

# **OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 2 November 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 JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHAN YUEN-HAN, J.P.

THE HONOURABLE BERNARD CHAN, J.P.

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

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

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI, J.P.

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

THE HONOURABLE WONG YUNG-KAN, J.P.

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

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

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

THE HONOURABLE CHOY SO-YUK, J.P.

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

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

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

THE HONOURABLE VINCENT FANG KANG, J.P.

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

THE HONOURABLE LI KWOK-YING, M.H.

DR THE HONOURABLE JOSEPH LEE KOK-LONG

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

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

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

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

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

**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 WONG YAN-LUNG, S.C., J.P.

THE SECRETARY FOR JUSTICE

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

SECRETARY FOR HOUSING, PLANNING AND LANDS

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

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

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY  
GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

**TABLING OF PAPERS**

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Water Pollution Control (General) (Amendment) Regulation 2005 .....	178/2005
Specification of Arrangements (Government of the Kingdom of Thailand) (Avoidance of Double Taxation on Income and Prevention of Fiscal Evasion) Order .....	179/2005
Air Pollution Control (Reduction of Fee for Permit for Open Burning) Regulation 2005 .....	180/2005
Air Pollution Control (Specified Processes) (Amendment) Regulation 2005 .....	181/2005
Ozone Layer Protection (Fee Reduction) Regulation 2005 .....	182/2005
Noise Control (General) (Fee Revision) Regulation 2005 .....	183/2005
Noise Control (Air Compressors) (Fee Revision) Regulation 2005 .....	184/2005
Noise Control (Hand Held Percussive Breakers) (Fee Revision) Regulation 2005 .....	185/2005
Dumping at Sea (Fees Adjustment) Regulation 2005 .....	186/2005
Building Management (Fee Revision) Regulation 2005 ..	187/2005
Hotel and Guesthouse Accommodation (Revision of Licence Fees) Regulation 2005 .....	188/2005

Preservatives in Food (Amendment) Regulation 2005 ...	189/2005
Dangerous Drugs Ordinance (Amendment of Second Schedule) Order 2005.....	190/2005
Securities and Futures (Investor Compensation — Levy) (Amendment) Rules 2005 (Commencement) Notice.....	191/2005

### Other Papers

- No. 22 — Audited Statement of Accounts of the Customs and Excise Service Welfare Fund and its Summary, together with the Director of Audit's Report
- No. 23 — The Government Minute in response to the Report No. 44 of the Public Accounts Committee dated July 2005
- No. 24 — The Government Minute in response to the Seventeenth Annual Report of the Ombudsman issued in June 2005
- No. 25 — Hong Kong Science and Technology Parks Corporation Annual Report 2004/2005
- No. 26 — Hong Kong Productivity Council Annual Report 2004/2005
- Report of the Bills Committee on Revenue (Abolition of Estate Duty) Bill 2005

### ADDRESSES

**PRESIDENT** (in Cantonese): Addresses. The Chief Secretary for Administration will address the Council on "the Government Minute in response to the Report No. 44 of the Public Accounts Committee dated July 2005".

**The Government Minute in response to the Report No. 44 of the Public Accounts Committee dated July 2005**

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Madam President, in response to the Report No. 44 of the Public Accounts Committee (PAC), I lay on the table of the Legislative Council today the Government Minute.

The PAC report examines two subjects in the Director of Audit's Report No. 44. The Administration is grateful for the time and effort of the PAC devoted to this report.

I would like to respond to some of the comments made by the Chairman of the PAC, who spoke on 6 July when tabling the PAC report.

In the 1999 policy address, the Administration announced the targets of reducing the total emissions of respirable suspended particulates and nitrogen oxide from vehicles by 80% and 30% respectively by the end of 2005. The package of emission reduction measures introduced since 1999 has proved to be very effective. We expect to achieve these reduction targets by the end of this year. Indeed, the number of smoky vehicles spotted in the streets has already been reduced by over 80% since 1999.

Notwithstanding the success in reducing vehicular emissions, Hong Kong is increasingly affected by air pollution at the regional level. Working closely with the Guangdong authorities is therefore a key element to effectively improve our air quality. As early as 1999, the Hong Kong Special Administrative Region Government and Guangdong Provincial Government started a joint study on the air pollution problem. Based on the findings of the joint study, the two Governments reached a consensus in April 2002 to reduce pollution in the entire Pearl River Delta (PRD) Region by 2010. A PRD Regional Air Quality Management Plan (the Plan) was jointly promulgated in December 2003. The two Governments have set up a joint special panel to take forward various measures under the Plan. As the first milestone under the Plan, a regional air quality monitoring network is now under testing and will become fully operational within this year.



There is no room for complacency in combating pollution. We welcome suggestions in the PAC report to help improve our emissions reduction programmes. The Transport Department (TD) and the Environmental Protection Department (EPD) have already put in place some of the recommended improvement measures, such as revising the standing instructions on smoke test procedures to take into account comparable European Community and the United States procedures, and procuring tachometers to carry out maximum engine speed check during free acceleration smoke tests to guard against engine tampering. In parallel, the two departments are consulting the transport trades on the feasibility of tightening the TD's smoke opacity standard to align it with that currently adopted by the EPD, and shortening the prescribed period for smoky vehicle owners to pass the smoke test. We are also seeking to expand the refilling network of the liquefied petroleum gas (LPG) and are trying hard to search for a suitable site for setting up a new LPG terminal on Hong Kong Island. We will continue to make our utmost effort to strengthen the diesel vehicle emission controls so as to further improve the air quality.

Turning to the PAC's findings on the Postal Mechanization System (POMS) at the Air Mail Centre (AMC), we accept the recommendations in the PAC report.

The Post Office has established new departmental rules to strengthen the monitoring of the performance of consultants/contractors. For the new project to replace the Mechanized Letter Sorting System (MLSS) at the General Post Office (GPO) and the International Mail Centre (IMC), the Post Office has set up a Steering Committee chaired by an Assistant Postmaster General to monitor the project. The project officer is required to submit monthly progress report to the Steering Committee which will present a progress report to the Postmaster General quarterly. Any urgent matters will be dealt with by the Postmaster General.

As for other projects of a value exceeding \$1.3 million, a Steering Committee will be set up to monitor the progress. It is required to submit a written progress report to a directorate officer appointed by the Postmaster General to oversee the project at least quarterly, fully documenting the progress and the rationale for project decisions. Any exception to such rules requires the approval of Postmaster General personally. For projects at or below \$1.3 million, they will be monitored by the project officer and his/her supervisor.

Separately, the Post Office has continued to explore ways to improve the performance and utilization of the POMS further. Compared with 2004-05, the overall performance of the POMS has generally improved in the first quarter of 2005-06. Meanwhile, the Post Office is studying the feasibility of utilizing the spare capacity of the POMS at the AMC to take up further mail processing work currently undertaken at the GPO and the IMC. The Post Office will take the study result into account in planning the replacement of the MLSS at the GPO and the IMC.

The Post Office has also established new departmental rules to strengthen its financial monitoring and payment systems to enhance the checking procedures for capital projects of a value exceeding \$100,000. The new rules set out in detail the checking procedures before effecting payment, and the responsibilities and authority of the respective officers in the process. To ensure full compliance with the control procedures, the Post Office's Internal Audit team will also conduct audit checks on the payment records.

Finally, I wish to echo the PAC Chairman's remarks that the PAC plays an important role in safeguarding public interests and in pressing for the delivery of high quality public service in an efficient and cost-effective manner. The Administration looks forward to receiving its constructive comments and wise counsel. As always, we shall respond positively and promptly.

Thank you.

**PRESIDENT** (in Cantonese): The Chief Secretary for Administration will address the Council on "the Government Minute in response to the Seventeenth Annual Report of the Ombudsman issued in June 2005".

**The Government Minute in response to the Seventeenth Annual Report of the Ombudsman issued in June 2005**

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Madam President, in response to the Seventeenth Annual Report of the Ombudsman (the Report) tabled at the Legislative Council on 22 June this year, I now present the Government Minute setting out the Administration's response to the recommendations made in the Report.

The Government Minute covers all the investigations which The Ombudsman dealt with in the Report. With only a few exceptions, government bureaux, departments and public bodies have generally accepted The Ombudsman's recommendations and taken steps to implement them. In the few cases where the responsible departments have not been able to adopt the original recommendations in full, they have explained the reasons and their alternative measures in the Government Minute.

The Government Minute also includes responses by relevant public bodies such as the Hospital Authority and the Office of the Privacy Commissioner for Personal Data. Although these public bodies are not government departments, they hold themselves accountable to the public by publishing their full responses to The Ombudsman's recommendations in the Government Minute.

The community widely recognizes the statutory role and performance of The Ombudsman in handling public complaints against maladministration. It is the common objective of the legislature and the Government to upgrade the quality of public service, the effectiveness of administration as well as the transparency and accountability in governance. In fulfilling the objective, the Administration will continue to pledge full support for the work of The Ombudsman. I hope the positive responses and undertakings by bureaux and departments recorded in the Government Minute speak volumes of this pledge.

Thank you, Madam President.

## ORAL ANSWERS TO QUESTIONS

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

### Poverty Alleviation Initiatives

1. **MR FREDERICK FUNG** (in Cantonese): *Madam President, in his policy address delivered last month, the Chief Executive said that district-based poverty alleviation initiatives would be strengthened. In this connection, will the Government inform this Council:*

- (a) *whether it has conducted independent and thorough studies of the poverty problems in various districts to help the authorities understand the causes and state of poverty in these districts; how it will address the poverty problems in various districts, and whether it will set time-bound targets on poverty eradication for various districts;*
- (b) *how it will pull together people from various strata of the local communities to take part in poverty alleviation initiatives; of the respective roles played by local social welfare agencies, poverty concern groups and District Councils, and the current progress of poverty alleviation initiatives in various districts; and*
- (c) *of the resources available to assist poverty alleviation initiatives in various districts, the amount of funds involved and the specific timing of funding allocation, and whether all the revenue to be generated from the Personalized Vehicle Registration Marks (PVRM) Scheme will be used for district-based poverty alleviation initiatives?*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, as the area covered by the question is wide-ranging and includes three parts, so my main reply will also be more extensive.

Madam President, in order to better co-ordinate the work of government departments in alleviating poverty at the district level and to pull together district resources, the Commission on Poverty (CoP) has adopted the district-based approach in alleviating poverty since its establishment early this year. We have chosen three districts, namely Yuen Long, Sham Shui Po and Kwun Tong as pilot districts where district task forces chaired by the District Officers have been set up and district action plans formulated.

I would like to emphasize that different districts have their own characteristics and problems; poverty alleviation work should be district-based as local personalities and community organizations should be in the best position to understand their various needs. District-based approach in alleviating and preventing poverty is not a one-way approach whereby all the responsibilities are placed on the districts. In fact, the CoP and various Policy Bureaux have been

making efforts to complement the work of the districts in the past few months. For instance, the CoP through its Secretariat has been maintaining close liaison with the districts with a view to providing them with assistance where necessary in implementing their action plans and providing them with additional resources and support. All Policy Bureaux have also strengthened their services for the districts in the past few months. We hope that the concerted efforts of the districts, the CoP and Policy Bureaux will help co-ordinate district-based poverty alleviation initiatives so that the initiatives can complement one another to further enhance their effectiveness.

Madam President, the Government has put in place a diversified and multi-dimensional approach at the district level to identify the needy and assess the effectiveness of various initiatives. For example:

- (i) The Health, Welfare and Food Bureau and the Education and Manpower Bureau have been using district maternal and child care centres and schools as a platform to identify children and students with special needs in the districts so that early intervention and follow-up services can be provided;
- (ii) The Social Welfare Department has developed a protocol for the district welfare planning together with a set of evidence-based social indicators of district welfare needs to help the District Social Welfare Officers to assess district welfare needs and conduct district planning;
- (iii) Apart from the above screening mechanism, various district offices and government departments will, as in the past, maintain close liaison with district personalities through District Councils, Area Committees and residents' organizations like mutual aid committees and owners' corporations.

As for poverty prevention and alleviation at the district level, we are not in favour of rigidly setting time-bound targets in combating poverty. We will fully make use of the existing bases and mechanisms to assess the effectiveness of various initiatives and review the results of the work on poverty prevention and alleviation from time to time. Moreover, the pilot districts will also compile performance indicators for their action plans.

Poverty is a complicated issue. In defining poverty and identifying those in genuine need, we can by no means rigidly adopt one fixed figure or line. The CoP also agrees that it should take a multi-dimensional approach in understanding poverty. In this connection, the Government Economist is developing a set of indicators to examine and monitor the poverty situation in Hong Kong from a macro perspective to facilitate broad strategy planning.

Regarding part (b) of the main question, for district poverty alleviation work to achieve success, the participation and co-ordination of various sectors (including local social welfare agencies, poverty concern groups, District Council members and the business community) is required. The CoP will continue to co-ordinate various sectors in preventing and alleviating poverty and encourage co-operation among the Government, the business community and the public so as to establish a closer district network and build up social capital.

Besides, the task forces on poverty alleviation in the three pilot districts provide a major platform for co-ordinating poverty alleviation work of various government departments in the districts. Members of the task forces include representatives of the relevant government departments and the District Councils. They have been working closely with the District Councils, district organizations and NGOs.

Although the poverty alleviation task forces in these districts have started work for a few months only, with the concerted efforts of different sectors, good progress has been made. For example:

- (i) The "Promotion of Harmony & Self-enhancement Programme in Yuen Long" is being held in Yuen Long District from July 2005 to February 2006 with a view to enhancing local residents' understanding of the social welfare and employment support services in Tin Shui Wai;
- (ii) A "Mentorship Scheme" is being implemented to provide mentor services for the youths in Sham Shui Po with a view to widening their social network and helping them develop a positive attitude;
- (iii) In June 2005, a district round-table meeting was held in Kwun Tong with nearly 200 district personalities from various sectors

participating in the discussion on the local poverty problem. Besides, the Working Group on Concerns on Poverty under the Kwun Tong District Council is going to implement a large-scale poverty alleviation programme focusing on women's support service.

Part (c) of the main question is concerned about resource allocation. Regarding resource allocation, addressing different district needs and assisting the disadvantaged groups to achieve self-reliance is the long-established policy direction of the SAR Government. Instead of simply disbursing money, poverty alleviation should focus on education and welfare in which the largest amount of resources has been spent by us.

Both the Government and the CoP agree that district-based approach is the right policy direction in poverty alleviation. To further strengthen poverty alleviation work at the district level, respective district task forces chaired by District Officers would work out their own district plans. The Government would also provide additional resources to facilitate their implementation where appropriate. For example, \$10 million has been allocated to the Education and Manpower Bureau for opening of school premises to the public in some districts where there is a lack of community facilities. In addition to consolidating existing resources, the Government will use all of the net proceeds generated from the PVRM Scheme (with an estimated annual proceeds of no less than \$60 million) for poverty alleviation initiatives upon enactment of the bill on PVRM by the Legislative Council. The CoP will further discuss how to strengthen support to districts by the end of this year.

**MR FREDERICK FUNG** (in Cantonese): *Madam President, I would like to ask a follow-up question about the role of district work. In the main reply, the Secretary has not mentioned whether the CoP will analyse and study the state of poverty in each district. In part (b) of the main reply, it is mentioned that many district action plans will be implemented. But in my opinion, district action plans are merely stopgap measures. According to estimation, only 10 or 100 or 1 000 people will participate and benefit from them.....*

**PRESIDENT** (in Cantonese): Mr Frederick FUNG, what is your question?

**MR FREDERICK FUNG** (in Cantonese): *Madam President, I would like to ask the Government whether it has considered formulating policies from the perspective of tackling the poverty problem at root. Take Sham Shui Po District as an example. According to a study by The Chinese University of Hong Kong, more than 10% of the people are earning an income 30% short of the median wage, and these people.....*

**PRESIDENT** (in Cantonese): Mr FUNG, many Members are still waiting for their turn to ask questions. I think your supplementary question should end here.

**MR FREDERICK FUNG** (in Cantonese): *OK. What will the Government do in order to face such a problem? The action plans by the Government cannot solve it.*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, let me think for a while whether I understand the supplementary question or not.

Why has the CoP chosen the three districts, namely, Kwun Tong, Sham Shui Po and Tin Shui Wai, as the pilot districts? In fact, the Government has made reference to a number of indicators. For instance, as Mr Frederick FUNG has just said, residents of Sham Shui Po are earning an income which is lower than that of residents in other districts. According to such an indicator, we have chosen these three districts as the pilot districts for poverty alleviation work. After making reference to these figures, we adopted the district-based strategy because different districts have their own problems. Furthermore, different sectors of people in different districts can help with poverty alleviation work. So, we have adopted the district-based strategy. All in all, the Government is now formulating two sets of indicators, one of which is a series of poverty alleviation indicators for the whole territory, including Hong Kong, Kowloon and the New Territories. However, as different districts have their own problems, we will adopt different indicators. When these two set of indicators overlap with each other, we will identify the scope of poverty alleviation work which is appropriate to the SAR as a whole. Meanwhile, we can also gain an understanding of the unique situation of each district and such understanding can help us monitor and provide indicators for poverty alleviation.



**MR FREDERICK FUNG** (in Cantonese): *Madam President, he has not answered my supplementary question. How can the action plans formulated by the Government tie in with its indicators? They simply cannot. For instance, district poverty alleviation work mentioned in the eighth paragraph .....*

**PRESIDENT** (in Cantonese): Mr FUNG, could you ask your supplementary question in one simple sentence so that the Financial Secretary can grasp it and answer it to the point?

**MR FREDERICK FUNG** (in Cantonese): *For some individual districts, such as Sham Shui Po, the "Mentorship Scheme" has been launched. Can the Secretary tell us how such a scheme ties in with the indicators developed in future? Basically, it cannot.*

**PRESIDENT** (in Cantonese): Financial Secretary, do you understand the supplementary question?

**FINANCIAL SECRETARY** (in Cantonese): Madam President, I do not.

**PRESIDENT** (in Cantonese): Mr FUNG, would you please try to ask your question again.

**MR FREDERICK FUNG** (in Cantonese): *Action plans specifically designed for individual community cannot tie in with the macro poverty alleviation indicators just mentioned by the Financial Secretary. For example, some people are earning an income which is 30% below the median wage. How can the Financial Secretary resolve such a problem by means of these action plans?*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, the CoP, with a framework drawn up for its own work, has laid down four strategic directions in poverty alleviation. First, to revive the economy for the creation of more

employment opportunities so that people can have more chances to get out of poverty; second, to provide a progression ladder to people through education so that they can get rid of poverty; third, to help the unemployed or those who are going to lose their jobs to get another chance of employment through training and retraining, and continued education will also help those in employment achieve self-improvement and enhance their competitiveness; and fourth, to establish a safety net for the needy. From this, we can see that a framework has been drawn. I think what Mr FUNG just mentioned is the fourth direction, that is, to help the needy.

Under the district-based policy, we have embarked on some concrete work, such as the Mentorship Scheme just mentioned by Mr Frederick FUNG. From the macro perspective, however, we still have to further study the problems of each district in order to consider how they can be dealt with from the macro perspective. As I have just said, poverty is a complicated problem which cannot be explained in a few words. Instead, it should be dealt with from different levels and different perspectives.

**PRESIDENT** (in Cantonese): We have spent 14 minutes and 30 seconds on the question and supplementary questions asked by Mr Frederick FUNG and answered by the Financial Secretary. There are 10 Members who have indicated their wish to ask supplementary questions. I will let Members ask questions as far as possible. But will Members please be as concise as possible and ask questions only and refrain from making statements.

**MR TAM YIU-CHUNG** (in Cantonese): *Madam President, in the second paragraph of the main reply, the Financial Secretary said that the CoP through its Secretariat has been maintaining close liaison with the districts with a view to providing them with additional support and resources where necessary. Can the Financial Secretary further explain how the CoP implements poverty alleviation work at the district level?*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, regarding the implementation of district action plans, we will maintain close liaison with districts with a view to rendering them assistance where necessary in

implementing their action plans and providing them with additional resources and support where appropriate. Concrete work can be divided into several parts and the first part is to open the school premises. In view of the lack of facilities in many communities, we have contacted some schools in order to provide venues to children and youths for conducting extra-curricular activities. With the assistance of the Education and Manpower Bureau and other parties, we have reached an agreement with a school in Tin Shui Wai. Under the agreement, a reading room will be constructed in the playground of the school which will be open for students in the district. And we will of course allocate additional resources to the school concerned. After this agreement has been reached, many other districts have begun to discuss with us about opening the school facilities for public use. To meet the demand, we have also additionally allocated \$10 million to the Education and Manpower Bureau in order to meet the expenses incurred in this aspect.

The second part is to assist NGOs in implementing their poverty alleviation work in the districts. To further encourage and help community organizations and NGOs in their work, the CoP, in response to NGOs' request, has arranged a meeting between representatives of government departments and NGOs so as to facilitate their work at the district level. The CoP arranged a meeting between the two parties only on 3 October. Mr Frederick FUNG also attended the meeting. I understand that the meeting was conducted in an amiable atmosphere. It has facilitated the understanding and communication between NGOs and the relevant government department which has pledged that it will proactively consider how to complement the poverty alleviation work of NGOs at district level.

The third part is to co-ordinate the policy of preventing and alleviating poverty at the district level. We have conducted a district-based study on the employment assistance and service for the able-bodied in order to assess whether the policy and service can supplement one another and whether local residents are assisted in job-seeking and achieving self-reliance in an effective manner.

**MRS SOPHIE LEUNG** (in Cantonese): *Madam President, we look forward to the success of the poverty alleviation programme focusing on women's support service in Kwun Tong. In the second paragraph of the main reply, the Financial Secretary mentioned the "three-pronged" approach involving the*

*district, the CoP and Policy Bureaux. Can the Secretary explain in detail or use examples to illustrate how such an approach enables the district-based poverty alleviation programmes to co-ordinate with each other?*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, the so-called "three-pronged" approach refers to the district level, Policy Bureaux and CoP.

The first "prong" is the district level. To further co-ordinate poverty alleviation work between government departments and districts, we will liaise with various sectors according to the actual situation. For instance, district task forces chaired by District Officers have been set up to implement district action plans in three pilot districts, namely, Yuen Long, Sham Shui Po and Kwun Tong. In fact, a lot of poverty alleviation programmes have been launched at the district level. But due to the time constraint, I will only cite two examples.

The Opportunities for the Elderly Project has been launched in Sham Shui Po with the objective of encouraging community organizations to help the elders acquire new knowledge, expand their social life and maintain their physical well-being. In Yuen Long, apart from the Promotion of Harmony & Self-enhancement Programme, we also have the Mentorship Scheme. "Mentorship" means teachers and friends, not "privatization" as the Chinese pronunciation may suggest. The purpose of the scheme is to arrange mentors for the youths with a view to widening their social network and helping them develop a positive attitude. In Kwun Tong, the third pilot district, we have organized activities during the Chinese New Year in order to encourage people of various age groups and various sectors to send greetings and gifts to single elders living alone in the district.

The second "prong" is the co-ordination of Policy Bureaux which have strengthened co-ordination with districts. The Health, Welfare and Food Bureau will additionally allocate \$1.5 million a year for the launch of the District Support Scheme for Children and Youth Development with the objective of meeting the needs of the disadvantaged aged between zero and 24 in their development in their respective districts. The Economic Development and Labour Bureau has strengthened employment support at the district level, including the launch of recruitment exhibitions of various scales in remote districts. The Labour Department will set up employment centres in Yuen Long and North District. The Education and Manpower Bureau has strengthened retraining service at the district level. Apart from the seven

retraining centres, the Employees Retraining Board set up two additional centres in Yuen Long and Tin Shui Wai in January and June 2005. The Vocational Training Council will provide 360 additional places for the youths living in Yuen Long.

The third "prong" is the CoP. The CoP will maintain close liaison with districts and help the implementation of district work where necessary and provide additional support and resources where appropriate, including the additional resources I have just mentioned. All this will promote the use of school premises by the public in districts where there is a lack of facilities. Besides, I will also review from time to time the relevant poverty alleviation policies of various Policy Bureaux and departments to decide whether they can co-ordinate and tie in with each other.

**PRESIDENT** (in Cantonese): We have spent more than 22 minutes on this question. Last supplementary question now.

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, the time for this question should be extended because it seems that the Financial Secretary spent too much time on it earlier. Madam President, I think the CoP, formed by one Secretary of Department and four Directors of Bureaux, should comprise many elites. But what they can think of is to carry out poverty alleviation work at the district level as their strategy. This is scratching the surface only. In fact, poverty is a very simple problem, the cause of which is that some people are unable to make ends meet. So, it is impossible to eradicate district poverty at all.....*

**PRESIDENT** (in Cantonese): What is your supplementary question? You should ask a supplementary question instead of making a statement. Please ask your question direct.

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, the Financial Secretary mentioned poverty alleviation work at the district level in the eighth paragraph. For instance, the Promotion of Harmony & Self-enhancement Programme in Yuen Long, the Mentorship Scheme in Sham Shui Po and the poverty alleviation programme focusing on women's support service in Kwun*

*Tong. All these are no different from those initiated by the Community Investment and Inclusion Fund (CIIF). May I ask the Financial Secretary why such a group of elites are asked to do such "low-level" work? In fact, the CIIF or NGOs in general can do all these. Do we really need the CoP to be involved in it? I think governance in such a manner is a bit unwise and stupid.*

**FINANCIAL SECRETARY** (in Cantonese): Madam President, I believe Mr LEE Cheuk-yan's criticism that their work is "low-level" will lead to strong reactions from those who are involved in district work, be it individuals or organizations. Besides, poverty alleviation work is not instant food. If we look at it in this light, I believe our policy and direction are wrong. So, we should look at our poverty alleviation work from a long-term perspective.

In Hong Kong, an affluent society with a *per capita* Gross Domestic Product of US\$24,000, we are capable and duty-bound to render appropriate assistance to the disadvantaged and the needy so that they can re-join society. For those who cannot do so, we should have the responsibility to help them lead a dignified life. Under such a framework, I think some long-term work is waiting for us. But we still have to perform some short-term district-based work that can be done expeditiously. The district work is no great shakes. Nor will it straddle 18 districts. Rather, it is some groundwork for helping the local residents. I think this is equally important. So, we have long-term, medium-term and short-term targets.

