and support the motion. Thank you.

MR RONNY TONG (in Cantonese): Madam President, I remember that last year, soon after I became a Member of the Legislative Council, a debate was held on a motion with very similar contents and the motion won the support of an overwhelming majority of Members. At that time, I was probably too simple, sometimes naïve. I thought that the Government would definitely respect the motions that had the support of the Legislative Council. However, unfortunately, although two policy addresses have been published, one by the former Chief Executive and the other by the new Chief Executive, and both say in unison that people with disabilities, as a disadvantaged group in society, would be assisted, in the end, this turned out to be just empty talk and not the slightest progress has been made to date. Here, I absolutely agree that we should express our utmost regret.

In fact, to assist people with disabilities so that they can enjoy fare concessions is the practice of civilized countries throughout the world, and this is the case even in mainland China. Obviously, the mainland society is more advanced than Hong Kong society and they care for disadvantaged groups even more. In China, the Law on the Protection of Disabled Persons was enacted in as early as 1990. It provides that the social rights of disabled persons in various areas must be protected and it is even specified that people with disabilities are entitled to free transport.

The slow progress made by the Government in offering fare concessions to people with disabilities really leaves people lost for words and this is most unacceptable. Going through the records, we found that the Government has presented a lot of excuses. For example, in a meeting of the Panel on Transport held in July in the past Session, the officials pointed out that the number of disabled people, said to be as many as over a million, was too large and the amount of money required was also very substantial. Just now, a number of

Honourable colleagues have pointed out the fallacy forthright, saying that in calculating the number, the figure was doubled, tripled and even quadrupled and the actual figure is actually far lower than the 1.2 million people claimed by officials. This bears a striking resemblance with the right of abode saga, in which the Chief Executive, Mr TSANG, said that 1.67 million people would come to Hong Kong. I believe that making such specious deductions is not conducive at all to helping people with disabilities. The Government must handle this matter in a pragmatic way and it also has the responsibility to honour the promises made by the two Chief Executives in their policy addresses and provide assistance to disadvantaged groups and people with disabilities. In fact, the figures show that people who need assistance are not really that numerous and since Hong Kong is such an affluent society, we definitely have the ability to provide assistance.

On the other hand, the Government keeps saying that public transport operators think that the Government should take care of people with disabilities and it seems the Government thinks that public transport operators should take care of people with disabilities. In sum, they are passing the buck to one another and in the end, nothing can be achieved. I believe both parties have their responsibilities. The Government certainly has its share of responsibilities and public corporations also have their share of social responsibilities. These corporations, having obtained their franchises from the Government and made handsome profits, have the duty to repay society by helping the needy and the disadvantaged groups. The rationale in offering fare concessions to people with disabilities is just the same as that in offering fare concessions to the elderly and students, so why should disabled persons be treated differently in this regard? Why is it that the elderly and students are entitled to concessions but people with disabilities, who are in even greater need of assistance, are not entitled to them? This is totally illogical.

From Special Topics Report No. 28 published by the Government, we can see that only 22.9% and 28.7% respectively of people with disabilities and patients suffering from chronic diseases are involved in economic activities and the employment rates of these two categories of people are generally lower than that of society as a whole. Furthermore, the figures indicate that they generally belong to the low-income groups. It can thus be seen that in terms of economic status, people with disabilities or patients suffering from chronic diseases are generally relegated to the disadvantaged and impoverished corners of society. Moreover, many of these people live in the New Territories and that means they have to spend even more money on travelling. In this regard, the burden borne

by them is heavier than that by other people in general, so they are in greater need of assistance. Here, I wish to remind the Government that not only must it deal with this issue as early as possible, it will also be an appropriate move to consider this issue in the Commission on Poverty because a lot of disabled persons are also impoverished. Hong Kong is a world city, so I hope that there will be fundamental changes in the way the Government looks at people with disabilities. A few days ago, I learned from the newspaper and the television that the Government had gone so far as to recover the supplementary allowance paid in excess to some people with disabilities and they were requested to return the excess to the Government, which amounts to \$160,000. I believe that such an attitude adopted by the Government towards people with disabilities can be described as unconscionable. Therefore, I hope that the Government will make some fundamental changes in this regard and formulate a specific proposal of assistance within a short period of time, so that Hong Kong people know that our society has the ability and the heart to help the disadvantaged groups. Thank you, Madam President.

DR FERNANDO CHEUNG (in Cantonese): Madam President, recently the MTR Corporation Limited (MTRCL) has been chosen as a "conscientious company" by students and it has also been presented with the Caring Company logo by the Hong Kong Council of Social Service. But whenever mention is made of offering concessionary fares to people with disabilities, the corporation will make all kinds of excuses.

In July this year, a group called Joint Committee for Transport Concessions for the Disabled which is formed by more than 30 disability groups mobilized more than 700 disabled persons together with their family members and volunteers and took a ride on the MTR to the station in Central and staged a sit-in. They demanded that the two railway corporations offer half-fare concessions to people with disabilities. But the two corporations refused to listen and remained unmoved.

Public transport companies in Hong Kong are each subject to a scheme of control agreement and this means their profits are assured. The Government permits a profit margin of 10% to 15% for these companies and regardless of inflation or deflation and whenever the profits earned do not meet this target, these companies can raise their fares. This is something they take it for granted. When these transport companies enjoy special privileges and reap huge profits which are the hard-earned money of the people, it would be nothing

excessive if the people want these companies to repay society back by offering concessionary fares to people with disabilities.

However, as noted from the papers submitted to this Council by the Government, these companies are all putting up the excuse that the number of people with disabilities is huge and offering concessions to them would entail financial difficulties. In fact, according to information from the Census and Statistics Department in 2001, there are about 270 000 persons with disabilities in Hong Kong. A paper from the Health, Welfare and Food Bureau sets out clearly that if the number of people with disabilities do not exclude people aged 65 or above and students under 11 years of age, then the number of such persons will only be about 220 000, or 3% of the entire population. These transport companies have all along been offering half-fare concessions to children, full-time students and senior citizens. It can be seen that the number of children and senior citizens alone already accounts for 33% of the population. This is 10 times as many as the number of disabled persons aged between 12 and 64. It can be seen that the argument put forward by transport companies that there are too many people with disabilities is totally groundless.

Public transport companies are trying to pass the responsibility onto the Government, thinking that offering subsidized transport to people with disabilities in money terms should be the responsibility of the Government as this is the practice in foreign countries. However, since many public transport companies in foreign countries are state-run companies, so it makes no difference if subsidies are provided by the government or the public transport companies. Now in Hong Kong most public transport companies are private companies and the two railways operate according to commercial principles, therefore, the offer of concessionary fares should be the responsibility of the companies.

People with disabilities do have some special needs and these special needs, contrary to the general perception, are more than some inconvenience caused by some physical problems. Actually, there is also inconvenience caused by social or some man-made factors. This can be called a kind of social repulsion. People with disabilities should not be regarded as people born only to be confined to their homes and locked from the outside world. It would not suffice if they are merely given a shelter or some safe place. People with disabilities need to lead a normal social life and have acceptable working conditions. Society should provide them with a barrier-free environment.

Recently, the Social Science Research Centre of the University of Hong Kong has conducted a survey and interviewed many people with disabilities. It is found that 61.2% of them agree very much that transport is the major obstacle to their life, social activities and work. In addition, 32.5% agree to this point. Therefore, we can see that altogether more than 90% of the people with disabilities think that as it is, transport is a great inconvenience to them.

Public transport companies in Hong Kong only look at the fares for people with disabilities from a commercial perspective. This consideration is out of tune with the times. In Western societies, the concept of corporate citizens has long been prevalent. One hears the same words in Hong Kong and they are also found in slogans. But when it comes to putting this idea into practice, we will see the public transport companies all shirk their responsibilities. Most people in Hong Kong are self-reliant and so are the people with disabilities. They too would want to make a living with their own efforts. But owing to transport expenses and barriers, they are often prevented from earning a living by themselves. We know that many people with disabilities are precisely affected by the transport expenses. One example is some blind persons who offer massage service. As they may live in some remote areas, they would find transport expenses a great obstacle to them if they are to accept an offer to provide massage service. In the end, these blind people may not be able to become self-reliant.

Madam President, recently we made a trip to Shenzhen to inspect the underground railway there. As Mr Ronny TONG has said, the underground in Shenzhen and elsewhere on the Mainland do offer free rides to people with disabilities and the elderly. The MTRCL in Hong Kong is now building route number four in the second phase of the Shenzhen underground, and it will in the future assume full responsibility in the operation of this extension of the Shenzhen underground. In other words, the Hong Kong MTRCL will operate a mass transit system in Shenzhen which offers free rides to people with disabilities but it refuses to do the same in Hong Kong. Why rationale is that?

I call upon the Government to play a more proactive role in this issue and the two railway corporations must take the lead and offer concessionary fares to people with disabilities, thereby inducing other public transport companies to follow suit.

Thank you, Madam President.

MISS CHAN YUEN-HAN (in Cantonese): This is the third year in a row that Mr LEUNG Yiu-chung proposed this motion. As Mr LEUNG Yiu-chung put it, not only does one feel regret over this subject matter, one even feels indignant about it. Not only has this motion been proposed in this Chamber over the past three years, this matter has also been raised in various committees a number of times. Moreover, we have also held meetings with the Government on behalf of people with disabilities who came to the Legislative Council to seek redress. In fact, society at large also feels that such a need exists and the Government only has to take one step forward on this matter and public transport companies will be goaded into taking this issue seriously.

Madam President, last evening, I learned about the ruling on a case concerning wages in arrears from the television. The Judge presiding over the case said that the case had made him think that the protection given to workers in Hong Kong was very limited. The wages of employees could be curtailed at will and doing so was even considered a matter of course. I did not look at the exact words of the judgement and only learned about the case from the television, however, I reflected on this matter deeply. Hong Kong is a world city and many people think that it is an advanced city. However, behind this cloak of prosperity, the rights of the grassroots and the disadvantaged in society are increasingly being neglected, or they have failed to catch up with social development. Although the Chief Executive mentioned in this year's policy agenda that he will uphold social justice and help the needy, however, earlier on, at many places, I saw groups of people with disabilities take to the streets when the temperature was over 30 degrees to exhort the public to support their campaign to win half-fare concessions from the Government.

Hong Kong society nowadays is, on the one hand, better developed when compared with a decade or two ago, and on the other, one can also feel the snobbery very distinctly nowadays. That people with disabilities had to take to the streets and bathe in sweat to make exhortations and rally for support is indicative of the situation of the grassroots and disadvantaged groups. We have debated the motions moved by Mr LEUNG Yiu-chung in the past few years and a special subcommittee of this Council has also expressed its views a number of times and we have already reached a consensus. When people with disabilities came to the Legislative Council to seek redress, we also tried very hard to lobby various parties on their behalf. If the situation had improved because of all these efforts, then the present situation would not have arisen. Madam President, the Government often says that it wants to play an equitable role and

act as a balance, however, on these issues and the hope to help the poor, as expressed in the policy address, I doubt if the Government is really doing anything or it has done nothing. Why does it turn a blind eye to the exhortations of the legislature and society. Furthermore, since public corporations are doing nothing, why is the Government still unwilling to intervene?

To local people with disabilities, their demands cover only two simple areas: employment opportunities and transport fare concessions. I wish to tell the Secretary that I began to take part in direct elections in 1991. Since then, each time before I stood for an election, I would discuss this issue with the Secretary concerned. Madam President, you were also returned through direct elections and I believe you must have also been lobbied. When being lobbied, we often feel very helpless and do not know how we can exercise influence. We hope very much that the Secretary will understand one point: Mr LEUNG Yiu-chung, in using words like "regret" or "indignant" today, has in fact countless stories to tell behind those words.

In fact, there are currently not enough jobs for the able-bodied in the job market, let alone people with disabilities. Although the economy is now looking up, the unemployment rate still stands at 5.5%. This shows that there is a group of people who still have difficulty in finding jobs in the market, and they include people with disabilities. Even if they are lucky enough to find jobs, they can only work in low-paying jobs that offer only several thousand dollars per month. However, they have to pay expensive transport fares, so what are they supposed to do? I believe the Government can use this reason to lobby public corporations and ask them to offer help in this regard.

In many advanced countries like Australia and the United Kingdom, transport subsidies are offered to people with disabilities. This is also the case on the Mainland. I remember that many non-profit-making organizations have told us that this kind of protection is provided on the Mainland, yet we are still discussing this issue year after year in the meetings of the Legislative Council.

Let us do some calculation and see if the two railway corporations will fail to make ends meet because of offering such fare concessions to people with disabilities. We can see that this will not be the case. We can see that if the cost of offering concessions to people with disabilities is compared with the profits that the railway corporations are making, such a claim will not hold

water. If this would really make public transport companies suffer losses or go bankrupt, we would not have moved this motion and there would not be so many supporters of this demand made by people with disabilities.

Last year, the KCRC earned \$4.2 billion from its transport business alone and its total profit stood at \$2.2 billion. As regards the MTRCL, its revenue from fares was as much as \$5.4 billion and \$4.5 billion of it was profit. In other words, from the angle of corporate social responsibilities, given that public corporations should assume responsibilities together with the Government and society, it should not be a great problem if half fare is charged. Since these corporations have so much money, they will not close down because of this. We are not accusing the Secretary of doing nothing, however, we know that often times, the Secretary will say that something cannot be done when she encounters difficulties or say that she has no say in many things. However, the Government also has the duty to uphold justice. In the past, elderly people could enjoy free rides or reduced fares on Sunday but such concessions are no longer offered. Often, when I met old folks, they would talk about this issue with me. I think that the Government only has to do a little work and society as a whole will be so much more humane and so much more relaxed.

Madam President, as Mr TAM Yiu-chung has said, disabled persons from Hong Kong have spread the renown of Hong Kong far and wide and bestowed honour and pride on Hong Kong. They have frequently won various types of honour and accolades for Hong Kong. The Chief Executive often talks about the Hong Kong spirit, and this is exactly what the Hong Kong spirit is all about. I believe what they need is more love from us. I believe that working for the welfare of the people should not just be empty talk. This demand has the backing of a consensus in society. I hope that it will no longer be necessary for Mr LEUNG Yiu-chung to propose this motion again next year, that we will not have to compete with Mr LEUNG Yiu-chung in doing so because hopefully, the goal will have been reached by then. Thank you, Madam President.

MS MIRIAM LAU (in Cantonese): Madam President, for many years there has been a consensus in the Legislative Council that there is a need to assist people with disabilities to integrate into society. All along the Liberal Party thinks that the Government should encourage and help them so that they can integrate into society actively.

As a matter of fact, similar motions were passed in the 1990s and since then the transport companies concerned have been taking active measures to introduce facilities for use by people with disabilities. For example, the franchised buses brought in low floor type buses equipped with fixed ramps to replace older buses. Such buses would facilitate wheelchair users to board and alight from a bus. The MTRCL has installed lifts in as many stations as possible and where lifts cannot be installed, facilities like wheelchair lifts and wheelchair aids are provided. All compartments of trains in the MTR, East Rail and West Rail have set aside space for wheelchairs. For the New World First Ferry Services Limited, when it is to purchase new ferries, these ferries will be fitted with toilets for use by people with disabilities. All these show that various public transport companies are working hard to achieve the goal of universal transport, in that people with disabilities can have barrier-free access to all modes of public transport. Therefore, it would not be fair to say that public transport companies have completely ignored their social responsibility.

Having said that, I believe there are many areas which warrant improvement in terms of the provision of facilities for people with disabilities by transport companies. As mentioned by Mr LEUNG Yiu-chung, and many Honourable colleagues have also pointed out earlier, many such facilities should be improved. These will touch on issues like whether or not buttons inside lifts are properly located or that though there are low floor type buses, it is doubtful that the matching facilities at bus stops will facilitate access by people with disabilities. Work should be done to improve all these. The transport companies concerned should contact more disabled persons to hear their views on this. However, there is an objective reality and that is, the franchised bus companies cannot replace all buses at one go and likewise the railway corporations cannot install lifts at every platform because there are some stations with a structure that will not permit such additions. So if a full-scale barrier-free public transport system is to be built, we must spend some time to make further improvements. However, the Liberal Party thinks that as people with disabilities have an ardent demand for transport, where conditions in the transport companies permit, facilities should be improved at a quicker pace.

Of course, with respect to improving transport facilities, the public transport companies have indeed made some progress but with respect to offering concessionary fares to people with disabilities, not much progress has been made. On issues related to the transport needs of the disabled, especially with respect to concessionary fares, often not only transport policies but also

welfare policies are involved. That is why I am very disappointed to see only Secretary Dr Sarah LIAO in attendance today but not Secretary Dr York CHOW. I think principal officials in charge of transport and social welfare matters should all be in attendance today. In many overseas places, concessionary fares are offered to people with disabilities and usually such concessions would involve government subsidies. It is because transport companies overseas are usually run by the government or under government subsidization, so it is very easy to offer such concessions.

In the case of Hong Kong, if the Government handles this problem purely from the perspective of transport policy, public transport companies will be criticized for not offering these concessions. Such criticisms are not quite fair to them. The railways, for example, are required by law to operate under prudent commercial principles and when the Administration urges the transport companies to offer concessionary fares to people with disabilities, it makes it clear that there will be no government subsidies and the corporation concerned should take care of the funds themselves. This puts the railway corporations in a very difficult situation. It is because though it is right that concessionary fares should be offered to people with disabilities, as welfare policy is involved after all, this may run counter to the commercial principles these companies are practising.

The Liberal Party thinks that public transport companies may offer concessions to people with disabilities as much as possible, taking into account their operation and capabilities. This is something that should be promoted and encouraged. However, if there are no subsidies from the Government or if the Government stands aloof in this matter, there will not be any plan which the people or the Legislative Council may find satisfactory. Many overseas examples show, and this point has been mentioned by many Members just now, that in many cases the local government will co-operate with the transport companies and offer concessionary fares to people with disabilities. It is with contribution made on the part of everyone, that is, from the passengers, the government and the transport company that things can be made possible.

As I have pointed out just now, we cannot build a fully barrier-free public transport system within a short time and even if a barrier-free public transport system does exist, that does not mean that all people with disabilities may use it. Now many disabled persons need Rehabus service and they are only required to

pay a very affordable cost before they can use this service as much of the cost is government subsidized. Last year, for example, the Government made a funding of \$25 million for the Rehabus service. Taking into account 500 000 person trips for the whole year, this would mean an average sum of \$50 is subsidized for each trip.

Having said that, currently the supply of Rehabus service does lag behind the demand and in view of this problem the Liberal Party has repeatedly suggested that the Government should revise its policy and subsidize people with disabilities to take taxis. But the Government replied that some time ago a trial voucher scheme had been put into practice, but upon review the scheme was considered impractical. The main reason is that the taxi trade complained that the procedures of getting a rebate on taxi fares from the vouchers are too complicated. That is why no active steps are taken by the Government to follow up the proposal.

Actually, it is not worthwhile to reject a very constructive proposal wholesale merely because of some trivial administrative complexities. Since the idea will work conceptually, the Government should rethink the proposal and find out how improvements can be made to facilitate a wider use of taxi service by people with disabilities.

Madam President, I so submit.

DR KWOK KA-KI (in Cantonese): Madam President, I must thank Mr LEUNG Yiu-chung for moving a motion on this topic once again. But like other Members, I am also greatly disappointed, because this is already the fourth time in recent years that a motion debate is held on this topic. In 2002, 2003 and 2004, a similar motion on this topic was also moved in the Legislative Council. And, the three specific demands put forward by Mr LEUNG Yiu-chung this time around — following up the motions passed by this Council and a relevant motion passed by the Panel on Transport on 22 July this year and implementing the arrangements for offering public transport half-fare concessions to people with disabilities; liaising with the other two public transport operators; and, allocating additional resources to expeditiously improve the Rehabus service — are in fact nothing new to many people with disabilities in Hong Kong and their carers.

Just now, some Members said that when she first assumed office, Secretary Dr Sarah LIAO told quite a number of touching stories. But I suppose it is not much use telling these stories because people will find them touching only when they are told for the first time and after they have been repeated several times, people will find them artificial. What is most interesting is that when the Government explained in the relevant panel why certain actions could not be taken, it went so far as to say that fare concessions could not be allowed and must not be offered lest all this might constitute violation of the Disability Discrimination Ordinance. I frankly cannot understand the rationale behind this argument. If such an argument is really justifiable, then, basically, no assistance should be offered to the underprivileged, because any such assistance will be tantamount to discrimination or a way of stigmatizing them. In that case, there will be basically no need for society to do anything. Everybody can just stand there with folded arms, watching the ruthless operation of the law of the jungle and allowing business tycoons to do whatever they like.

Fortunately, the reality is not quite like this and the problem is not as worse as that, because as indicated in the documents supplied by the Government, a 30% fare discount is being offered by 16 routes to passengers with disabilities despite the absence of any government requirement. Besides, certain concessions are also offered by four maxicab routes to passengers with disabilities. My purposes of discussing the issue of fare concession are as follows:

First, I wish to point out that to offer fare concessions is not as difficult as described by the Government. There is no point in resorting to any tricks or sophistry — I must emphasize this because the Government has become increasingly well-versed in these stalling tactics. As I once pointed out, I think the most important thing, or my greatest hope, is that the Government can take the lead by implementing fare discounts or half-fare concessions in its wholly-owned KCRC and also the MTRCL, where it is the majority shareholder. It is a pity that despite long years of discussions, the Government still says that the idea is not feasible. But while it says so, it nonetheless expects others to offer such concessions. If this is not insincerity, what else can it be? I simply fail to see why the Government should encounter any difficulties. We are talking about a well-developed public transport system providing adequate service to the public and this system is owned by the Government itself. If the Government still finds it so difficult to offer fare concessions on this system, how can it persuade others to do so?

Second, we all know that many other means of public transport in Hong Kong, such as buses, ferries and even maxicabs, are operating under a franchise. To put it simply, they all enjoy some kind of monopoly in their respective sectors. If they want to give up their businesses, many people will be more than happy to take over. The Government has already done enough to protect the interests of business people and their franchises. And, their profits are also guaranteed. In contrast, when it comes to protecting the general public or people with disabilities, it simply says that it cannot do anything despite all its intentions. Why is this the case?

I do not want to dwell on things of the past or the so-called fare adjustment mechanism that allows increases and decreases. This is not the right time to do so anyway. However, I must still point out that basically, the Secretary and her colleagues have all failed to do their job to our satisfaction, no matter how well-intentioned they may have been. I do not know how many more times we will still have to debate this topic. Nor do I know whether Members like Mr LEUNG Yiu-chung will once again find it necessary to move another motion on this topic next year. But judging from the behaviour of the Government over the past few years, I do fear that it may well be completely powerless, totally unable to formulate any concrete measures on implementing the relevant motions.

But I do not think — nor do I find it acceptable in any way — that the Government should ever resort to any laws such as the Disability Discrimination Ordinance, or any so-called commercial principles for that matter, as excuses for continuing to brush aside some reasonable demands that should have been satisfied a long time ago. In the foreseeable future, there are unlikely to be any major changes in the business environment and the relevant laws. I also cannot notice any formidable obstacles that may render the Secretary or her Bureau unable to implement the three demands put forward in the motion today. I therefore earnestly hope that the Secretary and her colleagues can all change their attitude completely and seek to implement all the feasible policies as soon as possible after this motion debate, including the prompt introduction of half-fare concession for public transport passengers with disabilities. On the improvement of public transport facilities, as I mentioned just now, it is entirely possible to make it mandatory in the agreements signed with franchised bus companies.

Third, I must say that the Government has been proceeding at a snail's pace regarding the improvement of the Rehabus service, for the growth of this service is even less than 5% a year. This explains why many people with disabilities are still waiting for their turns to enjoy the service. All this is evidence of the Government's lack of vigour in the implementation of policies on protecting people with disabilities. Let me repeat that I hope this is the last time we debate this topic, because I hope that by next year today, all our demands will have been satisfied. But I suppose the chance will be very slim indeed.

With these remarks, I support Mr LEUNG Yiu-chung's motion.

MR ALBERT CHAN (in Cantonese): Madam President, last year, after our disabled athletes had achieved outstanding results in the Paralympic Games, many top government officials were happy to receive them. Because these athletes had won many medals and thus glory for Hong Kong in the world. But now, with the passing of all this glory, these top government officials all seem to have forgotten to follow up the needs of people with disabilities. The Secretary is the only government official left to tackle this issue in the Chamber today. Actually, Secretary Dr Patrick HO and Secretary Dr York CHOW should also be invited to join hands to tackle this issue, for it involves many different bureaux. I do not know how many questions a single bureau is capable of answering, nor do I know how many types of services it is able to provide. In any case, this is a problem that involves different policy areas, so it requires the joint efforts of different government departments to resolve it.

There are broadly two transport problems facing people with disabilities. Fares are one of them and facilities are the other. Regarding the former, many Members have pointed that people with disabilities should be offered fare concessions. However, many major public utility operators in Hong Kong, one example being the MTR Corporation Limited (MTRCL), are, as I often say, lacking in any sense of social responsibility despite their financial strength. They each earn several billion dollars a year, but they still choose to ignore the interests of the public, especially those of the underprivileged. I always turn irate at the mere mentioning of the MTRCL.

Madam President, I wish to talk about a very simple case that I noticed earlier this month and I have already written to the MTRCL about it. The station involved was Lai King Station. Sometime ago, at this station, I came across an old man who was trying to get a wheelchair up a staircase. Seeing

that he was so miserable, I offered him my assistance. I was then very surprised to find that although Lai King Station was quite a new station, it was equipped with staircases only. This station is in fact large enough for the construction of a wheelchair ramp, but none has been constructed. I therefore wrote to the MTRCL and an assistant public relations officer gave me a reply, claiming that it was not possible to construct any wheelchair ramp at this station. Madam President, you may look at this photograph and I hope that the Secretary can also have a look. I have enlarged the photograph and it can be seen that there should be enough space for the construction of a wheelchair ramp. The MTRCL earns a profit of some \$4 billion a year, but it still claims that it is impossible to construct such facilities. I must say that it is really a heartless statutory organization devoid of any conscience. Some government officials are on the Board of Directors of the MTRCL. I do not know whether the MTRCL has ever consulted the Directors beforehand, asking them whether it should make such a heartless decision.

The debate today has given me a very good opportunity of including in the official record of this legislature my condemnation of the MTRCL, which has displayed such a lack of public and social responsibility in its reply. I do not know whether the top officials of the MTRCL will themselves become handicapped and wheelchair-bound one day. But these people each earn several million dollars a year, so even if they do, they may always hire someone to carry them here and there. They will not have to bother about how they can get their wheelchairs up any staircases. I am honestly very angry, because there is definitely enough space for the construction of a wheelchair ramp at the station. It will not be too costly to construct a wheelchair ramp after all. Why has it still refused my request so flatly? I must therefore strongly condemn the inhuman reply of the MTRCL.