**MR LEE CHEUK-YAN** (in Cantonese): *The Secretary has not answered my supplementary question. I asked him the difference between those district work programmes and the work of CIIF. Besides, when I said "low-level", it refers to the ideas conceived by the one Secretary of Department and four Directors of Bureaux.*

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

(The Financial Secretary shook his head to indicate that he had nothing to add)

**PRESIDENT** (in Cantonese): Second question.

**Disciplined Services Adopting Same Criteria for Both Genders in Testing Physical Fitness of Applicants**

2. **MS EMILY LAU** (in Cantonese): *Madam President, it has been reported that during the recruitment exercise for Inspectors of Customs and Excise conducted early this year, the Customs and Excise Department (C&ED) adopted the same criteria for both genders in testing the physical fitness of applicants. Some female applicants consider that, given the physiological differences between both genders, the adoption of the same criteria is unfair and may be regarded as sex discrimination. In this regard, will the executive authorities inform this Council:*

- (a) *whether they have assessed if the C&ED's adoption of the same criteria for both genders in testing the physical fitness of applicants has contravened the Sex Discrimination Ordinance; if the assessment result is in the affirmative, how the authorities will make improvements; if the assessment result is in the negative, of the justifications for that;*
- (b) *of the other disciplined services which have also adopted the same criteria for both genders in testing the physical fitness of applicants, and the disciplined services adopting different criteria and their reasons for doing so; and*
- (c) *of the respective up-to-date numbers of male and female applicants who attended the physical fitness tests in the recruitment exercises conducted by the various disciplined services this year and, among these applicants, the respective numbers and percentages of male and female applicants who passed the tests?*

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

- (a) There is no difference in assignment of duties between male and female Customs officers. Therefore, the C&ED has adopted the principle of "the same physical fitness requirement for the same job" in assessing applicants. A set of physical fitness tests based on actual job requirements have been designed with the relevant minimum standards for testing if applicants have the necessary physical fitness to fulfil the job requirements.

Before adopting the existing physical fitness test standards, the C&ED had considered and assessed the requirements of the Sex Discrimination Ordinance (Cap. 480) and established that the standards in the physical fitness tests represent the minimum requirements for the performance of Customs duties in practice. The establishment of the standards is not based on grounds of sex or differences in physical ability between the two genders, so it does not contravene the Sex Discrimination Ordinance.

- (b) Currently, apart from the C&ED, the Fire Services Department (FSD), Immigration Department (ImmD) and Government Flying Service (GFS) have also adopted the same criteria for testing the physical fitness of applicants of both genders for reasons similar to those of the C&ED.

The Correctional Services Department (CSD) and the Hong Kong Police Force (HKPF) require applicants of both genders to complete the same items during the physical fitness tests but adopt different minimum standards for male and female applicants.

The Prisons Ordinance (Cap. 234) requires prisoners be supervised by correctional services personnel of the same gender. As managing male and female prisoners does not demand the same physical fitness, the CSD has prescribed different physical fitness test standards for male and female applicants respectively, based on actual job requirements.

For the HKPF, in the past the nature of duties performed by male police officers has been different from that of female police officers, and the demand for physical fitness on male officers has generally been higher. The Department has therefore adopted different physical fitness test standards in recruiting male and female applicants, having regard to actual job requirements. However, as the differences in the nature of the duties performed by male and female police officers are gradually diminishing, the Department is now reviewing the physical fitness requirements for applicants in the light of actual job requirements.



- (c) The numbers and percentages of male and female applicants who attended and passed the physical fitness tests in the recruitment exercises conducted by the various disciplined services in 2005 are set out in the Annex.

## Annex

Applicants who Attended and Passed the Physical Fitness Tests  
of Various Disciplined Forces' Recruitment Exercises in 2005

		<i>Number of applicants who attended the physical fitness test</i>	<i>Number of applicants who passed the physical fitness test</i>	<i>Passing Percentage</i>
C&ED	Male	3 105	2 805	90%
	Female	983	251	26%
FSD	Male	2 348	910	39%
	Female	107	0	0%
ImmD	Male	3 752	2 469	66%
	Female	1 910	720	38%
HKPF	Male	2 109	1 543	73%
	Female	813	495	61%
CSD	Male	2 703	1 161	43%
	Female	866	572	66%

Note: The GFS requires applicants for the Air Crewman Officer III posts to undergo a physical fitness test. However, no recruitment exercise was conducted for this rank in 2005.

**MS EMILY LAU** (in Cantonese): *Madam President, in the last paragraph of part (a) of the main reply, the Secretary stated that the C&ED, before prescribing the physical fitness test standards, had considered the requirements of the Sex Discrimination Ordinance, and that such arrangement is based on actual job requirements.*

*Madam President, if we look at section 5(1)(b)(i) of the Sex Discrimination Ordinance as a whole, in which it states that if "he(a person) applies to her(a woman) a requirement or condition which he applies or would apply equally to a man but which is such that the proportion of women who can comply with it is*

*considerably smaller than the proportion of men who can comply with it", this shall constitute sex discrimination.*

*Madam President, let us refer to the Annex. Among the applicants attending the C&ED's recruitment exercise in 2005, 90% of the male applicants passed the physical fitness test, but only 26% of the female applicants passed the same test. The FSD adopted the same criteria for testing the physical fitness of applicants of both genders, and as a result 39% of the male applicants passed the physical fitness test and 0% of the female applicants passed the same test. The passing rate of male applicants of the ImmD's physical fitness test is 66% and that of female applicants is only 38%. For the HKPF, because the Department adopted different testing standards for applicants of both genders, the passing rate of the female applicants of the physical fitness test is much higher.*

*Despite the Secretary stating that reference was made to the Sex Discrimination Ordinance before prescribing the physical fitness test standards, may I ask the Secretary to comment, by cross-referencing the current result and the Ordinance, whether he finds this problematic and whether it is necessary to follow up this issue?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the departments, before prescribing the physical fitness test standards, had given full consideration to the requirements of the Sex Discrimination Ordinance and considered that the standards represent the minimum physical fitness requirements, regardless of gender, for the performance of duties in practice. The establishment of the standards is not based on grounds of sex or differences in physical ability between the two genders, so the standards are in compliance with the Sex Discrimination Ordinance.

**MS EMILY LAU** (in Cantonese): Madam President, I asked the Secretary whether he had read section 5(1)(b)(i) of the Sex Discrimination Ordinance. I hope the Secretary would not just tell us that the tests are in compliance with the requirements of the Sex Discrimination Ordinance. I asked whether he had read the provision mentioned by me and that after reading the figures, whether he found the tests problematic. If he does find them problematic, will he discuss the problem with the Secretary for Justice after this meeting and give us a reply then? Because if there is a problem, the Government needs to do something about it.

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, we have read that Ordinance.

**MR LAU WONG-FAT** (in Cantonese): *Madam President, my supplementary question is largely the same as Ms Emily LAU's question, which is, I want to know whether the authorities will invite the Equal Opportunities Commission to conduct an investigation on whether the C&ED, FSD and ImmD's adoption of the same criteria for testing the physical fitness of applicants of both genders has contravened the Sex Discrimination Ordinance?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, individual disciplined services, when prescribing the minimum physical fitness standards, have already considered the Sex Discrimination Ordinance, and we also ensure that the standards are in compliance with the requirements of the Ordinance. Of course, if we are in doubt, we will seek legal advice from the Secretary for Justice.

**MR LAU KONG-WAH** (in Cantonese): *Madam President, in fact, individual disciplined services have their own testing standards. As we can see from the Annex that there are three departments adopting the same standards for testing the physical fitness of applicants of both genders and their female passing rates of the physical fitness tests are low; but for the other two departments (the HKPF and the CSD) which adopted different standards for testing the physical fitness of the two genders, the female passing rates are higher. This is a fact.*

*The Secretary stated in part (b) of the main reply that the HKPF, having regard to the nature of the duties performed by male and female police officers is increasingly similar, will revise the existing practice. Thus may I ask the Secretary whether he will consider prescribing the same physical fitness test standards for applicants of both genders in the HKPF's recruitment exercises? If he will, whether this will lead to a reduction in the number of female applicants joining the HKPF?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the HKPF needs to conduct a thorough review of the content and standards of the test, so

as to ensure that the test can reflect the inherent job requirements of police officers.

Why is it necessary to conduct a review? Everyone knows that in the past female police officers did not participate in dangerous and armed police work, but now an increasing number of female police officers have made requests to participate in such work and we can find many female police officers carrying pistols. It thus would require a higher physical fitness standard for the female police officers so that they can perform the same duties. The HKPF is now conducting a thorough study in this respect to determine if it is necessary to adjust the minimum standard of the physical fitness test. At this stage, there is not a fixed timetable yet. As to the question of whether this would lead to a reduction in the number of female applicants joining the Police Force, I think at this point of time we cannot draw a conclusion on it.

**MS AUDREY EU** (in Cantonese): *Madam President, many colleagues mentioned just now that from the figures of the first three disciplined services in the Annex, we can find that their female applicants have a far lower passing rate because the departments adopted the same physical fitness requirements for applicants of both genders. While the female passing rates of the last two disciplined services in the Annex are much higher because these departments adopted different physical requirements for applicants of both genders. Can the Secretary tell us in simpler terms, what is the difference between these five disciplined services? Why did three of the disciplined services adopt the same physical fitness test, while the other two could adopt different physical fitness tests for applicants of both genders?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, different disciplined services have different physical fitness test standards. Take the FSD as an example, the requirements of their physical fitness test are the most stringent. Why did the three departments adopt the same physical fitness test for their entrants regardless of gender? It is because the incumbents, regardless of gender, need to perform the same jobs, so the applicants must meet the minimum standard of the physical fitness tests.

I used the FSD as an example because all firemen, regardless of gender, need to enter the fire ground to put out the fire. If a fireman fails to meet the

minimum physical fitness standard, he/she is not only unable to save others, but also put his/her own safety at risk. Hence, if the male and female applicants are to perform the same jobs, they will be required to meet the same minimum standard.

As to the other two departments, I have also mentioned just now in the example of the CSD that the male and female correctional services officers recruited by the Department have to perform different jobs. The Prisons Ordinance requires that female prisoners can only be supervised by female correctional services officers and male correctional services officers cannot enter correctional institutions for women. The same is true *vice versa*. As the jobs performed by the male and female correctional services officers are different, their respective minimum physical fitness standards are also different.

Similarly, in the past the HKPF assigned different duties to male and female police officers. As certain duties would not be assigned to female police officers at that time, the Department prescribed different minimum physical fitness standards for male and female police officers. The arrangement is mainly based on the differences in job requirements and it is not an act of discrimination against female applicants.

**MS LI FUNG-YING** (in Cantonese): *Madam President, may I ask the Secretary whether he, in prescribing the minimum physical fitness standards, has given regard to the incumbents performing the same jobs are required to meet the same physical fitness standard and thus established other objective standards for these minimum standards that the applicants need to meet? With respect to the establishment of physical fitness standards, does the Government have any other open and transparent mechanism for establishing these standards, or they are established by the departments alone?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I have to thank Ms LI Fung-ying for this supplementary question. Individual disciplined services do not prescribe these minimum physical fitness standards from their subjective point of view, such as requiring the applicants to lift a weight of certain kg, but rather they establish these physical fitness requirements through scientific research.

Let me cite a few examples. The existing physical fitness test standards of the C&ED, ImmD and CSD were established by the experts of the Department of Sports Science and Physical Education of The Chinese University of Hong Kong, who first designed a simulated test based on various departments' actual duties and requirements, and then conducted analyses on the simulated test before finalizing the items of the test and the minimum standards. At that time, these departments invited the University to prescribe the physical fitness test standards based on their different job requirements.

As for the strength test and the functional test of the FSD, they were established by the Research Centre for Physical Recreation and Wellness of the Hong Kong Baptist University through objective and professional methods, so as to ensure that the tests can reflect the minimum physical fitness requirement of the fire and ambulance services in an objective and truthful manner.

**MISS TAM HEUNG-MAN** (in Cantonese): *Madam President, may I ask the Administration whether it has formulated any guideline instructing individual departments or all departments how to handle recruitment procedures or tests which may involve differences in gender?*

**SECRETARY FOR SECURITY** (in Cantonese): Perhaps I cannot answer this supplementary question on behalf of Secretary for the Civil Service Joseph WONG, since Miss TAM was asking about all SAR Government departments. However, the few disciplined services we mentioned here attach great importance to the Sex Discrimination Ordinance. Each of the services is required to strictly observe and not to contravene the Ordinance, no matter in recruitment or management.

**MR DANIEL LAM** (in Cantonese): *Madam President, can the Secretary inform this Council whether the physical fitness standards of both genders in the physical fitness tests of the disciplined services in future will be standardized?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, our priority concern is the nature of duties, not standardization. In other words,

when a disciplined service needs to recruit staff to perform a certain type of job and thus needs to establish a minimum requirement for physical fitness standard for that type of job, we will set the requirement accordingly.

As I said just now, when the various disciplined services such as the C&ED, ImmD, GFS and FSD recruit entrants, they will prescribe different minimum physical fitness standards. In future, if we want to recruit disciplined services personnel such as for the CSD and the relevant ordinance of the Department still requires different duties be performed by staff of different gender, we will certainly prescribe different minimum physical fitness requirements for the male and female entrants. Therefore, it is hard to specify now whether the physical fitness standards of both genders will be standardized across the board. However, as far as the CSD is concerned, there will still be different requirements for the physical fitness standards of male and female applicants.

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

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, may I ask the Secretary whether he personally wishes to see more women joining the disciplined services? If yes, are there any measures to achieve this? I want to suggest a very easy measure, which is to classify all duties into two categories, each with different physical fitness requirements. By so doing, regardless of gender, anyone meeting a certain physical fitness requirement will perform a certain type of duty. If he/she meets the other physical fitness requirement, he/she will perform the other type of duty. Then, the problem will be solved. I do not know whether the Secretary has any other suggestions and what is his subjective wish?*

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, my subjective view is that we can recruit the best people into the disciplined services, whether they are male or female. So, do not say that we are giving a special favour to the female.

Mr LEE Cheuk-yan made a suggestion just now of classifying all duties of the disciplined services similar to what the CSD has been doing, so that even the law does not lay down any requirement, duties with a lower physical fitness requirement will be assigned to females and those with a higher physical fitness requirement will be assigned to males, thereby enabling more females to join the disciplined services in future. However, first of all, this will hinder our manpower deployment. For example, if we need to perform a mission in future, we will not be able to deploy all appointed staff at our wish. Secondly, this runs against our objective of equal pay for equal work which we have advocated all along. If the appointed staff have equal pay but perform different work, would this not violate the principle of equal pay for equal work?

**PRESIDENT** (in Cantonese): Third question.

### **Urban Greening**

3. **DR RAYMOND HO** (in Cantonese): *Madam President, during the visit to the Pearl River Delta in September this year, Legislative Council Members were deeply impressed by the urban greening efforts made by the cities including Shenzhen, Dongguan, Guangzhou and Zhongshan. In this connection, will the Government inform this Council:*

- (a) *whether it has formulated any greenery scale guidelines or requirements for the urban development of Hong Kong which involves road planning and community planning, and so on; if not, whether it will consider introducing the relevant requirements with reference to the experience of other places including mainland cities, with a view to further greening up the urban area and thereby improving the environment of the community; and*
- (b) *whether it will arrange for officials of the Government's relevant works departments to visit mainland cities and engage in exchanges, so that they can learn about the successful experience of such cities in person, and thereby enhance the urban greening efforts in Hong Kong?*



**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**

(in Cantonese): Madam President, the Government has all along been working hard for a green environment, though we are living in a density populated environment with limited supply of land.

- (a) General planning principles are set out under the heading of "Greening" in Section 2, Chapter 4 of the Hong Kong Planning Standards and Guidelines, providing a source of reference on various developments such as residential, district and local open space, roads and expressways, and so on, for government departments. Through the implementation of these guidelines and concerted efforts of all sectors in our community, the total greened area in urban districts and new towns of Hong Kong has increased by about 130 hectares, or from 18% to 19% in terms of "artificial greening coverage" since early 2003.

The Architectural Services Department (ASD) has strived to adhere to the concept of sustainable development in designing and constructing government facilities. By formulating environmental policy initiatives, introducing landscape designs and rooftop greening, it seeks to harmonize buildings with their surrounding environment. The Highways Department (HyD) also provides planting along central dividers and beside pavements as far as possible, while reserving a 3-m wide strip on new pavements for amenity or tree planting if practicable. Similarly, the Civil Engineering and Development Department (CEDD) is progressively mapping out Greening Master Plans for selected urban districts as a comprehensive strategy to improve the planning process by determining the distribution of greening zones and overall planting themes.

- (b) Drawing on the experience of other places including mainland cities to enhance effectiveness of our greening efforts, we maintain close contact and frequent exchanges with landscape experts in the Mainland and organize bilateral exchange visits by management and professional staff of various departments. Relevant activities conducted last year are set out at Annex distributed to Members and will not be repeated here.

## Annex

<i>Date</i>	<i>Summary of activities</i>
20 September 2004 to 10 December 2004	Under the "Professional Staff Exchange Programme", the Shanghai Municipal Afforestation Administration sent two officials to visit various government departments in Hong Kong to learn about our greening initiatives. Furthermore, the HyD and CEDD each nominated a management and professional officer to work in Shanghai to get an overview of its local greening work.
23 September 2004 to 23 March 2005	The Leisure and Cultural Services Department (LCSD) took part in the Fifth China International Garden and Flower Expo held in Shenzhen with the theme of "Stepping into the Rainbow and Marching towards Brighter Future".
14 October 2004 to 15 October 2004	Under the "Guangzhou-Hong Kong Exchange Programme", the Environment, Transport and Works Bureau, LCSD and Agriculture, Fisheries and Conservation Department (AFCD) representatives attended the Hong Kong-Guangdong Afforestation and Conservation Special Panel for mutual understanding and exchange in greening work and policies.
23 October 2004 to 21 November 2004	The LCSD took part in the Eighth China Chrysanthemum Exhibition held in Shanghai with the theme of "Chrysanthemum Garden".
7 March 2005 to 11 March 2005	A group of 28 civil servants joined a familiarization visit arranged by the Civil Service Training and Development Institute to obtain a better understanding on the environmental protection and greening initiatives carried out by Hangzhou, Shaoxing and Suzhou in the context of "sustainable development".
11 March 2005 to 20 March 2005	The LCSD extends invitation to mainland provinces/cities to participate in the Hong Kong Flower Show every year and give thematic talks to facilitate sharing of experience.

<i>Date</i>	<i>Summary of activities</i>
8 June 2005 to 10 June 2005	Under the "Guangzhou-Hong Kong Exchange Programme", the Environment, Transport and Works Bureau, CEDD and AFCD representatives visited Huizhou and Zhongshan to get an insight of their local greening facilities.
28 September 2005 to 7 October 2005	The LCSD took part in the Sixth China Flower Show held in Chengdu, Sichuan with the theme of "Hong Kong".

**DR RAYMOND HO** (in Cantonese): *Madam President, in fact, in all three parts of my main question, I have mentioned urban greening. Unfortunately, the Secretary for Housing, Planning and Lands, Mr Michael SUEN, is not here today, and is thus unable to answer the questions related to the issues under the purview of his Bureau.*

*In recent years, the Government has done a lot in greening work, however, according to the Annex setting out the exchanges with the Mainland, and visits, field studies, studies and discussions made by government officials in the past year, participation of the officials of the Housing, Planning and Lands Bureau or of the Planning Department directly related to the issue is lacking. According to part (a) of the information provided by the Secretary, the total greened area in urban districts and various towns of Hong Kong has increased by 1%, or 130 hectares. Will the Secretary provide detailed information to us in this respect, explaining how this percentage of greenery coverage in urban districts and towns of the territory is worked out?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): I think Dr Raymond HO has raised two questions, one of which is whether colleagues from the Planning Department have participated in these field studies and visited the Mainland with us. Though only colleagues of my Bureau are listed in the Annex, I believe colleagues of the Planning Department do have close contact with the Mainland on the planning front. This is particularly so this time around when the Eleventh Five-Year Plan is involved. We do have taken part in the overall planning. The Annex does not exhaust all the activities taken part by all the colleagues in the Government.

As to how the total greenery coverage area is worked out, I think it is quite difficult for me to give an oral reply here. I think I will give Dr HO a reply in writing. (Appendix I)

**MR WONG YUNG-KAN** (in Cantonese): *Madam President, in part (b) of the main reply, the Secretary mentioned that last year, colleagues of many departments had been sent to the Mainland to conduct field studies. In 2002, the Chief Executive announced an urban greening plan. However, according to the content of the Annex, it was not until 2004 that officials were sent to the Mainland to conduct exchanges and field studies, and such activities had not been carried out before that. Should the conduct of these activities be attributed to the recent establishment of the Steering Committee on Greening?*

*Moreover, will the Government inform us whether, upon the completion of these mainland field studies, it has come up with any good plans; will it inform the public of the detailed information in this respect?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): Madam President, I have to thank Mr WONG Yung-kan for the question. In fact, I do not know much about the practice in the past, but I believe the Government has been implementing greening programmes all along. Since the establishment of the Steering Committee on Greening in December 2002, various departments and bureaux in the Government can be pulled together. As different departments and bureaux are each responsible for different aspects, greening work can thus be carried out on all fronts. If a common target of greening is set and the relevant code of practice more clearly defined, a more precise standard can be used as reference in the conduct of work.

Regarding greening methods, a detailed plan is required before good results can be achieved. Since 2002, we have been working on the greening plan of Central and Tsim Sha Tsui which is now near completion and the implementation of the plan will soon commence. As for the plans of other places, such as Mong Kok, Yau Ma Tei, and so on, they will be formulated in succession.

Regarding what plans adopted by the Mainland are found worth adoption in Hong Kong during these mainland visits, I think it can hardly be explained in a few words. However, I hope Members will note one point, that is, the

development in the Mainland is after all different from that of Hong Kong. Since it is more spacious in the Mainland than in Hong Kong, the space available for greening work is much larger and the opportunity for doing so is much greater than in Hong Kong. Owing to the limitation of space, it is sometimes not feasible for us to follow their approach. However, Hong Kong has its own advantages. Despite the difficulties we are facing, we do our level best to enhance greenery. For example, greening work will be carried out under flyovers or in some small corners, which is in fact even more difficult.

We have also invited mainland experts, such as those from the South China Institute of Botany, a world famous institute which has a thorough understanding of plants in the region, to visit Hong Kong. These experts are thus invited to come to Hong Kong to examine how green planning should be implemented here.

Actually, there is a lot of scientific knowledge in the implementation of greening work. For example, which types of plants are suitable for planting in a densely populated city, and how can the growth of these plants be sustained without much human attention, for wages in Hong Kong, quite unlike those in the Mainland, are very high. Since many farmers in the Mainland are advised to "quit farming and grain for green", a lot of farmers are available to take up the large volume of greening work. This may on the one hand provide jobs for these farmers, and provide a solution to the gardening work required for greening on the other. However, since we lack these prerequisites, the approaches we adopted are thus different from theirs.

In the course of these field studies, I believe participants from both sides can learn and benefit from each other. So long as the experience merits our borrowing, we will introduce it into Hong Kong.

**MR WONG TING-KWONG** (in Cantonese): *Madam President, will the Secretary inform this Council whether there are specific plans on urban greening in Hong Kong presently? How much money is spent on this each year? Will the funding for this be increased? How effective is the relevant work?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): On the whole, we do have a greening policy insofar as planting is

concerned. As for all projects, or public works projects under the Environment, Transport and Works Bureau, a greening policy and guidelines have been laid down. First, we will strive to uplift the quality of our living environment through active planting, proper maintenance and preservation of trees together with vegetation. Second, at present, we aim to extend the coverage of urban greenery, enhance existing greened areas, and to maximize greening opportunities in the development of well-planned public works projects.

Mr WONG asked earlier that how much money has been set aside for this purpose, but our calculation is not done in this way. For example, if a highway has to be built, part of the expenditure will be provided for greening work, and the amount required will be calculated in proportion to the length of the highway. Moreover, the engineer will work out the opportunities of greening. If, unfortunately, space for greening has not been reserved in the construction of some major highways, or that greening work cannot be carried out owing to problems encountered in land resumption, the amount of funding reserved for greening will be less.

On the whole, there is a specific timetable for the greening master plan of urban areas. This year, that is within the year 2005, the Greening Master Plan for Tsim Sha Tsui and Central will be completed. By the end of 2006, the Greening Master Plan for Sheung Wan, Wan Chai, Causeway Bay, Mong Kok and Yau Ma Tei will be drafted. Currently, we have started to prepare the Greening Master Plan for Hong Kong Island and other designated areas in Kowloon West in phases. This is the greening plan for the entire urban area. In addition to the greening work carried out in public works projects, these are the tasks we are going to do.

**MR MA LIK** (in Cantonese): *Madam President, in the second paragraph of part (b) of the main reply, the Secretary said that the ASD had strived to adopt environmental protection initiatives, including approaches like the introduction of landscape designs and rooftop greening. In this connection, we see that at present, the rooftops of many government buildings, including the government headquarters which are frequently shot by the media, are still bare. May I ask the Secretary whether the Government has plans to green existing government buildings as soon as possible?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**

(in Cantonese): Madam President, actually, the ASD started to consider the feasibility of accommodating rooftop greening, a relatively new concept in designs, only in recent years. In fact, rooftop greening may not be applicable to all buildings. For very tall buildings, since the wind is very strong at such high height, plants can hardly survive. I think Members may note in future that greening is not feasible above a certain height, for plants cannot stand the strong wind. Since the planting of vegetation at rooftops is sometimes not feasible, some space has to be reserved in the mid-level of buildings at a height where greening is possible. Therefore, it is no easy task to redevelop old-type buildings. But since we are now promoting greening plans, it is thus hoped that space for greening can be identified in all government buildings, thereby increasing the percentage of total greened area in urban districts.

**MR MA LIK** (in Cantonese): *Madam President, my question is whether greening work can be carried out in existing buildings, such as the government headquarters we see at present. That is to say, can greening work be carried out at the rooftop of the CGO now? We wish that greening work can be carried out there.*

**PRESIDENT** (in Cantonese): Mr MA, you did not mention the bare rooftop of the government headquarters, let us see whether the Secretary has anything to add.

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**

(in Cantonese): Madam President, yes, I will ask my colleagues to study this again. Mr MA is referring to the government headquarters in Central, right? I will study this after the meeting.

**MR PATRICK LAU** (in Cantonese): *Madam President, the supplementary question I intended to raise has just been asked by Mr MA Lik, for I am also interested in this subject. However, regarding the remark made by the Secretary earlier, that greening work could hardly be carried out on the rooftops of very tall buildings for plants would be damaged by the strong wind at that height, it should be noted that many buildings in Hong Kong do have podiums,*

*but they are unattractive and greening is required. Therefore, I hope the Government will consider this aspect. In addition to greening its own facilities, will the Government also encourage private buildings to green their podiums? Madam President, this is my supplementary question.*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**

(in Cantonese): Madam President, podium greening is one of the tasks we are now studying. As to what types of plants should be planted, experiments have to be done to identify the suitable species. If the buildings are dilapidated, the plants to be planted should not have too many roots. In fact, on the rooftops of many schools — for schools are relatively low, with only six floors — greening work has been carried out successfully. We have also been quite successful in the study of the growth of plants through the use of green houses. This is one of the tasks we have to tackle.

**MR PATRICK LAU** (in Cantonese): *Madam President, how can private buildings be encouraged to take part in the plan?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**

(in Cantonese): Madam President, in the course of green planning and overall greenery, members of the public and owners of commercial buildings are encouraged to take part. We will continue to promote greening by organizing certain community activities and participating in some activities of planting trees as well as other vegetation. It is hoped that a consensus will be built among the public who will thus hold higher expectations for greenery, thereby motivating private organizations to take the initiative to follow.