The other problem is about transport fares. Both the MTRCL and the Kowloon-Canton Railway Corporation (KCRC) have been refusing to do anything by flaunting the excuse, the Imperial Sword of Sanction, of prudent commercial principles. Regarding the merger of the MTRCL and the KCRC, I must first state that I am totally against the merger because I do not wish to see the emergence of a super realm completely devoid of any sense of social conscience, an organization that will continue to provide transport services in an unconscionable manner. Before enacting any new laws, the Government must ensure that public transport operators will not be able to ignore the needs of the underprivileged on the excuse of any so-called prudent commercial principles.

Second, in all franchises or operation agreements, the Government must specify that the operators concerned must offer fare concessions as a way of discharging their social responsibility. Public transport operators must not be allowed to reap any excessive profits by taking advantage of the situation.

Some public transport operators, especially those headed by former top government officials, are very clever, in the sense that they are well-versed in taking advantage of the situation to exert pressure on the Government and make excessive profits. In case any such transport operators are found to be employing such a tactic, I hope the Secretary can do something to let the public at large know that the transport operators concerned are not only devoid of any social conscience but are also trying to fish in troubled waters and earn excessive profits. To sum up, in any relevant laws and agreements to be drawn up, the Government must specify that public transport operators have to discharge this responsibility, and that any failure to do so will constitute a mistake on their part. They must not be allowed to take advantage of the situation and make excessive profits.

Regarding the provision of facilities, I already asked an oral question on low floor type buses in the Legislative Council sometime ago. I do not know whether there has been any progress so far. When I asked the oral question in May 2004, only 8% of the cross-harbour fleet of Citibus were low floor type buses (meaning that there were just eight such buses in 100). More than a year has passed and I would very much like to know whether there has been any progress, because this percentage is indeed very unsatisfactory. The situation with New Lantau Bus is just the same, for I notice that many of its buses do not have a low floor. This is extremely unfair to people with disabilities.

Sometime ago, when I talked with Permanent Secretary LEUNG Chin-man about the involvement of the Housing Department in this matter, he said that if The Link REIT Management could make profits, it intended to install audio message systems in all public housing estates for the blind. Besides, Braille post boxes and many other facilities for the blind would also be installed in public housing estates. In other words, if there are any profits, there will be more facilities. The KMB, Citibus and the MTRCL are all making huge profits. I hope that if they still refuse to provide more facilities for people with disabilities despite their billions of profits, the Government can revoke their franchises and put them on tender later on. That way, legislative amendments can be introduced to prevent these large corporations from fleecing and

oppressing the underprivileged with all their financial strength. Thank you, Madam President.

MR FREDERICK FUNG (in Cantonese): Madam President, this is the fourth consecutive year a similar motion is proposed by Mr LEUNG Yiu-chung. Despite the passage of two similar motions previously, the voices of people with disabilities for half-fare concession in using transport are still not taken seriously by the Government. I remember in the Question and Answer Session held in this Council last week, the Chief Executive highlighted his great emphasis on a good relationship between the executive and the legislature. Both the Hong Kong Association for Democracy and People's Livelihood (ADPL) and I share the view that the Government must seriously and expeditiously follow up the motions proposed in this Council, particularly those already passed, and listen and respond to the aspirations of the people and the disadvantaged with a pragmatic approach and attitude before it can really achieve its notion of "governance for the people" and realize its vision of "people-based" governance.

The wording of the motion today focuses on transport problems. I wish to give two reasons explaining why public transport is particularly important to people with disabilities: First, public transport is irreplaceable. In such a densely-populated community as Hong Kong, people with disabilities must make use of public transport to take the first step of leaving their homes and integrating into society. Whether for the purpose of employment or social functions, they have to rely on public transport to go out. Second, quite a number of people with disabilities have to be accompanied by their carers. Offering them fare concession actually encourages other people, particularly their companions, to take public transport as well. Insofar as transport operators are concerned, their revenue will actually rise because the companions might not need to make the trip if not for the sake of accompanying the people with disabilities.

At present, there are only piecemeal plans and proposals for helping the poor, and no specific progress has yet been made. As the major shareholder of the two railways, the Government is obliged to urge transport operators to immediately reduce the travelling expenses of people with disabilities. With its average daily patronage of more than 2.4 million passenger trips, the MTR alone reaped a profit of more than \$4.4 billion last year. It is absolutely capable of fulfilling its corporate responsibility by taking concrete actions to encourage people with disabilities to go out more and participate in more social affairs, such

as participating in community activities or activities organized by mutual aid organizations, or even working outside to give play to their potentials.

According to the statistics provided by the Census and Statistics Department in 2001, the unemployment rate of people with disabilities reached 12% that year, or 2.4 times the overall unemployment rate of the territory. Despite its claim to be Asia's World City, Hong Kong is lagging far behind in terms of its response to the needs of people with disabilities. Moreover, it has not worked vigorously enough to build a community in which there is harmony for all. By intensifying its vigour to encourage the social integration of people with disabilities, the Government will be able to give play to the potentials of these people and boost their self-image. As for society, a new army will also contribute to society and, at the same time, the public's discrimination against and misunderstanding of people with disabilities can be lessened. It is such a pity that the Government and the two railway corporations have yet to respond actively, though this subject has been discussed for four years. In a document submitted to this Council in July this year, the Government pointed out that it was still studying how many people with disabilities will be eligible for fare concession. I find this most strange. The Government started issuing the Card for People with Disabilities in 1999. Does it not mean that the problem of the number of people with disabilities has already been resolved? Is it a bit too long for the Government to have spent four years solving a technical problem?

Despite the introduction of the "Transport for All" concept by the Transport Department in 2003, an investigation report published by the Joint Concern Group on Barrier-free City in March this year has raised doubts about the determination on the part of the Administration and various transport operators in implementing the "Transport for All" concept. It is pointed out in the report that immediate improvements can be made to a lot of existing facilities, including bus route information not visible to the wheelchair-bound, obstacles posed by railings at bus-stops, help-seeking facilities available on the two railways, the lack of comprehensive stop announcement system on buses, and so on. It is ridiculous that nearly half of the interviewees complained that many bus-stops have been designed in such a way that ramps cannot be used. Moreover, the exceedingly wide gaps and uneven surface of the platforms of the two railways have caused inconvenience to people with disabilities. Worse still, the indoor illumination requirement in the recently published "Design Manual: Barrier Free Access" has not given due consideration to the needs of the

people with low vision. The ADPL and I share the view that people with disabilities also have the right to use public transport. Therefore, the Government and various transport operators must expeditiously respond to their aspirations and remove these obstacles.

Furthermore, the Government must improve the existing Rehabus service and immediately relieve the transport needs of people with disabilities. At present, the Rehabus service is still unable to satisfy the employment and daily needs of people with disabilities. The problems with the service include a serious shortage of buses, overage buses, great time restriction, difficulties in service booking, and so on. Moreover, motorized wheelchairs are unable to use the Rehabus facilities because the latter are not compatible with international standards. All these are improvements that must be made to the Rehabus service expeditiously.

To sum up, people with disabilities, like other citizens in the community, are part of Hong Kong. The Administration and various public transport operators have the obligation to fulfil their social responsibilities and actively provide support to contribute to the integration of people with disabilities into society, with a view to achieving the policy objective of harmony for all and building a city of mutual care and support.

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

MR ALAN LEONG (in Cantonese): Madam President, since 2002, Mr LEUNG Yiu-chung, the mover of the motion today, has been moving a motion on this topic right at the beginning of each Legislative Session in October, urging the Government to squarely address the public transport needs of people with disabilities. He has been urging the Government to improve various support facilities, with a view to facilitating the social integration of people with disabilities. I sincerely admire and appreciate the perseverance of Mr LEUNG.

However, I also hope that the government officials of the Health, Welfare and Food Bureau and the Environment, Transport and Works Bureau, who are primarily responsible for the policy connected with this motion, can emulate Mr LEUNG's perseverance, enhance their efficiency and strive to better satisfy the transport needs of people with disabilities. Having examined the experience

over the past three years, we cannot help wondering whether the Government has ever tried to solve the problem promptly by directing its efforts and resources to the most appropriate areas yielding the highest efficiency.

How has the Government responded to the public transport needs of people with disabilities over the past three years? To begin with, it has simply been arguing that since ours is a free market, public transport operators are free to determine whether fare concessions should be offered. In this way, the ball is passed to public transport operators. And, these operators have in turn echoed the Government's view, claiming that they must first ascertain the number of people eligible for such concession — 1.2 million or 220 000. In response, some people have proposed to offer fare concession to just some of the disabled passengers as a start. But then, the Government has turned to the Disability Discrimination Ordinance, asserting that it is first necessary to ascertain whether there will be any breach of the ordinance. In this way, the matter has been delayed over and over again.

Madam President, I am not saying that government officials have been doing nothing at all. It must be admitted that the Government has all along been holding negotiations with public transport operators on this issue. In spite of this, however, fare concessions are currently offered to the disabled passengers of only 17 ferry routes and four maxicab routes. This is indeed no achievement at all when one considers that in Hong Kong, there are totally 27 ferry routes, 340 maxicab routes, more than 500 franchised bus routes and also the MTR and the KCR. To put it somewhat crudely, the so-called concession seems more like the giving of alms to beggars.

Should the Government respond in this way to the demands of the legislature and the general public after the former has indicated its position for three consecutive years. Has the Government forgotten that it is the greatest shareholder of the MTRCL and the sole owner of the KCRC? If we are looking for prompt achievements in promoting the concern of public transport operators about the rights of the underprivileged, what else can be more effective than requiring the two railway corporations to take the lead in offering fare concessions? It may well be necessary to seek legal advice on defining people with disabilities for the purpose of providing fare concessions, but even so, people with disabilities, who are in great need of transport services, must not be made to wait endlessly.

One of the main arguments in past discussions centred around whether the costs of providing fare concessions should be met by the profits of public transport operators or by public money. Madam President, whichever is the case, I do not see any great difference. Nor do I think that any of these two options will produce any substantial impacts on the image of Hong Kong as a free market. The reason is that all public transport operators, whether owned by the Government or operated under franchises, are enjoying varying degrees of dominance in their respective sectors. As a result, society should have the right to impose additional and appropriate requirements and restrictions on their operating rights and profits. The consensus expressed by the Legislative Council over the past three years can aptly reflect this unanimous demand of society in respect of public transport operators. In the management of the two railway corporations and handling of transport franchises, there is absolutely no ground for the Government not to include all these as major considerations.

The patience of Members on the Legislative Council Panel on Transport has started to wear thin due to the Government's slow responses. The Panel has even passed a motion demanding the Government to draw up arrangements for the provision of public transport fare concessions to people with disabilities within this Legislative Session. The motion is no longer indirect and mild in wording, nor does it make any further allowance. This can fully reflect that all Members, irrespective of their political affiliations, have sought to reiterate the position that the Legislative Council will not tolerate any further delay on the part of the Government.

Madam President, on the basis of the numerous dialogues among the Government, public transport operators and non-government organizations in the past three years, I think that the Government must clarify a number of issues within the current Legislative Session. First, all the legal issues surrounding the provision of fare concessions to certain categories of people ahead of others must be sorted out within a reasonable period of time. Second, it must tackle the problem of assisting public transport operators in identifying the social groups eligible for fare concessions. Third, the two railway corporations must be made to take the lead in implementing fare concessions for the disabled. Fourth, it must work out various ways of encouraging franchised public transport operators to formulate their own schemes and plans on providing fare concessions to people with disabilities.

Madam President, as a stop-gap measure, the Government may also expand the Rehabus or rehabilitation taxi services, so as to ease the immediate difficulty of people with disabilities.

With these remarks, Madam President, I support Mr LEUNG Yiu-chung's motion.

MR LEUNG KWOK-HUNG (in Cantonese): Madam President, many Members are wearing a flower pin today, but they are not doing so to welcome Chief Secretary for Administration Rafael HUI. In fact, the flower pins came from those petitioners outside who want us to speak for them in the Chamber, that is, to demand appropriate services for people with disabilities, especially blind people.

Our discussions have been going on for a very long time, but the focuses are invariably the three railways that enjoy a monopolistic position in the transport service market of Hong Kong. We have been discussing whether these railways should take the lead in carrying out the somewhat repetitive and thus boring proposal put forward by Members — the provision of fare concessions to people with disabilities, so that they can enjoy transport services like all others. That way, they will be able to enrich their own life and go out to earn a living. This in turn involves the question of whether or not public transport operators are prepared to offer fare concessions or remission, so as to ensure that people with disabilities will not have to forego some services due to their enjoyment of others, that is, to make sure that they will not have to face the problem of having no money for other services after paying transport fares. Let us not talk about things that are so abstract. Get down to earth and we will see that we are actually talking about two railways — three, to be precise — that were constructed with the money of Hong Kong people. One of these has already been privatized and the other is currently in the gradual process of privatization.

When it comes to privatization, the first thing that comes to my mind is The Link REIT incident. At that time, this scheme of the Government was applauded by many people, including Members. But do they have any regret now? Do they now regret having implemented privatization so quickly? In essence, privatization is all about money, or to put it more sarcastically, all about business results. If the performance rating of one such corporation is lowered

by an international rating institution from B- to C+ , it will probably panic. This reminds me of our experience of writing copybooks in our childhood. When the teacher lowered the grade from B- to C+ , we would all feel very miserable.

As a matter of fact, the business development of privatized corporations must depend on financing and this is especially so at a time when it is no longer possible to rely on lands as a source of funding for railway construction. If fare remission or concessions are offered to people with disabilities, the corporation's credit rating will be lowered when it comes to the arrangement for financing. Members must not be so naïve as to think that what is involved is just the small sum of money required for providing fare remission or concessions. The important thing here is whether the corporation is prepared to be humane. Sadly, however, many corporations know only too well that if they do not act cruelly and ruthlessly, if they do not lay sole emphasis on profit-making, they will be rated by international rating organizations as entirely useless. To rate the KCRC and MTRCL as such will be the same as saying that they are not ruthless enough, so they will think that since other organizations can slash their expenditure, there is no need for them to look after people with disabilities. The idea is that privatized organizations must be strictly and wholly commercial in attitude if the economy is to be promoted. Such organizations may even think that it is not so bad to see people die after all, because there will be demands for coffins and this will boost the funeral industry. Such is the logic of commercial operation.

Honourable Members, I hope everybody can give some thoughts to the logic and observations when looking closely at privatization again. In the case of the KCRC — forgive me for being so long-winded — its senior staff can enjoy all sorts of perks such as yachts and expensive cars. There are all sorts of costly perks but there is simply no regulation. The reason is that they can operate the KCRC as a commercial enterprise and generate huge revenue. Privatization is precisely the reason for the demands that we have taken so much pains to put forward today. If, however, public corporations are involved, the problem described by "Tai Pan" will not arise, because government officials will be here to give their replies. They may deny any responsibility on the ground that there are CEOs to answer our questions.

I have learnt from the press that the former Chief Executive Officer of the MTRCL, Mr SO, has changed his job again. I do not know what he is going to

do, but because Mr TSANG's help, he has found a new job again. Top executives like him have actually formed a club of some kind. They all know one another. In the interest of earning more money both for themselves and the enterprises they work for, they will not pay any heed to the aspirations of the masses.

I have tried to describe the plight of people with disabilities many times before. The other day, I joined them in a demonstration and once I walked close to them, I began to feel sorry. They were so excited that they could not say anything. They shook hands with me. But I was sort of sorry because I knew that nothing would happen after the shaking of hands. I knew that there would not be any result after all and the best I could do was to pacify them for the time being by saying that we would fight for their well-being as much as possible. I am ashamed of myself having to do so. Will those earning more than \$10 million a year or our government officials feel ashamed as well? Will they feel ashamed that while its *per capita* income is among the highest in the world and its fiscal reserves are the sixth largest worldwide, Hong Kong has been aspiring only to money-making in total disregard for the needs of people with disabilities?

Had we not implemented privatization so very hastily, there would have been no need for the Legislative Council to yield today. Honourable colleagues, I have been severely criticized because of The Link REIT incident. But I can say very proudly today that I have been proven right in every issue. The listing and privatization of The Link REIT will definitely bring endless problems to Hong Kong. But, well, it will also help CEOs earn more money and our public properties will continue to be used as money spinners.

Honourable Members, friends in the FTU, self-proclaimed socialists, trade unionists and Democratic Party members, what should be the purpose of democracy? Democracy is for the people. Those in this Chamber must speak for the people. If they do not, the cause of democracy will certainly be suppressed by the Government. I hope that when discussing privatization, Members can be clear-minded and act in accordance with the people's opinions. Thank you, Madam President.

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

MR LEE CHEUK-YAN (in Cantonese): Madam President, right at the beginning of his speech, Mr LEUNG Yiu-chung told us that this was the fourth time this old issue was revisited. While I very much appreciate his perseverance, I have no idea whether the Secretary will likewise revisit the issue for the fourth time by repeating the speech delivered by her last year again this year. If that is the case, it will be really bad. However, this seems to be happening in reality.

When this issue was discussed during the last meeting held by the Panel on Transport of this Council, we could actually see no sincerity at all on the part of the Government in making a step forward about this issue. When the Secretary speaks later, I will listen attentively and then compare her speech with her script last year to see if they are the same.

There is actually no significant divergence between us insofar as this issue is concerned. I believe the Secretary wishes to do something for people with disabilities too. Everyone says he wishes to do something for the transport needs of people with disabilities, for the crux of the issue is evident to all of us. If the able-bodied and the disabled are to live in harmony in society and the city is to become barrier-free, not only should the design of buildings and modes of transport be barrier-free, the community has to be economically barrier-free as well. As Members are all aware, of all the disadvantaged groups in Hong Kong, people with disabilities have the highest unemployment rate. They are either unemployed or making low incomes. If they are to integrate into society, one of the problems that have to be solved is their transport problem. This is pretty obvious.

I believe Mr LEUNG Yiu-chung's motion will be passed by this Council today too. This is predictable because a similar motion was also passed last year. However, why did the situation remain the same every time a similar motion had been passed? The constitutional reform package proposed earlier was vetoed because of the Government's lack of progress. But why is it that a passed motion would have made no progress at all? I believe the Government and the Secretary should bear the greater share of the responsibility. I have no idea where our divergence is. If the Secretary shares that she has to do something for people with disabilities, why has there been no progress at all throughout the year? In the final analysis, there is only one question and that is: If something is to be done, who is going to foot the bill? Who is going to be responsible for the subsidy?

Insofar as this issue is concerned, the MTRCL and the KCRC — the MTRCL, in particular, once indicated very clearly in a meeting held by the Panel on Transport of this Council that the Government should be responsible for this issue. However, the Government would say that it would discuss with the two railway corporations and let them make their own decisions. I find that the Government is obviously being schizophrenic for, as it is known to all the people of Hong Kong, the KCRC is wholly owned by the Government, and the latter is also the biggest shareholder of the MTRCL, with government officials sitting on the boards of both corporations. When the officials are wearing the hat of the MTRCL, they will say that the Government should be responsible. However, when they are wearing the hat of the Government, they will say that the MTRCL should be responsible. Eventually, no one is going to be responsible. To date, it is still unclear whether the Government has made any progress at all in this issue. I very much hope to hear more positive news later in the meeting.

I hope the Government can expeditiously resolve the first problem of who is going to foot the bill and demonstrate its sincerity. Actually, it makes no major difference whether the Government or the two railway corporations are going to pay the bill. If the two railway corporations are to foot the bill, the dividends to be received by the Government might become less. If the Government is to pay the bill, the Government can subsidize people with disabilities with its dividends. In the final analysis, there is a lot of room for the two railway corporations and the Government to undertake the task. How can the MTRCL, with an annual profit of \$4.5 billion, possibly have no room to do so? How difficult will it be for the Government to undertake the task, now that it can generate income from the dividends?

Besides the first problem of who is going to foot the bill, the second one concerns — this problem was raised last year, or indeed a number of years ago — the number of people involved. Some say that the number will reach 1.2 million if chronic patients are included. Are we going to include the whole population of 6 million as most Hong Kong people are mentally stressed and thus suffering from health problems! This is definitely not the case. Members actually know only too well that not everyone is included. If the receipt of disability allowance is taken as the standard, the actual number of people involved is just around 200 000. Why can the Government not point this out clearly? This question was already asked last year. Today, one year after, we have got no answer yet. Is this what "strong governance" really means? By

the word "strong", it means that the Government knows only how to intimidate people and demonstrate its might. When it comes to doing some solid work, the Government will move as slowly as an ant. I very much hope that the problem concerning the number of people and definition can be resolved in today's debate.

Madam Deputy, the whole matter is actually pretty obvious. There has been an overwhelming consensus in the entire community on this matter. Only that the Government has taken no action at all. Madam President, I would like to use the sign language of the deaf and dumb people to convey their aspiration to the Government — to call upon it — it is an extremely difficult task — to urge public transport to reduce their fares by half. I hope the Secretary can listen to the voices of different people and, eventually, really cut fares by half. Madam President, I wonder if it is too much trouble to deliver this to the Secretary, if it is too much trouble.....

PRESIDENT (in Cantonese): You may ask the staff to deliver it to the Secretary for you.

MR LEE CHEUK-YAN (in Cantonese): I will ask the staff to deliver it to her. They have requested me to specially present these flowers to the Secretary in the hope of getting a good result today. Thank you, Madam President.

MR JAMES TO (in Cantonese): Madam President, I shall only make some very brief comments. First, I very much agree with the remark made by Mr Albert CHENG in his speech. He said, since Secretary Dr York CHOW is not in this Chamber now, it is not necessary for us to feel so angry. However, I feel he was perfectly correct in saying that. The Government said that the number of people involved was one of the factors that had to be taken into consideration. Earlier many Members have spoken on the issue of the number of people involved. But this figure can at least be considered as the first step of taking this forward since the eligibility of these over 200 000 people can be verified with evidence. The Government later argued that there might be the possibility that, after granting the concession to these 200 000 people, it might constitute a case of discrimination, especially when such concession was related to public

funds or public organizations. I believe from a legal point of view, such an argument is not valid. Because, as far as I understand it, these 200 000 people have not only proved their disabilities and for this reason they are granted a disability allowance, but they have also gone through the means test which should have proved that the disposable incomes of their families are limited. Therefore, insofar as welfare benefits are concerned, if we can draw a line for certain scopes, conceptually we can urge the Government or other public organizations to provide more benefits to a certain specified group of persons, and in this way, it will not constitute any discrimination. Therefore, I believe that if this rationale can continue to be applied, this discrimination argument will not hold.

Besides, I find this rather weird: The Government has made a lot of accurate calculations and has laid down many principles for the people. However, sometimes, the people may not agree with such principles. Earlier today, during the oral question time, we asked whether it was possible to establish mobile phone networks in some remote areas. The Secretary's reply was, if it requires a lot of money to build up such networks in those remote areas, it would in effect make non-hikers subsidize hikers, and this would lead to a case of unfairness. Of course, I know right now we are not discussing this issue. However, I think the Secretary mainly meant that he had already made a decision, that is, he thought that by acceding to the demand, it would be like making those who never or rarely go hiking in their lives subsidize those who go hiking very often.

Likewise, I do not know what is on the mind of the Government, nor have I heard of any responses from it. However, by summing up what the Government had said in the past, I may as well take it to mean that if we subsidize people with disabilities, or if we provide them with some fare reductions or concessions, though such reductions or concessions would not bring about any other incomes for people accompanying them or their families, still it would be in effect a case of the able-bodied subsidizing the disabled or some kind of arguments similar to this. As the Secretary is shaking his head now, then I can feel relieved now.

However, frankly speaking, if such an argument really holds, then it should have been reflected in this Council at a much earlier date. In this Council, not too many motions can be endorsed unanimously by all the

Members. But this motion has been passed unanimously by all the Legislative Council Members who were returned by different elections during the past few years. Under such circumstances, I do not know what kind of reaction this viewpoint will trigger. For example, will the people have very strong reaction? Or will the able-bodied mind paying a bit more? Or, as suggested by Mr LEE Cheuk-yan just now, if there is a need for someone to pay the bill, who should be the one to pay (there may not be the need to pay the bill)? And if there is really the need to pay the bill, it will lead to the problem of subsidizing the fares out of the public coffers. Of course, the Government may eventually find that it can afford to pay the bill from a policy perspective. Maybe the Government or the organizations concerned can pay the bill in order to show that they do have the tender loving heart for the underprivileged or in the name of charity or for the sake of showing that they do have a corporate conscience, and so on. Therefore, I just hope that, under the leadership of the new Chief Executive, and the establishment of a new Executive Council, the officials concerned can follow the slogan of "striving for the benefits of the people", thus really reflecting such views to the top hierarchy. In the past, we had heard of such views proposed by many Secretaries responsible for welfare policies, which eventually serve as the catalysts for the review of policies in this regard. At least, this is a starting point, which can be described as an accountable response to the aspiration of the people.

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

MR SIN CHUNG-KAI (in Cantonese): I have never spoken on this subject before. But after listening to today's debate, I cannot help rising to speak on it. On the issue of who should pay the bill, I would also like to discuss it with Mr LEE Cheuk-yan.

In fact, we have only several options. First, it depends on whether the companies are owned by the Government. Although the MTR Corporation Limited (MTRCL) has already become a listed company, the Government is still holding 50% of its shares. We still have the ultimate weapon, the Mass Transit Railway Ordinance. If the MTRCL refuses to accede to our request and act as a good citizen, then the Government may amend the Ordinance to request it to assume the responsibility. It is even an easier case for the Government to deal with the franchised bus companies. All that the Government has to do is simply

to include a directive to such effect into the licensing conditions at franchise renewal. As for the green minibuses, their services are also operated on franchises. All of them can only operate after licences are issued to their operators. So the Government can simply do it by adding such terms into the licensing conditions at licence renewal. Frankly speaking, regarding the welfare of this group of people, should they be taken care of by society, or should their bill be paid by the Government? I think the Government may first consider this approach — Ms Miriam LAU is staring at me right now — I think this is the collective responsibility of society, which should be shared jointly by everyone.