**MR LAU KONG-WAH** (in Cantonese): *Madam President, the Secretary mentioned earlier the difference between Hong Kong and the Mainland, pointing out that vast expanses of land might be available in the Mainland. However, greening should not be restricted by scale, be it large or small, and every opportunity for greening should be optimized. According to the views of many Hong Kong people, more often than not, plants along roadsides are sparse; some are even wilted and in disarray. As officials from Hong Kong visit the Mainland almost every month to conduct studies, visits and interviews, may I ask the Secretary why we remain inferior in so many aspects and are so outdated?*



**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**

(in Cantonese): Madam President, a developed city has lagged behind in greenery because no space for greening was reserved in the design of the city at the outset. Vegetation in urban areas is often found dried out or dead. We can all see some poor plants absorbing exhaust gas every day along the central dividers in Wan Chai. Many plants planted along the pavements cannot grow because of the large number of pipes laid underground, leaving barely any soil for the plants to absorb water through their roots. Sometimes, we may make a pan underneath the pavement for the plant, but the soil inside is all that the plant can live on. When the plant grows and as the weather changes, the pan will easily leak. Therefore, in some dense areas, it is quite difficult for plants which need soil to support their growth to grow.

However, even for the growing of bonsais, we encounter a certain extent of difficulties, as we all know buildings in Hong Kong are very tall, blocking the streets completely from the sun, and plants are thus unable to get adequate sunlight. The large number of high-rises, narrow streets and the densely laid public utilities conduits running under roads all cause grave difficulties to planting.

Recently, we have been working hard to enter into co-operation with commercial buildings in Central, identifying suitable sites for tree planting. I do not know if Members have noticed that there are now three trees on Queen's Road Central — there are very few trees on the entire road — these three trees are of the expensive species, the camphor trees, but they died soon after they had been planted there because they could not absorb adequate nutrients. Therefore, we have to re-examine the situation underground; this is an issue we have to deal with.

**PRESIDENT** (in Cantonese): We have spent more than 20 minutes on this question. Last supplementary question.

**MR DANIEL LAM** (in Cantonese): *Madam President, both the Heung Yee Kuk and District Councils have set up landscaping committees. Will the Secretary inform this Council whether she will effectively utilize the effort of these committees to tie in with the community landscaping plans?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS** (in Cantonese): Madam President, if Mr Daniel LAM can provide me with some information, we are very glad to co-operate with them.

**PRESIDENT** (in Cantonese): Fourth question.

**Prevention of Local Outbreak of Human Infection of Avian Influenza**

4. **MR ANDREW CHENG** (in Cantonese): *Madam President, a few dozen confirmed or suspected cases of human infection of avian influenza have been detected throughout the Southeast Asian region since the end of last year. The World Health Organization (WHO) has predicted that the pandemic will spread rapidly in the near future, leading to a possible death toll of tens of millions. Regarding the prevention of a local outbreak of human infection of avian influenza, will the Government inform this Council:*

- (a) *whether the authorities have adopted special immigration control measures to prevent the import of avian influenza through imported labourers from infected areas, and the details of the infectious disease notification mechanisms established between the Hong Kong authorities and the governments of the neighbouring regions (especially the infected areas);*
- (b) *whether the anti-influenza drug "Tamiflu" in oral dosage form currently stockpiled by the authorities can effectively treat patients infected with avian influenza and relieve their symptoms, and of the efficacy and experience of using the drug in the infected areas; and*
- (c) *whether free influenza vaccination will be given to all elderly people; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, first of all, in respect of Mr Andrew CHENG's question, I have to give a clear explanation on the three different definitions of influenza. The first definition refers to the common seasonal influenza; the second

definition refers to the avian influenza we are concerned at present; and the third one which is more of a cause of concern is the possible outbreak of a worldwide influenza pandemic. In respect of avian influenza, it is primarily an infectious disease found among poultry and birds. Although there have been sporadic cases of human infection in Southeast Asia and other places since early 2004, there is as yet no evidence showing that human-to-human transmission of the virus has become efficient. Moreover, no worldwide H5N1 pandemic induced by human-to-human transmission has occurred at present. Certainly, we will closely monitor the development of the incident and will take effective precautionary measures.

Regarding Mr Andrew CHENG's main question, my reply is as follows:

- (a) Health advice is provided to all travellers (be they visitors or imported workers coming to work in Hong Kong) departing for or arriving at Hong Kong from countries which are affected by avian influenza including Vietnam, Cambodia, Thailand, Indonesia, and so on, by flight. Agreement has been reached with airlines operating in-bound flights from the mentioned countries and others affected by avian influenza to make in-flight health advice announcement to passengers. The announcement provides health information relating to avian flu and advises passengers who feel sick to seek medical consultation. Passengers arriving Hong Kong through the Hong Kong International Airport are also required to undergo temperature check. Those who are found to have a temperature are referred to the medical posts for more detailed check-up, and if necessary, admitted to hospital for necessary treatment.

As for passengers taking out-bound flights to these countries, they are provided with health education leaflets on board the flight or at the airline counters in the Hong Kong International Airport. These leaflets provide passengers with useful health advice on protection against avian influenza.

A leaflet entitled "What you should know about Avian Influenza" in six ethnic languages including Indonesian and Thai is produced. The leaflet is distributed to target groups through District Offices, Consulate-General Offices, the Hong Kong Federation of

Employers and relevant non-governmental organizations. In September 2005, the Department of Health (DH) organized an outreach programme in Victoria Park to distribute the avian influenza leaflet to Indonesian workers. The DH is at the moment updating the leaflet, and plans to translate it into more ethnic languages and distribute it to target groups before end of this year. The DH has also recently contributed feature articles about prevention of avian influenza to local ethnic newspapers in Indonesian, Philippine and Nepalese.

With regard to infectious disease outbreaks in regional countries including Indonesia and Thailand, the DH maintains close liaison with the WHO, Consuls General as well as the concerned health authorities. Outbreak information from both official and unofficial sources is compiled and analysed on a daily basis to help the DH keep track of the latest outbreak situation in the region. The DH has also established a network of contacts with health authorities in regional countries, and actively seeks latest information and clarifications through these contacts if there is an outbreak with considerable public health implications to Hong Kong.

- (b) Tamiflu is an approved drug for the prophylaxis and treatment of ordinary human influenza. It also shows antiviral activity against the avian influenza H5N1 virus in laboratory experiments. Hence, the WHO recommends health authorities to stockpile Tamiflu as one of the preparedness measures against pandemic influenza and this advice is taken by many developed economies.

The stockpiling of Tamiflu as an antiviral drug during influenza pandemic is also recommended by the Scientific Committee on Emerging and Zoonotic Diseases under the DH's Centre for Health Protection. Some world-renowned experts in avian influenza are members of the Committee.

A recent article from the WHO reveals that there is empirical evidence showing that Tamiflu is useful against H5N1. Current clinical evidence reveals that Tamiflu resistance in avian influenza H5N1 is minimal. We would however continue to monitor closely the occurrence of drug-resistance.

- (c) As far as elderly people are concerned, the Government Influenza Vaccination Programme covers those who are the needy and high-risk groups, that is, those living in residential care homes, those who are chronically-ill, and so on. The Programme this year is extended to also cover elderly people aged 65 or above who are on Comprehensive Social Security Assistance. The Administration does not consider it appropriate to broaden eligibility for the Programme to include all elderly people of that age group, who can seek vaccination in the private sector.

**MR ANDREW CHENG** (in Cantonese): *Madam President, as to when the outbreak of avian influenza induced by human-to-human transmission may occur, even the experts of the WHO cannot provide a definite answer, so this remains an unknown. Given that bird-to-human transmission of avian influenza is now frightfully unnerving in Southeast Asia, and that Hong Kong does have close contact with residents, travellers and labourers from the region, why does the Government not immediately carry out infrared temperature screening at all border control points, and trace the whereabouts of persons showing fever symptoms as it did during the SARS period? In the case of the outbreak of human-to-human transmission, will border-closing measures be implemented as the Secretary once said? It is reported that other places, such as New Zealand, Australia and Taiwan, have considered closing their border control points in case of an outbreak of avian influenza induced by human-to-human transmission, an approach the Secretary once said. What is the policy of the Government in this respect? In respect of border-closing measures, are different views being held in the Government, so the statements made by the Government on the issue seem to be contradictory now?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, Mr Andrew CHENG has raised two supplementary questions. The first one is on the implementation of temperature screening at the airport, which is in fact what we are doing now. The second one is on the control measures to be adopted at our border control points in case of an avian influenza pandemic induced by human-to-human transmission. Actually, I have explained the case very clearly on many occasions, stating that we will follow the International Health Regulation set down by the WHO to fulfil our duty. On

both entry and exit points, we have to prevent any infected persons, carriers of diseases or suspected patients of infectious disease from spreading the viruses to other countries. Therefore, we must determine with the relevant authorities who should be allowed entry or departure.

At the same time, we have to examine ways to differentiate confirmed patients, suspected patients and healthy persons. In case an influenza pandemic strikes, we must, based on certain definitions, decide how it should be dealt with. I have repeatedly said that, this is the least probable or the worst scenario we have to be prepared for; we must get ourselves well-prepared in order to act appropriately. However, this is no easy task. Having said that, adequate preparation in this respect and the relevant work will definitely be carried out, legislation may be enacted in case of emergency. In this connection, we will study the issue thoroughly before deciding how this should be dealt with. As for other countries, similar measures have also been adopted.

**MR ANDREW CHENG** (in Cantonese): *Madam President, the Secretary has not answered my supplementary question. After I had asked about the implementation of infrared temperature screening in my supplementary question, I also asked the Secretary whether the Government would conduct contact tracing on persons showing fever to check out their whereabouts. I hope the Secretary can give a clear reply, for Deputy Secretary CHAN Yuk-tak said a few days ago that infrared temperature screening had not yet been implemented but he would reflect this to the authorities concerned. I am not sure if he has already reflected this in the interim.....*

**PRESIDENT** (in Cantonese): Mr Andrew CHENG, you should finish asking your supplementary question. We still have 10 Members waiting for their turns to raise questions.

**MR ANDREW CHENG** (in Cantonese): *Not yet, I still have to say.....*

**PRESIDENT** (in Cantonese): You should say no more. Let the Secretary give his reply, will you?

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, first, I have to state clearly that we do have conducted infrared temperature screening at the airport. If a person showing high temperature is identified and suspected of having infectious diseases, he will certainly be sent to the hospital or even isolated for examination. If he is suspected of having contracted certain infectious diseases, we will certainly follow up the persons he has contacted, doing the so-called contact tracing work. As for the remark made by Deputy Secretary CHAN Yuk-tak, it refers to the border control points adjoining the Mainland where infrared temperature screening has not been implemented for the time being because no human infection of avian influenza has occurred in the Mainland at the present stage. However, we are always ready to launch operation within short notice if it is deemed necessary.

**MR FRED LI** (in Cantonese): *Madam President, I notice that some of the messages released by the Government recently remind the public to wash their hands as a precautionary measure against avian influenza. However, I would like to tell the Secretary that the public's fear of avian influenza arises mostly from their misunderstanding or ignorance of avian influenza. Many people are so scared that they dare not eat any chicken or egg; some are even frightened by the sight of chicken. Has the Government ever considered informing the public of the correct information on avian influenza as soon as possible, explaining to the public that so far how humans have been infected with avian influenza, and that the consumption of eggs will not cause infection, and how avian influenza will affect our health? I hope the Secretary will clarify this, for considerable misunderstanding in this respect is still found among the public. May I ask the Government whether it has planned to launch education on correct understanding of this?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, in the past two weeks, many colleagues and I have explained clearly to the media and all sectors the precautions in various aspects and the three different definitions of influenza and their modes of transmission. We all see that, to this day, the number of persons infected by avian influenza around the world during all these years is only 120. Of course, it warrants concern that 62 of the 120 persons died. It is thus evident that avian influenza is a very dangerous disease. However, regarding the circumstances in which these

persons contracted the disease, a great majority of them had had contact with live chickens or infected chickens, but it is not related to the consumption of chickens or eggs or the contact with the flesh of chicken. Certainly, we cannot rule out the possibility of other modes of transmission. However, the public can rest assured that the consumption of chickens or eggs will be perfectly alright provided that the safety procedures for handling chickens and eggs have been fully complied. We will definitely make continuous efforts to step up our public education work in future. Furthermore, colleagues of the Centre for Health Protection will inform various sectors of the infection control measures we have taken at this stage and to explain to different sectors, such as the business sector, the commerce and industrial sector or the tourism sector, how problems in this respect should be dealt with.

**DR JOSEPH LEE** (in Cantonese): *Madam President, at present, various places seem to remain highly vigilant against avian influenza. May I ask the Secretary, when the arrangement of requesting travellers to fill in health declaration forms will be resumed at our border control points or the airport? Regarding travellers coming from our neighbouring countries, this practice may facilitate our contact tracing work in future.*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, Dr Joseph LEE, though, at present, travellers are not required to make health declarations, we have requested airline companies to keep the passenger lists and the seating plans of their flights for a certain period of time. In case any person admitted to a hospital is found to have problems, we may promptly reach those who have had contact with him, or those sitting near him. In this respect, I think that we must strike a balance between the impact and the overall practical effectiveness of these measures. We will only step up our work in this respect and analyse the practical effectiveness of these measures on contact tracing, if the situation deteriorates to a critical state.

**MR VINCENT FANG** (in Cantonese): *Madam President, in retrospect, during the outbreak of SARS, patients, in most cases, were only suspected of contracting SARS when they have a fever, and suspected SARS patients would be isolated for observation for a couple of days to confirm whether they were just suffering from common fever or infected by SARS. May I ask the Secretary about the early*



*signs or symptoms of avian influenza? For example, will infected persons have a fever? Will the Secretary inform the public of the early signs of contracting avian influenza?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, Mr Vincent FANG, I myself have not treated any avian influenza patients. However, according to our experts and the description of some medical literature, avian influenza, which has an incubation period ranging from several days to a week, causes symptoms similar to that shown at the early stage of common influenza. Regarding the medical condition of avian influenza, patients will usually have very high fever and general muscle pain, and some patients may even develop minor diarrhea. However, one of the most important factors is that avian influenza patients have had contact with infected chickens and birds, or have had very close contact with poultry. Take cases in countries like Vietnam or Cambodia as examples. Avian influenza patients there had slaughtered infected chickens; since they were unwilling to dispose of their infected chickens which were going to die, they slaughtered those chickens and ate them. Moreover, in some countries where cock fighting is very popular, the patients there used to have constant contact with chickens throughout the day, and some may even sleep with chickens, thus their risk of contracting avian influenza becomes extremely high. In Hong Kong, I think that apart from persons having prolonged contact with chickens or have had contact with hidden infected chickens, the risk of other people being infected by avian influenza is rather low.

**PRESIDENT** (in Cantonese): Mr Vincent FANG, has your supplementary question not been answered?

**MR VINCENT FANG** (in Cantonese): *Madam President, I would like to raise a follow-up question. During the outbreak of SARS, we had a kind of screening test which could be used to confirm within a day or two whether a person was infected.....*

**PRESIDENT** (in Cantonese): Is this part of the supplementary question raised by you earlier? If not, this is not a follow-up question and you have to wait for another turn.

**MR VINCENT FANG** (in Cantonese): *Madam President, yes, this is part of it, I just want to..... (laughter) Just leave it, thank you, Madam President. (Laughter)*

**MR ALBERT CHENG** (in Cantonese): *Madam President, will the Government inform this Council or the public whether we have kept sufficient stock of "Tamiflu", and whether agreement has been reached with the pharmaceutical firm on the supply of the drug?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, the Government is prepared to follow the guideline of the WHO, purchasing enough "Tamiflu" for 15% of the entire population in Hong Kong. We have placed an order with the pharmaceutical firm, but we have requested the firm to supply the drugs in phases primarily owing to our concern that the drug may soon pass its expiry date. Since strenuous effort has been made to secure the funding approval of the Legislative Council of \$250 million for the purchase of the drug, we do not want to see that new drug has to be purchased only because the drug has expired. Therefore, we must require the pharmaceutical firm to deliver the drug in phases at an interval of four to six months. I can tell Members that our existing stock of the drug will certainly be adequate to meet the demand until the end of next year. However, we do not see that any single country will manage to keep totally adequate stock. For it is still unknown that whether the virus will have mutated into a new strain when the avian influenza outbreak strikes and the efficacy of "Tamiflu" in treating the disease at that time thus remains very doubtful. In view of this, we will definitely get ourselves well-prepared. In addition to "Tamiflu", the Government has also purchased other anti-viral agents.

**MR WONG KWOK-HING** (in Cantonese): *Madam President, may I ask the Secretary what criteria the Government will adopt in announcing information reported by infected areas? Will the Government announce the information in full or will it be selective? Will the information be announced immediately, or will it sometimes be announced but sometimes not? This information is very important to the prevention of influenza or avian influenza, as well as the bolstering of public confidence.*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, any information related to public health will definitely be announced comprehensively and transparently as early as possible. Therefore, if we receive any information, particularly that related to Hong Kong, we will certainly inform the public without delay provided that the information has been verified. Regarding overseas information, after we have verified that it is no hearsay, we will inform the public as soon as possible.

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

**DR KWOK KA-KI** (in Cantonese): *Madam President, the Secretary surely has done a lot in this respect, but the question is that the public obviously still consider he has not done enough. May I ask the Secretary, if the public, including employers, do want to have some clear guidelines teaching them what they should do in case the avian influenza virus mutates and human-to-human transmission becomes efficient, whether the Government will have any practical suggestion? Moreover, when will the isolation mechanism start operating? The Secretary has not mentioned what we should do if there is an outbreak of avian influenza in the Mainland. Will the Secretary give a brief elucidation in this respect?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, at present, the Centre for Health Protection is making use of its website and pamphlets to facilitate the public in understanding the risk assessment on the possible threat of an avian influenza pandemic. Certainly, we will further step up our efforts in public health education. Regarding Dr KWOK Ka-ki's question on what we should do in case of an outbreak of avian influenza in the Mainland, I can tell Members that a mechanism has been established with the Mainland. Two weeks ago, we signed a co-operation agreement with the Ministry of Health of the Mainland, deciding that both sides will exchange information expeditiously, and if an outbreak does occur in any place, both sides will join hands to fight the outbreak. Take the case of a streptococcus suis outbreak in Sichuan as an example, we also mobilized our experts to work with them in conducting studies and fighting the outbreak. Therefore, if a similar situation does arise, we will also kick-start the mechanism.

**PRESIDENT** (in Cantonese): Fifth question.

**Psychiatric Specialist Services Provided at Public Hospitals**

5. **DR FERNANDO CHEUNG** (in Cantonese): *Madam President, regarding the psychiatric specialist services provided at public hospitals, will the Government inform this Council:*

- (a) *of the average number of new cases handled last year by each out-patient clinic, and the respective longest waiting time for new cases involving the elderly, adults and adolescents;*
- (b) *of the average number of out-patients treated per hour by a doctor last year, and the average and maximum number of cases handled by the psychiatric medical social workers; and*
- (c) *whether the authorities have concrete plans to increase the staffing of psychiatric specialist doctors and social workers, so as to shorten patients' waiting time, extend the time for each consultation and reduce the caseload of these staff; if they have, of the details and the implementation timetable of the plans; if not, the reasons for that?*

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

- (a) In the financial year of 2004-05, the total number of first attendance at the psychiatric specialist out-patient clinics under the Hospital Authority (HA) was 25 676. The numbers of first attendance at the HA's various clusters are as below:

	<i>2004-05</i>
HK East Cluster	2 520.0
HK West Cluster	1 972.0
Kowloon East Cluster	3 428.0
Kowloon Central Cluster	2 195.0
Kowloon West Cluster	6 589.0
New Territories East Cluster	5 251.0
New Territories West Cluster	3 721.0
Total	25 676.0

In the financial year of 2004-05, the waiting time of new patients is set out below.

<i>Year</i>	<i>Age of Patients</i>	<i>Median waiting time</i>	<i>The longest period of waiting time</i>
2004-05	Aged below 18	4 weeks	53 weeks
	Aged 18 to 64	4 weeks	162 weeks
	Aged 65 and above	3 weeks	141 weeks

The median waiting time is around three to four weeks and the longest waiting time is 162 weeks.

Through public education of the Government and non-governmental organizations, Hong Kong citizens' positive understanding about mental illness has greatly increased. With a better understanding of mental illness, citizens are more ready to take the initiative to seek diagnosis and treatment from public hospitals or private-practised psychiatrists, when they are aware that they may have mental illness. Under such circumstances, the number of psychiatric out-patient attendance at the psychiatric specialists out-patient clinics in public hospitals recorded an increase of 5.03% from the financial year of 2002-03 to that of 2004-05.

In response to the service demand, the HA started to implement a triage system at its psychiatric specialist out-patient clinics in early 2003. Under this mechanism, conditions of patients will be assessed by experienced psychiatric nurses based on a set of standard criteria. The assessment results will then be reviewed by psychiatrists. Patients assessed to have urgent clinical needs will be arranged to have earlier appointments. These patients usually can receive treatment within two weeks. Those whose assessment results show that their clinical needs are urgent but not as much as those at the first category will be arranged an appointment within eight weeks. Cases that are assessed to be non-urgent will have to wait for a longer time.

Cases with long waiting time usually include those that are already under the care of other health care professionals. Other non-urgent

cases include chronic insomnia, anxiety symptoms related to work stress or financial problems, and so on. These cases, if assessed to have low risk for violence and suicide under the triage system, would usually have longer waiting time. Some of the cases on a longer waiting list may seek alternative sources for help, or their conditions may improve and therefore might not turn up for their first scheduled appointment. In the financial year of 2004-05, the rate of defaulted appointment was about 18%.

Patients may return to the psychiatric specialist clinics for reassessment any time should they find their condition deteriorates. Separately, specialist clinics also provide a list of private-practised psychiatrists for patients on waiting list.

- (b) In the financial year of 2004-05, the number of cases handled at each HA doctor's session (about three to four hours long) at psychiatric specialist out-patient clinics was 15.1. In general, a doctor usually has one new case and 15 to 25 follow-up cases in each session. The consultation of each new patient lasts for 45 minutes to one hour, while that for each old patient would take five to 10 minutes.

There are a total of 170 psychiatric medical social workers (including 14 officers-in-charge and the rest are case medical social workers). They serve psychiatric hospitals, clinics and special projects of the HA in psychiatric services, such as the expanded Community Psychiatry Teams (CPT), Elderly Suicide Prevention Programme (ESPP), Early Assessment Services for Young People with Psychosis (EASY) and the Extended-care patients Intensive Treatment, Early Diversion and Rehabilitation Stepping-stone (EXITERS) Project.

As at August 2005, there were a total of 13 892 cases being handled, including 2 935 inpatients and 10 957 specialist out-patient cases. Each case medical social worker handles about 90 cases on average.

- (c) I would elaborate on the strength of psychiatrists and the time for consultation.

In response to increasing service demand, the HA has hired additional staff in the past few years. For example, the number of psychiatrists increased from 212 in year 2000-01 to 258 last year; and psychiatric nurses also increased from 1 797 to 1 910 during the same period. In addition, the Government also allocated additional resources, amounted to over \$140 million for the HA's recurrent expenditure, to help the HA improve its psychiatric services. Funded initiatives include EASY, EXITERS, purchasing new generation psychiatric drugs and enhancing community psychiatric services, and so on.

The HA will continue to review the staff of its psychiatric services. Since the abovementioned longer waiting time occurs only in a small number of psychiatric clinics, the HA has planned to rationalize the staffing of its various psychiatric clinics to shorten the waiting time. In parallel, the HA will also attempt to refer some of the cases of its specialist out-patient clinics to general clinics or private practitioners of their choice.

As regards the time for each consultation, it is determined by psychiatrists based on each patient's specific conditions, and it is not easy to comment on it.

As regards the service and manpower of medical social workers, we consider that medical social workers have provided timely psychosocial intervention to patients and their families and helped them to cope with personal and social problems arising from mental illness. Intervention approach and time spent on each case depend on the need of individual cases. There is no waiting time for medical social workers' cases.

In the financial year of 2005-06, we will increase 10 medical social workers to provide early identification and intervention to young people with early signs of mental health problems. They will take a proactive approach to outreach to the community to provide public education on child and adolescent mental health.

Next year, we will further increase the number of medical social workers in psychiatric services to enhance family support and outreach services.

**DR FERNANDO CHEUNG** (in Cantonese): *Madam President, the waiting time listed in the Secretary's main reply is alarming, which is more than three years for adults and over two years for the elderly. I notice that the Secretary mentioned the triage mechanism in his main reply, and pointed out that patients assessed to have urgent needs would be arranged to have earlier appointments and receive treatment within two weeks. However, the Secretary said in his reply to a relevant question at the Council meeting on 25 May this year that, "At present, such patients can be treated within a week. I consider the service very satisfactory." The waiting time has extended from one week to two weeks within six months. Furthermore, as pointed out in his main reply, some of the cases on a longer waiting list might seek alternative sources for help, and the rate of defaulted appointment was therefore as high as 18%. In fact, each defaulted appointment will result in a waste of resources because the 45 minutes involved could have been used to treat other patients. The consultation time of each new case may be as long as that of six follow-up cases. May I ask the Secretary how much resources have been wasted as represented by that 18%? How should the authorities utilize resources with a view to achieving resource redistribution, so as to avoid creating a vicious cycle? It is because the longer the waiting time, the more resources will be wasted; and the more resources being wasted, the longer the waiting time will be.*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I have personally discussed this issue with the HA twice. First, we also found such long waiting time unacceptable. And yet, these are individual cases only, as the median waiting time is around three to four weeks. Second, the Honourable Member asked earlier whether patients with urgent needs could be arranged to receive treatment earlier. Certainly, the difference between one week and two weeks is not very big. However, I must emphasize that triaging is a correct approach because patients with genuine needs are able to receive treatment earlier.

As for those 18% of patients, they may not need further treatment or have already received treatment in private clinics or from private-practised specialists. We also agree that this is a waste of resources. If we are able to know in advance that a patient is not attending an appointment, we may have arranged another patient to receive treatment. I had discussed with the HA this matter and noted that there was room for improvement in management. We were also aware that the officers-in-charge of all cluster hospitals would discuss on how the



next target should be set with a view to helping patients with special needs and shortening the waiting time. In my view, first appointments should be arranged for patients as early as possible, because once the patients know that long-term treatment is not necessary for them, they will feel assured and will not have to wait for another two or three years for follow-up consultations.

**DR FERNANDO CHEUNG** (in Cantonese): *I heard the Secretary say that the waiting period would hopefully be shortened, which is very good news. I want to know: Has a target been set on the waiting period to be shortened in his plan, and has a timetable for attaining this target been drawn up?*

**PRESIDENT** (in Cantonese): Dr CHEUNG, please wait for another turn as this is not a follow-up question.

**DR JOSEPH LEE** (in Cantonese): *Madam President, the waiting time for psychiatrist patients is as long as two to three years, which I think is unacceptable to all Honourable colleagues. May I ask the Secretary why the HA does not take proactive follow-up actions for patients on a longer waiting list, say, those who have to wait for over one month — although their conditions may not be urgent for the time being, yet psychiatrist patients can be very unstable — by sending community psychiatric nurses or CPT to pay home visits for triaging, so that they can receive early treatment if the need arises?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I think that the triaging measures to be introduced should not be too complicated as the best measure should be the most simple and direct one. Early treatment for patients in need is more desirable than introducing triaging by sending different people to different places for follow-up. If we activate different triaging mechanisms at one time, the prioritization of patients for treatment will be confused in many cases. Instead, I think more should be done on referral. Since psychiatrist patients are generally referred to the psychiatrist specialist service in public hospitals by general out-patient clinics, private practitioners or psychiatrists, so I believe effective referral can help shorten the waiting time, thereby rendering prioritization of cases more effective.