On the question of who should be responsible for paying the bill, the Government of course, as the last resort, may have to pay it out of the public coffers. However, I think this is not an issue of who should pay more or who should pay less. Of course, it would be best if all the different modes of public transport agree to share the bill together. Both the Democratic Party and I are of the opinion that, we should first advise or request the minibuses to do it — it may be relatively difficult for the Government to advise the minibus industry to do it, but the Government may negotiate with them through the formulation of licensing conditions. Actually, this issue should be jointly considered by several bureaux together, as apart from involving health and welfare, it is also related to transportation as well as the employment issue. The people with disabilities really want to gain financial independence by securing a job. They are often discouraged from working simply because travelling expenses alone already use up a large portion of their incomes.

Recently, I have discussed with some economists on ways of solving the unemployment problem of the young people. These economists said that the Government should refrain from considering formulating any more proposals on subsidizing the employers, that is, such proposals through which the Government grants some subsidies to the employers to enable them to employ the young people. Instead, they said, the Government should adopt a more pragmatic approach by providing a travelling subsidy to the young people to help them to secure employment. Even the young people find themselves burdened by the travelling expenses (not all people with disabilities will go out to work even if they are provided with a travelling subsidy), so for the disabled with working abilities, the provision of a travelling subsidy is really a great encouragement because they really hope that they can earn a living through work and be self-reliant. So this is the most pragmatic approach. Since the issue touches

on the three policy areas of social welfare, transportation and employment, the Government really needs to think about it carefully.

Mr LEUNG Yiu-chung has moved motions on this issue for four years. Personally I think there are not too many issues which can be agreed among Members in the Legislative Council with a consensus. Since a consensus has been reached on this issue — when the Government wants to implement certain policies, very often it fears that such policies may not be passed by the Legislative Council, or may not be supported by the Legislative Council — now the situation is different, that a motion has already been passed by the Legislative Council, I do not know whether this can be described as the "ultimate authority", and Members really hope that the Government can do something. If the Government still finds its ultimate weapon inadequate, not powerful enough, then there are still ways of solving the problem. Is it because there are not enough methods? Or is it because the Secretary is unwilling to do it? Or is it because the corporations are really so formidable? If they are really so formidable, they can table bills and see if their bills can be passed in the Legislative Council. Am I right, Mr LEE Cheuk-yan?

The Government should have some ways of tackling the problem. We can compare the pros and cons. What is the issue we are discussing? It is about helping people with disabilities. It is something which the entire society, not just any individual organization, should be doing. If we are just targeting at one or two organizations, then it is unfair to them. But we are now talking about all the different modes of public transport. Am I correct, Mr LEUNG Yiu-chung? This is crystal clear. Everyone has to shoulder the responsibility. If only certain individuals are pinpointed, they may ask why they are chosen, and why should they be selected as the sacrifices? As there is a very strong voice in the Legislative Council, I hope the Secretary can consider it.

With these remarks, I support the motion.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If no other Members wish to speak, then I shall call upon the Secretary for the Environment, Transport and Works to speak.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS

(in Cantonese): Madam President, I have listened to the speeches of many Members today. It is the fourth time that this motion topic is put forward and it is the third time I give a reply on the subject. But the reply I am giving today will certainly be different from the one given last year, because the latter was not given by me. I suppose this can answer the point raised by Mr LEE Cheuk-yan in his speech just now.

Members have expressed many views and according to Mr SIN Chung-kai, the passage of this motion by a unanimous vote in the Legislative Council can deliver a very strong message to the Government, that it should address the demands made. Since my childhood years, I have been convinced that people with disabilities are capable of integrating into society. This is a conviction I do not wish to repeat here. Over the past few months, I have been discussing the related problems with many different organizations and I have also attended a seminar about blind people. I understand that we may not necessarily understand the demands of people with disabilities quite so well, and that we may not know how to define people with disabilities. From the people with disabilities who come to meet with me or from those I visit personally, I can always notice that there are people with different kinds of disabilities. But they invariably express the hope that all people with disabilities or even people with chronic illnesses can be accorded equal treatment. Such is the strong message they have conveyed to me. The same message was also conveyed at the meeting of the Panel on Transport held on 22 July. This message is very significant because we do not wish to see any opposition on their part when the proposals in the motions are implemented, nor do we wish to divide or put them into different categories. I shall explain this in greater details later on.

In a word, I have been under immense pressure over the past few years. I naturally hope that I can do something for people with disabilities. However, ours is a commercial society and I must at the same time pay heed to the policies of other bureaux because this issue is not the sole responsibility of my Bureau.

Regarding the three demands espoused in Mr LEUNG Yiu-chung's motion, I first wish to discuss the work we have done in urging public transport operators to improve their facilities and create barrier-free access. In this connection, the required policy can actually be implemented by the Environment, Transport and Works Bureau alone without the involvement of

other bureaux. Our aim in this regard is to provide barrier-free access to people with disabilities as soon as possible.

In order to reduce the difficulties faced by people with disabilities who wish to take part in social activities, the Government has sought to improve road facilities and enhance their safety as a matter of priority. For instance, all newly constructed public transport interchanges, bus termini and taxi ranks are now equipped with dropped kerbs for the convenience of wheelchair-bound passengers. Understandably, it will be easier to provide dropped kerbs in the case of newly constructed facilities, and it is also the policy of my Bureau to do so. However, there may be difficulties in the case of existing facilities. If, for example, the place is too small in design, it will not be possible to build any dropped kerbs. Members may also be aware that in some cases, there may not be any space on the two sides of a footbridge for the construction of any wheelchair ramps. For cases like this, it is stipulated in our code of practice that a lift should be provided instead. The provision of a lift will of course involve operation costs, but given the improved overall financial situation of the Government, we hope that we can proceed more quickly with the works required.

Since 2002, the Government has been installing electronic audible signals at signal-controlled pedestrian crossings at a total cost of \$50 million for the convenience of the visually impaired. As for dropped kerbs, they have been built at roughly 9 000 locations all over Hong Kong, with a view to reducing the obstacles faced by the wheelchair-bound when getting about. In addition, also for the convenience of the visually impaired, tactile guide paths are now provided by the Transport Department at 11 locations. Finally, there are the provision of wheelchair ramps leading to footbridges and the installation of lifts at pedestrian subways and footbridges. I can remember that the Legislative Council once offered us a very good proposal regarding footbridges, advising us to replace wheelchair ramps by lifts, so as to reduce the space required. The Government has invested totally \$2.6 billion in carrying out the required improvement works and such works will continue. We do welcome any suggestions from Members because we do not have any disabilities, so we may sometimes fail to see the problems faced by people with disabilities in using various facilities, one example being their inability to reach lift buttons as mentioned by some Members. We therefore welcome suggestions from Members and our works department are prepared to make improvements as suggested.

Besides, the Transport Department has all along been closely co-operating with public transport operators, requesting them to provide barrier-free facilities for the convenience of passengers with disabilities. Currently, close to 2 000 newly registered public buses are equipped with Braille licence plates inside their compartments, and alighting bells have been installed on roughly 700 maxicabs. As for franchised buses, more than 400 buses (Appendix 1) (67.9%) are equipped with Bus-stop Announcement Systems. Most franchised bus companies have agreed to purchase low floor type buses and more than 2 400 such buses are already providing services. In regard to the railways, tactile guide paths are now widely provided in the station concourses and platforms of the MTR, the East Rail and the West Rail. Stations of the KCR's East Rail and West Rail are equipped with Braille maps for the visually impaired, and works on the provisions of such maps are underway on the MTR. Over the past 10 years, the MTR, the KCR and the bus companies have spent respectively \$400 million, \$235 million and \$200 million on the provision of all these facilities. All these are the outcome of our consensus with public transport operators, which all agree to provide barrier-free access to their facilities as much as they can.

With respect to the provision of the Rehabus service as a supplement to people suffering from more serious disabilities, it must be admitted, as mentioned by some Members, that the number of such buses is rather small. The Rehabus service is wholly financed by the Health, Welfare and Food Bureau and managed by the Transport Department and the aim is to provide service to those people with mobility disabilities who are thus unable to use any public transport service. The Rehabus service is operated by the Hong Kong Society for Rehabilitation and the Transport Department holds regular liaison meetings with the Society, with a view to monitoring the operation of this service. There are currently 87 Rehabuses, and the scope of service covers 59 scheduled routes, three feeder routes and the Dial-a-ride Service. It is expected that the number of such buses will increase to 92 in early 2006.

The Government has earmarked funds for the purchase of five new Rehabuses and the replacement of one old Rehabus in 2005-06. In addition, following a thorough inspection of all Rehabuses aged over 10 by the Electrical and Mechanical Services Department in 2005, the Government also allocated additional funds in July 2005 for the replacement of four old Rehabuses, so as to raise the service standard. The four replacement buses will commence operation next year.

The Health, Welfare and Food Bureau also plans to purchase several new Rehabuses and replace several old buses fitted with tail lifts. Besides, the Government also plans to replace all Rehabuses of such a design (numbering about 20) in the next two to three years, because they may have difficulties in coping with the increasing number of electric wheelchair users who impose a heavier load on them. Some members have also mentioned this problem and the Government also hopes to upgrade the Rehabus service further.

Regarding the use of taxis as a means of supplementing the transport service for people with disabilities, it must be pointed out that the adoption of taxi vouchers in the past was rather complicated. Our intention is to explore the use of the Octopus Card. But we also know that taxi operators are not yet willing to accept the Octopus Card. We believe that if procedural improvements can be made, this will be a feasible option.

Third, I wish to talk about the first part of Mr LEUNG Yiu-chung's motion, that is, the demand for public transport half-fare concessions for people with disabilities. This demand actually falls within the portfolios of several bureaux and is the greatest concern of the public. Some Members who spoke earlier showed a wrong understanding of franchised bus companies. There are no profit guarantees for franchised bus companies. In other words, unlike the power companies, they cannot introduce fare rises once their profits drop. Their franchises do not entitle them to any profit guarantees. We have gained an understanding of the bus companies' requirements during our negotiations with them in the past few years. The Legislative Council is unanimous in its demand for bus fare concessions for the disabled, thinking that once the Government makes the request, the demand will be entertained. But the problem is much more complicated in practice. Many Members are also unaware of the problem facing us now, because patients of chronic diseases are also treated as people with disabilities. The Health, Welfare and Food Bureau will examine whether the Government has already provided any degree of transport subsidy to people with disabilities. It will also examine whether any elements of transport fare assistance is already carried in the current Comprehensive Social Security Assistance (CSSA). We have in fact conducted some detailed discussions on this at the meetings of the Panel on Transport.

On average, a single person with disabilities can now receive \$3,716 in CSSA monthly. This is the amount announced in the 2005 policy address and

can help relieve the transport fare burden of people with disabilities. And, there is also a special allowance of \$100. Admittedly, all these allowances are not specifically for meeting the transport expenses of the recipients, but they can still provide some sort of assistance in this respect. What is more, if a person is certified by a medical practitioner as suffering from severe disabilities, he is also entitled to a disability allowance granted by the Health, Welfare and Food Bureau. The purpose of this allowance is to assist the recipient in meeting the special needs arising from his severe disabilities. The lower-rate disability allowance and higher-rate disability allowance amount to \$1,120 a month and \$2,240 a month respectively. There are not specified uses for the disability allowance and the recipient may spent the money on meeting his transport expenses.

Moreover, during our negotiations with public transport operators on the provision of fare concessions, the details of provision are also a very significant topic. According to the Special Topics Report No. 28 on "Persons with Disabilities and Chronic Diseases", there may be as many as 1.2 million such people. My colleagues have also sought legal advice on whether there must be equal treatment for all under the Disability Discrimination Ordinance. We know that people with disabilities may receive a special disability allowance, meaning that they can be divided into different categories. According to the legal advice offered by the Equal Opportunities Commission, the provision of fare concessions may be in breach of the Disability Discrimination Ordinance, because those people with disabilities not included in the selective scheme of fare concessions may take the matter to Court on the ground that such concessions violate this Ordinance. Therefore, we must first clarify the whole situation. Public transport operators have expressed grave concern about the possibility of litigation, saying that the Government should first seek legal advice and give them clear directions, so that they can accurately forecast the number of people eligible before giving the idea any consideration at all.

Legal issues aside, as I have just mentioned, many of the people with disabilities we have approached do not agree to any attempts to categorize them. We must make more efforts to discuss with them and ascertain which categories of people with disabilities should be offered transport fare concessions, because if the number is too large, there will be queries and criticisms. We are currently holding discussions with the Social Welfare Department (SWD) on this matter. At present, people with disabilities can apply for a Registration Card for People with Disabilities. The number of people holding this card is very

small, just around 40 000. First, as I often emphasize that not all people with disabilities would need transport services because some may not even be able to go out at all. But we still need to provide a more accurate projection on the number of people with disabilities who need transport subsidy. Second, will the public at large and people with disabilities in general accept the exclusion of persons with chronic diseases? This is precisely where the problem lies.

A good part of the discussions earlier was focused on the social role of the MTR, the KCR and other public transport operators. In addition, a more profound question was also raised to query whether privatization would erode the interest of people, and whether it was counter-productive to overall social progress. I do not think that these are the mainstream opinions of society, because privatization is not meant for profits only. One of the greatest merits of privatization is efficiency enhancement. Some Members have pointed out that government subsidy in public transport is available in many countries or cities, and that even in an advanced country like the United States, all means of public transport still receive government subsidy. But it is clear that the situation in the United States is a bit different because the main means of transport there are private cars and only a little more than 10% of the people there are public transport commuters. In comparison, the number of public transport commuters in New York City is greater than those in other American cities. Recently, a friend of mine with mobility disabilities has just returned from New York City and I have the chance of talking to him, thus learning of how he felt. People who have been to New York City will know that although lots of improvement efforts have been made since the days of GIULIANI as Mayor, the subway service there has still remained at the standards of several centuries ago, because with very little government subsidy, there has been very slow updating of equipment and low efficiency.

My friend is a person with mobility disabilities and after comparing the transport facilities in New York City and Hong Kong, he came to the view that Hong Kong is better in terms of public bus and subway services. In New York City, there are no low floor type buses, thus making it very difficult for him to board any buses. And, there are also no fare concessions. Therefore, we should realize that Hong Kong has perhaps done quite well in some ways, such as the provision of barrier-free transport and fare concessions. People with disabilities can have access to various means of public transport and the general public can also enjoy modern, highly-efficient and quality public transport services. All this is within the ability of public transport operators.

In a free economy, we must safeguard commercial operation, so as to make sure that the desired efficiency and standards can be achieved. Second, we may request public transport operators to look at the needy in society, but all requests must be reasonable. Therefore, we must make reasonable arrangements on the number of people eligible for fare concessions, so that all these commercial organizations can accurately estimate the impact on their business operation.

Some Members want the Government to tell them the required amount of extra government subsidy and the details of the conditions. In this regard, the Government must continue to negotiate with public transport operators, with a view to agreeing with them on some major principles. I hope that the life of people with disabilities in Hong Kong can continue to improve, not only in terms of transport services. As a matter of fact, in terms of social welfare, there is already a safety net in Hong Kong. When it comes to the issue of transport, it is related to those problems mentioned just now, such as employment and the poverty of the employed. My Bureau has never stopped studying how transport fares should be brought in line with the prevailing economic conditions. We will continue to exert our utmost in this direction.

Thank you, Madam President.

PRESIDENT (in Cantonese): Usually, at this stage of the debate, I should call upon Mr LEUNG Yiu-chung to reply. However, since he already used up the time limit of 15 minutes when he moved the motion, we shall now proceed straight to voting.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr LEUNG Yiu-chung, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

PRESIDENT (in Cantonese): Second motion: Assisting Hong Kong residents encountering problems in the Mainland.

ASSISTING HONG KONG RESIDENTS ENCOUNTERING PROBLEMS IN THE MAINLAND

MR JAMES TO (in Cantonese): Madam President, I move that the motion under my name be passed.

In fact, in the last couple of years, various Members and the Complaints Division of the Legislative Council have received many complaints about the unfair and illegal treatment received by Hong Kong people in the Mainland.

Madam President, should we wait for

PRESIDENT (in Cantonese): If you consider there is a need to do so, you may first sit down.

MR JAMES TO (in Cantonese): Perhaps we should wait for him.

PRESIDENT (in Cantonese): Alright. Clerk, will you please look for the Secretary.

MR JAMES TO (in Cantonese): He should be in the Ante-Chamber.

(The Secretary for Security hurried into the Chamber)

MR JAMES TO (in Cantonese): Madam President, may be I should start it all over again?

PRESIDENT (in Cantonese): Mr James TO, please start anew.

MR JAMES TO (in Cantonese): Madam President, I move that the motion under my name be passed.

In fact, in the past, both individual Members and the Complaints Division of the Legislative Council have received hundreds of complaints about the unfair and illegal treatment received by Hong Kong people in the Mainland. What is the nature of the problem? Actually, more often than not, only some so-called small and medium sized enterprises or manufacturers rather than those so-called large capitalists will encounter such problems. I have looked up some relevant reports to see whether incidents involving large capitalists had ever happened. It took me some hard effort to find a case. In fact, Mr FOK Ying-tung, as a member of the leadership of the State, had been extorted by those so-called secretaries of the party district committee when he developed Nansha. However, this is the only report related to this kind of incident. Certainly, I do not know whether colleagues of the Legislative Council in this Chamber who have investments in the Mainland have ever met these incidents, and whether they are willing to disclose it if they have. But, at least, I have never read reports relating to them. People in trouble are often those who have invested hundreds of thousands to several millions dollars. However, we have actually received a complaint involving tens of millions of dollars, but that was the one and only one case of this kind.

More often than not, the situation will be the most troublesome when the other party involved is a joint-venture operator of State capital unit and provincial or municipal authorities' unit. This will be the worse-case scenario. The reason is that, sometimes, these cases can well demonstrate the problem of "the mountain is high, the emperor far away". Since the leaders of some provinces and municipalities do have the power to mobilize public security units, procuratorate and court at the local level, more often than not, they may deploy public security bureau officials to arrest the persons concerned to "talk things over", or they may, on the grounds that the persons concerned have made certain mistakes, extort the persons concerned for huge amounts of bail money. Many

problems are thus created in the entire process. I will talk about these problems in detail later on.

However, sometimes I wonder why cases involving foreigners, such as Europeans, Americans or even Japanese, have never been heard. For example, we have never seen this happen to Americans investing in the Mainland. Even if they do encountered disputes in the Mainland, their family members in the United States have not received calls from the mainland units concerned, requesting them to bring several million dollars to the Mainland as a bail money for their relatives or that their relatives will not be released but put in jail if they do not pay the bail. I do not intend to laud the spirit of others and belittle that of ours. However, according to my combined analysis and consultation with many people, the conclusion seems to be very simple. The relevant municipal and provincial authorities or public security authorities know only too well that if incidents involving foreigners get out of hand and not handled properly, there may be two possibilities. Firstly, the incident may become a foreign affair issue and may be escalated to the Central Government level; this will then become a very serious problem. Secondly, the relevant organizations of the country concerned will at least demand solemn negotiations, not to mention the exercise of its official consular protection right. This is particularly so for serious cases. Why? For in overseas countries, particularly some democratic countries, if the state government fails to stand up for their citizens, their president or prime minister may have to step down because of this.

Let us not discuss the cases involving foreigners, but look at those involving Taiwanese. In fact, in places like Shanghai and Beijing, there are hundreds of thousands of Taiwanese investors plus their families. However, we do not learn from the relevant reports that our Taiwanese compatriots or investors have met a lot of troubles in the Mainland in this respect. This may be attributed to two factors in general. Firstly, since the present focus of the Central Authorities is on reunification, issues involving Taiwanese compatriots certainly have to be handled properly. Moreover, under the relevant investment law, special protection is provided to these people. From the legal aspect or even internal transformation aspect, many specific requirements have been laid down to make known to authorities of counties, municipalities, provinces and towns that a collective will to treat our Taiwanese compatriots well is a must. Secondly, their trade associations show great solidarity. They know that it is not going to work if they are not united, so they stay united. If anything happens, these trade associations need not contact their own

government for an official relationship has yet to be established between their government and the Central Authorities. These trade associations know very well that if they can remain united, they can vigorously defend on just grounds the interest of their members who have been unfairly treated.

Truly, I do not know how our Government will respond after hearing my description of the situation? In the past, during general internal exchanges between Members and the Government, we unusually came across several major and self-imposed restrictions. First of all, under the "one country, two systems" principle, the SAR Government should respect the legal system of the Mainland. Certainly, everyone will agree to this. But, in the end, if we only request the other side to act according to the law, should this be regarded as disrespect? Indeed, it is because we respect the legal system of the other party that we insist that they should deal with the issue in accordance with their law. This should not be regarded as intervention. When we request the superiors of the other party to supervise, as stipulated by law, their subordinates in law enforcement, it is a demonstration of our respect to the other party, which can in no way be taken as intervention. Nor should it be regarded as intervention when we express our grave concern, or even escalate the issue to a higher level, which may include expressing our concern to the Chief Executive to request the leadership of the State to attend to the incident, or requesting our Bureau Directors to express our concern to the relevant leaders, ministries or commissions of the provinces and municipalities concerned. However, if our Government, after studying the examination of our legal experts, such as the Secretary for Justice, or even mainland legal experts, finds that such cases are illegally handled, what should the Government do?

I am not saying that everything done by Hong Kong people is right. With so many Hong Kong people doing business in the Mainland, will there not be one single case where some Hong Kong people do have tried to deceive mainlanders, is everyone acting properly and is every complaint justified? Absolutely, I will not hold such an assertive view. I am extremely cautious when I deal with complaints of this kind. When I interview the persons concerned of certain cases, I may even interrogate them sharply and thoroughly to see whether they have tried to mislead me or whether the incident is true.

However, if the SAR Government, after careful examination, considers that in many cases, the mainland authorities have violated the law seriously or

have not acted in accordance with law, but it still does not escalate such cases to a higher level or remains reluctant to express our concern solemnly, failing to demand the other party to act in accordance with law, our Government has actually let down the State and the people. For it seems that our Government does not wish the other party to make any improvement.

Some people may argue that anyone going elsewhere, be it for investment or travel, they should be prepared for any possible risks they may encounter. This is particularly the case for people doing business in the Mainland, for they should know well that the rule of law in the Mainland is not well developed and that all kinds of methods have to be employed when they run into trouble. They should not expect that they can resort to the law, lawyers or the court to solve their problems as they may do in Hong Kong. They should find their own ways to settle their problems. How can they request the SAR Government to render assistance? The SAR Government can at best provide a list of lawyers to the person concerned and let him engage a lawyer of his own choice to handle the case. If anything happens, the Government can at best write some letters for us, serving as nothing more than a mailbox. This is what the SAR Government is doing now.

However, I cannot help asking one question: If our Government does identify irregularities in the handling of certain issues or cases, irrespective of the level of government or department involved, should we not request or insist that the other party should deal with the incident solemnly? In this connection, I think that the SAR Government, more often than not, has contained itself to self-imposed restrictions, restraining itself excessively. I believe that had we ever made such a request, the other party would have acted in response. Particularly at this time, when our country aims to go global and dovetail with the WTO, more importance should have been attached to the relationship with the businessmen and people of Hong Kong, as blood is thicker than water. Thus, the treatment we receive in the Mainland should not be inferior to that of foreigners or Taiwan businessmen, otherwise, we the people of Hong Kong are really most miserable.

Under certain circumstances, Hong Kong people in the Mainland may require some kinds of immediate assistance. For example, there are cases where some Hong Kong people who need hospitalization do not have any medical protection card or insurance, but only certain hospital is available in the

vicinity. In such case, what should they do? Understandably, if the Hong Kong citizen concerned has an extensive social network and good personal connections, he will certainly be able to settle his problem. However, if this is not the case, should our Government not set up a telephone hotline for these people where the personnel answering such calls may at anytime seek approval from their superiors for using some resources? Or, that it should maintain some kind of friendly contacts, where assistance can be sought from the persons concerned, be it personnel in the public security, public prosecution or judiciary department, or first-aid and emergency services, at anytime. Will it also be possible that request for assistance from the mainland authorities may be sought immediately in the name of the SAR Government?

What is written on our SAR Passport? Our passports state that when we are out in other countries, the Foreign Ministry of our State does hope that other countries will give them face. The wordings state clearly its hope for the provision of necessary assistance to the holder of its passport by other countries. Similarly, if the SAR Government can establish a good network of contacts and communication network where financial and manpower resources can be mobilized on its behalf or in its name to provide assistance in case of emergency, the SAR Government, sometimes, may not need to assign an officer to go to the place concerned to handle the case. The issue may be settled if the SAR Government can convince the other party that, in case of emergency, it is willing to bear the responsibility involved and make specific undertakings, possibly related to the money or resources involved. Two years ago, there was a case, which subsequently made the headlines, in which a Hong Kong resident had lost his Home Visit Permit and several dozens of dollars and was so stranded in Shenzhen. He had to subsist on the several dozens of dollars he had borrowed from the reporter concerned. The officer answering the hotline was not even willing to give an undertaking on the several hundred dollars the man needed for changing his permit. This was then found out that the officer answering the hotline did not have the discretion to do so, and without the permission of his superior, the officer could not make any undertaking to the authorities of the other party, asking them to issue the permit in advance to the person concerned from Hong Kong to enable him to return to Hong Kong. The SAR Government could have asked the opposite party to advance the fees involved and repay it later, but our Government failed to do even this. I hope that improvement in providing support and undertaking of this kind has been made by our Government by now.

In fact, cases involving abuse of power in the Mainland are innumerable. But still, I would like to cite some examples, listing a consolidation of past cases. For example, family members of the person concerned are not informed within the stipulated period of time. Actually, a notification mechanism between Hong Kong and the Mainland has already been put in place. According to the law on criminal proceedings under the mainland law, family members of the persons concerned have to be informed within 24 hours. Even without a notification mechanism, the Hong Kong side should be informed once it is known that a dispute involves parties from the Mainland and Hong Kong. However, more often than not, in reality, it is exactly because the local authorities concerned fail to act in accordance with law that involvement from our side becomes necessary.

Moreover, in many incidents related to illegal arrest, there are uncertainties. Firstly, it is not known whether the arrest is really made by public security bureau officials; secondly, it is possible that the arrest is only made by friends of public security bureau officials. A similar incident did happen in Hong Kong several months ago. A man who claimed himself a public security bureau official visited Hong Kong. He was found carrying a pair of handcuffs and wandering around Mount Davis with several men who claimed to be his friends. As for cases in the Mainland, public security bureau officials or their friends may seize someone to their office by force for mediation or "to talk things over". According to the law of the Mainland, a notice of arrest has to be issued before any arrest can be made, but such a notice has not been issued when action is taken, why? The person concerned usually knows nothing about his own status; nor does he know whether he is under arrest. Under such circumstances, the person concerned can in no way confirm whether he is under arrest. Given that, the person concerned will not be able to know when the maximum detention period, as stipulated under the law of the Mainland, should start to be counted.