**DR KWOK KA-KI** (in Cantonese): *Madam President, the Secretary mentioned in his main reply that manpower has been increased, and yet it obviously fails to cater for the relevant needs. This is my question to the Secretary. As some patients of stable conditions have been referred to private psychiatrists or general practitioners, I want to know what the ratio is. Or are there ways to make referral easier and more comprehensive so as to relieve the burden resulted?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I do not have the actual figure of patients seeking treatment provided by private practitioners. However, we can see that many patients who are on the waiting list sometimes seek treatment in the private sector because of the long waiting time. I think psychiatric treatment is not confined to medical treatment, for rehabilitation service is also required in many cases. We have therefore minimized the demand for in-patient services in various aspects. And, we hope to increase community services so that patients will find it easier to access different kinds of services, instead of merely queuing for services provided by public hospitals.

**MR LEE CHEUK-YAN** (in Cantonese): *Madam President, the longest waiting time mentioned by the Secretary earlier was 162 weeks, which is unacceptable to him either. However, this is only an individual case. Will the Secretary give us a figure or information as follows: Since the median waiting time is four weeks, which means 50% of the cases have to wait for more than four weeks, what is the distribution of cases with waiting time falling between four to 162 weeks? If 90% of the cases have to wait for more than 160 weeks, it will give rise to serious problems. Do we have such distribution figure? Besides, as the Secretary also said that the longest waiting time was unacceptable to him, has a target of the longest waiting time which the HA has been instructed to attain been set?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I have in hand the longest waiting time for different clusters. For example, the longest waiting time for Hong Kong East is 61 weeks; 63 weeks for Hong Kong West; 162 weeks for Kowloon East as mentioned earlier; 33 weeks for Kowloon Central; 64 weeks for Kowloon West; 160 weeks for New Territories East and 111 weeks for New Territories West. These are the waiting time for middle-aged adults, while that for adolescents and the elderly is

generally shorter. We have also discussed with the HA the possibility of referring patients who have waited for a long time to clusters with shorter waiting time, that is, cross-cluster medical treatment. This proposal is worth consideration. Certainly, it involves deployment of manpower. Clusters that have long waiting time will have additional manpower. Nevertheless, their workload is not proportionate to the time allowed, and hence more should be done in respect of management. Therefore, the HA will be advised in this respect. My personally view is that: It will be reasonable enough if urgent cases can be handled within two weeks. As for the longest waiting time, for patients suffering from chronic insomnia, for example, the waiting time is hopefully not more than one year.

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

**MS EMILY LAU** (in Cantonese): *Madam President, the Secretary pointed out in the main reply that a provision of \$140 million has been granted to the HA in the past few years for addressing this problem. He also found the waiting time too long and unacceptable, which we all agree too. What is the amount of provision the Secretary now intends to apply with the authorities? Or what is the amount of provision in his envelope earmarked to the HA for shortening the patients' waiting time? In fact, doctors are available to take care of these patients, but the fact is we do not have enough money to employ them, and it has therefore resulted in such long waiting time. What is the Secretary thinking now? May I ask what is the amount of provision to be applied and when will the HA receive the granted provision?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, the provision granted to the HA has not been broken down. Only new proposals will have a breakdown of provision. However, in regard to the overall operation and the operation in practice, the HA is obliged to allocate resources in response to the needs of different clusters and specialties.

Provision granted in the past is mainly earmarked for increasing manpower and introducing new drugs, which will hopefully help reduce the side-effects on patients and hence encourage them to receive treatment. Our

observation on the matter will continue next year. As far as I know, manpower has to be increased, and yet it is subject to the special needs of the cluster concerned. After discussing with the HA, we came to the view that treatment on cluster basis is more effective than on hospital basis. Furthermore, it is more desirable to provide out-patient or day care services in the cluster concerned than transferring patients to psychiatric beds for treatment, which will involve redeployment of resources. As for drugs, new drugs will be introduced while the patent of certain old drugs will soon expire. This helps saving money. In this connection, a detailed analysis by the HA is required, and a decision will be made after an updated annual plan has been formulated.

Nevertheless, Members can rest assured that the Financial Secretary has also taken into consideration the financial provision for the HA. It is hoped that the provision will be more stable in the coming year.

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

### **Timetable for Dual Elections by Universal Suffrage**

6. **MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, the package of proposals put forth by the Government last month on the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008 did not include a timetable and specific process for the elections of the Chief Executive and of all members of the Legislative Council by universal suffrage (dual elections by universal suffrage). In this connection, will the Government inform this Council:*

- (a) *given that the Standing Committee of the National People's Congress (NPCSC) ruled out the implementation of the dual elections by universal suffrage in 2007 and 2008, whether the Hong Kong Special Administrative Region (SAR) Government has discussed with the Central Government in the past year a specific timetable and the process regarding the implementation of the dual elections by universal suffrage; if it has, of the results of the discussion; and*

- (b) *of the specific work to arrange for all members of the Legislative Council to visit Beijing so that they can reflect to the Central Government officials the views of Hong Kong people on matters relating to constitutional development, including when and how dual elections by universal suffrage will be implemented?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, regarding the first part of the question raised by the Honourable CHEUNG Man-kwong, among the public views received by the Constitutional Development Task Force (the Task Force) since the publication of its Fourth Report in December last year, some have touched upon the issue of setting a timetable for attaining universal suffrage. As we have pointed out in paragraph 5.26 of the Fifth Report, there are divergent views within the community on the formulation of a timetable for attaining 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 opinions in the community calling for the Central Authorities to reconsider introducing universal suffrage in 2007 and 2008. Further, there are views that there is no need to set a timetable. As public views on the issue remain diverse, it would be difficult to reach a consensus in the near future. The Task Force considers that we should accord priority to addressing the issue of the electoral methods for 2007 and 2008, and put forth the Government's proposals in the Fifth Report in accordance with the framework prescribed by the Basic Law and the decision of the NPCSC in April last year. The Task Force has maintained communication with the Central Authorities. It has also submitted to the Central Authorities the Fifth Report together with the full range of views and proposals received.

Regarding the second part of the question, the Chief Executive led Legislative Council Members to visit a number of cities in the Pearl River Delta at the end of September. In fact, the smooth conduct of the Guangdong visit was made possible through the full support of the Central Authorities and the comprehensive assistance provided by the Guangdong Provincial Government. At a media session after the visit, the Chief Executive concluded that the visit to Guangdong represented a very good start. He hoped that this would lay a foundation for more exchanges in the future. We will reflect on the experience acquired from the visit, and will continue to promote our work in this regard, so that hopefully a visit to Beijing by Members could be realized at some stage.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, is it not necessary to seek a consensus if the views are diverse? Sometime ago, Premier WEN said he hoped that a unified and accommodative consensus could be reached on policy issues through negotiations among Hong Kong people. Members from the democratic camp have strong views on the Fifth Report, and one very important reason for their not voting in support of the package of proposals is the absence of a timetable for universal suffrage. Is it the Government's urgent and unshirkable responsibility to act as an active conciliator, rather than a messenger, to conciliate and lead various sectors, as well as to strive for a consensus that includes a timetable for constitutional reform before the resolution is tabled before the Council for endorsement? May I ask the Government if it will do so?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, first of all, I would like to thank Mr CHEUNG Man-kwong for his follow-up question. As regards the issue of constitutional development, we have in fact seized every opportunity to fully convey the views of various sectors of the Hong Kong community, which include the different aspirations and views of the community on the timetable for universal suffrage, when we communicate with the relevant departments of the Central Authorities.

We have already exerted our best effort to put forward the 2007 and 2008 electoral package, and striven to achieve the most progress of democratization within the framework of the decision and interpretation made by the NPCSC in April 2004. As regards Mr CHEUNG Man-kwong's question about whether or not we will address the community's request for a roadmap and timetable for universal suffrage squarely, we will of course address them squarely. In fact, it is precisely because we have looked squarely at the issue that a decision has been made to set up a Committee on Governance and Political Development under the Commission on Strategic Development. It is hoped that through this Committee, people from different sectors, including representatives of political parties, the academia, the industrial and business sectors as well as trade unions, will be invited to discuss issues of paramount importance to the future constitutional development of the Hong Kong community.

The Committee will examine, subject to the Basic Law, a number of important long-term issues in detail, which include: First, how to ensure the two

major principles of "meeting the interests of different sectors of society" and "facilitating the development of the capitalist economy" can be effectively fulfilled during the course of constitutional development and upon attaining the ultimate aim of election by universal suffrage? Second, how should the Legislative Council functional constituencies evolve before the ultimate aim of election by universal suffrage is attained? And third, what should be the composition and operation of the Legislative Council upon attaining the ultimate aim of election by universal suffrage?

All these have to be considered and handled in a realistic manner. We sincerely hope that Legislative Council Members will support the proposed 2007 and 2008 electoral package on the one hand, while paying continuous attention to the formulation of a roadmap for universal suffrage on the other.

**MR CHEUNG MAN-KWONG** (in Cantonese): *Madam President, I would like you to make a ruling. The Secretary has not answered one very critical point of my follow-up question: Will he conciliate so as to draw up a proposal with a timetable before the constitutional reform package is tabled before the Council for endorsement? I am not asking when the Commission on Strategic Development will make conciliation.*

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

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, since there are still divergent views on a timetable for universal suffrage within the Hong Kong community which has a wide range of views, it is therefore difficult to reach a consensus within the community in the near future. However, it is because we address this issue squarely that we expect the Commission on Strategic Development to be officially set up in November to begin discussions on the roadmap for universal suffrage within its Committee on Governance and Political Development. As such, the two electoral proposals of 2007 and 2008 will be dealt with, and in parallel, discussions on the formulation of a timetable for universal suffrage will proceed.

**MR LEE WING-TAT** (in Cantonese): *Madam President, during his visit to the United States, Chief Executive Donald TSANG said that American women enjoyed the right to vote only more than a hundred years after the establishment of the United States. However, he subsequently made an inconsistent remark that he hoped the day for election by universal suffrage would soon come. Madam President, what I want to ask is: Has Chief Executive Donald TSANG clearly conveyed to the Beijing Government, since he assumed office, the implementation of universal suffrage expeditiously as referred to by him? Furthermore, what does he mean by expeditiously? Is it calculated in terms of five years or 10 years, or do we have to wait another 20 years, just as the 78-year old man said, during which discussions on a timetable for universal suffrage will continue here?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, the American history which the Chief Executive mentioned in the United States was only an example. The development of democratization in the Hong Kong community, of course, requires internal discussions and full understanding of the matter. As for how and when universal suffrage can be attained, the SAR Government has not taken a view. It is earnestly hoped that, through the new Committee on Governance and Political Development formed under the Commission on Strategic Development, the Government will listen to different views and initiate discussions in the community in this respect.

**MR LEE WING-TAT** (in Cantonese): *My question is very straightforward. I just asked whether or not Chief Executive Donald TSANG, after assuming office, has conveyed to the Central Government the call for the formulation of a timetable for universal suffrage expeditiously. This point has been asked in a simple way. In other words, does that mean he did not do so?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, the views received in respect of a timetable for universal suffrage had been fully reflected to the Central Authorities. For example, in the Second Report submitted last year, the aspirations of the Hong Kong community in this respect were also reflected. According to the prevailing opinion poll, 50% to 60% of Hong Kong people want to have dual elections by universal suffrage in 2007 and 2008.



**MR LEE WING-TAT** (in Cantonese): *My question is: Has Chief Executive Donald TSANG conveyed such views? If the Secretary thinks otherwise, then simply tell us he has not done so.*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, be it the Chief Executive or be it the Task Force, when we had an opportunity to discuss the matter, views of Hong Kong people were of course reflected.

**DR YEUNG SUM** (in Cantonese): *Madam President, the pan-democracy camp has been fighting for the formulation of a timetable for universal suffrage and the abolition of appointed District Council (DC) seats. May I ask the Secretary: Does the formulation of a timetable for universal suffrage run counter to the NPCSC decision made on 26 April last year and violate the law?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, I have three points to make in response to Dr YEUNG Sum's supplementary question. First, according to the Basic Law, if the Beijing and Hong Kong authorities have reached a consensus, a decision on further constitutional development beyond 2007 and 2008 can then be made. Second, such a decision should not be made by Hong Kong unilaterally. And third, the electoral methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008 are being handled in accordance with the interpretation and decision made by the NPCSC in April 2004.

**DR YEUNG SUM** (in Cantonese): *Madam President, my supplementary question is very straightforward and simple. My question to the Secretary is: Does the formulation of a timetable for universal suffrage run counter to the decision made by the NPCSC on 26 April last year?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, the interpretation and decision made by the NPCSC in April 2004 are concerned with the further development of the selection method for the Chief Executive and the method for forming the Legislative Council in Hong Kong in 2007 and 2008.

**DR YEUNG SUM** (in Cantonese): *Madam President, does a timetable for universal suffrage run counter to this decision? The Secretary has not yet answered my question. Does it run counter to the decision, yes or no?*

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

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, I have in fact answered the question in the first place. According to the Basic Law, a decision on the further constitutional development beyond 2007 and 2008 can be made if the Beijing and Hong Kong authorities have reached a consensus.

**MR MARTIN LEE** (in Cantonese): *Madam President, the Basic Law, which it was promulgated in 1990, already drew up a timetable for Hong Kong to implement dual elections by universal suffrage in 2007. Can the Secretary inform us why it is not possible to draw up a new timetable after the NPCSC ruled out the proposed dual elections on 26 April last year?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, I think a certain part of the comment made by Mr Martin LEE earlier is inaccurate. According to Annex I and Annex II to the Basic Law, which was promulgated in 1990, if the electoral system of Hong Kong has to be further developed beyond 2007, the provisions in Annex I and Annex II should be complied with. Yet, the year for attaining universal suffrage was not specified at that time. Earlier, when I responded to Dr YEUNG Sum's question, I mentioned that we were now considering the way to further open up the two electoral systems of 2007 and 2008, rather than issues beyond 2007 and 2008. However, according to the Basic Law, a decision on the further constitutional development of Hong Kong beyond 2007 and 2008 can be made if the Beijing and Hong Kong authorities have reached a consensus.

**MS MARGARET NG** (in Cantonese): *Madam President, does the Secretary mean that the election of the Chief Executive by universal suffrage in 2012 is not in breach of the Basic Law, provided that a consensus has been reached between the Central and Hong Kong authorities?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, I will only focus on how the electoral systems of 2007 and 2008 can be further opened up at this stage, rather than making any speculation on the new electoral system in 2012. Nevertheless, I will not rule out the possibility of attaining the ultimate goal of universal suffrage in future years.

**MS MARGARET NG** (in Cantonese): *Madam President, the Secretary has not answered my supplementary question. I am not asking him to make any speculation. I just asked him, according to his replies given in response to the questions raised by Mr Martin LEE and other colleagues, is an election of the Chief Executive by universal suffrage in 2012 not in breach of the Basic Law if a consensus between the Central Authorities and the SAR Government has been reached?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, if we have to further develop the democratic political system of Hong Kong beyond 2007 and 2008, a consensus between the Hong Kong and Beijing authorities is of course required.

**MR ALBERT HO** (in Cantonese): *Madam President, the crucial point is: If a considerable number of people support an election by universal suffrage in 2012, and if it essentially became the mainstream view or consensus of the community, which is in fact feasible, it can at the same time form part of our reform proposal, provided that the Chief Executive will seek the consent of the Central Government in accordance with the procedures required. Will the Secretary inform us if it is true that, regardless of how the Chief Executive has claimed himself as one of the democratic camp publicly in the international community and that he has certain dreams, he is, however, rather helpless as everything is finalized and he will therefore neither put any more effort to strive for the inclusion of a timetable in the constitutional reform package nor request the Beijing authorities for the building of consensus in the foreseeable future?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, we are indeed handling the issue in a very proactive manner. We see that the community holds hopes for attaining the ultimate goal of election by

universal suffrage, and yet there are still divergent views about a timetable. At this stage, we have indeed taken our first step by setting up a committee under the Commission on Strategic Development to study the political system. It is hoped that people of different background, whether from political parties, business sector, trade unions and the academia, and so on, can sit down together in this Chamber for discussions on the issues faced by Hong Kong. Some relatively important issues, for example, how this Council will operate upon the attainment of universal suffrage; how to ensure that the principle of balanced participation can be manifested, and favourable conditions conducive to the further development of capitalist market in Hong Kong, and so on, are in fact very important fundamental considerations. All Honourable Members, no matter they are returned by the geographical or functional constituencies, hope that this Council will be fully returned by universal suffrage some day. However, pan-democratic Members understand that the support of Honourable Members of other political parties and functional constituencies is also necessary. We are now proceeding with the preparatory work. It is hoped that mutual co-operation, which has yet to be forged, can be promoted through discussions in the Commission on Strategic Development on issues faced by Hong Kong. After a roadmap has been formulated with our concerted effort, further discussions can then be held on how to take it forward.

**MR ALBERT HO** (in Cantonese): *Mine is in fact a true or false question, and the Secretary simply needs to answer either yes or no: Has the Chief Executive ruled out the possibility of formulating a timetable in drawing up the constitutional reform proposal of 2007 and 2008, that is, will he not make any more effort to strive for the inclusion of a timetable?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, I have already said that the work will be carried out in parallel. On the one hand, it is hoped that support from Honourable Members of different political parties and background for the electoral package of 2007 and 2008 can be secured, while the Commission on Strategic Development is expected to come into operation this month on the other.

**MR ALBERT HO** (in Cantonese): *Madam President, I just want to know if such a possibility has not been ruled out. That is, the issue concerning the*

*formulation of a timetable will be discussed and resolved in the context of the constitutional reform proposal of 2007 and 2008.*

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

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, I have in fact mentioned earlier that we have acted in accordance with the NPCSC's decision and interpretation made in April 2004. The proposed package being put forth, which is expected to seek approval from this Council in December, only concerns with the selection methods of the two elections in 2007 and 2008. However, in view of the concerns and aspirations of the Hong Kong community for attaining the ultimate goal of universal suffrage, we will initiate discussions in another forum under the Commission on Strategic Development.

**DR FERNANDO CHEUNG** (in Cantonese): *Madam President, the Secretary has mentioned in his response and the main reply that there are divergent views within the community on the timetable for universal suffrage, and it would be difficult to reach a consensus in the near future. A decision on the matter has therefore been put aside for the time being. Recently, I noticed that Ming Pao Daily has conducted a survey, using the questions adopted by the Government in its opinion poll. The result, however, shows that the popularity rating has drastically dropped 11%. In other words, there are also diverse views on the constitutional reform proposal put forth by the Government within the community. How will the Secretary deal with the present constitutional reform package following his logic? Will he put aside the decision for the time being given the diverse views in the community?*

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, since Dr Fernando CHEUNG himself is also engaged in research studies in social science, his question is therefore very sharp.

After the Fifth Report was released on 19 October, we also noticed that similar opinion polls had been conducted by various media organizations or universities. On the whole, the present proposal put forth for increasing DC members' participation in and influence on the Chief Executive and Legislative

Council elections, has a certain level of support among the public. We will make our best efforts to secure the support of a two-thirds majority of all Legislative Council Members for the proposal, in the hope that we can work together and take a step forward for the progress of democratization of Hong Kong.

**DR FERNANDO CHEUNG** (in Cantonese): *Madam President, although the Secretary has also admitted that there are diverse views on the constitutional reform proposal, he still insisted on soliciting support for it. What I want to follow up is: According to the logic shown by his argument, a decision is put aside for there are diverse views on the formulation of a timetable; and yet, he has insisted on soliciting support despite that there are diverse views on his proposal. Is this not contradictory?*

**PRESIDENT** (in Cantonese): Dr Fernando CHEUNG, if we are debating a motion, I can allow you to raise this point. However, it is now question time, your follow-up question must be a part of the supplementary just raised. And yet at first glance, what you have just raised does not seem to be a follow-up question.

We have spent more than 22 minutes on this question. Last supplementary question now.

**MR LEUNG KWOK-HUNG** (in Cantonese): *Madam President, when I raised a question to Secretary Stephen LAM last time, I had quoted Annex I and Annex II to the Basic Law to show that the formulation of a future timetable and roadmap at the moment, as what he said last time, was in breach of the Basic Law. However, from the response he has given today, I found that his position has changed again. He said that according to Annex I and Annex II to the Basic Law, it appears that if a consensus has been reached among the Central Authorities, the SAR Government and the Legislative Council, the formulation of a future timetable and roadmap is not in breach of the Basic Law. I just want the Secretary to answer whether or not this will violate the Basic Law. Does he have the Basic Law with him now? The last part of Annex I and Annex II, that is, the seventh paragraph of Annex I and the third paragraph of Annex II. Do I need to read them out?*

**PRESIDENT** (in Cantonese): Mr LEUNG, if you have finished with your question, you have to sit down and the Secretary will then reply.

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

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, I would like to thank Mr LEUNG Kwok-hung for his concern about this question and for raising this question again. However, he still has misunderstanding about one point, and I believe it is against the following background that he has such misunderstanding. On that day, Mr Martin LEE asked me whether or not Hong Kong could formulate a timetable for universal suffrage unilaterally, and my explanation is: First, Hong Kong could not make such a decision unilaterally; second, according to the interpretation and decision made by the NPCSC in April 2004, we should now focus on further relaxing the selection methods of the elections in 2007 and 2008. However, it is free to discuss anything in the Hong Kong community. We are prepared to promote discussions on the formulation of a roadmap for universal suffrage in the Commission on Strategic Development, while the public may continue to express different views on the formulation of a timetable for universal suffrage. Views received in this respect will be reflected to the relevant departments of the Central Authorities.

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

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

**PRESIDENT** (in Cantonese): You had better repeat your supplementary question.

**MR LEUNG KWOK-HUNG** (in Cantonese): *May I ask Secretary Stephen LAM: According to the seventh paragraph of Annex I and the third paragraph of Annex*

*II to the Basic Law, does it mean that if the Central Government, the Legislative Council and the SAR Government have reached a consensus and undergone the procedures provided in the seventh paragraph of Annex I and the third paragraph of Annex II to the Basic Law, on completion of the present review of the constitutional system, there will be a timetable and roadmap for universal suffrage which do not contravene the above two provisions?*

**PRESIDENT** (in Cantonese): Mr LEUNG, please be seated and then the Secretary will be invited to reply.

**SECRETARY FOR CONSTITUTIONAL AFFAIRS** (in Cantonese): Madam President, the answer is in fact very simple and I believe Mr LEUNG Kwok-hung will also understand. The current problem to be dealt with is how the selection methods of the two elections in 2007 and 2008 can be changed. As I have said earlier, we eagerly hope that the work could be done in parallel. First, the Commission on Strategic Development will be set up in November. As to the further development of the democratic political system of Hong Kong beyond 2007 and 2008, it is necessary for the authorities of Beijing and Hong Kong to reach a consensus in accordance with the Basic Law. By that stage, we certainly have to again secure the support of a two-thirds majority of all Legislative Council Members, and seek the consent of the Chief Executive and the approval of the Central Authorities.

**PRESIDENT** (in Cantonese): Oral questions end here.

## **WRITTEN ANSWERS TO QUESTIONS**

### **Remuneration for Senior Executives of Hospital Authority**

7. **MR ABRAHAM SHEK:** *Madam President, it has been reported that the consultancy study on the remuneration packages for senior executives of the Hospital Authority (HA) found that its former Chief Executive was underpaid by at least 20%. In this connection, will the Government inform this Council whether it knows:*



- (a) *if the HA will take into account its current deficit in determining the adjustment of the salaries of its Chief Executive and other senior executives;*
- (b) *the HA's timetable for implementing the consultancy report's suggestions that the HA's senior executives' annual bonus should be abolished and that any change to the remuneration of individual senior executives should be subject to their performance as determined by an independent panel; and*
- (c) *if a mechanism will be drawn up by the HA to ensure that members of the independent panel will assess the performance of the HA's senior executives and adjust their remuneration in a fair and objective manner?*

**SECRETARY FOR HEALTH, WELFARE AND FOOD:** Madam President,

- (a) In determining the terms and conditions of employment of its Chief Executive and other senior executives, the HA will take into consideration a wide range of factors, most notably the job responsibility of the post, and the qualification and past performance of the executive concerned. The financial situation of the HA will also be taken into consideration.
- (b) At its meeting on 29 September 2005, the HA Board decided to abolish the granting of performance incentive award (PIA) to its senior executives and review the relevant pay scales accordingly. Since then, action has been initiated to implement the decision. With the development of the new range of pay scales, the HA will convene Assessment Panels for determining how the remuneration packages of individual executives should be adjusted, on the basis of the job responsibility of the posts concerned and the performance of the relevant executives. Recommendations of the Assessment Panels will be submitted to the HA's Staff Committee, which is chaired by the Chairman of the HA Board, for consideration. As each individual senior executive has a contractual arrangement with the HA, the HA's current plan is to make changes to the remuneration packages of its senior executives at the time of contract renewal or at an earlier mutually agreed date.

- (c) The performance of the HA's senior executives is assessed in a fair and objective manner by Assessment Panels, as in the case of the present practice. To ensure impartiality of each of these Panels, the majority of its members comprises members of the HA Board and/or Hospital Governing Committees, who are persons independent from the HA management. The recommendations of Assessment Panels will be considered by the HA's Staff Committee.

### **Statistics on Salaries Tax**

8. **MR BERNARD CHAN** (in Chinese): *Madam President, will the Government inform this Council of the average percentage of the amount of salaries tax in the income of the payers of the tax, excluding those who paid at the standard rate, and the highest and lowest amounts of tax paid by them in the past three financial years?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Chinese): Madam President, in the years of assessment 2001-02, 2002-03 and 2003-04, taxpayers subject to progressive rates paid respectively an average of 5.3%, 5.9% and 6.1% of their assessable income (that is, total gross income from all sources before deduction of any allowable outgoings, expenses, concessionary deductions and allowances) in salaries tax. The lowest amount of tax payable was \$1 whereas the highest amounts were \$560,112<sup>(Note 1)</sup>, \$523,701, and \$435,340 for the respective years.

(Note 1) After the rebate of 50% of 2001-02 final tax, subject to a cap of \$3,000 per case.