It is stated unequivocally in the law of the Mainland that a lawyer can be engaged, but the authorities concerned do not allow the Hong Kong people involved to engage lawyers. It is quite common that articles held in custody are improperly handled. Articles in custody may even be sold for no reason before the proceedings of the case concerned are completed. Therefore, when the person concerned is acquitted, he will be told by the mainlanders concerned that his articles in custody have been disposed of, indeed sold. Besides, particulars of articles in custody will not be clearly stated. Such a practice seems

understandable for the existence of any grey area will only allow them more room to take away the articles at their will. Moreover, the amount paid, clearly as bail, is recorded as penalty. According to the mainland law, the course of searches should be put down in record in detail. But in reality, ten out of nine cases have not been so recorded. Take the complaint cases of Hong Kong people as examples. Sometimes, where the person put under house arrest can be monitored by the public security bureau officers, his enemies or the hostile parties having business disputes with the person held under arrest are appointed to monitor him instead. Is such a practice not really scaring? In a number of cases, the persons concerned were sent to the procuratorate continuously and were not released despite repeated trials. There were cases where the persons concerned were not released even they had been found not guilty. There were even cases where certain persons who were convicted could, without undergoing any prosecution procedure, be acquitted in the end. Moreover, more often than not, they will resort to administrative measures to hold back the identification documents of the persons concerned, preventing them from returning to Hong Kong.

All these examples cited by me are just the tip of the iceberg, for there are numerous variables and changes. I just hope that the SAR Government will defend the interest of Hong Kong people on just grounds and stand up for them. Having said that, I do not mean every Hong Kong resident involving in such cases is always right. But in the last couple of years, there were lots of cases where the practices of the mainland authorities concerned were obviously outrageous and illegal. This is particular so for cases handled by colleagues of the Complaints Division of the Legislative Council. I think there were at least 20 to 30 cases of this kind. While the mainland authorities concerned failed to act in accordance with the law, our Government failed to defend our interest on just grounds at its best or escalate the issue to higher level with a view to providing assistance to the people of Hong Kong. I think the Government should feel ashamed at having done this to the people of Hong Kong, and it has also failed to help our country to head towards the road of rule of law.

Mr James TO moved the following motion: (Translation)

"That, as the number of Hong Kong people working, travelling and doing business in the Mainland has been on the rise, with increasing occasions on which they need help when encountering problems such as those

relating to medical cases, law and order, commercial activities or other disputes in the Mainland, but very often cannot get proper assistance when their personal safety and property are at stake, this Council urges the Government to adopt the following measures:

- (a) enhancing the intermediary roles of the Office of the Government of HKSAR in Beijing and the Economic and Trade Office of the Government of the HKSAR in Guangdong, so as to assist Hong Kong people who need help in the Mainland;
- (b) developing communication and co-ordinating mechanisms with the mainland authorities progressively, with a view to enabling Hong Kong residents to receive proper assistance and support as soon as possible when they encounter difficulties in the Mainland; and
- (c) enhancing the efforts of government departments in disseminating information to the media in order to promote Hong Kong people's understanding of the government policies, legislation and social condition in the Mainland, so as to reduce misunderstanding and enable Hong Kong people to adopt suitable measures to protect their personal rights and interests."

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

PRESIDENT (in Cantonese): Mr Jeffrey LAM will move an amendment to this motion. The motion and the amendment will now be debated together in a joint debate.

I now call upon Mr Jeffrey LAM to speak and move his amendment.

MR JEFFREY LAM (in Cantonese): Madam President, I move that Mr James TO's motion be amended.

Madam President, today Mr James TO has raised a subject that has been a concern to us all along.

Ever since the opening up of the Mainland and the implementation of reforms, the number of Hong Kong people going to the Mainland on sightseeing and business trips has been on the rise. After the reunification, there have been even closer and more frequent exchanges between Hong Kong and the Mainland. In recent years, the number of Hong Kong people seeking employment in the Mainland has been rising as well. Therefore, when Hong Kong people encounter problems in the Mainland, we must try our best to provide them with assistance. As such, the Office of the Government of HKSAR in Beijing (Beijing Office) and the Economic and Trade Office of the Government of the HKSAR in Guangdong (Guangdong Office), which were established after the reunification, have become Hong Kong people's major channels of seeking assistance when they are involved in incidents in the Mainland.

During the three years from 2002 to 2004, over 500 complaints or requests for assistance were received annually by the two Offices. The number of cases handled by the Beijing Office, which involved Hong Kong people encountering difficulties, traffic accidents, injuries or death of a relative in the Mainland, has increased twofold over the past three years. From this, we can see that there is a huge demand for assistance.

I moved an amendment today because naturally I hope that the Hong Kong Offices in China — the two existing offices as well as the other two to be set up in Shanghai and Chengdu shortly — can function more effectively in providing more efficient and more appropriate support and assistance to Hong Kong people.

While the needs of Hong Kong people should be accommodated as far as possible in terms of notification, co-ordination and support services, we have to remember "a country has its laws, just as a family has its own regulations". When we visit the Mainland, we must obey and respect the laws of the Mainland. We cannot always insist on using the perspective of Hong Kong as the only way of doing things and neither should we disregard the laws of the Mainland. Since we have to observe the principle of "one country, two systems", we must act according to the principle of mutual respect.

Last week, the Chief Executive promised in his first policy address that more support services would be provided to Hong Kong people on the Mainland, including the setting up of additional offices in Shanghai and Chengdu. I think

this proposal should be enthusiastically welcomed and supported. Shanghai is the major economic engine of the Yangtze River Delta Region as well as a popular tourist destination among Hong Kong people. Currently, there are more than 60 direct flights daily scheduled between Hong Kong and Shanghai on a daily basis. The volume of trade between Hong Kong and Shanghai amounts to billions of US dollars every year. Over the past few years, the development of western China has also attracted a lot of investment from Hong Kong businessmen. As at the end of last year, the total investment by Hong Kong businesses reached US\$3.14 billion, accounting for 46% of the total foreign investment in the region. With the implementation of the 11th Five Year Plan, it is believed that the development of the western region will be even faster and on a larger scale. The Chengdu and Chongqing region, with Chengdu being the leading city, will be further developed into a major hub of development of the western delta region.

In view of this, we totally agree that it is necessary to set up additional offices in these two cities where there are frequent exchanges between the peoples of Hong Kong and the Mainland. Coupled with the two offices already in place, there will be an office in each of the four cardinal positions of the Mainland to facilitate the timely and prompt provision of more comprehensive assistance and support services to Hong Kong people seeking assistance in the Mainland. Of course, for certain private disputes or cases involving the violation of mainland laws, we must handle them very cautiously. Yet, as long as the circumstances are permitted by law, the offices concerned should do their best to assist them.

The Regulations for Administration on the Employment of Taiwan, Hong Kong and Macau Residents in the Mainland had earlier on aroused the concerns of businessmen and employees working in the Mainland. According to the Regulations, any person from these three regions who has worked in the Mainland for three months or more in a year is liable for payment of a social security levy. This will not only substantially raise the costs of Hong Kong businesses making investments in the Mainland, it will also add to the burden of the general wage earners. Fortunately, the representatives of Hong Kong trade associations have reflected their concerns to the relevant departments in the Mainland. In this regard, I would like to point out that in fact good communication is already in place between Hong Kong trade associations and the relevant departments of the Mainland, who are actually very willing to meet with Hong Kong businessmen and trade associations, listen to our complaints, and try

their best to solve our problems. They will not turn a blind eye to us. Since the investments from Hong Kong greatly contribute to the economic development of the Mainland, they attach great significance to the investments made by Hong Kong businesses. In my opinion, the two sides have developed much closer communication with each other in recent years.

Not long ago, when we visited the Pearl River Delta Region in a delegation led by the Chief Executive, Mr HUANG Huahua, Governor of Guangdong Province and Mr TANG, Executive Vice-Governor of Guangdong Province, stressed repeatedly that more attention would be given to investments made by Hong Kong businesses in the Mainland and more protection would be given to the assets, personal lives and safety of Hong Kong people in the Mainland. Our sincere thanks should be conveyed to the relevant authorities for that. Having said that, we also hope that the Hong Kong Offices in the Mainland can extend more assistance to Hong Kong businessmen in these areas.

The Detailed Implementation Rules of Tendering for Textile Products Quantity Allowed for Export derived from the Sino-EU Textile Quota System is a result achieved with the assistance of the Beijing Office and the Guangdong Office. In view of this, we hope the four Hong Kong Offices can strike a better balance between the work within and beyond the scope of economic and trade affairs, so as to discharge their functions more effectively. In terms of solving problems, with the help of the Beijing Office, the Guangdong Office and other relevant authorities of the State, the time required for finding solutions is even shorter and quicker than that for solving problems when we approach the United States for assistance. The issue of United States quota has made Hong Kong manufacturers incur huge losses, but with the assistance of the Hong Kong Offices and the relevant authorities, we have managed to secure more quotas for this year, thus enabling many small-to-medium-sized manufacturers to carry on with their manufacturing operations.

Furthermore, due to the differences in the welfare systems and the legal systems between Hong Kong and the Mainland, Hong Kong people need to gain a better understanding of such issues as the medical system, the schooling arrangements for children, the taxable items for Hong Kong people under employment in the Mainland and the rules to follow in the event of a lawsuit. Therefore, the authorities should enhance the dissemination of relevant information in this area, so as to offer better protection to Hong Kong people encountering difficulties in the Mainland.

In other words, with regard to Hong Kong Offices in the Mainland, be they the existing ones or the ones to be established, they must adopt a double-barrelled approach, that is, they should do their best to provide timely and appropriate assistance to Hong Kong people encountering difficulties in the Mainland on the one hand, and fulfil their missions of promoting trade and business activities as well as professional development on the other. Meanwhile, they should play the role of fostering the two-way exchanges between the two sides, provide the latest information on mainland policies, regulations as well as trade and business news for Hong Kong people doing business or working in the Mainland, and promote Hong Kong in the Mainland, so that mainlanders interested in seeking development or doing business in Hong Kong can get the information they need.

I think it is also very important for us to develop closer relationships with provincial and municipal governments of Guangdong and other mainland authorities. This is because after we have established closer connections, then we can promote better exchanges and communication and reduce unnecessary misunderstanding, thereby putting us in a better position to promote co-operation and provide support to Hong Kong people encountering difficulties in the Mainland.

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

Mr Jeffrey LAM moved the following amendment: (Translation)

"To add "contacts between Hong Kong and the Mainland are increasing, and" after "That, as"; to add "on the premise of 'one country, two systems' and respect for Mainland laws" after "the Government to adopt the following measures"; to delete "enhancing the intermediary roles" after "(a)" and substitute with "exploiting more effectively the functions"; to delete "and" after "the Office of the Government of HKSAR in Beijing" and substitute with ","; to add "and other offices to be established in the Mainland, and enhancing their intermediary roles" after "the Economic and Trade Office of the Government of the HKSAR in Guangdong"; to add "more efficiently and appropriately" after "so as to"; to add "closer" after "(b) developing"; to delete "the" after "communication and coordinating mechanisms with" and substitute with

"provincial/municipal governments such as that of Guangdong, and other"; to add "such" after "as soon as possible when they encounter"; and to add "as special incidents, accidents or commercial/business disputes" after "difficulties".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Jeffrey LAM to Mr James TO's motion, be passed.

MR ALAN LEONG (in Cantonese): Madam President, according to the figures supplied by the Office of the Government of HKSAR in Beijing (Beijing Office), there has been a general rising trend during the past three years in the number of requests for assistance involving reports of missing items, accidents or casualties, and the figure in 2004 was nearly twice as many as that in 2003. But on the other hand, the number of requests for assistance relating to commercial disputes, real estate properties or complaints against mainland departments has shown a declining trend. This is probably because more and more Hong Kong people have heightened their crisis awareness before conducting their businesses or making investments in the Mainland, and they must have identified well beforehand which departments they can turn to should they encounter any difficulties, or they may even have sought legal advice in the Mainland beforehand. However, this fully illustrates that if Hong Kong people can have a better understanding of the government policies, legislation and social conditions of the Mainland, it will help to reduce their chances of getting into trouble there.

For most Hong Kong people or medium-to-small investors who have never conducted any economic activities in the Mainland or who have not adequately taken care of themselves when conducting such activities in the Mainland, the Hong Kong Government does have an unshirkable responsibility to provide them with assistance when they encounter difficulties in the Mainland.

It appears that the Government is also aware of the fact that more and more Hong Kong people need to seek assistance in the Mainland. In the policy address announced not long ago, it is proposed to enhance the services provided by the Government of the Hong Kong Special Administrative Region (SAR) in the Mainland. So apart from the Beijing Office and the Economic and Trade

Office of the Government of the HKSAR in Guangdong (Guangdong Office), new offices will be established in Shanghai and Chengdu. In addition, all the Hong Kong offices in the Mainland will be managed by the Mainland Affairs Liaison Office of the Constitutional Affairs Bureau. However, Madam President, I cannot help questioning whether the SAR Government has already taken into full consideration of the actual needs of Hong Kong residents when it chooses the locations of these new offices. Or, is it true that the prime objective is just to establish some economic offices to cope with the economic exchanges and co-operation in the Pan-Pearl River Delta Region, and as a sidetrack business, these offices are made to also handle the complaints lodged by Hong Kong residents.

A simple incident can drive home my point. The incident is, with effect from 1 August this year, the Social Welfare Department will extend the Portable Comprehensive Social Security Assistance (PCSSA) Scheme from Guangdong to Fujian. According to government statistics, since the implementation of the PCSSA Scheme in 1997, there have been altogether over 3 000 applications. The Government estimates that, upon the extension of the Scheme to Fujian, there will be over 1 100 new applications. However, I wonder, when the Government makes its decision on the locations of the new offices in the Mainland, whether it has considered ensuring that the locations of these new offices can cope with the new demands generated by this new policy, that is, the new demand of Hong Kong people in the specific provinces and cities for assistance from the Hong Kong Government? In deciding the locations of the new offices, have different Policy Bureaux effected full co-ordination among themselves?

As a matter of fact, even without the benefit of highly meticulous calculations, we can conclude that the activities of Hong Kong people mostly revolve around the two provinces of Guangdong and Fujian. However, let us take the case of Guangdong as an example. There is only one office, situated in Tianhe Road North, Guangzhou, which is responsible for assisting Hong Kong people in the entire province. Yet, in considering the locations of the new offices, it has never thought of first establishing smaller but more offices in Guangdong and Fujian. Instead, it jumped very quickly to establishing new offices in Shanghai and Chengdu. Will this not make people feel that the Government is not doing a good job in taking care of the needs of Hong Kong people?

With regard to these offices in the Mainland, their objectives of work in helping Hong Kong people are also rather passive. According to the Government, the major duty of these offices is acting as the messengers, that is, to refer requests for assistance to the appropriate departments for further actions. Madam President, I am not questioning the effectiveness of such referrals. However, when Hong Kong people are facing legal systems and bureaucratic practices that are completely different from those in Hong Kong, should these offices not, being the organizations assisting Hong Kong people, devote more attention and care to the help seekers?

For example, many Hong Kong people actually know all too well that certain matters must be handled by mainland lawyers. So they would not ask these offices in the Mainland to provide them with legal advice. However, if they approach these offices, they will only be given ways of contacting the Mainland Lawyers Association, and then be told to contact the Association for engaging the services of mainland lawyers.

Apart from Hong Kong people who want to seek legal advice before taking their cases to Court, those Hong Kong people who have been detained for prolonged periods of time for involvement in criminal cases or civil debt disputes also warrant our attention. Taking 2001 as a starting point, on average there are over 400 cases annually in which Hong Kong people are detained in the Mainland. If the detainees and their families have to handle totally unfamiliar legal procedures all on their own, and if we fail to render any timely and effective assistance to them, then the situation is in fact badly in need of improvement. The Government must step up its effort to follow up such cases of Hong Kong people being detained in the Mainland. In particular, special attention must be given to ensuring that the rights to litigation and the human rights of these Hong Kong people are not violated. It is most imperative for the SAR Government to establish some permanent communication and processing mechanisms with the mainland authorities such as the public security, the prosecution and judicial departments in handling cases involving Hong Kong people; and such detailed arrangements should be announced and widely publicized, so that Hong Kong people who encounter difficulties in travelling, living or doing business in the Mainland are clearly aware of the channels through which they can protect their own rights. I am afraid this is an unshirkable responsibility of the Hong Kong Government.

Madam President, I believe that when Chief Executive Donald TSANG put forward many measures in the policy address for improving the connection between Hong Kong and the Mainland, he also hoped to provide convenience to Hong Kong people living in the Mainland. I hope the SAR Government can pinpoint the actual problems in designing the relevant strategy, so as to specifically provide suitable services at suitable locations. To many Hong Kong people encountering difficulties in unfamiliar places, this will make them receive the right assistance and thus feel relieved.

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

MS LI FUNG-YING (in Cantonese): Madam President, with increasing exchanges between Hong Kong and the Mainland, how Hong Kong offices in the Mainland should render assistance to Hong Kong people when the latter encounter difficulties in the Mainland has become an issue which must be addressed squarely. I am very glad that we can discuss this subject, which has such a significant bearing on the life of the people, right upon the start of this Session. However, if Members take a closer look at the functions of these HKSAR Government's offices in the Mainland, they will find them substantially different from the expectations of the people.

At present, Hong Kong has established offices in both Beijing and Guangzhou. However, assisting Hong Kong people who have encountered difficulties in the Mainland is not within the scope of responsibility of these offices. The major responsibility of the Office of the Government of HKSAR in Beijing (Beijing Office) is "further enhancing liaison and communication between the HKSAR Government and the Central People's Government and other mainland authorities". For the Economic and Trade Office of the Government of the HKSAR in Guangdong (Guangdong Office), its major responsibility is the same as that of other Economic and Trade Offices (ETOs) in different parts of the world, that is, "serving to promote Hong Kong's economic and trade interests and seek to attract direct investments into Hong Kong." When we are discussing how to assist Hong Kong people encountering difficulties in the Mainland, the first issue we need to examine is the existing framework. When the provision of assistance to Hong Kong people is only considered a secondary service, there is no way we can go on discussing how we can strengthen the measures for assisting Hong Kong people who have encountered difficulties in the Mainland. Another point that must be

highlighted is that, the close relationship between Hong Kong and Guangdong is beyond comparison — it would be a mistake in defining its role if the Hong Kong Government considers the Guangdong Office is playing the same role as other ETOs in different parts of the world. Therefore, I think the Government should review the roles of its offices in the Mainland, with a view to strengthening their functions.

I believe that, even under the existing framework, the Guangdong Office can still improve its service in providing assistance to Hong Kong people in need of their help. Now, the Hong Kong Federation of Trade Unions (FTU) has established service centres in both Guangzhou and Shenzhen to provide services to Hong Kong people. This serves to illustrate the inadequacy of the services of the Government in this area. I would like to quote an example to illustrate this point. At the end of last month, a Hong Kong granny lost her way in Guangzhou. The Aid Management Station of Guangzhou called up the FTU's Guangzhou Service Centre. Consequently, the service centre successfully helped the granny to return to Hong Kong. While the work of the FTU's Guangzhou Service Centre merits our commendation, what surprises me most is the fact that the Aid Management Station of Guangzhou had approached the FTU's Service Centre, a non-government organization, instead of the Guangdong Office, an official organization of the Hong Kong Government. Has this incident not reflected that the Guangdong Office does not have adequate communication with local government departments? If the Guangdong Office cannot establish effective communication with departments of the municipal government of Guangzhou, the liaison between the Guangdong Office and the other 20 cities within Guangdong Province is even more worrying to us. Nowadays, with the integration of the Pearl River Delta Region, it is not sufficient for the Guangdong Office to maintain its services at only providing assistance to those Hong Kong people who actively approach it. Instead, in my opinion, efforts should be stepped up promptly to improve the Guangdong Office's liaison with the various municipal governments of Guangdong Province. In particular, departments responsible for handling contingencies in the various cities should be informed of ways of contacting the Guangdong Office, thereby rendering assistance to Hong Kong people in need of help.

Madam President, the integration of Hong Kong and Guangdong Province has already become a major trend. Economic integration will inevitably lead to integration in other aspects. For example, if there are Hong Kong people going to work and buy properties in the Mainland, then they will need to have access to

information on the labour legislation and taxation arrangements in the Mainland. If there are Hong Kong people going to the Mainland on their retirement, then they would need to have access to information on the medical care and elderly services there. If the Government confines the functions of the Guangdong Office only to the promotion of Hong Kong's economic and trade interests, it is simply departing from the needs in reality, in addition to deviating from the policy of strengthening our relationship with the Central Authorities and the Mainland, as outlined by the Chief Executive in his policy address.

Madam President, I so submit.

DR KWOK KA-KI (in Cantonese): Madam President, first of all, I must thank Mr James TO for moving this motion right after the resumption of the new Legislative Session to give us the opportunity of discussing the issue of how we can assist Hong Kong people when they encounter difficulties in the course of working, travelling or doing business in the Mainland. However, I do not know whether this is the wrong timing for moving this motion now as the Chief Executive has said in the policy address just released that the status and even the functions of the Beijing Office and the Guangdong Office may be further downgraded. As far as we know, these offices may become some small departments under the Constitutional Affairs Bureau. It seems an untimely proposition today for us to urge the Government to identify ways of strengthening the function of both the Beijing Office and the Guangdong Office in playing the role as an intermediary.

Anyway, as we see the economy of the Mainland grow at a shocking rate, we can see more and more Hong Kong people making their way to the Mainland to work, to make a living or to do business every year, every month or even every day. We would find that the figures are rather alarming. The Secretary for Security once said that, between July 1997 and April of this year, the SAR Government is aware of 503 cases of Hong Kong people being detained or sentenced to imprisonment in the Mainland. Among these cases, only 421 were either resolved or required no further assistance by the relevant persons. I do not know why they did not require any further assistance. Maybe the Secretary may give us an explanation later on. Is it because the SAR Government or the Beijing Office had told them they were already helpless, as in the case of CHING Cheong? There is no need for the Government to say such things as: First, we

respect the privacy of the persons concerned; second, we respect the laws of the Mainland; and third, there is not much we can do, and so on. However, I am not at all surprised at the figure because if the present situation should continue, I believe the Secretary for Security will find the number of requests for assistance will keep dwindling, whereas the number of cases of not seeking further assistance will just keep going up. In fact, when everyone realizes that the Government cannot provide any assistance, what purpose will it serve even if we approach the Secretary for assistance? It is better for us to save the effort of making the request. As mentioned by Ms LI Fung-ying just now, it may even be more fruitful for us to turn to the FTU or other organizations for assistance instead. It is not until today that I come to know that the FTU is so very capable of providing assistance. Next time when I visit Guangzhou, I will apply for a membership card from the FTU before departure.

At present, the Immigration Department is following up over 80 requests for assistance. Among these cases, 57 persons are still being detained, undergoing trials or on bail. However, in many such cases, the families of the persons involved are still unable to obtain information on their sentences, their detention and trials, and so on. With regard to the two-way notification mechanism, among the 3 211 notified cases, mandatory enforcement actions were taken in 2 254 cases, in which 185 persons unfortunately died. These mandatory actions were mostly involved with fraudulent and smuggling offences which were mostly committed in Guangdong Province. The Security Bureau said they were very concerned about the rights of persons detained in the Mainland, and said that they would monitor and follow up the situation of these cases. However, every time when the complainants or the organizations enquire with the Security Bureau about the latest situation, usually no answer is forthcoming.

If the SAR Government really intends to do this work well, there is no reason for us to see so many mysteriously unresolved cases or why so many people seeking assistance would feel so disappointed, nor would we see them seeking assistance from individual Members or the trade unions instead. In fact, in terms of manpower, resources and financial strength, the SAR Government must be far more stronger than any individual associations, organizations or individual members' offices. On the other hand, though spending lots of public funds, such SAR offices in the Mainland cannot provide the people in distress with assistance. Perhaps some Members might have been

very correct in what they said just now, that is, the most significant duties of the Beijing Office or the Guangdong Office were actually the promotion of trade and commerce between Hong Kong and the Mainland. In short, it is assisting the businessmen to promote their businesses. As such, when the ordinary people get into trouble in the Mainland, they had better not to bother these officials because they are actually not tasked to do such work. So even if you ask them questions, you will only get replies like "the Office is currently suffering from a manpower shortage" or "the laws in the Mainland are different", and so on.

At present, the Chief Executive seems to have delegated such responsibilities to the Security Bureau. Of course, I also feel that such issues cannot be tackled just by the Security Bureau all on its own. After all, it has to rely on its upper authority for the provision of resources. Very often, holding discussions with mainland authorities on such work is already beyond the terms of reference of the Bureau, and such work might have to be handled by the Chief Executive, the Chief Secretary for Administration or the Secretary for Justice. However, the Government has never given those people doing business or working in the Mainland any confidence, to make them feel assured that they will have adequate support whenever they encounter difficulties. All along, the SAR Government has never played the role of an intermediary, nor can it help the persons involved in such difficulties. The Director of the Society for Community Organization, Mr HO Hei-wah, once said that the offices of the Government have not been able to do even the work of a messenger. This is really sarcastic. The Government has spent a lot of public money, manpower and resources on such offices, yet they cannot even do the work which a courier company (I am afraid I cannot say the name of that company) can handle competently. Then why should such offices exist at all?

I just hope that, through this debate, the Chief Executive together with the relevant officials, including the Secretary for Security, can seriously follow up the requests for assistance of Hong Kong people. On the other hand, the Government should also take up the role of facilitating the improvement of the legal system of the Mainland, actively monitoring and reflecting the inadequacy of the legal system of the Mainland. In doing so, we are not only safeguarding the interests of Hong Kong people, but also doing our part in improving the legal system of our Motherland.

With these remarks, I support the motion.

MR WONG KWOK-HING (in Cantonese): Madam President, I would like to deliver the following speech entitled "Do not let business take precedence before the people".

Madam President, it has now become commonplace for Hong Kong people going to the Mainland to pursue education, to work and to do business. Statistics show that there are as many as 240 000 Hong Kong people either working or living in the Pearl River Delta Region. With the advantages of having countless scenic spots and low prices for its quality products, the Mainland has attracted many Hong Kong people to travel northwards on both sightseeing trips and shopping sprees during their holidays and spare time. As a result of the frequent trips made to the Mainland, some Hong Kong people eventually find themselves caught in the middle of some problems in such areas as medical care, law and order and trading. However, the Government of the Hong Kong Special Administrative Region (SAR) has not provided Hong Kong people in the Mainland with sufficient support measures.