### **Sale of Counterfeit Goods**

9. **MR LEUNG YIU-CHUNG** (in Chinese): *Madam President, the Customs and Excise Department (C&ED) recently found for the first time the selling of counterfeit jewellery by a shop participating in the "No Fakes Pledge" Scheme (the Scheme). In this connection, will the Government inform this Council:*

- (a) *of the number of complaint cases in the past three years alleging the selling of counterfeit goods by shops participating in the Scheme,*

*and the number of shops whose membership of the Scheme was terminated for non-compliance with the code of the Scheme; and*

- (b) *whether actions will be taken regularly to ascertain that the shops participating in the Scheme sell genuine goods only, so as to protect the interests of consumers; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in the absence of Secretary for Commerce, Industry and Technology) (in Chinese): Madam President, my reply to the Honourable LEUNG Yiu-chung's question is as follows:

The Scheme was launched in 1998 by the Intellectual Property Department (IPD), together with other organizers including the Hong Kong Record Merchants Association, the Hong Kong Retail Management Association and the Hong Kong General Chamber of Commerce. Thereafter, the Hong Kong Tourism Board, the Hong Kong & Kowloon Electrical Appliances Merchants' Association Limited, the Hong Kong General Chamber of Pharmacy Limited, the Chamber of Hong Kong Computer Industry and the Travel Industry Council of Hong Kong have also become supporting organizations of the Scheme. The Scheme aims to encourage retailers to make pledges to sell genuine goods and to enhance retailers and consumers awareness of intellectual property protection.

In the past three years, we received three complaints concerning member companies of the Scheme suspected of selling counterfeit goods. The membership of one company was terminated. Of the other two cases, follow-up actions revealed that one was unfounded and one is still being investigated.

Under the code of ethics of the Scheme, participating companies are required to let the C&ED officers conduct inspection of their premises. Through effective partnership with copyright and trademark owners and their trade associations, the C&ED maintains close surveillance over suspected counterfeiting and piracy activities in the market. It will take swift actions against any shops suspected of selling counterfeit and pirated goods. This enforcement mechanism has been working effectively and we have no plan at this stage to conduct regular inspection of companies participating in the Scheme.

In the light of the recent termination of the membership of a jewellery company participating in the Scheme and suspected of selling counterfeit goods, the IPD together with other organizers and supporting organizations (collectively referred to as concerned organizations) are now reviewing the operation of the Scheme to enhance consumers' confidence in the Scheme. The code of ethics of the Scheme has recently been updated so that the IPD and other concerned organizations may suspend or terminate a member company's membership immediately if there are reasons to believe that the member company has failed to comply with the code of ethics or if there is any action taken against it by the C&ED. The updated code of ethics has become effective for all retail merchants newly joining the Scheme and will gradually apply to existing member companies. The IPD will further discuss with other concerned organizations to explore other ways to improve the Scheme, including the possibility of immediate disclosure of the names of any member companies suspected of having breached the code of ethics of the Scheme and whose membership has been terminated; and strengthening the criteria for vetting applications for joining the Scheme or renewal of membership.

### **Monitoring of Low-priced Outbound Tours**

10. **MR HOWARD YOUNG** (in Chinese): *Madam President, recently, some travel agents, in collaboration with small airlines, offer outbound tours at very low prices. Some people who have joined such tours have reflected to me that, as the aircrafts owned by these airlines are few in number and rather old and worn-out, flights are often delayed or cancelled because of failure or emergency repairs of such aircrafts, thereby causing disruption to the tour itineraries. In this connection, will the Government inform this Council how the authorities monitor the flight services provided by these airlines to ensure aviation safety and protect the rights and interests of consumers?*

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Chinese): Madam President, all airlines operating in Hong Kong and flights coming in and out of Hong Kong are subject to the regulatory regime and safety standards set by the International Civil Aviation Organization (ICAO), regardless of their size or services offered. Under this regime and the laws of Hong Kong, the Civil Aviation Department (CAD) is the regulatory authority for aviation safety. Through approval of flight operations, licensing of aircrew and aviation professionals, conducting flight checks and inspection of maintenance

organizations, the CAD ensures that Hong Kong-registered airlines comply with all relevant safety standards. In accordance with the ICAO regime, the regulation of non-Hong Kong-registered airlines is undertaken by their respective aeronautical authorities. The CAD also requires proof of valid safety documents and may conduct checks on non-Hong Kong airlines to ensure compliance.

To ensure consumers are provided with a reasonable level of service, the Supply of Services (Implied Terms) Ordinance stipulates that a supplier of service is obliged to carry out the service with reasonable care and skill and within reasonable time. Like any other service suppliers, airlines are subject to the application of the Ordinance. Should a consumer consider that an airline has not carried out its service within a reasonable time, he/she may make civil claims against the airline. In the case of disruption of itineraries of outbound tour groups due to flight delays or cancellation of services by the airlines, the Travel Industry Council requests that travel agents should help affected tour group members to seek compensation from the airlines concerned.

### **Non-local Staff Employed by Hong Kong Disneyland**

11. **MISS CHAN YUEN-HAN** (in Chinese): *Madam President, regarding the non-local staff recruited by the Hong Kong Disneyland (HKD), will the Government inform this Council:*

- (a) *of the current number of such staff, together with breakdowns by the positions taken up by them and in accordance with the table below; and*

<i>The type of labour importation scheme under which employment visas were granted</i>	<i>Number of staff</i>
<i>General Policy on Entry for Employment</i>	
<i>Admission Scheme for Mainland Talents and Professionals</i>	
<i>Admission of Mainland Students Graduated from University Grants Committee-funded Institutions in Hong Kong</i>	
<i>Supplementary Labour Scheme</i>	
<i>Foreign Domestic Helpers</i>	

- (b) *whether, before recruiting these non-local staff, the HKD has conducted any local recruitment exercise and adopted the principle of according priority of employment to local residents; if not, of the reasons for that?*

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

- (a) According to the Hongkong International Theme Parks Limited (HKITP), the breakdown of their non-local staff is as follows:

<i>The type of labour importation scheme under which employment visas were granted</i>	<i>Number of staff</i>	<i>Position</i>
General Policy on Entry for Employment	200	Senior management staff and performing entertainers
Admission Scheme for Mainland Talents and Professionals	10	Performing entertainers
Admission of Mainland Students Graduated from University Grants Committee-funded Institutions in Hong Kong	0	
Supplementary Labour Scheme	0	
Foreign Domestic Helpers	0	

- (b) The HKITP has advised that their employment policy is to recruit in Hong Kong, with priority given to qualified local applicants. The HKITP has about 4 900 staff members, and over 95% of them are recruited locally.

Most of their non-local staff members are performing entertainers engaged in very type-specific roles, for example, fire/knife dancers and "Festival of the Lion King" vocalists. The HKITP considers that it is a challenge to hire a large number of performing entertainers simultaneously to meet the requirement of a

newly-opened theme park. The HKITP first conducted their recruitment exercise for every performing role in Hong Kong, with recruitment priority given to qualified local performers. The HKITP would only recruit in other places for roles which they have been unable to successfully cast in Hong Kong.

### **Traffic Noise from Tate's Cairn Highway**

12. **MISS TAM HEUNG-MAN** (in Chinese): *Madam President, I have received complaints that some Home Ownership Scheme estates in Diamond Hill have been plagued by the traffic noise from the Tate's Cairn Highway since the completion of the estates, and the noise level in the area is also higher than as stipulated in the law, but no noise mitigation facilities have been put in place there. In this connection, will the Government inform this Council:*

- (a) *whether it plans to install any noise mitigation facilities at the above location to solve the noise problem; if it has, of the details; if not, the reasons for that;*
- (b) *whether it has consulted the relevant District Council on the above problem; if it has, of the consultation results and progress of the follow-up actions; if not, when such consultation will be carried out; and*
- (c) *whether it has reviewed the existing policy on the provision of noise mitigation facilities on busy roads; if it has, of the review results and progress of the follow-up actions; if not, the reasons for that?*

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

- (a) The Government is always very concerned about road traffic noise problem and has developed a set of standards for road traffic noise levels for schools and residential premises. These standards, however, are not statutory. The Government will seek to achieve these standards by means of land use planning and engineering solutions, and so on.

We have conducted a feasibility study on building noise barriers or enclosures along the section of Tate's Cairn Highway near Rhythm Garden. The findings indicate that the road section in question does not have additional capability for supporting noise barriers or enclosures. If noise barriers are to be built, a separate structure must be erected for support. However, owing to the limited space, it is not suitable to erect a separate structure and it is therefore not feasible to build noise barriers or enclosures along the road section. To alleviate the impact of traffic noise on residents of nearby housing estates, we have paved the section of Tate's Cairn Highway near Rhythm Garden with noise-reducing materials. The Highways Department (HyD) has also inspected and repaired damages to expansion joints and uneven surfaces on the road section so as to further reduce the noise generated by passing vehicles.

- (b) A representative of the Environmental Protection Department (EPD) attended the meeting of the Food and Environmental Hygiene Committee of the Wong Tai Sin District Council (WTSDC) on 30 March 2004 to discuss the matter with members. At the meeting, the representative of the EPD explained to members that it was not technically feasible to build noise barriers along the road section. Moreover, representatives of the EPD, the HyD and the Transport Department conducted a joint site visit with three WTSDC members on 19 May 2004. We will continue to consult the District Council on road traffic noise matters.
- (c) The Government will continue to actively implement the existing policy of providing noise mitigation measures along busy roads through administrative measures, subject to the availability of financial resources, the established criteria and the priority accorded. Construction works of noise barriers along two sections of Fanling Highway and Cheung Pei Shan Road have already commenced. We will closely monitor the effectiveness of such works on mitigating road traffic noise and will review the existing policy if necessary. Moreover, we will keep abreast of new technology in mitigating road traffic noise and make reference to overseas experience.



**Different Treatments for Male and Female Prisoners**

13. **MR LEUNG YIU-CHUNG** (in Chinese): *Madam President, I have received complaints about the different treatments to male and female prisoners by the Correctional Services Department (CSD). For example, it is more difficult to obtain approval for additional visits to female prisoners; in the case of a married couple who are both prisoners, only the wife is allowed to visit the husband; and female prisoners generally work longer hours. In this connection, will the Government inform this Council:*

- (a) of the differences in treatment to male and female prisoners in respect of visits and working hours;*
- (b) whether it has assessed if such differences violate the Sex Discrimination Ordinance (Cap. 480), and whether improvements will be made; and*
- (c) whether it provides an adequate supply of personal hygiene items, including sanitary napkins and soap, for female prisoners according to their physiological needs; if not, of the reasons for that?*

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

*(a) Visits to Prisoners*

Under Rule 48, Prison Rules (Cap. 234A), the relatives and friends of a prisoner are allowed to visit him/her twice a month and no more than three visitors shall be allowed at one time. The CSD applies this rule equally on both male and female prisoners. The CSD will consider a prisoner's request for additional visits on a case-by-case basis, taking into account factors like urgent family matters and health problems. The gender of the requesting prisoner is not a factor for consideration.

In arranging visits between two prisoners who are close relatives, the CSD normally escorts the one of lower security category and/or with better institutional behaviour to visit the other. Again, the gender of the prisoners concerned is not a factor for consideration.

*Working Hours of Prisoners*

In accordance with Prison Rules 38 and 43, all prisoners, irrespective of gender, are required to engage in useful work no less than six hours and no more than 10 hours daily. And in accordance with Prison Rule 44, no work shall be done by prisoners beyond what is strictly necessary on Sundays and certain holidays. In general, all penal institutions follow similar daily routine and therefore the working hours of prisoners are also similar. Depending on the types of work assigned, there may be minor difference in the working hours of prisoners in different institutions and/or within the same institution. In any case, gender is not a factor in determining prisoners' working hours.

- (b) As can be seen from (a) above, the present arrangements for visits to prisoners and work in penal institutions do not violate the Sex Discrimination Ordinance (Cap. 480).
- (c) The CSD provides prisoners with adequate daily necessities (including personal hygiene items) appropriate to gender. On reasonable requests, the CSD will provide prisoners with additional quantities of such necessities. Besides, prisoners may use their earnings from work to purchase canteen items (including personal hygiene items) in the penal institutions twice a month.

**Competition Policy Review Committee**

14. **MR RONNY TONG** (in Chinese): *Madam President, in June this year, the Competition Policy Advisory Group (COMPAG) established the Competition Policy Review Committee (the Committee) to review the existing competition policy and the composition, terms of reference and operations of the COMPAG. The authorities have indicated that the Committee would complete its review within 12 months from its establishment. In this connection, will the Government inform this Council:*

- (a) *of the number of meetings held by the Committee so far, the duration of each meeting, and the average attendance rate of its members;*
- (b) *of the methodology adopted by the Committee for conducting its review; the criteria adopted for selecting representations and individuals to attend meetings with the Committee; the representations and individuals with whom it has met so far; and*
- (c) *whether the Committee has drawn any preliminary conclusions; if it has, of the conclusions?*

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

- (a) The Committee has, since its establishment in June 2005, held three meetings. The average attendance rate of its members was about 83%. Two of the meetings lasted for about three hours each. The other one was in the form of a seminar and lasted for more than eight hours.
- (b) The Committee is reviewing the composition, functions and *modus operandi* of the COMPAG and the effectiveness of the existing competition policy. The Committee adopts a multi-pronged approach which includes research into materials related to the issues involved; brain-storming sessions and inviting and analysing views, including those of local and overseas experts.

In July 2005, the Committee wrote to more than 300 trade and industry organizations to invite them to give comments on issues related to the review. The Committee also conducted a seminar in August 2005. Five local and overseas experts on competition law were invited to share their views and experience with members on the competition policies, legislation and relevant experience in other economies including the United States, the United Kingdom,

European Union, Australia and Singapore and discussed their relevance and applicability to Hong Kong. The Committee has not yet met with any organization or individual.

- (c) The Committee has not come to any preliminary conclusion.

### **Nuisances Caused by Internet Cafes**

15. **MR ALBERT CHAN** (in Chinese): *Madam President, recently, I have received many complaints from members of the public that Internet computer services centres (commonly known as "Internet cafes") operating in the vicinity of residential buildings cause nuisances and deterioration in law and order. In this connection, will the Government inform this Council:*

- (a) of the respective numbers of Internet cafes at the end of June this year and in each of the past three years;*
- (b) of the number of complaints received in each of the past three years by the relevant authorities about the nuisances caused by Internet cafes or their customers to nearby residents;*
- (c) of the number of reports on crimes involving Internet cafes received by the police in each of the past three years; and*
- (d) whether it will consider regulating the operation of Internet cafes so as to ensure public peace and safety in the community; if so, of the details; if not, the reasons for that?*

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

- (a) According to our records, the number of Internet computer services centres (ICSCs) (commonly known as "Internet cafes") as at 31 July of 2002 to 2005 are as follows:

2002 : 317  
2003 : 312  
2004 : 249  
2005 : 208

- (b) The number of complaints received from January 2003 to September 2005 by the relevant authorities against nuisance caused by ICSCs or their customers to nearby residents are as follows:

January to December 2003 : 17

January to December 2004 : 9

January to September 2005 : 6

These complaints mainly related to noise problems.

- (c) The number of reports on crimes involving ICSCs received by the police from January 2003 to September 2005 are as follows:

January to December 2003 : 284

January to December 2004 : 169

January to September 2005 : 105

Of the reported crimes, more than half related to thefts. Most of the reported crimes were minor in nature.

- (d) Regarding the regulation of ICSCs, the outcome of the public consultation conducted by Home Affairs Bureau (the Bureau) in 2002 indicated that while some form of regulation was deemed necessary, ICSCs should not be over-regulated by a full-fledged licensing system as this would hinder the development of the trade. As a result, the Bureau issued the "Code of Practice for Internet Computer Services Centres Operators" (the Code) in August 2003 for voluntary compliance by ICSC operators. The Code has taken into account the feedback from the public consultation and has addressed the main areas of concern of the public, the trade and relevant government departments. The Code sets out guidelines on fire and building safety, noise control, public order and crime prevention, Internet content, smoking, ventilation and hygiene. The Bureau had reviewed the situation in 2004 and had found the law and order situation in ICSCs to be satisfactory. We consider that we should continue to adopt the Code as an administrative measure to regulate the trade.

**Setting up and Operation of LPG Filling Stations**

16. **MR LAU KONG-WAH** (in Chinese): *Madam President, with regard to the setting up and operation of liquefied petroleum gas (LPG) filling stations, will the Government inform this Council:*

- (a) whether the authorities have received complaints, over the past three years, about the long queuing time during rush hours for LPG vehicles seeking service at LPG filling stations built on sites awarded by the Government at nil land premium because such filling stations were not in full operation; if so, of the follow-up actions taken, and whether it has negotiated with the operators to ensure full operation of LPG filling stations during rush hours; if it has not, the reasons for that;*
- (b) how the LPG prices at LPG filling stations built on land at nil land premium compare to those at other LPG filling stations; and*
- (c) of the existing locations of LPG filling stations, as well as the number and locations of new LPG filling stations planned to be set up in the next three years?*

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

- (a) Between 2002 and 2004, the Government received a total of 35 complaints against some dedicated LPG filling stations that were not in full operation. Upon receipt of the complaints, the Electrical and Mechanical Services Department (EMSD) carried out surprise inspections of the filling stations concerned and wrote to the companies involved to ask for improvement. No such complaints were received from February to September this year.

The Government received another 10 complaints since the end of September this year. Upon receipt of the complaints, EMSD staff carried out eight surprise inspections of the filling stations concerned during rush hours. It was found that the maximum number of vehicles queuing for service ranged from two to 42 and

the longest time spent from queuing to completing the refilling ranged from five to 20 minutes. It was only on one occasion that the filling station was found not to have made full use of its LPG nozzles.

The Government has informed operators of the dedicated LPG filling stations of the complaints and has written to them to request for the provision of sufficient manpower and utilization of all LPG filling facilities at the filling stations during rush hours. The authorities will continue to carry out surprise inspections of the filling stations so as to ensure faithful discharge of duties by the operators.

Moreover, the Government will continue to monitor the operations of filling stations and traffic condition in the vicinity and will write to the associations of taxi and public light bus operators to encourage drivers to go for refilling during off-peak hours to avoid queuing and traffic congestion.

- (b) The LPG prices at dedicated LPG filling stations are fixed according to the contractual tender prices while those at non-dedicated filling stations are adjusted in the light of market conditions from time to time. A comparison of the highest and the lowest LPG prices between the two types of filling stations is set out below:

<i>Type of filling stations</i>	<i>Highest price (per litre)</i>	<i>Lowest price (per litre)</i>
Dedicated LPG filling stations	HK\$2.79	HK\$2.42
Non-dedicated LPG filling stations	HK\$3.16	HK\$2.99

\* The figures refer to the prices as of 14 October 2005

- (c) After some four years of efforts, we have significantly expanded the LPG filling network from four temporary stations at the outset to 53 at present (including 12 large-scale dedicated LPG stations), which are sufficient for use by all taxis and public light buses. Details of these LPG filling stations are at the Annex. At present, at least three LPG filling stations are under planning or construction, two of which are in Tung Chung whereas another is in Tai Po. They are scheduled for completion in 2006-07. Moreover, for all lands

granted for petrol filling stations in future, the Government will require the land users to provide LPG filling facilities as long as safety requirements are met, in order to further expand the LPG filling network.

## Annex

<i>Company</i>	<i>Address</i>	<i>Dedicated Site</i>
<i>Hong Kong</i>		
1. Caltex	Pokfulam Road	
2. Caltex	South Bay Road, Repulse Bay	
3. CRC	Fung Mat Road, Sheung Wan	Yes
4. CRC	Chong Fu Road, Chai Wan	
5. ECO	J/O of Fung Yip Street and On Yip Street, Chai Wan	Yes
6. ECO	Marsh Road, Wan Chai	Yes
7. ExxonMobil	66 Wong Chuk Hang Road, Aberdeen	
8. ExxonMobil	Sheung Mau Road, Chai Wan	
9. Feoso	Java Road, North Point	
10. Feoso	23 Fung Yip Street, Chai Wan	
11. Shell	Stanley Village Road, Stanley	
<i>Kowloon</i>		
12. Caltex	5 Fung Shing Street, Po Kong Village	
13. CRC	Wai Lok Street, Kwun Tong	Yes
14. CRC	Cheung Yip Street, Kowloon Bay	Yes
15. CRC	Cornwall Street, Kowloon Tong	
16. ECO	Ngo Cheung Road, West Kowloon	Yes
17. ECO	Sham Mong Road, Mei Foo	Yes
18. ExxonMobil	7 Kai Fuk Road, Kowloon Bay (East Bound)	
19. ExxonMobil	4 Kai Fuk Road, Kowloon Bay (West Bound)	
20. ExxonMobil	Princess Margaret Road, Ho Man Tin	
21. Feoso	332 Tai Po Road	
22. Shell	5 Kai Fuk Road, Kowloon Bay (East Bound)	
23. Shell	8 Kai Fuk Road, Kowloon Bay (West Bound)	
<i>New Territories</i>		
24. Caltex	Clear Water Bay Road, Sai Kung (near TV City entrance)	
25. Caltex	Sha Tau Kok Road, Fan Ling (near Lung Yeuk Tau)	



<i>Company</i>	<i>Address</i>	<i>Dedicated Site</i>
26. China Oil	J/O Yu Tung Road and Chung Yan Road, Tung Chung New Town	
27. CRC	Yuen Chau Tsai, Tai Po	Yes
28. CRC	J/O Kwai Chung Road and Kwai On Road	Yes
29. CRC	Tak Yip Street, Yuen Long	Yes
30. CRC	Hang Yiu Street, Ma On Shan	Yes
31. CRC	12 Yuen On Street, Siu Lek Yuen, Sha Tin	
32. CRC	Kam Tin Road, Shek Kong	
33. CRC	J/O Pak Wo Road and Yat Ming Road, Fan Ling	
34. CRC	53-67 Tsing Yi Road, Tsing Yi	
35. CRC	Fuk Hang Tsuen Road, Lam Tei, Tuen Mun	
36. CRC	9 Tong Yan Shan Road, Ping Shan, Yuen Long	
37. CRC	123 Ping Ha Road, Tin Shui Wai	
38. ECO	Yip Mong Road, Tuen Mun	Yes
39. ExxonMobil	99 Castle Peak Road, Kwai Chung	
40. ExxonMobil	4 Tong Yan Shan Road, Ping Shan, Yuen Long	
41. ExxonMobil	Hiram's Highway, Sai Kung Tuk	
42. ExxonMobil	11 On Ping Street, Shek Mun, Sha Tin	
43. ExxonMobil	21 Po Lam Road, Tseung Kwan O	
44. ExxonMobil	100 Po Hong Road, Tseung Kwan O	
45. ExxonMobil	739 Castle Peak Road, Tsuen Wan	
46. ExxonMobil	698 Castle Peak Road, Kwai Chung	
47. ExxonMobil	38 Hoi Wah Road, Tuen Mun	
48. ExxonMobil	183 Tsing Yi Road West, Tsing Yi	
49. Feoso	Kam Tin Road, Yuen Long	
50. Shell	Airport Passenger Terminal, Chek Lap Kok	
51. Shell	21 On Shan Lane, Ma On Shan	
52. Shell	171 Tsing Yi Road West, Tsing Yi	
53. Shell	682 Castle Peak Road, Kwai Chung	

### **Waste Incineration Demonstration Scheme**

17. **MISS CHOY SO-YUK** (in Chinese): *Madam President, it has been reported that a private company conducted a pilot test on waste incineration at Tuen Mun in April this year. If the monitoring report of the pilot test is*

*approved by the Environmental Protection Department (EPD), the company can implement a waste incineration demonstration scheme for a period of 16 weeks according to the licence conditions. In this connection, will the Government inform this Council:*

- (a) whether the company may request an extension of the period during the implementation of the scheme;*
- (b) of the criteria in deciding whether the application for the extension of the period should be approved; and*
- (c) how it will avoid an indefinite extension of the scheme?*

**SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS**

(in Chinese): Madam President, a co-combustion pilot plant research project is jointly undertaken by Green Island Cement Company Limited (GIC) and The Hong Kong University of Science and Technology. This pilot plant is set up at GIC's existing cement plant at Tuen Mun. The purpose of the research project is to utilize the energy recovered from the incineration of municipal solid waste for cement production. On 25 November 2003, GIC was granted a Specified Process Licence under the Air Pollution Control Ordinance from the EPD to operate the co-combustion pilot plant. According to the licence conditions, GIC shall not carry out operation of the co-combustion pilot plant unless the pilot plant passes the commissioning tests and GIC obtains agreement from the EPD in respect of the tests results. The cumulative operation period of the pilot plant shall not exceed 16 weeks.

- (a) Under the provisions of the Air Pollution Control Ordinance, the licence holder may apply for variation or renewal of the licence.
- (b) Similar to other applications, the EPD will process the concerned application in accordance with the provisions of the Air Pollution Control Ordinance. Since the existing licence will expire on 24 November 2005, GIC has submitted an application for licence renewal to the EPD on 31 August 2005, in order that the 16-week operation for the research project can be completed. Currently, the EPD is processing the application. If the application for licence renewal is granted, the same licence terms and conditions

stipulated in the existing licence will be imposed, that is, the cumulative operation period allowed for the co-combustion pilot plant shall not exceed 16 weeks. After this 16-week operation period, the pilot plant shall cease operation.

- (c) The operation of the co-combustion pilot plant is required to comply with the licence conditions. It has been stipulated in the conditions that the cumulative operation period of the pilot plant shall not exceed 16 weeks. The EPD will take appropriate enforcement actions against GIC, including stopping the operation of the plant, upon non-compliance with the licence terms and conditions.

### **Financial Arrangements for Hong Kong Disneyland**

18. **MS EMILY LAU** (in Chinese): *Madam President, in December 1999, the Government and The Walt Disney Company (TWDC) set up a joint venture company to establish the Hong Kong Disneyland (HKD), with a shareholding ratio of 57:43. Regarding the financial arrangements for the HKD, will the executive authorities inform this Council:*

- (a) *apart from spending \$13.7 billion on the reclamation and infrastructure works, as well as injecting \$3.25 billion into the joint venture company and providing it with a loan of \$6.1 billion, of the amount of each item of expenditure incurred so far by the Government in building the HKD and associated facilities (including cleaning up the contaminated soil at Penny's Bay, compensating the fishermen affected and injecting funds into the MTR Corporation Limited (MTRCL) for the construction of the Disneyland Resort Line);*
- (b) *whether they will brief this Council on the detailed accounts in respect of the construction and operation of the HKD and other relevant information, including the operating cost, daily attendance, income generated from the sale of merchandise and other incomes; if not, the reasons for that; and*
- (c) *whether they have assessed if there is any conflict in the Government's roles as the rule-setting authority for the market on*

*the one hand, and as a market participant for being the majority shareholder of a private company on the other; if there is conflict, how the authorities intend to address it and whether they will sell the Government's shares in the joint venture company through listing; if there is no conflict, the rationale for that?*

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

- (a) The major capital spending that the Government has committed so far in connection with the construction of the HKD includes the following:

		<i>Estimated Total Spending \$ Billion</i>
<i>Capital Works Reserve Fund</i>		
(1)	Reclamation and other infrastructure works (including, for example, connecting road works, costs of construction of Inspiration Lake Recreation Centre, expenses for cleaning up of the dioxin contaminated soil, and the compensation payable to affected fishermen)	13.6
(2)	Land acquisition and clearance compensation	1.6
<i>Capital Investment Fund</i>		
(3)	Equity injection of \$3.25 billion into Hong Kong International Theme Park Limited (HKITP)	3.3
(4)	Loan to HKITP (including the capitalized interest)	6.1

Apart from the above, the Government has also waived its claim of some \$931 million in dividend that would otherwise be payable to the Government by the MTRCL, as financial support to the Penny's Bay Rail Link (now known as "Disneyland Resort Line") under the Project Agreement entered into with the MTRCL on 24 July 2002.

- (b) TWDC is a commercial enterprise. Although it invests jointly with the Government in the HKITP, the Government has to respect the company's interests as an investor and its operation under commercial principles will not be compromised due to the disclosure of commercially sensitive information. As the park attendance figures are commercially sensitive information, it has been the practice of TWDC not to disclose such information for its theme park. As a listed company, TWDC will disclose the performance of its theme parks in its annual report.
- (c) The Government's policy has been that it will not invest in a business venture, unless it is for important policy reasons and there is no other alternative investor available from the private sector. All the investments made by the Capital Investment Fund are required to be approved by the Finance Committee of the Legislative Council.

The Government's decision to invest in the HKD project has been based on the assessment of the likely long-term economic benefits to Hong Kong. It is also in line with our vision to develop Hong Kong into a premier destination for family tourists in the region. Recognizing the substantial economic contribution that a Disney theme park could bring to Hong Kong, the Government started the formal negotiations with TWDC in 1999. The agreement between the Government of the Hong Kong Special Administrative Region and TWDC has been drawn up based on the principle that the Government's ability to exercise its statutory powers, discretions and duties shall not be fettered in any way.

In the long run, the Government may consider in the light of the "big market, small government" principle to divest its shareholdings in the company at an appropriate time when it is in the overall economic interests of Hong Kong to do so.

### **Services Provided by Maternal and Child Health Centres**

19. **MR FREDERICK FUNG** (in Chinese): *Madam President, regarding services provided by the maternal and child health centres (MCHCs) of the Department of Health (DH), will the Government inform this Council:*

- (a) *of the number of complaints received by the authorities in the past three years about such services and their main contents, and whether the authorities have adopted corresponding improvement measures;*
- (b) *as some women have complained that after giving birth in hospitals of the Hospital Authority (HA), they are still required to fill in information on their childbirth in the hospitals again when carrying their new-born babies to the MCHCs for treatment, whether the authorities have assessed if this indicates inadequacies in the exchange of information between the HA and the DH on the women giving birth and their babies (for example, their medical records); if there are inadequacies, whether improvements will be made by the authorities;*
- (c) *given that traditional whole cell vaccines, Hepatitis B vaccines and oral polio vaccines, and so on, used in the current infant immunization programme administered by the MCHCs require several injections and may cause such adverse reactions as swelling around the injection sites and high fever among 30% to 50% of the infants injected with these vaccines, whether the authorities have compared and studied the effects of the above vaccines and the relatively new combined acellular vaccines; if they have, of the results; whether the authorities will consider adopting these relatively new combined acellular vaccines so as to reduce the number of injections required and adverse reactions; and*
- (d) *as the current infant immunization programme does not provide Haemophilus influenzae type B vaccines which have been adopted by many countries in their immunization programmes, whether the authorities will consider following the practice of these countries; if not, the reasons for that?*

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

- (a) 24, 36 and 52 complaints concerning the operation and service of the MCHCs under the DH were received in the year 2002, 2003 and

2004 respectively. Over 90% of the complaints concerned staff attitude and operation of the MCHCs like long waiting time, insufficient or unclear explanation by staff, and so on. The DH attaches great importance to any complaint lodged, and the complaints in question are handled jointly by the DH's Custom Relations Division and the Service Head of the MCHCs. Investigation into many of these complaints revealed that there was room for improvement in respect of staff communication skill and the service workflow of the MCHCs. Corresponding improvement measures were implemented by the DH.

- (b) Parents of newborn babies seeking services at the MCHCs are at the moment required to fill out a First Registration Form. The Form bears particulars of the parents and baby, including the name of the hospital in which the baby was born, weight at birth and type of birth. If the child is born in public hospitals, the HA would have possessed such information. As part of the DH's continuous efforts in enhancing customer service, the DH is aware of the need to strengthen exchange of information with the HA, taking into account privacy considerations. The DH is now working closely with the HA in exploring the feasibility of exchanging information through the use of information technology.
- (c) The current immunization programme against pertussis, Hepatitis B and poliomyelitis was developed in accordance with recommendations of the Expanded Programme on Immunization of the World Health Organization. Throughout the years, the immunization programme has achieved very high coverage rates and has attributed to the decline of pertussis and hepatitis B, as well as eradication of poliomyelitis in Hong Kong.

The DH is aware of the availability of combined acellular vaccine which has a comparable level of efficacy compared with the vaccines currently being used. The Scientific Committee on Vaccine Preventable Diseases (SCVPD), established under the DH's Centre for Health Protection (CHP) and comprising renowned academics and pediatricians, is reviewing scientific information concerning the use of a combined vaccine, among others, and will

make recommendations in respect of vaccine schedules and combinations among various options, having regard to their relative performance and cost-effectiveness.

- (d) In considering whether a new vaccine should be included in the routine child immunization programme, health authorities need to consider a number of scientific factors, an important one being local disease burden and epidemiology such as incidence and fatality.

While *Haemophilus influenzae* b (Hib) conjugate vaccine is safe and effective, local studies have shown that invasive Hib disease is much rarer in Hong Kong compared with Western countries that require Hib vaccination<sup>1</sup>. As the available data suggest that the local incidence of Hib infection is low and hence the cost-effectiveness of the vaccine in the local setting has not been established, the Advisory Committee on Immunization<sup>2</sup> has concluded that there is insufficient justification to include Hib vaccine in the universal immunization programme in Hong Kong. The situation will be kept under review in the light of new scientific studies.

<sup>1</sup> The incidence rate of invasive Hib disease in Hong Kong ranged from 0.9 to 8.3 per 100 000 children under five years, compared with 60 to 100 per 100 000 children in the United States before introduction of Hib vaccine in that country.

<sup>2</sup> The Advisory Committee on Immunization was succeeded by SCVPD upon the setting up of the CHP in 2004.

### **Plunge in Hong Kong's Global Ranking in Competitiveness**

20. **MR ABRAHAM SHEK:** *Madam President, according to the World Economic Forum (WEF)'s Global Competitiveness Report, Hong Kong's global ranking plunged from the third place in 1999 to the 28th in 2005. On the other hand, the Economic and Employment Council (EEC) Subgroup on Business Facilitation (Subgroup) currently only has two task forces, that is, Pre-construction Task Force and Retail Task Force. In this connection, will the Government inform this Council:*

- (a) *whether the Financial Secretary, being the EEC Chairman, plans to establish new task forces for improving the licensing regime and eliminating regulatory barriers for different economic sectors;*



- (b) *as it has been reported that deteriorating pollution and rising inflation have adversely affected investors' commercial decisions, of the ways the authorities have to tackle these problems; and*
- (c) *as the above Report attributed the fall in Hong Kong's position to a weakening in perceived judicial independence and in the protection of property rights as well as rise in corruption levels and government favouritism in policy-making, whether the authorities will set a timetable for reviewing Hong Kong's competitiveness in the light of these comments?*

**FINANCIAL SECRETARY:** Madam President,

- (a) It has always been the aim of the Government to enhance our overall competitiveness and to maintain our position as one of the best places in the world for doing business. The EEC, comprising Legislative Council Members, business and labour representatives, academics and concerned Secretaries of Bureaux, has been working in this direction since its establishment in early 2004.

The Subgroup was set up in March 2004 to oversee the implementation of a programme to systematically review government regulations and procedures impacting on business from a users' perspective. In view of the wide range of business sectors that may be involved, the EEC concluded that a sector specific approach to the review should be adopted and the priorities of the business sectors for review should be based on regulatory impact and employment considerations. To make the best use of resources available, the Subgroup initially accorded priorities to the construction, real estate, retail and entertainment sectors for review. Task Forces have been set up under the Subgroup to co-opt representatives from the specific business sectors under review to provide input and views from the industries' perspective. For those sectors which have a relatively small number of operators in the sector (for example, entertainment), the Subgroup has not set up a dedicated task force, but has worked directly with the operators instead.

The EEC and its Subgroup will continue to appraise the need for reviewing the regulatory or licensing regimes for other business sectors and to adopt the most appropriate approach, including the setting up of dedicated task forces, to undertake the reviews. The views of the respective trades will always be taken into consideration to ensure that their concerns are properly addressed.

- (b) As pointed out by the Chief Executive in his policy address, Hong Kong, as Asia's world city, cannot tolerate foul air. The policy address reiterates our determination to meet the emissions reduction targets for 2010. To improve air quality, we will continue to take vigorous measures on three fronts to make sustained improvement to air quality. As power plants are still the major source of air pollutants, our primary task is to reduce emissions from power plants. We have asked the power companies to accelerate the timing of emissions reduction projects, increase the use of ultra-low sulphur coal and use natural gas for power generation as much as possible. In addition, we will progressively tighten the emissions caps during the renewal of specified process licences for the power companies. In formulating new schemes of control, we will require the power companies to install effective emissions reduction facilities and ask for the use of renewable energy to generate electricity and the implementation of demand side management measures.

We will further reduce local air pollutants. To reduce vehicle emissions, we will introduce in stages Euro IV emission standards for newly registered vehicles from January 2006. We will issue guidelines to all government drivers, requiring them to switch off engines while waiting, and will appeal to private car drivers to exercise the same self-discipline. We will also take the lead in using ultra-low sulphur diesel in all government projects in 2006. We will further take the lead in reducing power consumption. Starting in January 2006, power consumption in all government office buildings will be reduced by 1.5% annually.

We will continue to deal with regional air pollution. Both the Guangdong Provincial Government and the Government of the Hong Kong Special Administrative Region are determined to meet

the emissions reduction targets for 2010 through the implementation of the PRD Regional Air Quality Management Plan. The two Governments have agreed to make arrangements for reporting to the public on a daily basis the PRD Regional Air Quality Index from the fourth quarter this year. Details of the Pilot Emissions Trading Scheme among power plants in the PRD, jointly undertaken by Hong Kong and Guangdong, are expected to be finalized in 2006. The scheme will allow power plants to look for trading partners and enter into emissions trading contracts. The two sides are working towards the agreed emissions reduction targets in 2010.

To improve the water quality of Victoria Harbour, we are taking forward the Harbour Area Treatment Scheme Stage 2, which, coupled with the improvement to all sewer facilities in Hong Kong, will tackle pollution at source. Whilst the Government will bear the construction costs, the public has to pay for the operating costs of sewage treatment in line with the "polluter pays" principle.

On inflation, consumer price inflation was still modest in the first nine months of 2005, with the Composite Consumer Price Index rising by an average of 0.9% year-on-year. The climb-up in inflation over the past few months was a natural consequence of an increasingly entrenched economic recovery, and is already well anticipated. Although inflation is expected to go up further towards the end of this year, for 2005 as a whole, we expect that inflation would remain moderate, at 1.5%.

Hong Kong is a key global and regional destination for foreign direct investment (FDI). According to the World Investment Report 2005 released by the United Nations Conference on Trade and Development, FDI flows to Hong Kong increased by 150% from US\$13.6 billion to US\$34 billion in 2004. In 2004, Hong Kong ranked seventh in FDI inflows in the world and second in Asia, behind the Mainland. Hong Kong's FDI prospect in 2005 remains positive. According to the latest figures released by the Census and Statistics Department, the FDI inflows in the first six months of this year amount to about US\$20 billion, more than half of the FDI inflow in 2004.

While we are optimistic that Hong Kong will remain one of the largest FDI recipients in Asia, we will continue to actively promote Hong Kong to retain this leading position. Invest Hong Kong (InvestHK) has been publicizing Hong Kong's advantages to potential investors. InvestHK also assists investors in setting up and expanding business in Hong Kong, and provides aftercare services to them after establishment. In the first six months of 2005, InvestHK assisted 144 overseas and mainland companies to set up or expand operations in Hong Kong, representing a year-on-year increase of 13.4% for the same period.

As at 1 June 2005, there were over 6 200 companies with parent companies outside Hong Kong set up as regional headquarters (1 167), regional offices (2 631) or local offices (2 472) — an all time high figure in all three categories.

- (c) The recently released WEF's Global Competitiveness Report's allegations of a weakening in Hong Kong's judicial independence, property rights protection, and a rise in favouritism in government decisions and corruption are not supported by facts. Our firm commitment to the rule of law, level playing field, and efforts and achievements in respect of anti-corruption are internationally recognized. We believe that the mainstream opinion of the general public in Hong Kong also does not agree with the conclusions of the WEF relating to Hong Kong.

The Government recognizes the crucial importance of safeguarding judicial independence and protecting property rights, and will continue to be vigilant in this regard. The vigilance is ongoing and not subject to any timetable.

According to the Global Competitiveness Report, Hong Kong's ranking in the Corruption Subindex of the Public Institutions Index (one of the three competitiveness ranking indices) fell from fourth in 2004 to 26th in 2005. This is inconsistent with the findings of the Report that only 4% and 5% of the respondents considered corruption a problem for doing business in Hong Kong in 2004 and 2005 respectively. Moreover, among the 159 countries and places

covered in the Transparency International's Corruption Perception Index this year, Hong Kong was ranked 15th, one place higher than last year. In terms of actual score, Hong Kong registered a score of 8.3 which is the highest since 1997.

According to the Independent Commission Against Corruption (ICAC), Hong Kong's corruption situation is well under control and there is no sign that the corruption situation has deteriorated. Statistically, the number of corruption reports that the ICAC has received has been on the decline since 2002. In 2004, corruption complaints dropped 13% as compared with 2003. In the first nine months of this year, the total number of corruption reports received decreased by 6%, with a 12% drop recorded in the government sector, and 5% and 1% decrease in public bodies and the private sector.

The ICAC will closely monitor the corruption situation and will continue to rigorously tackle corruption through its three-pronged approach of effective law enforcement, education and prevention.

The Government is committed to promoting competition and providing a level playing field for all businesses to enhance economic efficiency and free trade, thereby benefiting consumers. All bureaux and departments are required to adhere to these pro-competition principles which are set out in the Statement on Competition Policy promulgated by the Competition Policy Advisory Group (COMPAG) in May 1998.

To ensure that the Government's competition policy caters for present-day circumstances and enables Hong Kong to maintain its competitive edge, COMPAG appointed on 1 June 2005 an independent committee, the Competition Policy Review Committee (CPRC), to review the existing competition policy and the composition, terms of reference and operations of COMPAG. The CPRC, chaired by a non-official with members drawn from different sectors of the community, expects to complete its review in mid-2006.

**BILLS****Second Reading of Bills****Resumption of Second Reading Debate on Bills**

**PRESIDENT** (in Cantonese): Bill. We will resume the Second Reading debate on the Revenue (Abolition of Estate Duty) Bill 2005.

**REVENUE (ABOLITION OF ESTATE DUTY) BILL 2005****Resumption of debate on Second Reading which was moved on 11 May 2005**

**PRESIDENT** (in Cantonese): Ms Miriam LAU, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report on the Bill.

**MS MIRIAM LAU** (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on Revenue (Abolition of Estate Duty) Bill 2005 (the Bills Committee), I shall now address the Council on the major deliberations of the Bills Committee.

The Revenue (Abolition of Estate Duty) Bill 2005 (the Bill) seeks to amend the Estate Duty Ordinance (EDO) to give effect to the proposal to abolish estate duty and to make related and consequential amendments.

Some members are in support of the proposal to abolish estate duty. These members have pointed out that some people, especially the better-off sector, might have made various arrangements, such as overseas investments, to avoid the tax. Abolishing estate duty will encourage them to transfer their overseas investments back to Hong Kong. The proposal, if implemented, will also encourage people, including overseas investors, to hold assets in Hong Kong. This will strengthen Hong Kong's status as a major asset management centre.

Some other members have, however, expressed concern that the proposed abolition of estate duty will narrow the tax base and reduce the Government's revenue especially when there is still a fiscal deficit. They have asked the

Administration to provide in quantitative terms the increase in investment if estate duty is abolished. They have also asked whether exempting deceased persons, who at the time of their death were neither domiciled nor residing in Hong Kong, from estate duty could achieve the same effect as the abolition of estate duty. Some members have expressed objection to the proposed abolition.

The Administration has responded that in recent years, the financial markets in the Asia Pacific Region have speeded up the pace of their development and Hong Kong is facing increasing competition in the financial sector. A number of countries in the region and Europe, including India, Malaysia, New Zealand, Australia, Italy and Sweden, have abolished estate duty. The United States is also considering a permanent repeal of estate duty. The increasing competition amongst financial centres in the world and the growing trend in other places to remove inheritance taxes means that Hong Kong could lose its business to other financial centres; and this would have an adverse impact on the economy.

The Administration has explained that investment decisions are influenced by many factors. It is difficult to give an accurate estimate of the amount of foreign and domestic investment that will be induced if estate duty is abolished. To exempt "non-Hong Kong-domiciles" or "non-Hong Kong-residents" from estate duty would be inequitable to local residents and may discourage people from moving to Hong Kong and bringing with them valuable human and monetary capital.

Some members and The Law Society of Hong Kong (Law Society) have pointed out that the Bill, if enacted, will have an unintended effect of changing the existing scheme, because the schedule of property will no longer be required to be annexed to an application for grant of representation. These members consider that the absence of a mandatory requirement for a schedule of property may give rise to possible intermeddling and misappropriation of estate, and result in more litigation and disputes among beneficiaries. They have expressed concern as to how the interests of beneficiaries could be safeguarded.

The Administration has responded that with the abolition of estate duty, there is no longer any revenue protection reason to retain the requirement of annexing the schedule of property to the grant. At present, vetting the contents of the schedule of property constitutes part of the process of the Inland Revenue Department (IRD) in assessing whether the estate is dutiable. The IRD would

not vet any schedule or alike after the estate duty is abolished, as there is no longer a revenue protection purpose to do so. If such a vetting function were to be continued, a processing fee would be imposed in order to recover the costs of the service. The time required for beneficiaries to obtain a grant would also be lengthened because of the considerable time taken to verify the value of the estate. This may cause unnecessary hardship to some families and small and medium enterprises.

Regarding measures to protect estate beneficiaries, the Administration has advised that under the existing law, intermeddling of properties of an estate may also be dealt with under section 58 of Probate and Administration Ordinance (PAO), section 9 of the Theft Ordinance and sections 32 and 36 of the Crimes Ordinance.

Some members have pointed out that the provisions in the Crimes Ordinance quoted by the Administration will not be able to deal with the issue of intermeddling. These members are strongly of the view that the existing requirement for a schedule of property to be annexed to an application for grant of representation should be retained.

Having considered members' views, the Administration proposes to make it a mandatory requirement to have a schedule of assets and liabilities as sworn by the personal representative annexed to the grant of representation. The Schedule should set out the assets and liabilities of the deceased in Hong Kong at the time of his death in a specified form, and its contents should be declared by the personal representative. The specified form will state clearly that the Schedule has not been vetted by the Probate Registry or any government authority. This requirement shall be applicable to cases of death on or after the effective date of the Bill.

The Administration will introduce Committee stage amendments to give effect to the new arrangements and to empower the Registrar of the High Court to specify by general notice published in the gazette forms for the Schedule of Assets and Liabilities and related documents.

Some members are concerned that the protection afforded to the beneficiaries might be weakened after estate duty is abolished. In this connection, the Administration has agreed to add provisions to the PAO, similar to the existing sections 23 and 24 of the EDO, so as to penalize any person who



deals with the estate of the deceased without lawful authority or excuse. To maintain the existing deterrent effect, the Administration proposes that the penalty will be a fine at level 3 (currently \$10,000), with an additional penalty equal to the value of the intermeddled property.

Some members have expressed concern about the proposed six-month limit for applying for a grant, because this will pose practical difficulties to the personal representative of the deceased. Since the personal representative is presently required under section 16 of the EDO to deliver accounts to the Commissioner of Inland Revenue within 12 months from the date of death of the deceased so as to avoid an increase in the rate of duty, they have proposed that the time limit be extended to 12 months.

The Administration considers the proposal reasonable and has agreed to lengthen the exemption period for intermeddling from six months to 12 months for applications for summary administration under section 15 of the PAO and grant of representation under section 24 of the PAO. The Administration has also agreed that the exemption period for applications for sealing of foreign grants will be 18 months. The relevant Committee stage amendments will be proposed by the Administration.

Regarding exemption for small estates, the Administration has accepted the proposal made by members and Law Society of adding provisions exempting intending personal representatives of estates of a value not exceeding \$50,000 which are wholly made up of money, such as bank deposits, from the new intermeddling provisions.

Madam President, access to the deceased's safe deposit box is another major concern of the Bills Committee. Under the proposed new section 60C of the PAO, the Secretary for Home Affairs may on application issue a certificate to the applicant to allow the inspection of the safe deposit box of the deceased to ascertain if there is any will or similar instrument or any specified document or article and to permit the person intending to apply for a grant in respect of the estate to take possession of the same.

Members and Law Society have pointed out that the proposed section, if implemented, may reduce the present safeguard for beneficiaries. Under the existing practice, banks will freeze the safe deposit box kept by a deceased, and will only allow it to be opened in the presence of at least four persons, namely,

two officers of the IRD, the personal representative and the bank officer. The two IRD officers will make a record of the inspection and take an inventory of the contents of the safe deposit box. However, there is no provision in the Bill to require that a list of contents in the safe deposit box should be prepared. These members have also expressed concern about the power of the Secretary for Home Affairs to authorize the removal from the safe deposit box of documents or articles specified in the certificate for inspection. They have suggested that the scope of items which can be removed should be narrowed down.

Regarding jointly-rented safe deposit box, members and Law Society have pointed out that while the safe deposit box is in the joint names of the deceased and others, its contents may not belong to the deceased and form part of the deceased's estate. At present, where the lease agreement of the safe deposit box contains a survivorship clause, the bank concerned is obliged by the contract to allow the surviving renter to access the safe deposit box and take possession of its contents upon the death of the other renter. They have expressed concern that the surviving renter may be denied access to the safe deposit box until a grant has been issued. They are particularly concerned that if the surviving renter is not the personal representative, he cannot apply for a grant. Where the personal representative or beneficiary in the deceased's estate have no interest in the contents of the jointly-rented safe deposit box, the box may remain frozen to the detriment of the surviving renter.

To address members' concern, the Administration has put forward new arrangements for inspection of a safe deposit box, preparation of an inventory of its contents and removal of items therefrom. A safe deposit box shall mean a safe deposit box rented under the sole name of the deceased, a jointly-rented safe deposit box without any survivorship clause or a jointly-rented safe deposit box with a survivorship clause. Members are of the view that there should be adequate measures to assist and protect members of the public in the course of implementing the new arrangements for inspecting a deceased's safe deposit box. The Administration has therefore agreed to retain the existing practice of the IRD regarding the inspection of safe deposit box, that is, two officers will be sent to witness the inspection of the box. The Administration will introduce Committee stage amendments to put in place the new arrangements. Amendments will also be made by the Administration to narrow the scope of items which could be removed from the safe deposit box of the deceased. In response to members' request, the Administration has undertaken to explain during the resumption of the Second Reading debate the relevant interim arrangements.

Regarding the effective date of the Bill, the Administration has proposed that to allow sufficient time for the relevant parties to publicize and to get prepared for the new probate administration procedures after estate duty is abolished, the Bill, when passed, should come into operation on the expiry of a period of three months commencing on the date on which the Bill is published in the Gazette as an ordinance. The Administration has also proposed that the estate duty chargeable in respect of deaths occurring on or after 15 July 2005 but before the commencement date should be reduced to \$100 for estates of assessed value exceeding \$7.5 million with retrospective effect.

Some members have queried the rationale for the nominal amount of estate duty to take retrospective effect from 15 July 2005. The Administration has responded that it was the Administration's original intention to resume the Second Reading debate on the Bill at the Council meeting on 6 July 2005. The Administration did not proceed to give notice because the House Committee did not support the resumption date. The date of 15 July 2005 is used as it was the originally intended gazettal date if the Second Reading debate on the Bill was to resume at the Council meeting on 6 July 2005.

The Administration has further explained that while it is a general legal principle not to enact legislation with retrospective effect, the legal policy is that, for tax concessionary measures which will confer benefits, not a burden, on the affected class of persons, retrospective provisions should be acceptable.

The Bills Committee has urged the Administration to step up publicity on the Bill, especially the application procedures for grant of representation and the new arrangements.

The Bills Committee supports the resumption of the Second Reading debate on the Bill and also the various amendments to be moved by the Secretary for Financial Services and the Treasury later today.

Madam President, in the following part of my speech, I shall present my personal views on the abolition of estate duty. For the sake of maintaining Hong Kong's competitiveness in the world, consolidating its status as an international financial centre and gradually developing Hong Kong into a major international asset management centre, I support the abolition of estate duty.

To begin with, as I have mentioned, the abolition of estate duty has gradually become a world trend. The increasing competition amongst financial centres in the world and the growing trend in other places to remove inheritance taxes means that if Hong Kong could not keep abreast of the times, it could lose its business to other financial centres and fall behind them. The estate duty regime in Hong Kong is progressive and thus complex, with the rate of duty ranging from 5% to 15%. This runs counter to the principle of upholding a simple and low tax regime in Hong Kong and is not conducive to the formation of a sound business environment and the retention of capitals. The levying of estate duty has led many rich people to make various arrangements to avoid the tax legally, one example being overseas investments. Consequently, most of those caught in the net of estate duty have been middle-class people. The levying of estate duty has thus failed to achieve the desired result and led to more losses than gains instead. Hong Kong must try to make up for the lost ground, but a simple adjustment or revision of the estate duty regime will not be very useful and effective. In contrast, the total abolition of estate duty will not only induce the return of capitals but will also attract the inflow of capitals from the Mainland and overseas. Besides, capitals from places with high rates of estate duty will also be drawn to Hong Kong, thus creating a greater number of jobs here. In brief, we maintain that if Hong Kong is to keep abreast of the world trend and consolidate its advantageous position as an international financial centre, the Bill must be passed. Thank you, Madam President.

**DR DAVID LI:** Madam President, this Bill will abolish estate duty, a step that is long overdue.

I congratulate the Financial Secretary for recognizing that our estate duty regime was the product of a bygone era, and taking bold action to remove this tax from our statute books.

Originally intended as a tax on those who had benefited from the good governance of Hong Kong to amass great wealth, estate duty in recent years has degenerated into a hurtful tax on the middle class.

This Bill will remove that inequity.

Moreover, the abolition of estate duty will remove a major obstacle to the free flow of investment funds into Hong Kong.

In the months since the Financial Secretary announced his decision, many overseas advisors and journalists have told me that they considered this a far-sighted move.

Hong Kong's open market, efficient regulation and excellent communications make it an ideal choice as a centre for fund management. Now, this business can grow and mature, thus creating good jobs for the people of Hong Kong.

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

During our consideration of this Bill, we became aware that the estate duty regime did more than collect taxes. In the Government's zeal to protect its income, the estate duty regime also aimed at limiting opportunities to tamper with estates. This not only protected government revenue, it also protected the interests of beneficiaries.

Deliberations within the Bills Committee concentrated on this issue. The volume of Committee stage amendments is testament to the extensive work undertaken.