The FTU had successfully conducted telephone interviews with over 800 Hong Kong people in mid-August. The survey reveals that Shenzhen and Guangzhou are the major cities visited most by Hong Kong people. Among the respondents, 60% said that the support provided by the SAR Government to Hong Kong people was inadequate. Moreover, over 70% of them even pointed out that the SAR Government should enhance its support for Hong Kong people in the Mainland in aspects such as medical, legal, education and employment services.

Some 40% of the respondents said that they would turn to relatives and friends for assistance when they encounter difficulties in the Mainland because they are unfamiliar with the administrative procedures there. And only about 20% of the respondents would approach the SAR Government's offices in the Mainland for assistance. At present, the FTU has established two enquiry service centres in Guangzhou and Shenzhen respectively to serve Hong Kong people. 18% of the respondents said that they would approach the FTU for assistance if they encountered difficulties in the Mainland. If Honourable Members approach the FTU for assistance, they are most welcome to do so.

The SAR Government has established the Beijing Office in Beijing and the Economic and Trade Office in Guangdong. However, according to a survey

conducted by the FTU, the cities in which many Hong Kong people are living, working and conducting business are Shenzhen and Guangzhou, whereas the relevant office of the SAR Government is established in Beijing. Therefore, if Hong Kong people really need to seek assistance when they have encountered difficulties, it will be a case of "a well too distant to fetch water for extinguishing the fire that happens at a nearby location". As for the Guangzhou Office, it is tasked with the specific responsibility of taking care of economic and trade affairs. As suggested by its name, this Office provides support services such as publishing updated economic and trade-related publications, arranging study missions to Guangdong, holding investment seminars and gatherings, and so on. However, it does not provide the much needed support services to Hong Kong people encountering difficulties in the Mainland.

Madam President, the Chief Executive, Mr Donald TSANG, said in the latest policy address, "To further promote our exchanges and co-operation with eastern China and the southwestern region, and to provide additional support services to Hong Kong people visiting the Mainland, the SAR Government will discuss with the Central Authorities setting up additional offices in Shanghai and Chengdu."

Regarding the new governance direction of setting up additional offices, the FTU naturally welcomes it. However, we are concerned about the support services to be provided by these new additional offices. What kinds of support services will they provide? Are their services confined to "exchanges and co-operation" only, as mentioned by Mr TSANG? In fact, according to the experience of the FTU's two enquiry service centres in Guangzhou and Shenzhen, the affairs and incidents encountered by Hong Kong people in the Mainland are diversified in terms of type and nature. The greatest amount of cases encountered by Hong Kong people are related to real estate property problems, with commercial disputes ranking second, and labour disputes third. Therefore, the support services provided by the Government to Hong Kong people in the Mainland should not be confined to the exploration of business opportunities. When the SAR Government establishes offices in the Mainland, its support target should be all Hong Kong people, not just Hong Kong businessmen.

As a matter of fact, if Hong Kong people fall sick or encounter accidents in the Mainland, it is most important for them to receive some "in-depth" assistance. As we all know that, it is very expensive for non-Chinese residents

to seek medical treatment in the Mainland, and not everyone can afford such treatment, especially those socially disadvantaged groups. The FTU's two enquiry service centres have assisted several Hong Kong people who fell sick in the Mainland by bringing them back to Hong Kong for proper treatment. For example, two brothers from Hong Kong had been stranded in Shenzhen for many years, and they had also developed some mental illness which had deteriorated due to the lack of proper treatment as a result of their inability to pay the medical expenses. So, the FTU's enquiry service centre at Shenzhen made arrangements for their return to Hong Kong for proper medical treatment.

Therefore, to offer genuine assistance to Hong Kong people on the Mainland, the provision of some telephone numbers or referral services are simply inadequate. This is because whenever a Hong Kong resident encounters some difficulties, especially when he has fallen ill or encountered some accidents, he would not be able to help himself. It is imperative for us to provide them with comprehensive assistance, such as re-issuing their identification documents, facilitating their return to Hong Kong and getting into contact with the Social Welfare Department as well as medical social workers, and so on.

The FTU is very willing to help Hong Kong people in the Mainland. However, the FTU is after all only a non-government organization and a labour union with limited resources and abilities. In spite of this, the FTU will still act in a most righteous and courageous manner by rendering assistance to all those who are in need. What attitude should the SAR Government take, which is supposed to be taking care of the well-being of Hong Kong people? Therefore, it is an unshirkable responsibility of the SAR Government to assist Hong Kong people in the Mainland. We urge the Government to expand the functions of these offices in the Mainland, so that assistance can be provided in cases beyond the scope of trade and commerce. Most important of all: Do not let business take precedence before the people. Do not make the support services available to businessmen only; instead, the Government must really provide assistance to needy Hong Kong people in the Mainland. With these remarks, Madam President, I support both the motion and the amendment.

MR HOWARD YOUNG (in Cantonese): Madam President, since the reunification, the passenger and cargo flows between Hong Kong and the Mainland have become increasingly frequent. According to government

statistics, Hong Kong residents leaving for the Mainland on either sightseeing or business trips make up 85% of all the people departing from the territory. As the tour fees are inexpensive, short-haul trips to the Mainland have become very popular. With economic and trade integration as well as the continuous enhancement of tourist infrastructure, more Hong Kong people will go to the Mainland for work or travel in future and, as such, the problems encountered by Hong Kong people will rise correspondingly. Therefore, we hope the Government can establish very close liaison channels and a good notification mechanism, so that when Hong Kong travellers encounter special incidents or accidents, prompt assistance can be provided.

During the past few years, whenever traffic accidents happened to tour groups in the Mainland, the Government of the Hong Kong Special Administrative Region (SAR) was usually not notified promptly, thus making it unable to provide immediate assistance to Hong Kong people caught in such accidents. For example, in August this year, a tourist coach carrying a full load of Hong Kong residents had a traffic accident on the Shenzhen-Shantou Highway when it was on the way back to Hong Kong. The Hong Kong Government was not informed of the accident until 16 hours later. After some time was spent on verifying the names and by the time the details were provided to the press, it was already 21 hours after the incidence of the accident. Upon receipt of the notification, the Government still had to take a circuitous route to contact the local authorities via the Office of the SAR Government in Beijing (Beijing Office) before two immigration officers could be dispatched to the hospital in the Mainland to provide all sorts of assistance possible. Working with such indirect procedures and arrangements had not only delayed the follow-up work, but it was also a most inefficient and highly undesirable approach. Therefore, the Liberal Party suggests that a dedicated hotline be established to enable the Government to initiate contact and communication in the first instance, so as to provide the most appropriate assistance to Hong Kong people in difficulties. In this way, the Government can really achieve the target of providing timely help to those in dangerous and desperate situations.

In the policy address released recently, the Government proposes that additional economic and trade offices will be established in such major cities as Shanghai and Chengdu to handle affairs in eastern China and the southwestern region and to provide more support services to Hong Kong people there. The Liberal Party finds this proposal most suitable. In the past, among cases of requesting assistance made by Hong Kong people in the Mainland, many of them

involve the missing of identification documents. Shanghai has always been a popular tourist attraction among Hong Kong people. I hope, through the establishment of offices in these cities, the Government can handle the immigration matters more effectively and assist Hong Kong people who have encountered difficulties in the Mainland.

The purpose of setting up the Assistance to Hong Kong Residents Unit (AHU) in the Immigration Department is to provide essential assistance to Hong Kong residents who have encountered difficulties in either overseas countries or the Mainland. The contact telephone number of this Unit has already been changed to 1868 which is easier to remember. But the relevant promotion effort in this regard is obviously insufficient.

As the "Guide to Assistance Services to Hong Kong Residents in the Mainland" published by the Immigration Department has already included such details as the telephone numbers and addresses of the AHU and the Beijing Office, the authorities may consider distributing more leaflets to Hong Kong residents departing from the territory for overseas destinations through co-operative efforts with the Hong Kong Tourism Board and the Hong Kong Guangdong Boundary Crossing Bus Association.

Safe travel is a matter that concerns the life and death of a person. It is important for fellow practitioners in the tourist industry and the Government to actively promote the taking out of travel insurance among the people, which is very important. However, while efforts should be made to enhance the people's awareness of safe travel, we also hope that government departments and the relevant organizations can sum up their experience learned from handling past contingencies and conduct reviews from time to time. By doing so, the Government will then be able to further establish sound rescue, assistance and notification mechanisms; and new measures will be implemented to ensure that the Government can make speedier and more effective responses in providing more timely assistance and releasing information, thereby providing prompt and practical assistance to Hong Kong people.

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

MR CHAN KAM-LAM (in Cantonese): Madam President, ever since the reunification, there have been increasing contacts between Hong Kong and the

Mainland at all levels. More and more Hong Kong people will visit the Mainland for business, work, travel and family reunion. As a result of increased interactions, there has been an increasing number of cases in which Hong Kong people encounter problems related to commercial disputes, accidents and personal safety in the Mainland.

For this, the DAB has been running a Mainland Liaison Group during the past few years for specifically handling these issues. We frequently receive enquiries and calls for assistance from Hong Kong people who have encountered difficulties in the Mainland.

The business and investment brought by Hong Kong people have contributed greatly to the economic development of the Mainland. However, Hong Kong people are generally not versed in the mainland legal system and their regulatory concepts. Sometimes, certain mainland policies are enforced with limited transparency. Many businessmen doing business in the Mainland will find it hard to adapt to policy changes, the different law enforcement practices and the punishment codes in different regions of the country. At times, they will feel at a loss or even helpless.

Take an incident that happened sometime ago as an example. The customs department at Huangbu, Dongguan had implemented a policy which required trading and manufacturing enterprises in the region to conduct a self-review of supplementary tax return. The move had given rise to great concerns among Hong Kong businessmen, as it led to a misunderstanding that the mainland authorities were convinced that they had been engaged in illegal activities of tax evasion. Upon notification of the incident, the DAB promptly went to Dongguan to negotiate with the authorities in a timely manner and put forward our opinions. We are very pleased that the Mayor of the city of Dongguan and the customs department have accepted our views and made certain amendments to the measure previously formulated by them. We understand that Hong Kong businessmen will encounter a lot of problems in doing business in the Mainland, and we hope the government departments concerned can strengthen their communication with Hong Kong businessmen and make some co-ordination initiatives before taking certain actions.

During the past few years, there have been increasing opportunities of trading and economic co-operation between Hong Kong and the Mainland. The

situation has not only attracted investments from Hong Kong, but also people looking for development opportunities in the Mainland. Purchasing properties in the Mainland is one of the popular ways of making investments among Hong Kong people. Unfortunately, during the past one to two decades, the excessive speed of development in the Mainland, coupled with some unscrupulous property developers, has led to the emergence of many "uncompleted" properties at some construction sites. The DAB has been following up this particular issue for many years. As far as we understand it, neither the Hong Kong Government nor the mainland authorities have been able to grasp the full picture of the issue. The co-ordination work and the search for a solution are particularly difficult, given that the interests of both the local governments and the property developers are at stake.

We have conducted several rounds of negotiations with the Guangdong Provincial Government to ask for their assistance in solving this problem. As a matter of fact, the Guangdong Provincial Government has also set up a special task force to step up supervision and regulatory measures for property development projects. However, because of the large number of projects, the enormous amount of money involved and the sheer complexity of the issue, we are of the opinion that assistance from the Guangdong Provincial Government alone is not sufficient. We hope that the Government of the Hong Kong Special Administrative Region (SAR) can assist the victims of such incidents by conducting negotiations with the mainland departments concerned, so as to protect the legitimate interests of Hong Kong people in the Mainland.

What we have mentioned just now are the problems encountered by Hong Kong businessmen and investors in the Mainland. In fact, even wage earners are facing similar difficulties too. Recently we have received some complaints, in which the implementation of a so-called social security levy in the Mainland is said to have triggered many labour disputes. We are handling such matters, and we hope that the mainland authorities can enhance their level of transparency when they formulate this type of policies, so that people working in the Mainland can fully understand why the implementation of such policies is essential.

Madam President, the DAB will continue to play such an unofficial role to co-ordinate and assist Hong Kong people in fighting for and safeguarding their legitimate interests in the Mainland. However, we believe that the SAR Government should perform its functions more effectively by enhancing communication and understanding with the mainland authorities, so that it can

fully grasp the formulation and changes of policies in the Mainland, thereby providing sufficient information as well as timely assistance to Hong Kong people.

The Chief Executive announced in his policy address last week that additional Hong Kong offices would be set up in the Mainland. A Mainland Affairs Liaison Office will also be established under the Constitutional Affairs Bureau to better co-ordinate and assist the work of all the Hong Kong offices in the Mainland. The DAB supports this practice. In fact, these are the requests which the DAB has been making to the SAR Government. The DAB expects that these Hong Kong offices in the Mainland can enhance the communication and liaison between Hong Kong and the different provinces and cities on the Mainland, so that we may work together to create a favourable business environment and to co-ordinate and resolve more effectively the difficulties and barriers encountered by Hong Kong people in the Mainland. Furthermore, the DAB believes that the SAR Government should take a proactive approach and consider setting up more Hong Kong offices in other cities on the Mainland in which many Hong Kong people are living, thereby providing more comprehensive services and more channels to assist Hong Kong people who encounter difficulties in the Mainland.

With these remarks, Madam President, I support the original motion and the amendment.

MS AUDREY EU (in Cantonese): Madam President, several members of the Article 45 Concern Group attended the 22nd Congress on the Law of the World held in the Mainland in September. It was a great delight for us to listen to the speech delivered by Mr XIAO Yang, President of the Supreme People's Court of the People's Republic of China, which touched on the legal system, the rule of law and the Judges of the Mainland. Ms Margaret NG and Mr Ronny TONG, who were sitting next to me, were so delighted that they reacted with a small standing ovation.

However, Madam President, it is always easier said than done. As a matter of fact, we all know that there are many cases in the Mainland where the laws are not observed, or where "different laws apply at different localities". In fact, to a large extent, the discussion of today's motion is about such an issue.

Statistically the problem does not seem to be very serious. According to the Office of the Government of HKSAR in Beijing (the Beijing Office), during the past three years, there were only 200 to 300 cases of requests for assistance made by Hong Kong people encountering difficulties in the Mainland on matters relating to immigration or personal safety, and there were also only 200 to 300 cases of requests for assistance on issues relating to commercial disputes and other problems. However, we know that the actual number of such cases is in fact much larger than what the Beijing Office has reported. There is an organization called the Dui Hua Foundation, the Director of which, John KAMM, has been visiting prisons in the Mainland regularly to meet with officials of the prisons and to visit the inmates. Compared with the figures he provided to me, the number of cases the Government provided to this Council falls short of the actual number by a large margin.

In fact, the Complaints Division of the Legislative Council as well as various Members' offices have received many such cases, so we know that these problems do occur very frequently. In some instances, these cases may drag on for years, and very often they would remain unresolved. According to the Government's estimates, more than 600 Hong Kong people are currently serving prison terms in Guangdong. However, according to the estimates of the Society for Community Organization, the actual number of such cases may well exceed 1 000 cases. Furthermore, incidents of Hong Kong people being detained happen all over the country. According to the information provided by the Beijing Office, Hong Kong people are detained in 14 provinces in the Mainland. It is even harder to estimate the number of other minor incidents such as physical assault, unfair treatment, or unresolved complaints. I have read some reports on the incident happened in the Taishi Village too. Let us not talk about the mainland villagers and the mainland lawyers involved in the case for the time being, but from what I have read, at least we learnt that a Hong Kong reporter from the *South China Morning Post* was beaten up by a group of people of unknown identity when he attempted to report the case in the Taishi Village. Insofar as the recent situation is concerned, there are in fact many cases of Hong Kong people encountering difficulties in the Mainland, particularly in relation to the cases involving illegal custody and personal safety.

Of course, there is also the incident which has aroused widespread concern in the international community and among members of the public in Hong Kong, and that is the CHING Cheong incident. CHING Cheong was detained by the

mainland authorities in April this year, and he was officially arrested by the public security authorities on spy charges on 5 August. However, the mainland authorities have not initiated any prosecution to date, nor have they announced the date of a public trial. In fact, whether there will be any public trial remains unknown so far. Certainly CHING Cheong does not have a lawyer to represent him, nor can his family visit him in person. People from all walks of life in Hong Kong are worried about him, but apparently he has not received fair treatment. There is no indication that he will receive a fair trial either. Chief Executive Donald TSANG has said that the SAR Government would provide him with every possible assistance. However, in fact, what has the Government done to help this Hong Kong citizen, CHING Cheong? Therefore, when the Secretary gives his reply later, I very much hope that he can talk about this case specifically.

At present, there are two Hong Kong offices in the Mainland. The Beijing Office handles requests for assistance on matters relating to personal safety, whereas the Guangdong Office says it is responsible for cases relating to trade and business. This is in fact a strange arrangement. In fact, of all the Hong Kong people who are being detained in different parts of the Mainland, the majority of them are detained in Guangdong. Since the Government has already established an office in Guangdong, why does it not handle complaints and requests for assistance on matters relating to the personal safety of Hong Kong people? Is it true that economic and trade affairs are given priority, whereas personal safety can be totally disregarded?

Just now Mr WONG Kwok-hing said in his speech that this was a case of "business taking precedence before the people". However, I would like to point out that those who are involved in disputes and those who need to worry about their personal safety are mostly businessmen from Hong Kong, and they are exactly the people who make investments in the Mainland. Therefore, this is not a problem of "business taking precedence before the people". Rather, the Government should not only handle business-related matters, in total disregard of matters relating to personal safety. Instead of assigning all these cases to the Beijing Office for follow-up actions, why does it not make the nearby Guangdong Office and the additional offices to be set up in Shanghai and Chengdu to serve the same function of providing support services in different aspects for Hong Kong people visiting the Mainland, including certain aspects included in today's motion?

In addition, further improvement should be made to the current notification system. The Government once said that, and I remember the Secretary has said so to us as well, due to the vast areas of the Mainland, very often the notification system took a longer period of time to convey news of certain cases than we could imagine. The time needed would be three months or longer. Madam President, no matter how primitive the communication system in the Mainland is, a period of three months is still an unacceptable delay. Imagine this: Should any of us here, including the Secretary himself, have a relative gone missing in the Mainland and there was no news whatsoever for three months, we can imagine how we would feel. Therefore, Madam President, we hope the Government can really do something for Hong Kong people.

The amendment has added the wording "respect one country, two systems", which is fair enough. However, we hope the Government would not use "one country, two systems" as an excuse for keeping their hands folded on matters relating to mainland laws or cases of non-compliance of laws. When the Government tells us it is maintaining a good relationship with the Mainland, we hope it does not mean that it will only do or say something that will please the Mainland; instead, we hope that when there are cases involving acts of non-compliance of laws, the Government can do something substantive to fight for the rights and protection to which Hong Kong people are entitled.

Madam President, I support the motion and the amendment. Thank you.

MISS CHOY SO-YUK (in Cantonese): Madam President, it is increasingly common for Hong Kong people to go to the Mainland for business, travel, visiting relatives or even living. However, as the legal systems of the two places are entirely different, when Hong Kong people encounter problems on the Mainland, a lot of misunderstanding will often arise and they may even cause troubles for themselves because they are not well-versed in local laws and even use their experience in Hong Kong as the frame of reference without knowing exactly how things work over there. I have personally dealt with quite a number of cases involving Hong Kong people who have nowhere to turn to on the Mainland. Apart from the unfinished flats, the difficulties encountered by investors and the labour disputes mentioned by Mr CHAN Kam-lam, which I am not going to repeat, in sum, there are several issues which Hong Kong people find most troublesome.

First, when someone has committed an offence in Hong Kong, the entire judicial process is very clear. There can be no confusion as to when to appear before Court, when a case will be heard and whether the penalty is a fine or a term of imprisonment. However, the situation on the Mainland is not that simple and straightforward.

A Hong Kong businessman was prosecuted due to his unfamiliarity with the system and he felt very aggrieved. What transpired was that the person-in-charge of a mainland company owed the local government some tax and the Hong Kong businessman, not knowing what was amiss, acquired the company. When he learned about what had happened, he could only bemoan his hard luck and pay the tax out of his own pocket to ward off trouble. Therefore, all he could do was to pay all the amount in arrears together with the fine and the Government also issued a receipt afterwards to acknowledge that all the fine and tax had been paid. The Hong Kong businessman thought that all would be well afterwards. However, two years later, he was suddenly arrested by the local government in relation to a case and it turned out that a prosecution was initiated precisely because the Hong Kong businessman had duly paid the fine. The department responsible for tax collection said that imposing a fine and prosecution were two different matters. Being fined did not mean that everything would then be alright. Moreover, since the Hong Kong businessman had paid the tax, was that not the strongest proof that he confessed of tax evasion?

Another even more unacceptable practice is that of detention for the purpose of investigation. The family members of a Hong Kong businessman who sought help from me were wrecked by anxiety, saying that the Hong Kong businessman had been detained by a disciplinary committee for five months and despite repeated enquiries, his family members received no response and there was not even a word on what sort of offence he had committed. So not only were his family members worried and anxious, the operation of his company in Hong Kong was also paralyzed because there was no one to look after the business as all contacts were suddenly lost with the person-in-charge. After repeated enquiries from me, it was learned that the mainland authorities were in fact going after another target and the aim of detaining the Hong Kong businessman was only to have his assistance in the investigation. Worried that he might give things away before the targeted person was arrested, the disciplinary committee detained the Hong Kong businessman to avoid failing within reach of the goal. For the same reason, the Hong Kong businessman

was prohibited from contacting the outside world while being detained and he could not even speak to his family members directly. One can imagine how such an investigation approach delivers heavy blows to the persons involved, to their families and friends and even the operation of their companies.

As Hong Kong people, we certainly have to respect the rules and systems on the Mainland. However, in order to protect the basic rights of Hong Kong people, so that when running into problems on the Mainland, they will not find themselves in isolation and helpless, it is necessary for the SAR Government to play a more active role by stepping up the publicity and education directed at Hong Kong people travelling frequently between Hong Kong and the Mainland, so as to enable them to fully understand the legal system and methods of investigation on the Mainland and avoid having brushes with the law inadvertently. Furthermore, apart from the notification mechanism, the SAR Government also has to lobby the authorities on the Mainland for an arrangement whereby Hong Kong people detained for assistance in investigations should be released after giving statements or providing information and the people concerned must not be detained indefinitely simply because a case needs to be cracked. Even if someone from Hong Kong has really committed an offence and compulsory measures have been imposed by the authorities on the Mainland, they should be allowed to meet with the staff members of the office of the SAR Government in that area to obtain legal and even financial assistance and allay the worries and anxieties of the Hong Kong people concerned and their family members. In addition, there are also other problems, including the lack of transparency in the trials in the Courts on the Mainland and the use of various tactics to prevent the family members of the suspects from attending trials.

Earlier, it was mentioned that there had been quite a number of cases of this nature that resulted from the differences in law enforcement and the legal systems between the two places. These cases often exhaust the Hong Kong people concerned completely and I myself have also received quite a number of this kind of requests for assistance. There are also cases in which justice cannot be upheld due to local influences. Therefore, in the event that Hong Kong people encounter problems on the Mainland, they find that they are all by themselves and have no one to turn to if no support is given to them.

In a case which I have handled, a family from Hong Kong was unfortunately involved in a serious traffic accident on the Mainland. The parents of a baby died of the serious injuries sustained, with the baby surviving.

The question of who had the custody of the baby turned out to be a bone of contention between its relatives in China and those in Hong Kong. Normally, both sides can resolve the issue in Court, however, the baby's relatives on the Mainland were local big shots and they withheld the baby. Its family members in Hong Kong who went to the Mainland had no power, resourcefulness, connections or backing, so they were just like a learned gentleman running into some brutish soldiers. What can they possibly do under these circumstances?

Madam President, all of us understand that the legal system has to be strengthened and law and order improved, and that we cannot hope to see results within a short period of time. However, the SAR Government cannot use this as an excuse and allow such a situation to continue. Since the SAR Government has spent so much public funds on establishing offices on the Mainland, how can they just look on from the sideline when Hong Kong people encounter problems? The Government must offer assistance actively. At least, it should assist the people involved by referring the cases to the appropriate mainland departments for follow-up action, or even play the role of a mediator and serve as an intermediary, so that Hong Kong people will not feel so lost and helpless.

With these remarks, Madam President, I support the original motion and the amendment.

MR ANDREW LEUNG (in Cantonese): Madam President, since the implementation of economic reform and the open door policy on the Mainland, economic development on the Mainland has been rapid and an increasing number of Hong Kong people are capitalizing on this trend by choosing to do business, work or travel across the boundary, thus accelerating the interaction between Hong Kong and the Mainland. According to a study of the Federation of Hong Kong Industries, in 2002, about 63 000 companies were involved in the manufacturing industry on the Mainland and the number has now risen to over 80 000. Last year, the number of people passing through Lo Wu alone was 245 000 people daily, so it can be seen that with increasing interaction between Hong Kong and the Mainland, instances of Hong Kong people encountering problems on the Mainland and seeking assistance will also become increasingly common. In respect of industry and commerce, Hong Kong businessmen often encounter problems in doing business, legal problems or those involving local governments, Customs and taxation. As regards personal travel, Hong Kong people sometimes encounter such difficulties as losing their travel documents,

being involvement in traffic accidents, sustaining personal injuries, deaths and detention on the Mainland, and they have to seek assistance as a result. The Office of the Government of the Hong Kong Special Administrative Region in Beijing (BJO) and the Hong Kong Economic and Trade Office in Guangdong (GDETO) have assumed the roles of intermediaries in handling problems encountered by Hong Kong people and problems in trade and commerce respectively. They have played their roles as the bridges between Hong Kong and the Mainland fully.

We are very pleased to find that the Chief Executive has announced in the newly published policy address the establishment of new offices in Shanghai and Chengdu. The setting up of these two new offices and the upgrading of the BJO and the GEDTO will create a distribution in which an office can be found in the east, west, south and north respectively. When necessary, these offices can dispatch officers to make site visits and to offer all kinds of appropriate and timely assistance to Hong Kong people. They can also help further the understanding of local economic and trade policies. I believe that with these four offices located in different provinces and cities on the Mainland serving as intermediaries, when Hong Kong people encounter difficulties on the Mainland, they can receive timely, appropriate and direct assistance more speedily and effectively.

Nowadays, with such intense economic and commercial exchanges between China and Hong Kong, Hong Kong and Guangdong Province have become the places with the greatest exchanges of people. I hope that the SAR Government, through the Security Bureau and the GDETO, can liaise with various cities and departments in Guangdong Province, so that when the SAR Government receives requests for assistance from Hong Kong people, it can contact them direct and offer assistance. I believe that by offering assistance direct and enhancing the support given to Hong Kong people, the time it takes Hong Kong people to obtain assistance on encountering difficulties will be greatly reduced. If this arrangement of seeking assistance directly can be introduced, it will definitely help members of the public who travel between China and Hong Kong regularly.