Here I would like to express my appreciation to the Administration for the consultation it carried out with the banking industry, and with The Law Society of Hong Kong, during the drafting of these amendments.

Under the revised legislation, banks will have a defined gatekeeper role, managing access to safe deposit boxes of estates in order to guard against tampering.

The new procedures are as yet untested, and we would do well to review them after a reasonable period to ensure that they are working well.

With that one note of caution, it gives me great pleasure to support this legislation.

Thank you, Madam Deputy.

**MR LEE CHEUK-YAN** (in Cantonese): Madam Deputy, on behalf of the Hong Kong Confederation of Trade Unions (CTU), I object to the abolition of estate duty.

My reason for objection is very simple. If the Government abolishes estate duty, the Treasury will suffer a revenue loss of more than \$1 billion a year. But what can we get in return? Nothing but some intangible and elusive benefits. And, as far as the Treasury is concerned, there will surely be no benefits at all. In this debate on the Bill, many Members have pointed out that the abolition of estate duty will help consolidate the status of Hong Kong as an international financial centre and attract the inflow of foreign estate management funds. However, just how many of such funds will be attracted to Hong Kong?

Estate duty is currently levied in the United States. The Secretary may well argue that even the United States is considering the abolition of estate duty. But he must realize that there is still a tax called capital gains tax in foreign countries. In other words, two taxes are levied in foreign countries, namely, capital gains tax and estate duty. Even if the United States abolishes estate duty, a capital gains tax will still be levied and the state treasury will still benefit. In contrast, there is no capital gains tax in Hong Kong. As a result, all capital gains, whether generated by investments in the stock market or the property market, are not taxable. Once estate duty is abolished, the Treasury will suffer a revenue loss of \$1.5 billion a year, but it is not clear what benefits there may be. Members must note that if the Treasury gets some \$1 billion less a year, it will not be possible for us to do many things.

Madam Deputy, at a panel meeting yesterday, we touched upon a very trivial matter when discussing ways of preventing tragedies of domestic violence. After studying the findings of the Coroner's Court on the family tragedy in Tin Shui Wai, we requested the Social Welfare Department (SWD) to equip every social worker with a pager. But the SWD refused, claiming that resources were not a reason for its refusal. However, I would say that in a way, resources are still a reason — when every social worker is equipped with a pager, their workload will necessarily increase and there will be a need for employing more people to provide personalized services. There will ultimately be resource implications. But the Treasury is now going to suffer a revenue loss of more than \$1 billion for no good reasons. Many times before, when we discussed the poverty problem in this Council, when we, for example, urged the Government not to cut the disability allowance by as much as \$100 million, or when we

requested it to implement small-class teaching, which calls for a spending of some \$1 billion a year, the Government invariably refused to accept our proposals. But now, the Government has so readily agreed to forego \$1 billion a year and does not seem to be concerned about this loss of Treasury revenue. But why is it so concerned about its finances when we discuss ways of helping the poor? It can therefore be concluded that the Government's philosophy is all about robbing the poor for the rich. The wealth gap in society is getting increasingly acute. Why does the Government still want to rob the poor for the rich?

Actually, I admit that one of the justifications for the abolition of estate duty, that is, the withdrawal of policies that cause inconvenience to the people, is quite reasonable and worthy of our sympathy and support. However, I also think that there should be other means to achieve this objective. There is no doubt that with the abolition of estate duty, the process of probate administration can be expedited and the estates concerned will not have to be frozen for one to two years, much to the inconvenience of the beneficiaries. But the abolition of estate duty is not the only way of solving this problem. We believe that there should be many other means which can rationalize the process while allowing the Government to continue to levy estate duty. We must certainly do something for heartbroken beneficiaries, but it is not necessary to rely solely on the abolition of estate duty and deprive the Government of this source of revenue. Quite the contrary, we should streamline the process.

Madam Deputy, having mentioned this comparatively reasonable justification for abolishing estate duty, I must maintain once again that there should be other solutions. Unfortunately, however, the Government's main justification for abolishing estate duty is not the sorrow of beneficiaries. Frankly speaking, the Government's only motives are the consolidation of Hong Kong's status as an international financial centre and the inflow of more capitals into Hong Kong. But this will in the end sacrifice our Treasury revenue and cause us to lose the resources that can otherwise enable us to improve the people's livelihood.

Thank you, Madam Deputy. We oppose the abolition of estate duty.

**MR CHAN KAM-LAM** (in Cantonese): Madam Deputy, I rise to speak in support of the Revenue (Abolition of Estate Duty) Bill 2005.

Most people in society agree that the abolition of estate duty will help consolidate Hong Kong's position as a financial centre, turn it into a regional asset management centre and attract the inflow of capitals from all over the world. This is a point subscribed by many experts, academics and even knowledgeable common people. As for the benefits for Hong Kong, the extra inflow of inward investments and the annual loss of tax revenue resulting from the abolition of estate duty, I believe the Government will certainly provide us with relevant statistics.

I think that besides looking at financial gains and losses, we must also pay attention to the reasonableness of the legislation itself. The abolition of estate duty will serve to deliver a clear message to overseas and local investors that the wealth of any investor, regardless of its size, will not be reduced due to the levying of estate duty. A person works hard for his entire life, and he submits a tax return and pays all the required taxes every year. In theory, he should have discharged, as a citizen, all the tax obligations pertaining to his wealth. But after his death, estate duty is levied on his estate. Is this fair to him and his heirs? The provision of equal advancement opportunities for all has been one of the keys to Hong Kong's success. The Government should offer incentives to all those who strive for advancement by providing them with a sound tax base and environment. But why has it instead targeted on those with assets?

Madam Deputy, during the scrutiny of the Bill, I advised the authorities to amend the proposed new section 60B(3). I proposed that besides the power to release funds for burial expenses and maintenance, the Secretary for Home Affairs should also be empowered to issue a Certificate for Necessity of Release of Money to cover legal costs or any other purposes deemed by him as absolutely necessary. However, the authorities did not accept my proposal. A person might solely own huge amounts of assets and properties before his death and his family members did not have any share. Suppose he died a sudden death and his family members do not have the means to meet lawyer's fees, or if they are made to pay the huge expenses of prolonged litigation, they may be caught in great difficulties. I hope that the Government can conduct regular reviews after the implementation of the legislation, with a view to ascertaining whether there is any need for follow-up actions and amendments in this respect.



Besides, owing to the increasing exchanges between China and Hong Kong these days, it is possible that some Hong Kong people may die in the Mainland. If a Hong Kong resident unfortunately died in the Mainland, his family members will have to undergo a very complex process. To begin with, they have to apply for a death certificate in the Mainland and then go to a notary office. When they finally return to Hong Kong, they must go to the Consular Department of the Ministry of Foreign Affairs for countersigning before they can start applying for the estate. The whole process is indeed very cumbersome. Laymen are often at a loss as to what they should do, so they usually have to ask a bank in Hong Kong to do the job for them. But, as Members know, banks will charge administrative fees. This is really an unnecessary administrative formality. I hope that the Government can initiate discussions with the relevant mainland departments, with a view to finding out whether it is possible to streamline the process. What is particularly worth noting is that Hong Kong people are already living under "one country, two systems". That being the case, is it not very odd that the family members of a deceased have to go to the Consular Department of the Ministry of Foreign Affairs for countersigning the documents of estate application? I hope that the Administration can consider all these problems, with a view to perfecting the arrangements.

I so submit. Thank you, Madam Deputy.

**MR JAMES TIEN** (in Cantonese): Madam Deputy, should estate duty be levied on the money, properties or stocks that are passed on to one's family members, including one's children and spouses, after one's death? The answers to this question vary from country to country. That said, the Liberal Party observes that more and more countries have started to review their relevant policies in recent years, with a view to attracting more investments and adapting their economies to the needs in the modern era.

Consequently, for three years in a row since 2002, the Liberal Party has been proposing the abolition of estate duty to the Financial Secretary during its meetings with him. What the Liberal Party has been proposing is not any increase in the taxable value of estates from a certain level to, say, \$7 million, or from \$7 million to \$20 million, or from \$20 million further to \$50 million after the passage of some years. We think we should make this very clear to all. As for how much additional investment the abolition of estate duty can bring about, or whether Mr LEE Cheuk-yan is right in arguing that while the

Government will certainly lose a revenue of \$1.5 billion a year, the size of gains from other areas simply cannot be ascertained, I must point out that the Liberal Party has looked at the economic consequences of the abolition of estate duty from a broader perspective and a higher level.

There is actually a similar case, the case of the Hong Kong Trade Development Council (TDC). As can be expected, if we ask the TDC how much inward investment it can bring about by conducting promotion campaigns overseas, it will certainly find it very hard to give an exact figure. However, we may still get a rough idea by looking at the total value of all the assets handled by the fund management business in Hong Kong nowadays. The Financial Secretary expects this to rise to \$5,000 billion. If the figure can really rise to \$5,000 billion, then a 10% growth will mean \$500 billion and even a 1% increase will still mean \$50 billion. From this perspective, the Liberal Party will think that the abolition of estate duty will actually bring more gains than losses to our economy as a whole if the resultant loss of tax revenue is just \$1.5 billion a year.

Many opponents of the abolition of estate duty maintain that such a move will benefit wealthy people only because only very rich people will have to pay estate duty. Currently, no estate duty is levied on any estate valued at less than \$7.5 million, so why should they be so worried? As a matter of fact, even now, the wealthier ones can still avoid estate duty through some lawful channels. What is more, in every country where estate duty is levied, including the United States, the wealthiest ones can similarly ensure that no estate duty can be levied on their estates after their death. I believe that in common law jurisdictions, such as European countries and the United States, people have been trying to avoid estate duty in more or less the same way; wealthy people will entrust the management of their assets to offshore trust funds. That way, no estate duty will be levied on their estates after their death. Consequently, most of those who have to pay estate duty are the middle classes because the values of their assets do not justify the payment of exorbitant annual management fees to offshore trust funds and also the efforts to find out who the directors are.

In the context of Hong Kong, no estate duty is levied on any estate valued at less than \$7.5 million. Currently, most of those who have to pay estate duty are people leaving behind estates valued at several dozen million dollars. We of course agree that these people will benefit from the abolition of estate duty, but

our main focus is on places nearby, such as the Mainland and Taiwan. I know that the people of Taiwan have learnt about the discussions on the abolition of estate duty in Hong Kong. That is why for half a year since March, many business people of Taiwan have kept asking me whether they should transfer their funds to Hong Kong, and whether Hong Kong will really abolish estate duty. The reason for their enquiries is that estate duty is still being levied in Taiwan and the rate is even higher than that in Hong Kong. The Taiwan government is therefore considering whether it should also do something in case Hong Kong really abolishes estate duty.

Actually, we will not be the first place to abolish estate duty. Many of our neighbours in the Asia-Pacific Region, including India, Malaysia, New Zealand and Australia have already abolished estate duty, as rightly pointed by you, Madam Deputy, in your capacity as the Chairman of the Bills Committee. In 2001, Macao also abolished estate duty. In Europe, Italy and Sweden have started to abolish this tax. There are of course still some countries, such as the United Kingdom and the United States, where this tax has not yet been abolished. But they have likewise started to introduce some policy relaxation. We therefore think that this is actually a world trend. We certainly hope that the Bill today can be passed to abolish estate duty. We also hope that other countries will follow suit.

Why is the situation nowadays different from that of many years ago? I think much has to do with the abundance of financial market information. Dr David LI, the representative of the banking sector present here, should know this only too well. In the past, the range of services and products offered in the market was much smaller. But nowadays, there is a wide variety of investment products. We are now able to transfer huge amounts of capitals, as much as more than a hundred million dollars, to or from Hong Kong by making a simple telephone call or using the computer. The Hong Kong Government now proposes to exempt the profits made by offshore funds in Hong Kong from taxation. This will help strengthen Hong Kong's role as an international financial centre. My hope is that the overall development of our economy can induce people to transfer more capitals to Hong Kong. That is why we should not focus on the trivialities, should not always think that it will cost a loss of \$1.5 billion a year to the Treasury, and that the abolition will only benefit a handful of people. The Liberal Party is absolutely sure that if we do not make a small sacrifice, we will be unable to make any big gains. We are sure that there will be more gains than losses.

Madam Deputy, another point I wish to raise is that during the scrutiny of the Bill, some Members expressed concern over a number of problems that may result from the abolition of estate duty. One example is that in many countries where estate duty has been abolished, the governments simply stop doing anything because they see no reason for providing so many services to the people after the abolition of estate duty. Access to the safe deposit boxes of the deceased is one example. Unlike in countries where estate duty has been abolished, the safe deposit boxes of the deceased are no longer opened in the presence of government officials. Bills Committee members have put forward many valuable views and I am grateful to the Government for its acceptance of these views. As a matter of fact, due to the levying of estate duty, the Government has all along been rendering some so-called voluntary services to the public. Once estate duty is abolished and the Government can no longer receive any tax revenue, should it continue to render these services? There are naturally many divergent views in society.

Since the Government has also been rendering services in cases of estates valued at less than \$7.5 million where no duty is levied, we in the Liberal Party think that it is a good idea to adopt the legal sector's proposal on requiring the Government to continue to play its present role in the transitional period. This proposal can strike a balance between the two extremes and the legal profession will not thus think that the Government will stop doing anything once estate duty is abolished. That way, when a person passes away and his estate requires handling, his safe deposit box will be handled properly. For all these reasons, the Liberal Party will support the Bill.

Thank you, Madam Deputy.

**MR ABRAHAM SHEK:** Madam Deputy, I speak on behalf of the Alliance in support of the passage of this Bill to abolish estate duty in Hong Kong, as it is unfair to impose double taxation on any person, in particular the middle class, before and after his death. Also, it is an outdated tax hindering Hong Kong's standing as the premier financial and asset management centre in the Asia-Pacific Region. From this perspective, Hong Kong has noticeably fallen behind, as most of our regional competitors have already moved towards abolishing this tax. Singapore, for one, has reformed its estate duty legislation, while Australia, Macao, India, Malaysia and New Zealand have completely done away with the duty altogether.

Those who support retaining estate duty only see it from a narrow perspective as a stable source of government revenue which should not be given up lightly. But in reality, estate duty barely generates any sort of significant revenue. On average, it contributes only 0.7% of the total annual government revenue in each of the past five years. In contrast, it adversely discourages wealthy estates from maintaining their capital in the territory. At present, estate duty is the only tax on capital in Hong Kong. This is clearly a barrier to the free flow of capital, and is contrary to our philosophy of encouraging greater investment by not taxing investment income. Estate duty drives wealth away from Hong Kong as families planning to evade estate duty will divest control of their Hong Kong-based assets or transfer it completely out of the territory.

On the other hand, if estate duty was abolished in Hong Kong, it would encourage affluent local citizens to bring their overseas investments back. It would also attract wealthy international investors, including those on the Mainland, to transfer their assets into Hong Kong through their local corporate vehicles or trust. It could also encourage them to invest in Hong Kong properties and shares. Moreover, it would indirectly facilitate greater development of our asset management services, create more employment opportunities, and make Hong Kong more competitive as an international financial centre. By extension, the abolition of estate duty would promote more trading in Hong Kong's financial market, thus contribute additional revenue from stamp duty, profits tax and salaries tax. Professional services, such as those in the legal profession, accounting, banking and fund management, real estate and the retail trade would also benefit.

Nevertheless, there are still those who argue that the abolition of estate duty amounts to "robbing the poor to help the rich". This is indeed an incorrect way of thinking. Let us look at the figures and statistics gathered by the Commissioner of Estate Duty. In 2003-04, 68.6% of dutiable cases involve assets with an estate value, after exemptions, amounting to below \$20 million. This fact shows that those who stand to benefit most from the tax elimination are primarily people from the middle class. I do support the Honourable LEE Cheuk-yan in his argument for introducing small-class teaching or reinstating the original CSSA payment to the elderly and the handicapped, but these matters have nothing to do with this Bill. In fact, if there is anything to do with this Bill, this Bill would generate enough wealth to be used for these particular purposes.

Madam Deputy, abolishing estate duty is an important step towards strengthening Hong Kong's status as a premier asset management centre in the Asia-Pacific Region, and further consolidating our economic growth. I beg my colleagues to take into account the territory's overall economic growth, wealth creation, as well as employment opportunities which will arise from the removal of this unnecessary tax. After all, far from resulting in revenue loss, the abolition of estate duty would result in more income for the Government, so that, as I said earlier, we can spend more on our education, health and welfare.

Thank you.

**MR SIN CHUNG-KAI** (in Cantonese): Madam Deputy, the Democratic Party will support the Bill today.

As a matter of fact, when the Democratic Party discussed the budget with the Financial Secretary two years ago, we did invite the Secretary to consider abolishing estate duty. However, when we learned that the proposal to abolish estate duty would indeed be introduced in the budget this year, we had different views. As the abolition of estate duty is undoubtedly a major and long-term policy, the commencement date should be given serious consideration.

In our opinion, the financial situation of the Government has been rather tight in the past few years. Yet, if the Government really wishes to alleviate the plight of the public and to make them feel relieved, it should first consider reducing the salaries tax. The Democratic Party hopes that the Government could hear our voice in this regard. We will then discuss the Budget for the coming fiscal year in the following stage.

Actually, \$1.5 billion is not a small sum. If this revenue loss of \$1.5 billion has been a result of reducing the salaries tax, it should have caused considerable impact on the community. Indeed, in the course of introducing the amendment bill, there has been a hiccup. As the Government presumed that the Bill could be passed by this Council in July, it had been publicizing that estate duty would be abolished in July. Nevertheless, due to some procedural problems, the House Committee of this Council did not support the Government's proposal of resuming the Second Reading of this Bill. As such, the Government has to postpone the Second Reading until today in order to resolve some so-called technical problems.

Now, the commencement date of this Bill has been deferred to 15 July with retrospective effect. I hope the Government could learn a lesson and in future, before setting down the commencement date of any policy, it would seek the endorsement of this Council beforehand so that it did not have to make the Bill to take retrospective effect from 15 July as a result of some technical errors. This is not a desirable approach. Also, the Government should not assume that this Council would definitely support or pass certain bills — it is of course the Government's wish. No matter how strong the Government is in governance, it should pay due respect to this Council and not to implement any policy before obtaining the endorsement of this Council.

As for this Bill, if the Government has taken into account the time required for formulating this policy at the initial stage, it should bear in mind that no matter the Bill is passed in July or in the middle of this year, the abolition of estate duty cannot take immediate effect. As such, in policy arrangement, the Government should first reduce salaries tax before exempting or abolishing estate duty. While the Democratic Party supports the Bill, we would also like to add that we hope the Government can listen to the views of the public, in particular the middle class, and realize that apart from welcoming the abolition of estate duty, the public also consider that there is an urgent need to reduce salaries tax.

As to the retrospective effect of the Bill, it can be regarded as a first stage warning as the Financial Services and Treasury Bureau is also dealing with the same problem with regard to a bill on offshore funds. This is of course not the right time for discussing another bill, yet the Government should not always take the lead in setting a precedent in respect of bills with retrospective effect. It is indeed not necessary.

This time, the Government is asking this Council to shoulder the liability of enacting legislation with retrospective effect, yet there are two things that it has done wrong. One of them is, presuming that the Bill could definitely be passed in July, the Government had publicized its commencement date beforehand. We have received complaints lodged by the public, pointing out that the Bill should take retrospective effect back to the date on which the budget was delivered. However, this request is impossible to be acceded to as it means that the Bill should take effect once it is introduced, even before its passage in this Council. It is even more unreasonable.

As the Bill involves the death of people, the discussion in regard to exemption of estate duty is inevitable a painful subject. However, if this Bill is of a general nature, the Government should not presume that we have to accept the Government's proposal of dating back the effective date. The approach adopted by the Government this time is indeed a very bad precedent. In fact, we have internally conducted a detailed discussion on the Bill to consider whether or not to support the commencement date of abolishing estate duty. However, we do not want to obscure the benefits to be brought about by the abolition of estate duty. As a matter of fact, the people who will be affected by the Bill are only those who passed away in the period between now and 15 July with an estate of over \$7.5 million. The number of people affected will be minimal. Nonetheless, the problem should not be taken too lightly. In my opinion, it is undesirable for the Secretary and the entire Government to resort to dating back or deferring the commencement date of legislation. I hope it will be the only occasion we are doing this. Today, we have no choice but to support the Bill. It is hoped that the Government can be more careful in handling Bills in future.

**MISS CHAN YUEN-HAN** (in Cantonese): Madam Deputy, those who are concerned about social wealth are aware that the taxation system is a very important tool for us to redistribute wealth of our community. I believe the Secretary will agree with me on this point.

Apart from that, it is important that our tax regime should be fair vertically. As we always say, profits tax and salaries tax are two different taxes. In principle, as far as salaries tax is concerned, those who earn more will be subject to a higher tax payment. Unlike salaries tax, profits tax is levied on a uniform rate. As such, we have been criticizing the Government for this attitude. On the other hand, verticality and fairness are also the principles adopted by the tax regimes of other places which have a similar legal and economic system like Hong Kong.

(THE PRESIDENT resumed the Chair)

The subject of abolishing estate duty under discussion today has violated the two important principles as mentioned above. In the first place, estate duty



will only be imposed on estates with a value of \$7.5 million and estates below that value are not liable to any tax. These people are in fact the better-off. As pointed out by a colleague, it is true that these people have all along been paying tax, however, from another perspective, even though the Hong Kong Federation of Trade Unions (FTU) has suggested that profits tax should be levied according to the same principle as that of salaries tax, the Government has failed to listen to our view. In the absence of a capital gains tax in Hong Kong, if the tax revenue in this area is given up, the Government will fail to fully utilize taxation as a tool to address various problems in our community, including the problems of insufficient resources and poverty. These problems have remained unresolved.

Madam President, I attended a meeting held by a group on special education yesterday. The group intended to implement a programme to integrate children with special needs into universal education. Unfortunately, due to insufficient government funds, the programme can only be implemented in some primary schools. While there is an intention to promote the programme, it is worried that the services provided at the present level may drop as a result. As for secondary schools, the programme can yet be implemented. The admission of children with impairment in intelligence and reading into ordinary schools has brought difficulties to teachers. This problem does exist and is recognized by the Government. Yet, the Government has made it clear that it does not have any money to bring about any improvement.

On the poverty problem, Mr Frederick FUNG mentioned the allocation of funds in the question time earlier. The Government has been saying that it does not have the funds to subsidize special education and the associate degree programmes for young people. As a matter of fact, the programme referred to by the group yesterday only required \$60 million. Madam President, I felt very upset when I heard about this. All that these children with special needs is some money, and it is not a big sum. By abolishing the tax we are talking about, revenue of over a billion dollars will be given up. How can the FTU support the proposal? Although technically, I may agree to some of the amendment proposals, we also have to look clearly at the principles to be followed by our taxation system. In my opinion, this approach is already in breach of the two major principles. For this reason, we cannot agree to the abolition.

Some colleagues said that the abolition would bring about more financial and economical activities. I may not be very hard-working in this Council, yet whenever we meet government officials, we would ask them this question. After the abolition of estate duty, in real terms, how much benefit will be brought about? This question has been asked by different Members, yet the Government has given us no reply. It only said that no projection was made in this regard. I did think about the possibilities as suggested by my colleagues that by abolishing estate duty, we can make Hong Kong more prosperous and create a lot of employment opportunities. However, I am worried that the money would only go to the better-off — those with assets of more than \$7 million are not to be considered poor people — with the Government losing some \$1.5 billion in revenue. What would happen to the ordinary public? Even if I take a step backward in weighing the pros and cons, as no one can tell me the consequences to be brought about by the abolition of estate duty, I still cannot agree to this approach. If the Government insists on retaining estate duty, would people really refrain from coming here to make investments? We cannot rule out that some people, Taiwanese, for instance, would like to invest in Hong Kong, but what is the actual situation? I have no intention to rule out any of these circumstances, but I still cannot come to such a conclusion.

Madam President, whenever we come up with initiatives in this Council to help the poor, the mentally handicapped, young people wishing to go to school, middle-aged people out of job and children in poverty, the Government would always say that it does not have the funds. As such, I think the Government's thinking is much too simple. Some people may say that other countries have been moving towards abolishing the tax. I have no objection to this. Yet, at the same time, I also see that some trust centres, such as Switzerland and Luxembourg, still levy estate duty. I have no intention to argue with the Government in quoting these examples. Yet, I would like to ask the Government a question. Why can other countries enjoy the status of trust centres while retaining estate duty at the same time? I believe that we must strike a balance between problems facing various people in the community. We may have a lot of money at present, yet we are still unable to spare some \$60 million to help the mentally handicapped. Madam President, while the abolition involves a loss of some \$1.5 billion in revenue, we are only talking about spending \$60 million for these initiatives. I have no intention to raise alarmist talk, however, on the basis of principle, I cannot agree with the Government. The FTU believes that the Government has violated the two major principles. If the Government really wants to consider raising revenue,

why does it not introduce a capital gains tax? We have raised this question for more than 10 years.

Madam President, during the whole course of scrutiny, though I have not attended all the meetings — it is because we have made clear our position before going on to scrutinize the Bill with the Government — but our position is very clear, that is, the Government has violated the two principles as mentioned above. In addition, in the face of the present difficulty, it seems that the Government has turned a blind eye to the plight of the poor and given up lightly some \$1.5 billion revenue brought by estate duty. Madam President, the FTU opposes the abolition of estate duty. Thank you.

**MS MARGARET NG** (in Cantonese): Madam President, the four Members belonging to the Article 45 Concern Group all oppose this Bill — sorry, Mr Ronny TONG is absent because he is overseas. There are two reasons for our opposition. First, we think that estate duty should not be abolished at this stage. The other reason is that the present approach to the abolition of estate duty violates fundamental principles and the due process.

To begin with, why do we think that estate duty should not be abolished at this stage? First, the economy of Hong Kong has not yet really recovered. Owing to the huge fiscal deficit, we must still cut our expenditure in many areas. Why should we so lightly forego a source of substantial revenue at this very time? Second, we think that in principle, more taxes should be collected from those who have the means. In Hong Kong, the threshold for estate duty is very high — \$7.5 million. People having such money are obviously capable of paying tax. Why should we abolish the tax levied on these people, thus depriving the needy of the services they badly need? As for the approach to the abolition of estate duty, is an immediate and total abolition the best option? We are not convinced. The Government's move to abolish estate duty is not supported by any justifications.

Madam President, the Government's justification as pointed out in the 5th paragraph of the Bills Committee Report reads: "..... will also encourage people, including overseas investors, to hold assets in Hong Kong. This will strengthen Hong Kong's status as a major asset management centre, create more job opportunities, and in turn make Hong Kong more competitive as an international financial centre." These are very high-sounding aims, but have any

justifications been advanced to support them? Throughout the Bills Committee's long scrutiny, we never heard any substantive justifications, but just the effects claimed by those who wish to see the abolition of estate duty.

Regarding the claim that more inward investments will be attracted, even the surveys and studies conducted by the Government do not indicate that huge inflows of foreign investments will necessarily follow the abolition of estate duty. It is instead pointed out that a package of many other support measures must be put in place before the effects can be felt. But have any such support measures been laid before our eyes? We raised many questions on this in the Bills Committee, but there was no answer from the Government. And, as pointed out by Mr SIN Chung-kai, the progress of formulating support measures has been extremely slow and the Government does not seem to attach any great importance to this.