On issues of trade and commerce, the GDETO has played an important role in the past several years. Concerning the textile industry, after the abolition of quotas on textile products worldwide, a number of measures implemented on several occasions on the Mainland, including the levy of export

tariffs, application for export permits and the implementation of the quota system, can sometimes change in such a fickle way that Hong Kong businessmen involved in manufacturing on the Mainland hardly know what to follow. Apart from affecting products which place of origin is the Mainland, even products which place of origin is Hong Kong but which manufacturing process is sub-contracted are also affected. The GDETO has been following up this matter right from the beginning and actively contacted officials of the Department of Foreign Trade and Economic Co-operation of Guangdong Province and officials of the Customs of Guangdong Province, and arranged regular meetings to enable Hong Kong businessmen and officials to communicate directly, and the results are marked. Here, I hope that the four new or established offices can play the roles of intermediaries as the GDETO does by conducting exchanges with Hong Kong trade associations regularly and establishing a platform for communication, as well as listening to the views and suggestions of these trade associations.

Madam President, following the announcement of CEPA III yesterday, the economic and trade activities between the two places will grow even more intense. It is necessary for the Economic and Trade Offices established by Hong Kong on the Mainland to clear the obstacles at the local level in order to tap benefits from the opportunities offered by CEPA. In view of this, I support the SAR Government in committing more resources and enhancing communication with various departments on the Mainland, with a view to further unclogging the economic and trade network linking the two places and making contribution to the Hong Kong economy and that of our nation, as well as providing timely and appropriate support to Hong Kong people encountering difficulties. All this will bring about a positive and mutually beneficial effect to the economic development of both places and to the welfare of Hong Kong people.

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

MR PATRICK LAU (in Cantonese): Madam President, the Chief Executive has made it clear in his policy address that offices will be set up in Shanghai and Chengdu to reinforce support and assistance provided by the SAR Government to Hong Kong people on the Mainland. This is in my opinion a very appropriate arrangement, for it will produce a synergy effect with the four government offices now operating in Beijing, Guangzhou and elsewhere. Just now Mr

Andrew LEUNG pointed out that the establishment of these new offices on the Mainland in convenient geographical locations would serve to handle problems encountered by Hong Kong residents, be they in the north, south, east or west part of the Mainland. Apart from offering help to Hong Kong residents detained without good grounds or have breached mainland laws as suggested by Mr James TO, I also agree with what Mr Jeffrey LAM has said, that assistance should be given to Hong Kong people encountering problems while working, travelling, doing business or studying on the Mainland.

The Beijing Office of the SAR Government is the headquarters of all SAR Government offices on the Mainland. Apart from co-ordinating the work of all the mainland offices, the Beijing Office should also play the role of a bridge between the SAR Government and the Central Authorities and promote better understanding between places on the Mainland and Hong Kong with respect to the latest developments of each side. When both sides are in good grasp of the situation, it will definitely be of help to them and as their policies can match and complement each other, it will be advantageous to people on both sides.

Besides dialogue on the policy level, I think that if efforts can be made to help Hong Kong residents understand mainland laws, regulations and administrative measures better, that will help them better adapt to life on the Mainland. Of particular importance are the differences between the tax regimes in the two places. Many Hong Kong residents doing business and working on the Mainland are not well-versed in the mainland tax regime and they may contravene the mainland law when they do not file a tax return out of sheer inadvertence. That is most unfortunate.

So if the mainland offices are really to give play to their role of giving assistance to Hong Kong residents, they should provide enquiry services free of charge. These may be provided through websites, hotlines, general enquiries counters, legal consultation by appointment, and so on. Such services should be delivered in a language easily comprehensible to Hong Kong residents and they should serve the purpose of reminding Hong Kong residents of matters of importance while taking into account the diversity of the tax and legal systems of the two places. Hong Kong residents should be given practical tips on how to deal with problems they may encounter. In particular, efforts must be made to prevent unnecessary misunderstandings which can otherwise be avoided. Never wait until problems have been caused before solutions are offered because some mistakes are irreversible and there is no way to remedy them.

Apart from setting up homepages and enquiry hotlines, the SAR Government should publicize the organizational structure of its mainland offices, the names and contact telephone numbers of persons in charge with their respective duties. This will enable Hong Kong residents in need of help to know how to find help and approach the right persons in the right departments. Publicity efforts should be made through various channels to enhance the transparency of the mainland offices. Procedures for seeking help must be clearly set out, as well as the documents that should be produced to the authorities when help is sought. The most important thing is that an easily accessible channel can be available to help seekers. Many Hong Kong residents encountering problems on the Mainland may want to seek help from the authorities but as they may not be aware of the relevant information, so they may not be able to get any assistance. Hence they are at a loss as to what they should do. Things will only get worse when they panic and the problems may become complicated.

On the premise of "one country, two systems" and respect for the mainland laws, more assistance should be given to Hong Kong residents encountering problems on the Mainland. In the long run, the number of offices of the SAR Government in various provinces and municipalities should be increased and their scope of service should be expanded. This will enable the provision of a diversity of convenient services to Hong Kong residents living on the Mainland and to those Hong Kong residents, especially professionals, who want to explore business opportunities there. In the end, as the advantages of both places work with and complement each other, this will spur economic growth in the two places.

Madam President, the offices of the SAR Government on the Mainland may foster close partnership with the Hong Kong Trade Development Council to provide a platform for business information. Through the use of periodicals, websites, e-mails, and so on, information on business opportunities on the Mainland can be disseminated. The kinds of business opportunities available to Hong Kong businessmen may range from works projects, development projects, investment and joint-venture projects of various sizes in the towns, municipalities and provinces. This kind of intermediary role played by the offices are very much like that of the trade offices set up by various consulates in Hong Kong to provide information, assist in making contacts, engage in publicity and promotion activities, attract investment and open up opportunities for trade and business co-operation, thereby giving a boost to the overall development of the economy. Thank you, Madam President.

MR ALBERT HO (in Cantonese): Madam President, my speech focuses mainly on the two aspects of improving the existing notification mechanism and how the Government can assist Hong Kong residents in distress in the Mainland.

The problem relating to the notification mechanism was already mentioned by several Members earlier. First, the notification period is very often exceedingly long. There are two reasons for this. However, the vastness of the country is definitely not a reason because we do not rely on horses for delivery of correspondence. Nowadays, we rely on electronic communication. Therefore, the vastness is not a reason.

There are two reasons for the long notification period. First, knowledge. Do many of the local authorities have any knowledge of this mechanism? If they lack the knowledge, how can they act accordingly? Has the Central Government fully publicized the mechanism for the understanding of all local authorities? On the other hand, the mechanism might not be highly respected by the local authorities. To them, it is just a mechanism that is not taken very seriously. As a result, there will be notification only when it is possible, or when there is spare time to do so. Here, awareness is involved. In short, the Government is obliged to reflect to the Central Authorities the number of cases in which notification has been delayed. Furthermore, I also hope the Central Authorities can pay attention to and find out why there could be such a long delay. Is it the case that the local authorities are not aware of the mechanism or they have given the matter the lowest priority? This is the first point.

Second, we have to pay attention to the scope covered by the notification mechanism too. At present, notification might be required if a Hong Kong resident is detained for the first time. However, once this mandatory measure is changed or the detention period extended in future, notification might not be required. Actually, I think that this situation has to be re-examined to determine whether the scope of notification should be expanded suitably. A regular review is indeed essential. Insofar as the cases and officials we have come into contact are concerned, the information carried by such notification is limited. Sometimes, it is impossible for the Government to keep abreast of the latest developments of cases. Very often, it has to rely on the help-seeking family members for information. As a result, how can the Government follow up the cases and offer assistance to the helpless people when it lacks information and finds it hard to request the mainland authorities for information? I can tell

from my experience that the Government lacks proactiveness and has room for improvement.

The third point is even more critical and that is, the role of the Government. At present, the Government seems to give me an impression that its major role is to, on receipt of news about a Hong Kong resident in distress, notify his or her family members and keep them informed of further information received. Even if the Government is willing to make more efforts, it only means that it will reflect to the mainland authorities the problems encountered by the family members on their behalf and ask if the authorities can respond to the enquiries of the family members. However, the Hong Kong Government itself has failed to play a more proactive and positive role in assisting the people in distress. This is especially important because, on the surface of some of the cases of very great concern to us — definitely more than a couple of cases — they have obviously not been dealt with according to mainland laws. I believe the problems are more than, as pointed out by Mr CHAN Kam-lam earlier, a lack of transparency, different systems and different *modus operandi*. In some cases, no prosecution has been instituted even after the victims have been detained for years. Why? Even if the family members of the victims request the Government to investigate the causes, the Government can only say in replying to the family members or explaining to Members that the mainland authorities have guaranteed that the matter will be dealt with according to law. It is indeed problematic that the Government has even failed to ask specifically how the matter will be dealt with according to law. Even in the Mainland, many academics and commentators have made the same comment.

Despite the rapid developments at present, the mainland legal system is still far from perfect, and many law-enforcement officers still have a weak concept of the rule of law. Therefore, no one will deny that there are isolated cases, or even numerous cases, in which someone in the local authorities abuse their authority to achieve their personal ends. As was mentioned by Miss CHOY So-yuk earlier, some local powers in control pervert the law for their personal interests. We therefore hold the view that the Government should assume a more significant role. Actually, the Government only needs to explain clearly to the Central Government our position that we only ask the mainland authorities to provide us with sufficient information to assure us that the Mainland will really act according to the law and there is no people perverting the law or abusing authority. Even if such circumstances arise, we

should endeavour to seek redress from the high authorities of the Central Government so as to do justice to the people of Hong Kong and give them reasonable personal protection. This is by no means intervention. I believe the Central Government will understand our position.

Before the reunification, the British Hong Kong Government was able to do a lot of things through consular channels because Hong Kong was governed by Britain, a nation different from China. However, after the reunification, regardless of the reasons, the protection gained from our own State has become even less than before. So, how do Members feel? From this angle alone, I believe the Central Government will understand that the Hong Kong Government merely wants to strive for some reasonable rights and interests for Hong Kong residents. This should be achievable. I hope the Secretary can adopt this mentality to improve our mechanism and strengthen the role of the Government. Thank you.

MR RONNY TONG (in Cantonese): Madam President, both President HU Jintao and Justice XIAO Yang pointed out only weeks ago that a harmonious society is a democratic society governed by the rule of law, and a harmonious society must rely on its principles and rule of law to uphold social justice.

I believe the majority of Hong Kong people believe in these core values. However, when Hong Kong people visit the Mainland, they will very often find considerable contradictions between their experiences and these core values. Earlier, a number of colleagues told us many appalling, even tragic, stories. Before us are a lot of figures. However, they mean nothing to victims because none of these figures can lessen the harm suffered by them.

I am terribly upset by a recent case, in which a businessman surnamed CHEN, a Fujian delegate to the Chinese People's Political Consultative Conference, was arrested for involvement in a business dispute in the Mainland. However, the Court of Guangdong Province ruled that it had no authority to handle the case on the ground that the offence was not committed in the Mainland. This Mr CHEN is still in jail since he was locked up more than four years ago, and his health condition is worsening. To date, we are still being trapped in a hopeless tangle, despite the fact that we have negotiated with the Government for a long time and held several meetings.

In my opinion, several issues underlying these cases deserve our consideration. Firstly, the Hong Kong Government — particularly our new Chief Executive — encourages Hong Kong people every day to go northward for the sake of integration with the Pearl River Delta (PRD) and keeping with the general social trend. Given the difference between Hong Kong's legal system and the Mainland's, how can Hong Kong people protect themselves when encountering problems in the Mainland? How can the SAR Government provide support to them? Moreover, is the Government obliged to provide support? Secondly, and more importantly, if we encounter problems abroad, we may seek help from the Chinese consulate in that country. On the contrary, when we visit the Mainland and encounter similar problems in the territory of our Motherland, there is nowhere we can go for assistance. Who can we look to? Can the SAR Government sit with its arms folded and merely advise us to seek Chinese consular assistance? It must be borne in mind that we are in the territory of our own country.

In my opinion, the only thing that the SAR Government has been able to do in this respect since the reunification is setting up a so-called notification mechanism. But is this mechanism practically useful? Honourable Members, as well as the Government, should know the answer only too well. This so-called notification mechanism is nothing more than a letter box. But, very sorry, this letter box is unable to, like DHL, provide same-day delivery service. In many cases, the family members of a victim already knew it a long while ago that the victim had been locked up in jail for a long period when they received the notification by the authorities concerned by letter saying: by the way, or sorry, your family member is now in jail. In what way can this notification mechanism actually help the people of Hong Kong?

On the other hand, this notification mechanism does have numerous practical problems. We know that, in many cases, the mainland departments were just too lazy to give a written reply. The mechanism actually exists in name only. In this respect, the SAR Government will again emphasize that under "one country, two systems", we should not interfere with the Mainland's judicial system. However, we do not mean to interfere with the Mainland's judicial system; we just hope that some efforts can be made under the Mainland's judicial system to help Hong Kong people. As I said earlier, even if Hong Kong people encounter a similar situation in a foreign country, we will not interfere in the judicial system of that country. We will only seek assistance from the local Chinese Embassy to examine what can be done under the judicial system of that country to help the Hong Kong people.

Therefore, I hope that the Government will not use "one country, two systems" as a shield. The concept of "one country, two systems" does not mean we can then ignore those Hong Kong people being jailed in the Mainland. I consider this a very important difference. I hope the SAR Government can, first of all, abandon its mentality of regarding the mechanism as an arrangement for enhancing communication. To give "one country, two systems" real respect, the mechanism should be upgraded to the level of a liaison group, with its members comprising lawyers, law-enforcement officers and judicial representatives from the two places. In addition to regularly reviewing and following up detention cases, the liaison group should also be responsible for supporting the family members of detained Hong Kong residents. I also hope that progress can be made in the legal disputes between the two places and the existing agreements for the prisoners of the two places so that some truly meaningful solutions based on mutual respect and assistance can be worked out.

Lastly, Chief Executive Donald TSANG has proposed in this year's policy address that a Mainland Affairs Liaison Office will be set up under the Constitutional Affairs Bureau. Moreover, he will recruit a number of new staff to handle the new task of co-ordinating and promoting ties between Hong Kong and the Mainland and providing additional support for Hong Kong residents travelling to the Mainland. Will the support mentioned include assistance to Hong Kong people? Will necessary support be given when the problems mentioned by me earlier arise, and in detention cases? If the answer is in the affirmative, why is it that the Mainland Affairs Liaison Office will be able to do what the Security Bureau is unable to do? In what aspects is the Liaison Office better than the Security Bureau? If even the most basic protection cannot be provided to Hong Kong people, what is the meaning of setting up a new Liaison Office? I hope the Secretary can explain to us why the Chief Executive, Mr TSANG, put forward this proposal at this moment, instead of enhancing the practical effectiveness of the notification mechanism. Thank you, Madam President.

MR SIN CHUNG-KAI (in Cantonese): Madam President, commissioned by the IBM Corporation, a survey recently conducted by The Chinese University of Hong Kong reveals that 50% of Hong Kong enterprises operating in the Mainland believe that it is most essential to have support in the areas of law, marketing research, strategy and distribution network. 53% of these

enterprises are worried about dealing with mainland authorities. Over 40% of them are concerned about default payments. It is believed this survey has generally reflected the concerns of Hong Kong enterprises doing business in the Mainland. While the Government has no obligation to help local enterprises to expand their distribution networks, the Democratic Party believes that the Government should strive to promote their understanding of the legislation and policies they must comply with when they do business in the Mainland, provide them with assistance in dealing with mainland authorities, and act as the intermediary between the two parties in communication.

The Democratic Party supports the Government's proposal mentioned in the policy address of setting up offices in Shanghai and Chengdu to offer assistance to Hong Kong people visiting these cities. However, the setting up of these offices is inadequate for offering full assistance to Hong Kong people. The Office of the Government of the HKSAR in Beijing received only 500 cases of request for assistance from Hong Kong people in 2004, whereas the Economic and Trade Office of the Government of the HKSAR in Guangdong received just 81 such cases as at May this year since it was set up in 2002. Given that we frequently hear of cases of Hong Kong people being given unfair treatment in the Mainland from the media, the above figures just reflect that Hong Kong people are not familiar with the functions of these two offices, instead of them having no demand for government assistance.

The Democratic Party believes the Hong Kong offices in the Mainland should play a different role than that of other Economic and Trade Offices stationed in other countries. Given that the Government has decided to put all these Hong Kong offices in the Mainland under the purview of the Constitutional Affairs Bureau, the Democratic Party believes that the Government should entrust the task of promoting inward investment from the Mainland to Invest Hong Kong. Meanwhile, the offices in Guangdong, Beijing, Shanghai and Chengdu should assume a new role from promoting Hong Kong business in the Mainland and encouraging inward investment to Hong Kong to offering assistance to Hong Kong people.

First of all, the Government should provide sufficient mainland information to Hong Kong businessmen. Currently, the Economic and Trade Office of the Government of the HKSAR in Guangdong is doing a fairly good job in this area. However, the information it provides is restricted to that of Guangdong, whereas the information is only disseminated to a handful of target

recipients. As a result, many Hong Kong businessmen doing business in the Mainland are completely unaware of the comprehensive information available from the Government. The Democratic Party hopes that the Guangdong Office could step up its efforts in disseminating information through different channels. Apart from the information made available on web pages, enquiry hotlines should be set up, with enhanced publicity at immigration checkpoints in Hong Kong such as posting more posters, setting up hotlines and publicity hotlines at immigration checkpoints, and provision of mainland assistance hotlines, and so on. This will help businessmen in the Mainland to understand better mainland legislation and policies as well as any changes in such matters. On the other hand, since the Government will be setting up two additional offices, the Democratic Party suggests that the four offices located in Shanghai, Guangdong, Chengdu and Beijing should be responsible for each of the region in the four cardinal positions in offering comprehensive services to Hong Kong people. We also expect the four offices to draw reference from the operation of the Guangdong Office in providing more information to Hong Kong people staying in the respective local areas.

Recently, it has been reported in the press that, in response to CEPA, some businessmen attracted to start their business in the Mainland in the form of sole proprietorships have been subject to some unfair treatment, including the levy of admission charges and demand for relocating their business venue, and so on. Although some tenants have lodged their complaints to the mainland authorities and to the Economic and Trade Office of the Government of the HKSAR in Guangdong, the problems have not been resolved satisfactorily. The Democratic Party believes that the dissemination of information alone is insufficient for supporting Hong Kong people working or doing business in the Mainland. The Government should develop a permanent liaison mechanism with the Mainland to inform them of the problems often encountered by Hong Kong people in the Mainland, particularly on issues in relation to policies, laws and implementation of policies, and so on, so that the mainland authorities can be aware of the imperfections in the implementation of their various policies. The two sides should strive to achieve a better understanding of each other through discussions.

The Democratic Party believes the Government should identify ways of providing adequate legal assistance to Hong Kong people who are involved in legal proceedings in the Mainland so as to protect their interests and rights.

Mainland China is the fastest growing market in the world, so it has become a major trend for Hong Kong businessmen to develop their businesses in the Mainland. The Democratic Party believes that the provision of enhanced support services to Hong Kong people trading in or visiting the Mainland for the protection of their rights and interests can help the Mainland in making its policies gradually dovetail with those in the international arena, which is also conducive to its economic development.

Madam President, I would like to recount another incident. Recently a Hong Kong businessman told me an incident. He was driving through the Huanggang checkpoint, and while he was queuing in a line, his car was hit from behind. After his car was hit, a number of people showed up and threatened him to pay for damages amounting to several thousand dollars. I suggested the Hong Kong businessman to hold a press conference to make the matter public. We could probably predict how he reacted though. He said he would rather spend several thousand dollars than getting into all sorts of troubles. That is because if he reported that his car had been hit, the car might have to be impounded; coupled with the process of investigation, collection of evidence, and so on, the car might become unavailable for use for a whole month. There are countless examples such as this one. Hong Kong businessmen would usually react in this way: First, they think that the investigation procedures in the Mainland would be very complicated; second, they only want to concentrate their attention on conducting their businesses, so they do not have the courage to draw public attention to the incidents that happened to them, or even mention such incidents openly. This is because if the vehicle collision was reported to the public security authorities, it might take a very long time to go through all the formalities.

What I would like to bring up is, there is not even a hotline for Hong Kong people to make a complaint when they encounter difficulties in the Mainland, let alone the provision of direct assistance by the Government. Can the Government set up some hotlines, just to listen to such complaints? Even if no substantive assistance can be given, it would be good if the Government can simply listen to their cases. However, the Government has provided no such facilities. May I ask if the Government has set up any enquiry hotlines at which Hong Kong people can call for help? These hotlines can serve a function, that is, after listening to the calls from Hong Kong people who have encountered difficulties in the Mainland, their cases can then be recorded in whatever form,

so that there is the chance that the matter can be brought up for discussion in the meetings of the joint liaison group between Hong Kong and the Mainland. Perhaps the Government may bring up the matter for discussion by saying that they have heard of certain incidents through some informal sources, which are stated not for the purpose of lodging formal complaints. By bringing up the issues in this manner, it may be possible for us to at least raise the matter with the mainland authorities. I believe the Government should consider all these viewpoints and look into these matters from a holistic angle.

With these remarks, I support the motion moved by Mr James TO.

MR ALBERT CHAN (in Cantonese): Madam President, during the past 10 years or so, I have received many requests for assistance in my district from Hong Kong people who have encountered difficulties in the Mainland. Even during the past week or so, I have also received several such cases, though they are different in nature.

Basically, during all these years, many Hong Kong people have been detained in the Mainland due to commercial disputes, family reunion problems, "uncompleted flats", criminal prosecutions, and so on. In some other cases, they may be involuntarily detained by the police either for administrative reasons or for assistance in investigation, and so on. In the face of such countless problems, Hong Kong people virtually feel quite miserable and helpless without any idea where they can seek assistance. As we re-examine all such problems faced by Hong Kong people in the Mainland, it really saddens us very much.

For some of my friends who have gone to the Mainland to make investments after obtaining rights of abode and passports in foreign countries, they were always confronted with a major decision: Should they use the Home Visit Permits or their own foreign passports when they go to the Mainland? We all know that this is a very major decision which many investors had to face a decade or so ago. Many opted to use foreign passports, not Home Visit Permits. Of course, they had to pay between \$100 and \$200 on processing a visa every time they visit the Mainland. In spite of this, they still preferred to use foreign passports. Basically, this decision indicated their distrust of the former British Hong Kong Government. However, it seems that the situation has not changed after 1997.

There are reasons for the present deadlock in which we are caught now. Although the relationship and distribution of power between the Hong Kong Government and the Central Government have already been clearly stipulated in the Basic Law, there is no clear definition of the relationships between the Hong Kong Government and mainland organizations, mainland departments, provincial and municipal governments. Given our constitutional characteristics, what should we do? In particular, what should the Security Bureau of the SAR Government do? Who are we actually? Let us not talk about the Security Bureau first. Even the senior officials of the Public Security Bureau of the Central Government may sometimes not be able to do anything when they encounter some local tyrants in certain provinces, cities or districts. Therefore, regardless of whether you are senior officials of the Public Security Bureau or those of the Hong Kong Government, your situation will not be any better unless you are some rich tycoons, who will enjoy a higher status than the Public Security Bureau and the Security Bureau of Hong Kong, am I correct? Those rich tycoons with special identities, special statuses and special contact channels can continue enjoying their special statuses, special connection and special favour even when they are in the Mainland. So in case they encounter any problems, including commercial problems, very often they can solve them easily, or be given special favour and special benefits. However, when the ordinary people encounter difficulties in the Mainland, they will find themselves in a deplorable situation, with nowhere to turn to for assistance.

Now eight years have passed very quickly, and even TUNG Chee-hwa has already stepped down. Of course, TUNG Chee-hwa will be well taken care of, as reflected by the prosperous development of the Oriental Overseas Group in Shanghai. However, what about the ordinary people? I feel that the Hong Kong Government should handle these problems seriously and identify some ways of assisting Hong Kong people in facing such problems. For certain issues, of course legally we cannot interfere with the law enforcement actions of the mainland authorities or the local administrative measures. However, if there is an independent person, such as a so-called official representative, to make enquiries, sometimes this may help a little.

I remember that I once handled a very strange case which was a complaint about something that had happened in the Mainland. As Mr Ronny TONG said just now, even a delegate to the Chinese People's Political Consultative Conference (CPPCC) could run into trouble. In the two cases handled by me, there were mainland CPPCC delegates asking me for advice. As the CPPCC

delegates from certain provinces and cities, they must be enjoying a very high status. But what bewilders me most is, with their special status, they did not know how to handle the situations when they encountered difficulties. Or when they were subject to certain injustice in the Mainland, they could only seek assistance from Members after returning to Hong Kong, in the hope that the Hong Kong Government could help them in redressing their grievances. But in the end, nothing could be done.

Insofar as these problems are concerned, I think the Hong Kong Government can consider them from two perspectives. Many Members have specifically mentioned that the Hong Kong Government is now proposing to set up more offices in different districts. I welcome this point. But in establishing such offices, the objective is not for having some social chit-chat functions with district officials or establishing some connections. Instead, it is hoped that such offices can do some solid work. If these offices are tasked to do some solid work, then their officers must be bold enough to make enquiries and to reflect the opinions of the people. Whenever complaints are received, they must put them on record and make enquiries with the relevant departments. The Hong Kong Government must really go ahead to sort it out with the Central Government: When representatives of the SAR Government communicate with provincial, municipal or town governments in the Mainland in handling certain issues, what is their status? They cannot go to Beijing for each and every issue they handle and wait for the Central Authorities to act on their behalf. By then that person concerned might have disappeared already, or had been killed altogether.

Recently, I have received a case concerning the way of handling a criminal offence in the Mainland. It was a case of theft. The person concerned had only stolen something. Of course, this was not the only time he did it. But he was eventually imposed a death penalty. He was sent to the jail in Xinjiang and died there. The mainland authorities said that he died of diseases, so nothing could be done. In view of this, the Hong Kong Government must establish a system, a framework and a channel to raise enquiries with the relevant authorities on behalf of Hong Kong people, or reclaim the rights to which they are entitled.

Another approach also merits our consideration, that is, through providing official support or financial subsidies to certain voluntary organizations or non-government organizations, the Government may facilitate their becoming

some non-government pressure groups in the Mainland, thereby exerting pressure on the mainland authorities. Of course, this approach may be more complicated and could involve some political sensitivity. I am not sure whether the Government has the courage of taking this course of action. I remember that years ago there were some community service teams in different districts in Hong Kong to fight for the rights of the residents in squatter areas, public housing estates or temporary housing areas. In fact, these should be gradually developed.

I hope that, through multiple channels, different attempts as well as government intervention and participation, Hong Kong people will no longer have to face the present helpless and deplorable situation of having nowhere to seek assistance. Thank you, Madam President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr James TO, you may now speak on Mr Jeffrey LAM's amendment. You have up to five minutes to speak.

MR JAMES TO (in Cantonese): Madam President, in fact, the amendment has mainly added three qualifying adjectives to my original motion, namely, "more effectively", "more efficiently and appropriately", to which of course I would not object. I feel that they are just some fine-tuning of the wordings of the original motion. Therefore, I am very grateful to Mr Jeffrey LAM.

I feel that the only part which we may have different interpretations is, as mentioned earlier, the additional phrase of "on the premise of 'one country, two systems' and respect for mainland laws". Many Members and I have said earlier in our speeches that, if, on the premise of respect, we can still request the authorities to act according to the laws and express our solemn concerns, then I believe such a premise can still exercise its function to a certain extent. However, it is our earnest hope that such an added phrase will not become a self-imposed restriction on our actions.

Let us consider this question: How can we take the actions "more effectively", "more efficiently and appropriately", as mentioned by Mr Jeffrey LAM? I would like to respond to it by expressing a few points. First of all, earlier in the debate some Honourable colleagues expressed the hope that the Government would not place undue emphasis on trade and commerce when it took certain actions such as establishing the SAR's offices in the Mainland. Of course, many of those affected are actually related to commercial and trading affairs and joint ventures, and so on. However, the most important point is, if the locations of our new offices can better reflect the necessity of our actions, such as the probability of the occurrence of incidents or accidents and the geographical distribution of such offices, then I believe this will better cater to the needs and aspirations of the people, and only in this way can assistance be rendered to Hong Kong people.

Secondly, some Honourable colleagues asked: Could we realistically grasp the full picture of the relevant situations? On this point, we can in fact adopt a more extensive approach in gathering these data or understanding the circumstances. As many organizations, such as the Trade Development Council, or even the various trade associations mentioned by me earlier, all know the existence of such situations, we may let the provincial or municipal governments in the Mainland to establish contact with them. In addition, the SAR Government may also gather more data from this source to piece together the true picture of the situations. The Government may also identify which parts of such information can be supplemented by the various SAR offices in the Mainland.

Earlier, many Honourable colleagues in the business sector have commended the work of the Economic and Trade Office of the Government of the HKSAR in Guangdong. I think this is very good. However, the commendations are just confined to their work on the quota issue. They might have done an excellent job in this respect. However, I hope, and I pray, that the future SAR offices to be established in the Mainland can provide assistance to Hong Kong people and be commended by us in other areas as well. Having said that, I am not saying that their past efforts were all in vain. As a matter of fact, even among cases referred to them by the Complaints Division of the Legislative Council, there have been cases of successful settlement. Of course, the time taken for processing such cases was really very long.

I believe that, if we can escalate the work of processing such cases to a higher level on top of the work previously done by the Administration of the former Chief Executive, the effectiveness and speed may even be better. I hope this can be achieved under the leadership of the new Chief Executive. I hope the Government can particularly be concerned about the case of CHING Cheong because, firstly, this case is well known to all; and secondly, Hong Kong people are most concerned about this case.

Insofar as legal aid is concerned, I do have some personal views. Let us imagine this. Suppose we have encountered certain difficulties in a foreign place. If a sound legal system is in place in this foreign place, we virtually do not have to worry about anything because we shall know where we should turn to for assistance, and most probably we will get it. However, this is not the case we encounter in the Mainland nowadays. First of all, in certain cases, legal aid will only be provided to cases with legal procedures involving death penalty or life imprisonment. Secondly, in the case of Guangdong Province, the means test and eligible income thresholds are different from those in Hong Kong. The average monthly income there was just RMB 300 yuan or so. Please consider this: Even recipients of Comprehensive Social Security Assistance (CSSA) in Hong Kong are not able to satisfy the eligibility criteria, right? So what shall we do? Besides, when one engages the service of a lawyer, the latter would act as if he is "sharing the assets" with the clients, which is very different from the practice in Hong Kong. The lawyer would do some calculations with his client engaging his service, so as to assess how much he will charge if he manages to win the lawsuit. The practice there is really very advanced, and they have already adopted a system which is not implemented in Hong Kong.

Besides, I hope the Government may consider providing assistance in the form of legal aid to Hong Kong people encountering difficulties in the Mainland either by itself or through certain organizations. In this connection, I would like to quote an incident reported in a weekly magazine: In China, there are local governments which act in a most unscrupulous way due to their remote geographical locations. And the crisis brought about by the threat of triad influence has become increasingly serious..... *(The buzzer sounded)*

SECRETARY FOR SECURITY (in Cantonese): Madam President, I wish to thank Mr James TO for moving a motion on assisting Hong Kong residents who

encounter problems on the Mainland, and Mr Jeffrey LAM for moving the amendment.

It can be said that in many ways, the subject of today's motion coincides with a major area of work set out in the policy address published recently, namely, "strengthening the relationship with the Central Authorities and the Mainland". In order to further promote exchanges and co-operation between Hong Kong and the Mainland, the Chief Executive announced that the SAR Government would discuss with the Central Authorities the setting up of additional offices in Shanghai and Chengdu and establish a Mainland Affairs Liaison Office under the Constitutional Affairs Bureau. A number of Members have expressed in their speeches support for the proposed new measures in the policy address and they have also expressed their valuable views on how to strengthen liaison and communication with the Mainland, so as to assist Hong Kong people on the Mainland. I wish to express my gratitude to them here.

The Mainland Affairs Liaison Office under the Constitutional Affairs Bureau will oversee the work of all the offices of the SAR Government on the Mainland and further the co-operation and liaison between the SAR Government and the Central Government and various provinces and regions. Since the Secretary for Constitutional Affairs has to handle the work relating to The Fifth Report of the Constitutional Development Task Force, and since the policy on assisting Hong Kong people is co-ordinated by the Security Bureau to which I belong, I will represent the Government in responding to this motion.

The first part of the motion proposes that the intermediary roles and functions of the offices of the SAR Government on the Mainland be enhanced, so as to assist Hong Kong people in need of help more quickly and satisfactorily. After the reunification, the number of people who travel, work, do business and live on the Mainland has been on the increase. They may encounter various problems and therefore need assistance, for example, problems such as the loss of travel documents or properties, encountering accidents, involvement in business disputes, or detention for suspected violation of the law, and so on.

Under the current arrangement, various departments of the SAR Government, including the Office of the Government of the HKSAR in Beijing (BJO), the Hong Kong Economic and Trade Office in Guangdong (GDETO) and the Assistance to Hong Kong Residents Unit of the Immigration Department (ImmD) will try to understand the details of a case from the person seeking

assistance and offer practicable assistance having regard to the nature and circumstances of the case, as well as the wish of the person seeking assistance. From 2002 to September this year, the ImmD, the BJO, the GDETO have received a total of 9 402 cases of request for assistance and the rate of increase is on average 89% each year. The majority of cases, that is, about 60% of them, involved the loss of travel documents or monies. If assistance from the local authorities is required, the BJO and the GDETO will communicate with the local authorities through an established liaison network and refer and convey the requests and complaints of the Hong Kong people seeking assistance to the local authorities, as well as following up the development of the cases.

What we are particularly concerned about is that from time to time, some Hong Kong people unfortunately encountered accidents on the Mainland and were injured or killed as a result. The relevant authorities on the Mainland, such as the public security authorities, the traffic police and health care personnel will handle such emergencies as quickly as possible. On learning about these accidents, the BJO and the Assistance to Hong Kong Residents Unit of the ImmD will contact the authorities concerned on the Mainland as soon as possible to understand the circumstances and urge them to provide immediate assistance to the Hong Kong people concerned. If necessary, the BJO and the ImmD will also dispatch officers to the location of the accidents to provide assistance to the Hong Kong people affected and to their family members, for example, to visit the injured, to apply for documents on their behalf, to assist them in returning to Hong Kong and to assist the family members of the deceased in applying for death certificates. In the first nine months of this year, the BJO and the Assistance to Hong Kong Residents Unit have dispatched officers to assist the Hong Kong people involved in four traffic accidents as well as their family members.

As regards cases in which Hong Kong people are detained on suspicion of having committed criminal offences, we will notify the family members of the Hong Kong people under detention as soon as possible under the notification mechanism established with the Mainland. We will offer practicable assistance through the established mechanism in response to the requests of Hong Kong people detained on the Mainland and of their family members, including conveying their complaints to the relevant authorities on the Mainland. Where necessary, the BJO will, with reference to the list provided by the All China Lawyers Association, provide Hong Kong residents with information on how to contact the lawyer associations in the relevant provinces or municipalities. The

person seeking assistance can then contact the respective lawyers association direct to get appropriate legal representation. The BJO and ImmD will also maintain close contact with the persons seeking assistance and take appropriate follow-up actions. Earlier, some Members pointed out that there was a lot of room for improvement in the existing notification mechanism. I am grateful to Members for expressing their views. Later on, we will discuss and examine together with the relevant authorities on the mainland in what aspects the existing notification mechanism can be improved.

When the SAR Government provides assistance to Hong Kong people on the Mainland, it must respect the laws on the Mainland and abide by the "one country, two systems" principle. It cannot interfere with law enforcement or legal proceedings on the Mainland, just as the mainland authorities will not interfere with law enforcement and legal proceedings in the SAR. In saying this, I do not mean that we will merely fold our arms, become a messenger and pay no heed to the developments of a case. We have said frequently that our colleagues will follow up each and every case. Of course, when following up cases, we have to take into consideration local circumstances. We do not always adopt a confrontational approach but will follow up the cases together with the authorities concerned on the Mainland. Past figures show that in many cases followed up by us, we were able to assist many Hong Kong people in solving their problems.

Mr James TO also pointed out that although we had noticed some cases that allegedly involved some irregularities, we did not stand up for the person involved in the case. Often, when the person involved in the case or our colleagues noticed areas in the laws of the Mainland that we do not understand, for example, instances of alleged violation of the law, we will definitely convey them to the mainland authorities. Each time I visited the Mainland, I would raise some of the cases with the leaders of the ministries in Beijing. For example, when I recently visited Beijing, I also raised some cases involving detention in excess of the statutory period with the Supreme People's Court and the Supreme People's Procuratorate, for example, cases in which the periods of detention were protracted but no conclusion is in sight, as mentioned by Members. We have always relayed to the leadership organs the concerns of family members and the SAR Government.

Since most of the cases seeking assistance occur in Guangdong Province, the SAR Government is considering enhancing the functions of the GDETO and

posting officers from the ImmD to offer assistance to Hong Kong residents who encounter difficulties in Guangdong Province and its neighbouring provinces. We believe the implementation of this proposal will serve to strengthen the ties between the SAR Government and various provinces and regions, as well as establishing a faster and more direct communication channel. The establishment of the Mainland Affairs Liaison Office under the Constitutional Affairs Bureau to take charge of co-ordinating overall liaison with the relevant authorities on the Mainland will also help take forward the work in this area more effectively and systematically.

The second part of the motion proposes that the communication and the co-ordination mechanisms between the SAR Government and the mainland authorities be developed with a view to enhancing the services provided to Hong Kong residents encountering difficulties. In fact, when dealing with cases of Hong Kong people on the Mainland seeking assistance, the SAR Government always maintains close contact with the relevant authorities on the Mainland. The BJO has accumulated considerable experience in providing assistance to Hong Kong residents in distress on the Mainland. It has also established good liaison and strengthened communication and co-operation with the Central Government and the relevant mainland authorities. In a number of unforeseen incidents and accidents which occurred on the Mainland, the BJO played its role to the fullest and through the liaison network established on the Mainland, and contacted the relevant departments immediately in order to assist the affected Hong Kong people.

Regarding the notification mechanism established by the Public Security Ministry and the Security Bureau, since its inception in 2001, the notification mechanism has been working well. After review, the Hong Kong SAR Government and mainland authorities expanded the coverage of the notification mechanism on 1 June 2003 from cases involving the public security authorities and the Customs to also cases handled by the People's Procuratorates and the Ministry of State Security. We will continue to maintain communication and liaison with the mainland authorities on the operation of the mechanism. As I have said, we hope to identify areas that can be improved under the existing mechanism so that it can tie in with the actual needs.

In economic and commercial matters, the BJO and the GDETO maintain close contact with the corresponding units on the Mainland. By means of

providing information and organizing publicity campaigns, economic and commercial co-operation between Hong Kong and the Mainland is promoted and support is provided to Hong Kong companies. In particular, assistance is provided to Hong Kong businessmen in obtaining information on the latest developments regarding the policies on commerce and trade, laws and regulations and the economy at the local level.

On commercial disputes, the BJO and the GDETO will assist Hong Kong residents having commercial disputes with mainland organizations by referring their requests for assistance to the relevant mainland authorities or providing them with information on the redress channel on the Mainland. If there is an office of the Hong Kong Trade Development Council (TDC) in the area where the incident occurred or in nearby cities, the staff of the office will also offer assistance to the Hong Kong businessmen seeking assistance or refer the case to the appropriate support organizations.

The proposal to establish additional offices in Shanghai and Chengdu and to enhance the functions of the GDETO to provide assistance to Hong Kong people encountering difficulties will further the liaison and co-operation with individual provinces and regions, including those in east China, south China and the southwest on the basis of the existing liaison network established in conjunction with the Mainland, so that investments can be promoted and assistance and services offered to Hong Kong people.

On the third part of the motion, which urges government departments to enhance their efforts in disseminating information to the media, currently, we will disseminate information on the policies, laws and regulations and social conditions on the Mainland through various channels, so as to enhance Hong Kong people's understanding of various aspects of the Mainland, including their rights and duties under the law.

Concerning information on the general social condition, Radio Television Hong Kong has maintained close co-operation with the media and the relevant units on the Mainland over many years. Its radio channels and television programmes have enabled Hong Kong people to understand the situation on the Mainland from various angles, including people's livelihood, the economy, investment, law, education, culture and arts and the situation of Hong Kong people working on the Mainland. Concerning information on trade and

commerce on the Mainland, the BJO, the GDETO, the Trade and Industry Department and the TDC also play a part in collecting information on doing business on the Mainland and disseminating it through the Internet, commercial information circulars and informational publications. The website of the Trade and Industry Department provides links to about 170 websites on trade and investment established by the mainland authorities and offers the most updated information to the sector. The GDETO has also established links with the municipalities in the Pearl River Delta Region and it also uploads economic information on various places onto the Internet.

In addition, The ImmD has published a leaflet entitled "Guide to Assistance Services to Hong Kong Residents on the Mainland". Moreover, to enhance Hong Kong residents' understanding of the legal system on the Mainland, the Security Bureau and the BJO have published booklets entitled "Criminal Procedure Law on the Mainland" and "Criminal Law and Application of Regulations on the Mainland Relating to Detention and Arrest" respectively. The leaflet and booklets may be obtained from the ImmD, Home Affairs Department and the BJO. They are also available on the relevant departments' websites. The website of the Department of Justice also provides information on the mainland laws.

The importance attached to strengthening the co-operation with the Mainland in the policy address coincides with the spirit of the motion moved by the Member today. The SAR Government agrees that the liaison and communication with the mainland authorities should be further enhanced according to the "one country, two systems" principle, on the basis of respect for each other's laws and subject to the availability of resources. The policy address has also put forward specific and pragmatic proposals and measures to take forward the work in this area. The relevant departments of the SAR Government will continue to publish information on the policies, laws and regulations and social conditions on the Mainland to enhance Hong Kong residents' understanding of the Mainland. I hope that through the debate today, Members will gain a deeper understanding of the present and future direction of our work. As to the valuable views put forward by Members, we will relay them to the various departments concerned for detailed examination and follow-up.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr Jeffrey LAM to Mr James TO' motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the amendment passed.

PRESIDENT (in Cantonese): Mr James TO, you may now reply and you have 15 seconds.

MR JAMES TO (in Cantonese): After the motion has been passed and upon the lapse of some time, the Government shall submit a report to the Legislative Council. I just want to say, Mr CHAN, who was mentioned by me earlier, was once a Fujian Province delegate to the CPPCC. I do not know whether he was having bad luck. As he was involved in a case related to the Guangnan (Holdings) Limited, so he still has not been released yet. I hope the Government can follow up this case.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr James TO, as amended by Mr Jeffrey LAM, 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.

THAT THIS COUNCIL DO NOW ADJOURN

PRESIDENT (in Cantonese): Motion for Adjournment.

PRESIDENT (in Cantonese): According to Rule 16(4) of the Rules of Procedure, the total speaking time for Members is 45 minutes.

In response to the circular issued on 17 October, by the deadline of noon yesterday, 13 Members, including Mr LAU Kong-wah, indicated to the Clerk their wish to speak on the motion. Also, another Member indicated to the Clerk after the deadline his wish to speak. Taking into account Rule 18 of House Rules, and having regard to the number of Members who wish to speak, I order that the mover may speak for up to five minutes and other Members each may speak for up to three minutes. The public officer making a reply has up to 15 minutes to speak. I will invite the Member who indicated his wish to speak to the Clerk after the deadline to do so if there is still time left. Those Members who have not indicated to the Clerk their wish to speak will please press the button to indicate their wish to do so. They will be invited to speak if there is still time left.

Those who have indicated their wish do not have to press the button again. I will invite them to speak according to the order in which they have replied to the Clerk. It is now 8.02 pm in the evening — I cannot see very clearly — it should now be 8.01 pm, thanks for the indication. The debate will now begin.

MR LAU KONG-WAH (in Cantonese): Madam President, since the tolls of the Western Harbour Crossing were increased late last year, all the tunnels that were built in the BOT mode, including the Eastern Harbour Crossing, the Tate's Cairn Tunnel and the Tai Lam Tunnel, all increased their tolls one after another within a year. This increased the burden of transport fares borne by the public and they also have to face a protracted wave of increases in the future. The Government should not continue to turn a blind eye to this on the grounds that the tunnel companies are private consortia.

The present problem lies in the legislation. Back in those years, when the Government entered into agreements with the companies operating the Tate's Cairn Tunnel and Route 3, the terms of the agreements provided that if the expected return from the Tate's Cairn Tunnel could not be achieved, an application to increase the tolls could be made. As regards the Route 3 (CPS) Company Limited, it is not even necessary for it to make an application. It can simply make an increase on the appointed day and there is not even any arbitration mechanism. The aforesaid toll adjustment mechanism has operated for a long time. When the Hong Kong economy was booming, we might not have noticed the problems. However, is such an arrangement still suitable for Hong Kong nowadays? The general public, on hearing all this, may think that it looks as though they were lying on the chopping board, to be carved up by others at will. Is it because the authorities have so lost sight of the larger picture that they do not even notice it?

Madam President, at present, the first and foremost task for the Government is to assist the tunnel companies in relieving the pressure of toll increase. For example, it can consider extending their franchises to further reduce the urgency to increase tolls. So long as the franchise agreements are not breached, the authorities should consider following the measures adopted in other places, for example, to implement shadow toll as in the United Kingdom or to follow the example of Shanghai, where the government bought back franchises and operates the businesses itself. In fact, if we really want to solve this problem, it is by no means true that there is no room for manoeuvre or that nothing can be done, as the Government has claimed. The key lies in the resolve, or the lack of it.

In addition, when dealing with tunnel toll increases, often, the Government has little respect for Members of the Legislative Council. For

example, before approvals were given to increase the tolls of the Tate's Cairn Tunnel and Route 3, no prior notice had been given to the Legislative Council. Moreover, in 1995, the then Secretary for Transport made three undertakings when the bill concerning Route 3 was passed and the Legislative Council was assured that the actual Annual Return and financial information of the Route 3 (CPS) Company Limited would be tabled to the Legislative Council regularly. However, none of the undertakings have ever been honoured. This shows that the Administration makes promises very casually, saying something in the past that it cannot deliver nowadays. All in all, after it has had its way, it cannot care less. In fact, even in a market, after haggling, the goods will be sold according to the agreed prices. If people make promises casually, are they not even less worthy than the vendors in the markets?

The Chief Executive, Mr Donald TSANG, has stressed that he wants to achieve "strong governance for the people". To really work for the people, one cannot merely pay lip-service, still less go back on one's words. I hope that the authorities will keep the promises, respond by taking actual actions, keep public interests in mind and honour the promises made to Members of the Legislative Council back then, as well as reviewing as soon as possible the contracts or agreements that have become removed from the reality. Thank you, Madam President.

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

"That this Council do now adjourn for the purpose of debating the following issue: Toll adjustment issues of Tate's Cairn Tunnel and Route 3 (Country Park Section)."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That this Council do now adjourn.

MS MIRIAM LAU (in Cantonese): Madam President, be it vehicle owners, drivers or passengers, none of them will wish to see increases in tunnel tolls because this will surely increase their burden. However, the objective fact is that although in recent years, the Tai Lam Tunnel and the Tate's Cairn Tunnel have become profitable, for a period of time before that, they had been

loss-making and the cumulative amounts of losses are considerable. Since the tunnel companies have proposed the increases according to the rights vested by legislation, coupled with the fact that the tenures of the franchises granted to the two tunnels companies are limited, I am concerned that the two tunnel companies may propose toll increases again in the future in order to achieve a reasonable rate of return.

The root of the problem does not lie in the increase mechanisms themselves. In fact, the toll increase mechanisms for the Tai Lam Tunnel and the Tate's Cairn Tunnel are different. The toll of the former can be increased automatically according to a set of figures and a mechanism agreed beforehand, whereas it is possible to apply for an increase in the toll of the latter in order to obtain reasonable and non-excessive returns. Although the two modes are different, the same conclusion has been reached, that is, both companies want to make an increase. The crux of the problem in fact lies in the great discrepancy between the estimates of the volumes of traffic made by the Government and the actual volumes of traffic. Take the Tai Lam Tunnel as an example, the design capacity of the tunnel is 140 000 vehicles daily but the patronage for the past five years was only about 40 000 vehicles per year, so the revenue has fallen short of the projection in the legislation. This being the case, the tunnel companies have increased the tolls for some types of vehicles in accordance with the legislation.

In fact, when the Legislative Council passed the legislation in respect of the Tai Lam Tunnel in 1995, it never dawned on anyone that the 1997 financial turmoil would occur, that after the reunification, the freight transport industry on the Mainland would increase at such a high rate that the cross-boundary freight transport in Hong Kong will be subjected to such a great impact, that the development of the northwest New Territories would slow down, so that there is a great difference between the projected volume of traffic and the actual situation. Similarly, when the Legislative Council enacted the Tate's Cairn Tunnel Ordinance in 1998, the projected volume of traffic was also a far cry from the actual situation now.

Of course, even though the franchise agreements were entered into long ago and the disparity with the projected volume of traffic is very great, it does not mean that we can only watch on as the tunnel companies keep increasing their tolls because the volume of traffic is not as high as expected or look on as traffic congestions occur on toll-free roads every day.

The Liberal Party is of the view that the Government must find a solution that can effectively divert traffic between the tunnels and improve the present situation. In fact, the improvement measures can take two directions. The first is to raise the utilization rate of the tunnels, whereas the other is to lower the tolls. They have a cause-and-effect relationship with one another. There are many possible measures, one being to extend the tenures of the franchises granted to the tunnel companies so that they can lower their tolls, the other being to discuss the reacquisition of the tunnels with the companies holding the franchises, and yet another is the implementation of shadow toll. I believe there are always approaches that are in line with these two major directions. In sum, I hope that the Government can propose a set of comprehensive improvement measures by the end of this year. I so submit, Madam President.

MR ANDREW CHENG (in Cantonese): Madam President, the issue of the BOT (build, operate and transfer) mode, which is a historical vestige, has given the Secretary a great headache in dealing with issues relating to tunnels, and has also given road-users the impression that the Government is almost incapable of solving this problem.

This historical burden is even greater than originally imagined. Just now, when Mr LAU Kong-wah spoke on behalf of the Subcommittee, he mentioned that in our deliberations, we had found that when the Legislative Council was scrutinizing the Tai Lam Tunnel and Yuen Long Approach Road Bill in 1995, the former Secretary for Transport had gone so far as to make promises lightly on matters that were not within his control and were impracticable. Given that the executive has to be accountable to the legislature, that was obviously an irresponsible move. Therefore, we believe we have to warn the Government that in future debates on the resumption of Second Reading of bills or in meetings, the Secretaries must not lightly make too many promises that cannot be honoured.

In addition, Route 3 also gives us a great headache. Back then, the Government indeed made overly optimistic estimates on the volume of traffic and the profits, so that in the past few years, even though the companies have begun to make profits — and those profits amount to hundreds of millions of dollars — they can still increase the tolls under the automatic toll increase mechanisms, without making any application. Such an arrangement makes us feel that on the issue of franchises and the estimation of profits, the Government

has no alternative but to sit down at the negotiation table with those companies again. I do not mean that the original agreements should be repudiated; I am only requesting that the Government negotiate with the companies concerned in view of the present economic circumstances and the hardships facing the public, to see if it is possible to extend the tenures of the franchises in exchange for lowering the level of profit specified in the agreements, so that the public will not get the impression that even though the consortia have made huge profits, they can still keep increasing the tolls. It seems that this is a residual problem spawned by the policy on tunnels. The Secretary should be able to achieve something. The promises made by the former Secretary for Transport have given rise to the troubled expressions on the face of the Secretary today. However, no matter what, I still hope that she can continue to exert her utmost and address this issue for the sake of the Hong Kong public. Thank you, Madam President.

MRS SELINA CHOW (in Cantonese): I believe all of us should be a bit fairer and should not behave like a bad loser. The Government invited the companies concerned to build the roads, and people doing business will do so only if there are profits to make. The Liberal Party does not take issue with the BOT arrangement because it is in line with the principles of participation by the private sector and enhancing efficiency, as well as the "user pays" principle. This is entirely blameless. For a company that suffered losses in the past, even though it is making a profit now, if we do not take into consideration the losses it suffered in the past but only take into account the profits that it makes currently, I believe that doing so is not being fair.

There is no denying that we are anxious about solving the problems concerning Route 3. We all know that the Deep Bay Link will be commissioned next year. Up to now, we can see that the volume of traffic using Route 3 is only 30% of the original projection and this translates into about 45 000 vehicles. This is a far cry from our original estimate. The eastern link road, which is nicknamed the "appendix" and has been under study for three years, has yet to be constructed. I believe that it will be a delusion if we want to divert vehicles using the Deep Bay Link to Route 3. In view of this, a major crisis relating to traffic in New Territories West and a gridlock may occur.

The transport trades have told us that since the Tuen Mun Highway is toll-free, why should they pay to use Route 3? In fact, the present situation will

pose a serious problem to the traffic in New Territories West. In particular, the Tuen Mun District Council has conveyed to us a number of times that this will only lead to a traffic gridlock in the Tuen Mun town centre. In view of this, the Liberal Party believes that the Government should come up with an ultimate solution by reacquiring Route 3 at a reasonable price and then open it up for use by all motorists for free. In this way, after the commissioning of the Deep Bay Link, the traffic on that road and even the traffic in the whole New Territories West can be channelled. In particular, the prospect that the traffic in Tuen Mun town centre may become paralysed can be averted by such a move.

We very much hope that the Secretary, who is seated here, can solve this problem as soon as possible by such means as the reacquisition of Route 3 at a reasonable price and opening it up for use for free, as I have proposed, as well as resolving the issue of the eastern link road. In fact, it is rather late to do so now, but it is better late than never. I hope that the Secretary can give us some good news as soon as possible and solve this problem in earnest, so that residents in Tuen Mun and New Territories West do not have to be bothered by this problem. Thank you, Madam President.

MR LEUNG KWOK-HUNG (in Cantonese): Madam President, when it comes to a discussion on the issue of tunnels, it has in fact been discussed in this Council many times why such important facilities, why facilities that none of us can avoid using must not become milch cows. The day after tomorrow, I have to appear before Court to explain why I staged a protest at the Eastern Harbour Crossing against an increase in its tunnel tolls. Of course, I will not treat this place as the Court and Members are not Judges. My attitude is in fact very simple. I only want to recount and repeat the views that many people have expressed to me.

The first point that the Government must understand is that, as a responsible Government, its responsibility is to provide reasonable infrastructural facilities so that society and the economy can develop. This is a fundamental responsibility and such a responsibility should by no means be shouldered by the poorest people in society. Of course, there are many ways to go about it if the Government wants to assume such a responsibility. For example, it can do so through the existing arrangement in the taxation system, that is, rich people have to pay more money and the Government transforms itself into a big banker to collect the money paid, then allocates the money to

build infrastructural facilities. After completion, charges should be levied at the lowest rate possible. I remember that in one discussion, it was said that a bridge serving as a link had to be built in a certain district. I asked if it was possible not to charge any toll for using the bridge. I remember that some Honourable colleagues lambasted me, saying that my idea was absurd and there could be no such a giveaway. They thought that I had said that casually. In fact, if we want to do a service to the people, we should let them derive the greatest benefits from logistics. What is called logistics is in fact very simple. It is only about transporting people and goods. Therefore, insofar as this issue is concerned, I believe the Government must not shift all of its responsibilities to the poorest people and make them shoulder the responsibilities. I also utterly oppose the Government's approach of allowing tunnel companies to reap benefits through the so-called build, operate and transfer mode.

I hope the Government will once again hear the voice of the public rather than saying, as Mr LEUNG Chin-man did, that The Link REIT and the Hong Kong Link are the best examples of privatization. I hope the Government will not do so and will not privatize the Hong Kong Link and the airport. I believe this is the wish of the majority of the lower class in Hong Kong. We must understand that should the Hong Kong Link and the airport be privatized, the public will have to foot the bill. All expenses, and even the costs will be recovered from the general public and they will be subjected to the greatest harm. Thank you, Madam President.

MR JEFFREY LAM (in Cantonese): Madam President, the Legislative Council has in fact discussed many times the increases in tunnel tolls and how to divert the uneven volume of traffic from one tunnel to another. I wish to take this opportunity to urge the Government once again to propose substantive improvement measures to divert the traffic from some tunnels as early as possible.

I drive frequently and as a motorist, I fully understand that the increases in tunnel tolls will impose a heavier burden on living expenses. I am also a member of the business sector, so I fully understand that the increases in tunnel tolls will increase freight and operating costs. However, it is even more necessary to respect the spirit of contract. A free market economy is practised in Hong Kong. The increases in the tolls of the Tate's Cairn Tunnel and the Tai Lam Tunnel and the increase in the tolls of the Eastern Harbour Crossing earlier

on were all made according to the terms of the agreements. To change the toll increase mechanisms specified in the agreements arbitrarily is a very dangerous act. This will make investors doubt the rule of law in Hong Kong and the consequences will be dire.

After the tolls of Route 3 and the Tai Lam Tunnel and the Tate's Cairn Tunnel had been increased in June and August respectively this year, the Government undertook to actively study ways of diverting the traffic. However, in a progress report submitted by the Environment, Transport and Works Bureau last week, the Bureau says that this matter is still under study. I hope very much that the Government can announce some good news to us soon.

At present, the volumes of traffic using various tunnels are unevenly distributed, so the transport infrastructure cannot fully serve its intended purpose. For example, the Tai Lam Tunnel has sufficient spare capacity to absorb the increasing volume of traffic using the Tuen Mun Highway, as well as the additional volume of traffic created by the Deep Bay Link, which will come into operation in the future, so that the traffic condition will not deteriorate. However, with the present differences in tunnel tolls, motorists often prefer to use toll-free roads or roads charging lower tolls. In view of this, to standardize the tolls charged by various tunnels and to extend the tenures of the franchises are solutions that can be studied in detail.

I very much hope that the Administration will propose solutions suited to the Hong Kong setting as soon as possible, so that this problem that has been bothering Hong Kong for many years can be solved. I so submit, Madam President.

MR WONG KWOK-HING (in Cantonese): Madam President, a number of Members have spoken on their opposition to the increase in tunnel tolls and their request that the Government take remedial measures, so I will not dwell on them again. On the implementation of major infrastructure projects, I wish to urge the Government to review the build, operate and transfer (BOT) mode and learn a lesson from it.

There is a Chinese proverb that says, "Past experience, if not forgotten, is a guide for the future" and another that says, "It's not too late to mend the fold

even after the sheep is lost". Let us see if the Government has tried to mend the fold. I found that it has not. I invite Members to look at paragraph 17 of the policy agenda. I will now read it out to Members, "Examining the opportunities for greater private sector involvement in public works projects to deliver better value for money and help meet economic and fiscal policy objectives for the Government." The Government is still sticking to its old rut and has not learnt any lesson. I found that there are at least four items in the policy agenda that follows the same old pattern, the first being the reprovisioning of the Sha Tin Water Treatment Works, the second being the programme to privatize the Airport Authority, on which the Government is still looking for a legal basis, and others are the construction of the new cruise terminal, two projects in Kwun Tong and Tseung Kwan O involving private sector participation and management, and this mode is adopted even in the provision of cultural and recreational facilities. Therefore, I hope that the Government will really learn a lesson from its experience and really hear the opinions, grievances and resentments of the public and the unanimous view of various major political parties in the Legislative Council, that is, we hope that the Government can learn a lesson from its experience and must not make the same mistakes again, lest it will lose its credibility among the public.

The three promises made by the Secretary for Transport in 1995 have so far not yet been honoured. Mr LAU Kong-wah has already pointed out that this shows the credibility of the Government has gone bankrupt. We do not wish to see the Government, which is trying to achieve strong governance, tumble and fall again. However, has the Government ever considered this matter seriously? In the policy address and the policy agenda, which advocate strong governance, we found that the Government has still not really learned from past experience. The two Chinese proverbs have put it very aptly: "Past experience, if not forgotten, is a guide for the future", and "it's not too late to mend the fold even after the sheep is lost". Has the Government really learned any lesson and drawn any conclusion from its experience? The Government continues to make mistakes and adopt a flawed mode, so what can be done? I hope that the brief comments made by Members today can draw the attention of the Government and the Bureau, and that the Government will respond to Members' appeal seriously because if public indignation continues, its governance will neither be strong nor effective and even greater confrontation with the public will emerge.

Thank you, Madam President.

MR CHEUNG HOK-MING (in Cantonese): Madam President, the subject of today's adjournment debate is the adjustment of tunnel tolls. I remember that last year, when the tolls of the Eastern Harbour Crossing were adjusted, the public were very indignant and so far, a satisfactory solution has not been found. Such is the undesirable consequence created by the build, operate and transfer (BOT) mode in tunnel management adopted by the Government in the past.

On the increases in the tolls of the Tate's Cairn Tunnel and the Tai Lam Tunnel, I wish to raise some specific issues today. I am a directly elected Member returned through the New Territories West constituency. To use the Tai Lam Tunnel as an example, recently, I have received complaints from numerous voters, who expressed their concern that after the commissioning of the western corridor in the middle or at the end of next year, a large number of vehicles from the Mainland will make use of the western corridor. Some vehicles will be diverted from there to the Tai Lam Tunnel and others to the Tuen Mun Highway. Of these two, a toll is charged for using the tunnel but not for the highway. If drivers are to choose, they will definitely take the Tuen Mun Highway to the urban area. However, in the interim or the next two years, the Government does not have any plan to channel vehicles from the Tuen Mun Highway to the Tai Lam Tunnel. In other words, all the vehicles will cram onto the Tuen Mun Highway.

The public have always stressed that they hope some incentives can be offered to divert vehicles to the Tai Lam Tunnel. However, the Government has virtually become a toothless tiger now. It is incapable of halting any further adjustments in the tolls of the Tai Lam Tunnel in future. I believe this is the undesirable outcome of the Government's past actions. Therefore, the DAB has always proposed that the Government review the BOT mode and examine if there is any room to offer incentives to attract vehicles to use the Tai Lam Tunnel and alleviate traffic congestion. This is one of the issues.

In addition, as a long-term solution to the problem, is it possible to try to acquire the tunnels from the developers at reasonable prices? This is also an issue that the public and we are equally concerned about. Thank you, Madam President.

DR FERNANDO CHEUNG (in Cantonese): Madam President, recently, the tolls of the Eastern Harbour Crossing (EHC) were increased by a hefty 60%,

thus provoking a public outcry. However, apart from the hefty increases made by the EHC, the tolls of several other tunnels have also been increased one after another this year. In June this year, the tolls of the Tai Lam Tunnel were increased and the toll for private cars was increased by \$3 to \$15, with the rates of increase being 10% to 25%. In July this year, the statutory tolls of the Western Harbour Crossing (WHC) were also increased according to an automatic increase mechanism and the statutory toll for private cars was increased from \$60 to \$70, however, since the WHC continues to offer concessions, the actual tolls remain unchanged. However, although the profit of the WHC was close to \$300 million in 2001-02, it is still below the statutory minimum net income from shares, which is \$713 million. In other words, the WHC can revoke its concession at any time and the actual tunnel tolls will then increase significantly. In August this year, the tolls of the Tate's Cairn Tunnel were also increased. The rates of increase of the new tolls, which came into effect on 1 August this year, ranged between 6% and 30%.

We can see that after the spate of increases in tunnel tolls, the burden borne by the public has also increased. The increasing transport costs and fuel prices has directly impacted on the livelihood of the public. Concerning the operation of the major transport links in Hong Kong, since it was the Government and the Executive Council that dealt directly with the consortia in the past, the negotiations or the operation of the tunnels were all carried out in a black box. The transparency of the operation and the financial situations of these consortia is extremely low. We feel that we can no longer allow them to operate major highways and tunnels that have a direct bearing on the public's livelihood and the traffic in such a way. In the past, we have learned many lessons and I agree with the recommendations made by the Subcommittee tasked with studying the Tate's Cairn Tunnel Ordinance in its report to substantially enhance the transparency of the operation of the consortia concerned and show greater concern for the public's livelihood. We must no longer allow these consortia preoccupied with profit-making to lead us round by the nose. Thank you, Madam President.

MR ALBERT HO (in Cantonese): Madam President, both the Tate's Cairn Tunnel and Tai Lam Tunnel are major trunk routes connecting the New Territories and the urban areas. The inauguration of the Hong Kong-Shenzhen Western Corridor next year will impose very heavy traffic pressure on New

Territories West and the Tai Lam Tunnel will even have to play a diversion role. We are now facing the problem of persistently high tunnel tolls and there may even be the problem of further toll increases. Motorists have found it very hard to cope, thus rendering it difficult to achieve any traffic diversion among tunnels. This is obviously the legacy of the failure to set down any regulatory mechanism for tunnel tolls when it was decided to adopt build, operate and transfer (BOT) for tunnel construction. Irrespective of the mistake, we must still address the problem today. And, the most pressing problem now is how we can help the people cope with the exorbitant tunnel tolls.

Madam President, I wish to emphasize that we are not asking for any violation of the agreements signed. Members belonging to the Liberal Party should not shout around so very frequently, saying that some Members are pressing the Government to violate the agreements executed. This is not the case at all. Rather, we are of the view that for the protection of the public interest, the Government and tunnel companies are obligated to conduct negotiations and adopt various means to tackle the common problem faced by the people. There are many different means. One example is a franchise extension in exchange for stable tolls. Alternatively, the Government may of course reach agreements with the tunnel companies in buying back the tunnels at reasonable prices, and then set up a tunnels authority.

I wish to emphasize once again that though I am speaking for the Democratic Party, I believe what I am saying can also reflect the views of many other people. The point I am trying to strike home is that although the tunnel companies are private organizations, they must still discharge their obligations as a corporate citizen. They must not take advantage of others' difficulties. They must not put forward any unreasonable demands to the Government, nor must they fleece the people. If the consortium owning these two tunnels does so, it will be boycotted and condemned by the people.

MR ALBERT CHAN (in Cantonese): Madam President, some Members said that in opposing the present increases in tunnel tolls, we want to behave like a bad loser. In fact, it is the tunnel companies that are doing so. This is because back in those years, when the Government proposed the legislation — some Members seated here also supported the relevant legislation back then, in particular, that on the Tai Lam Tunnel — some Members pointed out that the Legislative Council would give the tunnel companies a free hand in doing

whatever they wish. The facts now prove that those Members who voiced their opposition actually were far-sighted.

One of the evidence indicating that the tunnel companies are taking the winnings but sacking the losses is that they are unwilling to disclose their justifications. The tunnel companies said that the profits they have made are not enough, however, how are their financial situations? The Tate's Cairn Tunnel Company is being more reasonable in that it has provided the relevant justifications to Members for consideration. After looking at them, we have a better idea of the company's financial position and know that it has failed to meet the projections back then and to achieve its targets in respect of financial returns.

However, when we asked the company operating the Tai Lam Tunnel for figures, financial information, information on interest rates and the total amount of capital invested by the company, it was unwilling to divulge anything. We have to know how much money the company has invested in order to calculate whether its rate of return is reasonable. However, it was unwilling to elaborate further and it only provided some combined figures. Did the company borrow any loan for investment purposes? It did, but did it calculate the loans as part of the investment and seek return on them?

Many subcommittees in the Legislative Council have raised queries, however, the company operating the Tai Lam Tunnel was unwilling to explain no matter how. Such behaviour is boorish and it is just like the MTR Corporation Limited, which is overbearing and bullying because it has money. The Legislative Council back in those years actually played a part in making the company so rich, overbearing and impudent, swaggering like a crab. Such actions really make the public seethe with anger. Therefore, the Government should not continue to tolerate such chaebols who use their power to bully others and do whatever they like by relying on a bad piece of legislation enacted back in those years, which is just like Article 23 in the Basic Law. The Government says that it wants to achieve strong governance, however, in the face of these consortia, it is really like a toothless tiger, so how can it achieve strong governance? If the Government really wants to demonstrate its strong governance, it should flex its muscles and let the consortia see that the Government can exert its influence. Although the Secretary is a woman unlike us who are cruder and like to talk about using power, if the Government really wants to show its authority, it must do something to influence the tunnel companies. I hope that the Government can establish an authority for the

tunnels and bridges and take some measures to influence the companies concerned. The Government must make them feel the pinch and dent their profits, so that they can no longer make even more profits through toll increases. Since each increase will bring them more profit, it is only natural that they will continue to effect increases. The Government must find ways to dilute the desirability of making increases, such as taking other measures to influence the volumes of traffic. Thank you, Madam President.

MS MARGARET NG (in Cantonese): Madam President, as Mr Ronny TONG has to attend a public debate on the political reform package, he cannot stay to deliver his speech. The views that I am going to present are the same as his.

First of all, with respect to the toll increase of the Tate's Cairn Tunnel, the ordinance itself does not set out the criteria that the Chief Executive in Council should follow when determining toll increases. As far as the current decision of approving the toll increase is concerned, the Administration has never given an account to the Legislative Council and the public on the criteria considered by the Chief Executive in Council when determining the toll increase, but only said generally that all relevant factors have been considered.

Given this, as the representative of public opinion, the Legislative Council does not have enough information to judge whether the decision is compatible with public interest, rendering us impossible to fulfil the constitutional role under the Basic Law to monitor the executive authority.

The same applies to the decision of approving the toll increase of the Tai Lam Tunnel. The Administration indicated that it had not discovered any calculation error in the Actual Net Revenue (ANR) statement submitted by the tunnel company, and thus it trusted and adopted the statement and did not find it necessary to refer the matter to an independent expert for verification. However, under the Project Agreement, without the consent of the tunnel company, the Government could not disclose the tunnel company's financial information, including the ANR statement. It thus rendered the Legislative Council and the public impossible to effectively monitor that decision.

Moreover, at the resumption of the Second Reading debate on the bill back in then, the then Secretary for Transport undertook to submit to the Legislative Council on a regular basis financial information of the tunnel company, including

the three-year rolling projection of net revenue, annual budget of operating costs and annual audited statement of ANR, in a bid to enhance the transparency of the franchise operation. To our surprise, the Government now said that the undertakings were not in line with the provisions of the Project Agreement and the ordinance, and thus refused to honour these undertakings. In the absence of such basic information, how could Members judge whether the decision by the Government to trust and adopt the ANR statement is correct?

The heavy public transport expenses have already placed a weighty burden on the middle and lower class, in particular, job-seekers living in the New Territories. Therefore, the Government must try its utmost to improve the current toll adjustment mechanisms and enhance the transparency of these public transport and tunnel franchisees, so that the public can monitor them effectively.

The Article 45 Concern Group proposes setting up an independent mechanism which is given the necessary authority to effectively monitor the calculation of income and expenditure of the tunnel. Thank you, Madam President.

PRESIDENT (in Cantonese): There is still eight minutes left for Members to speak. Does any other Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now call upon the Secretary for the Environment, Transport and Works to speak.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): Madam President, I am aware that the toll increase issue, which has been discussed numerous times before, is a matter of wide concern both in the community and in the Legislative Council. I am very grateful for Members' renewed effort today to sum up this issue. I believe we have thus learned a lot of lessons. However, since different commercial practices were adopted in the '80s and the '90s to construct and operate tunnels, each tunnel is unique in its own right. Here, I would like to sum up Members' concern.

First, during the legislative process of the Tai Lam Tunnel and the Western Harbour Crossing (WHC) in 1995, the then Secretary for Transport once promised or mentioned that he would present a financial report to the Legislative Council. At that time, even the idea of arbitration was raised. But actually, this was not stated in the relevant agreements. As such, we can hardly request these companies to submit the relevant data to the Legislative Council and publish the data. Now, we have again separately requested the two companies to submit their financial data to the Legislative Council on a yearly basis for auditing or reference. However, our requests are only partially met so far. We will give another account to the Panel on Transport of the Legislative Council late this year.

Second, the Chief Executive in Council will consider all relevant factors upon receiving a toll increase application from any of the tunnel companies, and the application will be dealt with in an objective and fair manner. The factors for consideration include: the tunnel company's financial condition, the rate of increase, the impact of the increase on traffic, the public's level of acceptance, and whether the reward of the company is reasonable and not excessive, and so on. Insofar as the Eastern Harbour Crossing (EHC) and the Tate's Cairn Tunnel are concerned, what we can do, according to their contracts, is to list out the actual profits and operating information in the documents presented by us. If Members still have any opinions, they may request the companies to submit more information to enhance their operational transparency.

In our discussions with franchisees, we must also honour the pledges made in the agreements. Society must be operated on the basis of respecting the contractual spirit. We are aware that the EHC has recently raised its toll substantially. The same applies to the WHC, as well as the Tai Lam Tunnel. So, we have to conduct reasonable discussions with the operators. This is because there must be some problems with the operators, whether in terms of operation or profit-making. They may not be able to achieve their investment estimates too. As such, we have to conduct discussions in various aspects. What are we going to discuss? What reasonable arrangement do we expect to reach eventually? All these are crucial. To start with, it is definitely our hope that the operators can come up with a reasonable toll, which means that the toll is set at a level that can achieve the purpose of diverting traffic and thus improving traffic flow. Under the present economic situation, the charging standards of various operators are considered reasonable.

It was mentioned by many Members earlier that a franchise could be extended under the operation of the "Build-Operate-Transfer" (BOT) model. Under such circumstances, internal rates of return must be calculated. The rates of return of a few tunnels were set when Hong Kong economy was at its peak. Can they still be considered reasonable and feasible in the present-day circumstances? In this respect, I believe even the operators know it very well that their decisions must make allowance for the marked discrepancies between the overall operation and their initial estimates. Actually, the major discrepancy lies in the population growth and the number of vehicles using the tunnels. The population growth projected at that time far exceeded the actual population growth at present. Members should have heard that the traffic flow projected at that time was 140 000 vehicles, whereas the number of vehicles at present is probably only 40 000 or so. Therefore, having regard to various factors, we hope to start discussing with the tunnel companies with a view to achieving reasonable diversion. We have also mentioned the feasibility of levying a shadow toll. We will give another detailed report on the relevant progress to the Panel on Transport of the Legislative Council late this year. However, it must be pointed out that the relevant discussion must be conducted under the prerequisite that negotiations between the Government and the franchisees must not be affected. This is because sometimes it may not be possible for us to reach the most reasonable settlement or obtain mutual consent under pressure.

Lastly, I would also like to say a few words about the BOT model as Members appear to be doubtful of its effectiveness. A lot of Members even think that the BOT model should be withdrawn. However, in times of rapid social and economic development, the BOT model can enable social resources to be better utilized and infrastructure facilities developed timely in keeping with the rapidly-expanding economy. Of course, the Hong Kong Government has always been, relatively speaking, financially healthy. Therefore, a lot of infrastructure projects can be undertaken with government resources. During certain periods, such as in the '80s and the '90s, it was indeed necessary to do so. However, we cannot guarantee that such needs will not arise in the future. Actually, the BOT model is not without success examples. The Cross Harbour Tunnel (CHT) is one such example. Through BOT, the tunnel operator, the Government and the people have benefited. Of course, unsuccessful cases could also be found. Some of them occurred when a BOT agreement was struck when economic development was at its peak, and no mechanism was put in place to allow the operator to share with the Government the risk of raising or

reducing toll when losses or profits became exceedingly high. Actually, in places elsewhere such as Australia, a new package for handling the BOT model has already been introduced. However, in the entire course of social and economic development, the effectiveness of the BOT model cannot be denied. This mode of operation is not necessarily bad. Only that a mechanism must be put in place so that there is room for manoeuvre.

The withdrawal of the BOT model is also a subject of great controversy. Although such cases have been found on the Mainland, the greatest risk of the BOT model lies in the construction process, thus making it necessary for the risks arising out of the construction works to be shared. Therefore, we must be fair. The withdrawal of the BOT model involves more than the return of investment cost to a contractor. Opportunity cost, or the opportunity of making a profit and expected revenue, has to be calculated as well. This is vital to the operation of the entire investment market. Insofar as the Government is concerned, this issue is not to be decided by my Policy Bureau. As regards the public finance policy, should Members consider there is such a need, we can perhaps discuss the matter again in detail, as every economic means has its pros and cons.

With respect to the management of tunnels, we expressed our wish during the discussion of achieving reasonable traffic diversion and charging levels and, under the contractual spirit of the BOT model, reaching an agreement with the operators.

Thank you.

PRESIDENT (in Cantonese): I now put the question to you and that is: That this Council do now adjourn.

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, 26 October 2005.

Adjourned accordingly at eleven minutes to Nine o'clock.

Appendix 1**REQUEST FOR POST-MEETING AMENDMENTS**

The Secretary for the Environment, Transport and Works requested the following post-meeting amendment

Line 4, second paragraph, page 156 of the Confirmed version

To amend "..... more than 400 buses (67.9%) are equipped" as "..... more than 4 000 (67.9%) are equipped" (Translation)

(Please refer to line 6, first paragraph, page 302 of this Translated version)

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4. The issuer eligibility requirements are intended to provide a high degree of assurance, but not a guarantee, that issuers will be able to fulfil their obligations arising from DW issuance. Since 1989, there has been only one case of an issuer default on its obligations as a DW issuer. DW are complex leveraged products and pose numerous risks that investors should be aware of. For this reason DW may not be suitable for many retail investors and investors should make sure they understand warrants and the related risks before trading in them.

DW Liquidity

5. Issuers are required to provide liquidity for DW issues. To comply with this requirement issuers are required to appoint a Liquidity Provider (LP), who must be a Stock Exchange Participant and who may be either a member of the issuer's group or an independent party who acts as the issuer's agent. Liquidity may be provided by means of market-making in which either two-sided quotes are made on a continuous basis or are made in response to a quote request. Issuers should specify the applicable spread interval between their bid and ask prices in the listing document. Liquidity should be provided commencing no later than five minutes after the market opens and should be for a minimum of 10 board lots. There are exemptions for fast markets and for when an issuer has no DW available to sell. All dealings by an issuer in one of its DW must be conducted through the applicable LP. The LP for each DW has a broker number starting with "95" or "96" thus providing transparency of the LP's trading activity.
6. The requirement to provide liquidity was introduced in 2002 after the market-wide consultation conducted in 2001¹. The requirements are intended to help ensure that investors are able to purchase and sell DW throughout an issue's life in what are considered to be retail-sized amounts. These requirements were set at a light level to enable market forces and competition to drive issuers to provide service levels beyond those noted above. Other exchanges also address the issue of post-listing liquidity in DW by likewise requiring issuers to provide a market-making capability for their DW. Market-making is also a normal feature of the exchange-traded options markets internationally.

Further Issues of DW

7. As noted above issuers are required to ensure a certain level of liquidity for their DW. One of the exceptions to this requirement is where the issuer has sold the entire approved supply of the relevant DW in which case it is no longer required to quote offer prices for that issue. When over 80 per cent of a DW issue has been sold an issuer may, but is not required to, create an additional supply of that issue by way of a Further Issue.

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¹ Consultation Paper: The Listing Rules of the Stock Exchange of Hong Kong Relating to Derivative Warrants published May 2001 by HKEx
Newsrel/125