Besides, the Government claims that the abolition of estate duty does not have much to do with rich people, and many Members also argue that the main beneficiaries will be the middle classes. Is this really the case in reality? Ms Audrey EU will deal with this question in detail later on. We have also asked whether raising the threshold for estate duty will solve all these problems. The Government has likewise failed to tell us what the best solution should be.

Third, I must mention the views of academics. Many academics with research interest in estate duty have offered their insights and research findings. They are generally of the view that the estate duty regime should be reformed, not abolished. Ms Audrey EU will also discuss all these views in detail later on.

Madam President, I must make it a point to say that the present approach to the abolition of estate duty violates fundamental principles and the due process. We are of the view that in its haste to pass the legislation for the benefit of rich people, the Government has disregarded the impacts of the abolition of estate duty on the general public.

When the Financial Secretary first announced the abolition of estate duty in the Legislative Council, a bill was not yet available for our scrutiny. When a bill was finally put before us, it was already May. But then the Financial Secretary hoped that the Bill could be passed on 6 July and take effect on 15 July. This Bill seeks to abolish many of the safeguards under the Estate Duty

Ordinance. It is true that these safeguards can only indirectly protect estate beneficiaries and prevent intermeddling of estates. But this does mean that after the abolition of estate duty, they will no longer need such protection.

The estate duty regime is a time-tested system which has been enabling many people to know how their estates will be handled after their death. The sudden abolition of these safeguards will surely produce great impacts on the public. All people, whether they are rich enough to have to pay estate duty, will be affected greatly. It seems that the Government has never given any consideration to all these impacts in a holistic manner.

Suppose the Government really succeeded in abolishing estate duty on 15 July as originally scheduled, then many people would have lost all protection literally overnight. Worse still, they might not even be aware of the occurrence of such an event at all. How can any government be so irresponsible?

Madam President, I am not saying that people must forever enjoy the same protection. What I am driving at is that if a certain system has for ages been providing some form of substantive protection, then in case there is really a need for its abolition, members of the public should be notified well in advance, so that they can know when the system will be abolished or revised. They can thus be reminded to take appropriate actions to protect their own interests and avoid being adversely affected by the abolition. Whenever the Government wants to do anything like this or alter any systems, it should inform the public clearly, allow time for consultation. In particular, it must consult this Council and inform the public through this Council of its intention. However, all that members of the public know this time around is just the intention of the Government to abolish estate duty. They are given no information on the impacts of the abolition.

The computation of the revenue impacts of abolishing estate duty is quite unlike the case of other taxes, where simple additions and subtractions already suffice to let us know the percentage changes. What is more, the Bill on abolishing estate duty should not be handled in the same way as the revenue of 2000, that is, it must not come into effect immediately after its passage. The abolition of estate duty is a major policy change. As Members know, there should be a due process for introducing major policy changes. Unfortunately, in a bid to demonstrate his authority, the Financial Secretary flatly refused to change his decision of immediately implementing the legislation after its passage

in July. We had in fact raised the point that even if the Government wanted to make any substantive changes in or even before July, it might well make use of another mechanism. I already talked about this mechanism at the meetings of the Bills Committee.

Since different rates for different periods are charged under the existing Estate Duty Ordinance, if the Government can lower the rate to zero starting from a certain period, it will be able to achieve the same effect. For this reason, I urged the Government to consider this idea in the Bills Committee, commenting that even if it really wanted to benefit the rich, it must not do any harm to the poor. I therefore asked whether it was possible to defer the scrutiny of the Bill until after consulting the public, informing them of all the possible impacts and listening to their opinions. The Government accepted our advice to a certain extent, but it still insisted on proceeding. Why has such a drastic change ensued? The main reason is that the Government does not want to defer the passage of the Bill; it wants to press ahead, in the hope that it can force through the Bill.

Madam President, such an approach is most improper. This explains why we can see that the original bill has been amended so drastically and extensively. Even in the Bills Committee Report alone, there are already some 50 paragraphs devoted to describing the amendments and the new system following these amendments. And, all the amendments themselves also run as long as several dozen pages. The objective of the Bill to abolish estate duty has degenerated into a reform of the regulatory mechanism for probate and administration. The task of regulation is currently undertaken by the Inland Revenue Department, but it will be taken up by the Secretary for Home Affairs as a new policy area. I do not think that the Panel on Home Affairs is aware of such a major change in their purview.

Madam President, we need only look at the 64th paragraph of the Bills Committee Report and we will see how wide the range of the reform is: "..... it appears that the Bill as amended by the Committee stage amendments would create a special relationship between the Secretary for Home Affairs and third parties having an interest in the estate of a deceased person capable of giving rise to a duty of care, and that the proposed powers of the Secretary for Home Affairs might institute a supervision system to warrant protection of their interest in the deceased estate." This means that a system originally aimed at protecting government or public revenue will be changed to one which is meant to protect third parties having an interest in the estate of a deceased person. This is a

major and significant policy change that warrants adherence to due process. But we have formulated such a new system without any consultation, simply by working behind closed doors in the Bills Committee. Will this new system be reliable? We can only cross our fingers like foreigners, hoping that there will be no problems.

Madam President, technically speaking, the contents of the Bill do not exceed the original scope, but the approach adopted must not be encouraged. As pointed out by Ms Miriam LAU in her report just now, there are many major changes in respect of the requirement on a schedule of property, access to the deceased's safe deposit box and court procedures and responsibilities. The Secretary for Home Affairs will also be vested with new powers, including the power of issuing three types of certificates, namely, Certificates for Release of Money, Certificates for Necessity of Inspection of Bank Deposit Box and Authorizations for Removal from Bank Deposit Box. Each of these powers will lead to government intervention in the handling and use of people's private property and subject the Government to various liabilities under the law. They will also create many additional bureaucratic formalities and drag Hong Kong back to the days of "parental officials". In the 67th paragraph of the Bills Committee Report, the Government refers to all these powers as "residual powers". But these are certainly no residual powers. They are new powers. The Government also says that these residual powers shall be exercised by the Secretary for Home Affairs only for a certain period of time and may be handed over to a private-sector organization in the future. But we simply do not know what kind of private-sector organization the Government has in mind. For all these reasons, how can we pass the legislation?

Madam President, I still wish to say a few words on consulting professional bodies. The Government should thank The Law Society of Hong Kong sincerely for the urgent remedial work it has performed. Under extreme urgency, The Law Society of Hong Kong managed to work out a system of measures to retain the kind of protection currently provided by the Government. The Government should be grateful to The Law Society of Hong Kong. But I must point out that all these are just remedial measures we are forced to accept in the absence of any better alternatives. Many members of The Law Society of Hong Kong have told me that they have indicated their support for the Government's new system simply due to the lack of any better alternatives. They can still notice many grey areas which may give rise to litigation.

Madam President, this reminds of two lines of a poem which we all know, which we all studied in our childhood: "Whipping the horse galloping up dust was the rider/No one knew the concubine was smiling for lychee drew near." Since the Financial Secretary is in such a hurry to help the rich save money by abolishing estate duty, he has disregarded everything and introduced drastic changes to the long-standing practices adopted by the masses in handling their meagre estates. Consequently, there will be changes in the procedures of leasing safe deposit boxes.

Madam President, we cannot support the Bill. Thank you.

**MR JEFFREY LAM** (in Cantonese): Madam President, thanks to the over-time work performed by the Bills Committee during the summer recess, the deliberation of the Bill is completed. Today, this Bill, which seeks to abolish estate duty, can finally be formally submitted to this Council. While I greatly welcome the implementation of the Bill, I hope Members will support its passage when casting their votes later. The passage of the Bill answers the aspiration of professionals, the business sector, and, in particular, the middle class — let me repeat — the aspiration of the middle class.

The free flow of capital has always been a major factor contributing to the territory's ability to maintain its status as an international financial centre.

Estate duty has always been a major concern to the business sector, particularly small and medium enterprises (SMEs). There is concern about the handling of an estate in the event of the death of a SME proprietor. Many friends of mine indicated to me on numerous occasions that they greatly welcomed the Bill because they used to spend their time mainly on their work and the operation of their companies and, subsequently, brought Hong Kong economic prosperity and created a lot of job opportunities. Their contribution, in terms of time and energy, indeed deserves our admiration. However, they do not necessarily have the time or knowledge to make estates arrangements. Of course, many will argue that, upon the abolition of estate duty, the rich in Hong Kong will no longer need to pay estate duty. Actually, the well-off, holders of large assets, and holders of senior posts in large companies have already set up a long time ago off-shore trust funds to deal with their estates. For SMEs or the middle class, however, the problem remains their biggest headache. If a person unfortunately passes away, his or her assets might be frozen. Not only will his or her family members be affected, his or her



company might, in the worst case, suddenly run into cash flow problems, and its operation will thus be brought to a halt as well. In the event that a company experiences operational problems, it is easy to imagine that the employment protection of its staff and Hong Kong economy will, to a certain extent, be affected. This explains why the majority of the people of Hong Kong greatly welcome the Government's proposal of abolishing estate duty.

The abolition of estate duty will be immensely beneficial to Hong Kong. In the event of abolition of estate duty, the territory, as an international financial centre, will naturally develop further as an asset management centre. Such being the case, our asset management sector will be greatly benefited and a number of high value-added posts, such as asset management posts, will thus be created. This is perfectly in line with Hong Kong's determination to transform itself into a knowledge-type economy. In other words, despite the Government's book loss of \$1.5 billion in revenue annually, we might, and we absolutely believe we will, generate substantial revenue in return. Moreover, the revenue may even be several times larger than before. We are not making irresponsible remarks. Many overseas trade associations have indicated to us their great interest in investing in Hong Kong because the abolition will certainly make Hong Kong an attractive place to them. Actually, this view is shared by the majority public too.

In fact, the governments of many countries and regions have come to realize the advantages brought about by the abolition of estate duty, and decided to scrap the duty one after another. The fact that even the United States is considering abolishing the duty demonstrates that the abolition of estate duty has already become a general trend. Our neighbour, the Macao Special Administrative Region, has not only abolished estate duty, but also striven to attract off-shore companies to start up business there. We can see that Macao has been successful in the past couple of years. Of course, we cannot calculate the amount of capital flowed into Macao because it cannot be easily computed with the help of a calculator or our naked eyes.

For these reasons, I very much hope that the motion can be passed today and put into implementation expeditiously. At the same time, I hope Hong Kong can become Asia's Switzerland and an excellent asset management centre expeditiously. The Government is really acting in the interest of the people by proposing this Bill and putting it into implementation.

Madam President, I so submit.

**MR ALBERT HO** (in Cantonese): Madam President, by its nature, estate duty can, in addition to bringing the Government a stable source of income, achieve redistribution. For this very reason, any efforts to create or abolish taxes that may possibly lead to redistribution in society are bound to trigger arguments in society.

Today, I heard several colleagues of mine, including Mr LEE Cheuk-yan and Miss CHAN Yuen-han, raise objection from the angles of wealth distribution and justice. I consider their arguments solemn, that is to say, I cannot say their arguments are totally groundless because I disagree. Actually, I consider their arguments, to a certain extent, valid. As a matter of fact, a number of colleagues in the Democratic Party have always attached great importance to evaluation from this angle in examining each policy implemented in society. In particular, we are now confronted with such problems as wealth gap, fiscal deficit, and so on. Is it consistent with justice for the Government to abolish this seemingly progressive tax? This is a solemn matter, which has been discussed by us again and again.

I must point out that we accept the proposal of abolishing estate duty. Having examined the arguments for and against it, I only wish to raise several points: First, insofar as the issue of the so-called progressive tax is concerned — on the face of it, estate duty is certainly a progressive tax. In other words, only a fortune exceeding a certain threshold is subject to several tax bands under estate duty — we are aware that there are many ways of avoidance owing to the design and structure of estate duty. This is why many academics have been maintaining that estate duty is, to a certain extent, a volunteer tax. People prepared to bear the cost will be able to avoid it. However, the cost payable is, indirectly proportional, not directly proportional, to the tax intended to avoid. In other words, the greater the amount of tax to be avoided, the smaller the amount of cost. For instance, one may have to pay \$20 million only in order to avoid paying \$5 billion in tax. However, he may have to pay \$2 million to \$3 million just to avoid paying \$200 million in tax. The percentage of cost will thus decrease as the amount of tax to be avoided increases. This is a matter of simple logic, for the efforts required are more or less the same.

Members can thus see that in such an affluent city as Hong Kong where there are so many well-off people, an annual revenue of \$1.5 billion from estate duty is indeed surprisingly small. From my personal experience, there are indeed a lot of wealthy people avoiding tax by numerous effective means.

Many people can even make tax avoidance arrangements just days before their death by commissioning some experienced lawyers. As this can be done swiftly, some firms can manage to arrange for tax avoidance at very short notice. Therefore, several kinds of people who are left to pay estate duty are either those who have no knowledge of avoiding tax or those who are good at calculation. Moreover, after doing some calculations, they may not find it particularly economical to hire a lawyer or trustee for tax avoidance purposes compared to the amount of tax payable. Therefore, judging from this angle, estate duty *per se* is restrictive in terms of fairness. This is point number one.

Of course, it is undeniable that only estates exceeding \$7.5 million are subject to estate duty. However, I believe taxpayers who have to pay the highest rate possibly constitute only a fraction of the people required to pay tax at these rates. Of course, many rich people will still pay estate duty. However, they only pay a fraction of it after tax avoidance. The actual rates of tax eventually paid may probably be 2%, 5% or 6%. Under such circumstances, the fairness of the design of estate duty is indeed problematic.

As for the second point, I do agree that the \$1.5 billion received by the Government is a reality. This figure represents more or less the average in recent years, and is undeniably a stable source of income. We must not disregard the fact that this sum of money will be instantly lost should estate duty be abolished all of a sudden. I remember the Secretary also found himself confused by this very realistic issue soon after he had assumed duty because \$1.5 billion was involved, and he considered it necessary to carefully consider it. I also believe that the Government must, regardless of how many of its other arguments are being challenged, face the entire community and examine if there are excellent reasons to support its proposal of abolishing this policy, which will result in an instant loss of this sum of income. It is indeed very easy to calculate this sum of income for it is not as complex as the West Kowloon development project. Subsequent to a series of packaging efforts by the Government, many people did not quite understand what the Government had said and then they were told that the matter had been dealt with very fairly. As the abolition of estate duty will result in a direct loss of money, I am sure the Government will carefully consider this proposal.

Actually, many of the people whom the Democratic Party has contacted, including those from the financial and professional sectors, consider it necessary for some data to be provided to quantify the issue, that is to say, how many

benefits will be brought if the so-called disincentives to long-term investment are reduced because of the abolition of estate duty. However, it is very difficult to do so. I cannot think of anyone who can provide a lot of specific data or evidence. This is the only data I saw in the Bills Committee — one year after estate duty was abolished in New Zealand in 1994, or 1993, there was an apparent rise in investment by 103%, and more than 20% in the subsequent year. However, investments seemed to come to a halt in the third year. I do not believe such data is adequate; neither do I rely solely on it.

However, after carefully pondering the future development of the territory, including whether its trend, characteristics and strengths can attract overseas investment and lure people from the outside to make use of it as their asset management base, we find that there are not many strengths left for us to promote the city to others. In particular, we have visited the Mainland and found that in many aspects, given Hong Kong's limitations, it is not easy for us to advertise our commerce and industry as a locomotive that is capable of continuously propelling our economy. It is our view that only the estate duty, if abolished, can probably give Hong Kong a very favourable condition to impress people that Hong Kong is not only a free place in many aspects, it will even give others and many of the Hong Kong people intent on making long-term investments here many incentives, a friendly environment and facilities. I must therefore point out that this decision is ultimately a macroscopic judgement. After summarizing all relevant points, and given the revenue brought about by estate duty and that the so-called fairness issue is involved, we think we can support this strategic decision because it is able to tie in with the long-term development and consolidation of the territory's overall strengths.

Despite what I have said, it does not mean that we do not feel strongly or have no strong views about the Government's present way of handling the matter. As Ms Margaret NG has spoken at great length in this respect, I will not repeat. I just wish to ask one more question: Has the Government carried out adequate consultation on such matters as whether estate duty still has room for improvement or whether it should be retained? After conducting an internal study and considering ways to introduce other reforms, the Democratic Party finds that the existing tax regime is already very simple. I cannot see what special benefits can be brought by further reform. Therefore, we have only two options: accept or reject. I really cannot see what benefits can be brought by revising the tax bands again. Furthermore, some existing shortcomings of the system will still exist even after such reform. I can simply not see any

particular point in doing it. Therefore, I maintain that the matter should be handled in a straightforward and simple manner — either accept or reject.

I remember Ms Margaret NG put forward the idea of global taxation a couple of years ago, for tracking down tax avoidance had proved to be very troublesome, and she thus suggested that everyone — I do not know whether she still remembers she asked me whether I had ever thought of adopting a global ..... she said that she had not said anything like that before. Perhaps I have got it wrong, but this is not important — what I mean is replacing the territory-based method with a global taxation method. I remember my immediate response at that time was that Hong Kong did not yet have the conditions. Probably only one or two countries in the world, such as the United States, can enforce global taxation. Yet, Hong Kong does not have the conditions. Should Hong Kong really act in that way, many people will ask themselves why they should stay or invest in Hong Kong permanently, or establish permanent ties with the territory, for they will then be subject to global taxation. We did take all these factors into consideration at that time. To conclude, the Government has acted too hastily this time for, after making this decision concerning financial policy, the Government has not considered many of the consequential impacts brought about by the abolition of estate duty, including the impact on the entire probate system. I think the Home Affairs Bureau (the Bureau) simply believes that the Government, once it scraps or gets its hand off the estate duty, will no longer need to take care of some of the existing procedures in the probate system, that is, existing protection, without realizing that the abolition of the duty will cause such tremendous repercussions and many serious and unforeseeable consequences, thus making it necessary for the Bureau to rush to examine the matter with The Law Society of Hong Kong. I feel that the approach has indeed been undesirable.

I also consider it worthwhile for us to express our thanks again to several lawyers responsible for estate matters in The Law Society of Hong Kong and from trustee associations for their assistance. I can tell Members that the majority of the dozen Honourable colleagues do not support the abolition of estate duty. It can even be said that many of the professionals responsible for handling estates or trusts will see their income instantly affected should estate duty be scrapped. Anyhow, they consider themselves, being professionals, have an unshirkable responsibility to ensure this piece of legislation, should it be passed, will not adversely affect the public. For this reason, they have spent hours untiringly discussing with the Government and holding meetings with the

Hong Kong Association of Banks to ensure that, even if estate duty is eventually abolished, a comparable system will be put in place in which the Bureau will assume a certain role to ensure that public interests will not be affected and jeopardized.

As regards the question of how this system will evolve, I have no idea for the time being. At present, safe deposit box matters are probably being dealt with by means of complex provisions. Yet, the practice of the public in using such boxes may change in future. If the habit of the majority of the people changes, and the Hong Kong Association of Banks no longer relies on certain safe deposit box agreements or stops using the joint-name method, a lot of things will probably no longer be necessary. We can study in detail should there be changes in future in this respect. However, I have to tell the Government that we will not let the Bureau get its hand off so easily and let private firms take care of public interests by saying that the Bureau has nothing to do with it. I will definitely not let the Bureau get away so easily.

I know that many colleagues feel strongly about the retrospective effect issue. Just now, Mr SIN Chung-kai already stated the position of the Democratic Party very clearly. We express approval very reluctantly this time mainly because this is a concessionary measure, and the retrospective period is not exceedingly long. Moreover, we believe some people, whether the men in the street or investors, hold certain anticipation or expectations that the Bill should have been passed in the previous Legislative Session. In any case, I have to tell the Government in unequivocal terms that it will not be so easy, or it will get rather difficult, next time around.

**MR LEUNG KWOK-HUNG** (in Cantonese): Madam President, in the previous debate on this question, I already pointed out that not all rich people supported the idea of estate duty exemption on the ground that there is an American association named "Responsible Wealth". Members may consult the last record of proceedings and find that this point was raised in the last meeting. Furthermore, the association has already set up its own website. They are calling upon their government not to behave so badly and wrong them by telling others that they want the government to reduce tax. Actually, it is the United States Government that has every intention to do it. Of course, they are targeting at BUSH. He is extremely rich, right? His family is a diverse business operator. Even his vice-president is a big businessman.

Why should Hong Kong follow the example of these rich people? No one seems to be interested in discussing this issue. In particular, I heard that the Democratic Party had no objection to the concession. In that case, may I call upon the Government to reduce taxes for me and for the poor? Members should understand that no one can bring money into his coffin. It is universally understood that money should be left to the offspring of the deceased as money cannot be brought into coffins, right? Actually, the money is kept in a living coffin instead. Some people will ask: Is it an act of injustice to take the money which is supposed to be left to the offspring of the deceased from the living coffin? Our society is currently taking the road of retrogression by acting in such a cold-blooded manner. Even in the cold-blooded society in the olden days, people caring nothing about kindness, justice and harmony still believed that the deceased could not possibly bring along their money to their graves, right? It would be better to leave some of their money to the surviving by simply letting the Government keep the money for the needy. Some rich people prefer having their names remembered. Mr LI Ka-shing, for instance, has chosen to make donations so that all the visitors to the university will see his name. In the old days, well-off families acted in the same manner because they did not wish to bring large sums of money to their graves for they believed the money was so heavy that they might suffer terribly when they crossed the "Bridge of Sighs", and possibly get into even more trouble if the money fell into the river.

Despite the practice of others, the Government is now acting against the current trend. I can tell Members that the Gini Coefficient, an indicator of wealth gap, of Hong Kong is notorious in the world. I do not want to discuss absolute indicators with the Government because it is most skillful in substituting concepts. Whenever the concept of relativity is mentioned, the Government will say, in absolutely terms, we might be even richer. Yet, this is not the case. Even the surveys conducted by the Government itself show that the richest and the poorest in Hong Kong are poles apart. Frankly speaking, the Government is now attempting to abolish a piece of legislation which has been enforced for a long time and considered even by the Government itself to be well-tested. Should Financial Secretary Henry TANG be treated as having illicit relations with foreign countries for he has even made a promise? His promise that 1 July will be the effective date is more or less the same as saying that we will become sinners should we fail, or the same as saying that we will become "sinners for a thousand centuries" should the "birdcage constitutional reform package" not be passed. He made exactly the same remark while he was sitting in this Chamber

the other day. Because of the Financial Secretary, we are being criticized by the international community for not keeping our promise and being reluctant to scrap estate duty. What kind of government is it? Why do we have to act in this manner? Why should people be "reluctant to spend money on good causes, yet willing to waste it"? The deceased have no way to find out the money belong to them, right? What else can they say? Can they ask someone in their dreams for the return of their money? They will not be able to do so, right?

Look, Secretary, here is \$10,000 issued by the "Bank of Hell". Would you like to keep it? I showed it deliberately to demonstrate that humans and ghosts do not walk the same path. How would the deceased want worldly money? They do want the notes issued by the "Bank of Hell" so that they can use it, right? Why should we force them to take worldly money? Even though the rich Americans I mentioned at the beginning of my speech are all high-income earners on the highest tier of American society, they do not support the Government in doing so. Why does our Government not visit the website mentioned by me, but browse other websites instead? Should I introduce this website? These rich Americans are fully committed to opposing the abolition of estate duty because they know that the one who is determined to scrap the duty is BUSH. Yet, our Government and the rich people in Hong Kong are still acting in such a shameless manner. I have cited this example just to show that those people are rich too.

However, there is nothing we can do. The post of Financial Secretary in our Government is taken up by a rich man. I will definitely not agree doing so if I were the Financial Secretary, because it will do no good at all and will only hurt others. We are now talking about \$1.5 billion — we even found our teeth bleeding while lobbying the Government not to slash CSSA for the elderly people would then lead a very miserable life. Yet, the Government rejected our request on the ground that it had got no money. If it is said that some kids — I am referring to your classmates — need spectacles, will you raise some money to buy them spectacles? You will certainly do so, right? Yet, this Government of ours has refused to raise money to buy the kids spectacles. Do you think it is right to do so?

Despite its claim that it has got no money, the Government has all of a sudden given up \$1.5 billion without giving us any reasons or debating the matter in the community. Actually, this concerns the Government's philosophy of governance more than money. Whom does the Government serve? Is it the



wish of the Government to see the rich get even richer and the poor even poorer? Ladies and gentlemen, why will we feel so sad when we read from the story books that Robin Hood — the movie "Legend of Zorro", about salvation and acts of justice, will be shown shortly — is going to die? This is because we know that, in English society back in the olden days, many people would be in miserable condition if not for Robin Hood. Today, it seems that we do not need Robin Hood anymore. If there is democracy, people can vote for a candidate in the hope that he will seek justice for them.

It is now obvious to this Council that the Government will definitely forego the \$1.5 billion. Worse still, it even has to get itself something to do. I wonder if it is because Members have criticized Secretary Dr Patrick HO too much for having nothing to do that he is now given an assignment immediately. The Commissioner for Inland Revenue has received an immediate order to hand over her duty to the Secretary for Home Affairs, as the latter has got nothing to do. Can the Government change its policy in this way? Though I joined this Council only a year ago, I do find Ms Margaret NG's remark reasonable — I have to state in advance that I knew nothing about all these things; I learned them bit by bit. I just repeated what I was told by Ms Margaret NG. It was like attending a general studies class. Yet, I found it unreasonable on hearing the Government's argument. A government having no common sense even in governance must be a government without common sense.

The story was like this: To be brief, this man appearing on my clothes — Che Guevara — wrote CASTRO a secret letter before heading to Bolivia for a guerrilla war, saying that he wanted nothing because free education and free health care were already available in Cuba, and he trusted his children would grow up healthily. He thanked the Cubans because he himself was an Argentinean. He then left Cuba without asking for anything. Members should understand that the most precious asset for mankind is social heritage. By this I mean a good system desired by ordinary men in society, as well as a government they do not fear. We must at least act according to our conscience — if a person is as wealthy as Stanley HO, and has so much money that he cannot even put on his socks, he should give the socks to someone else or buy a bigger pair. Should he not act in this way?

Our Government is now acting against the trend. On this specific point that so many people oppose, the Government still insists on acting according to

its own wish, even at the cost of distorting the matter. In the face of our opposition, the Government changed its direction, saying that the Home Affairs Bureau, instead of the Commission for Inland Revenue, should be responsible. This is probably the way of bureaucracy. It is like the remark made by Mr TSANG, before he assumed office as Chief Executive, that he worked for his boss. Now, government officials appear in this Council to defend their bosses, that is, to serve the policies formulated by the Chief Executive and the Bureau Directors, saying that the decisions made by their bosses are right. So, who are being served by the Chief Executive and Bureau Directors? The answer must be their voters. We, directly-elected Members, will certainly say that that we are serving our voters. The Chief Executive and Bureau Directors do have their own voters — the 800 electors. This estate duty concession actually compares to a very meaningful children's story. It is worthwhile for young people to learn from its moral that there are no free lunches in the world. Let me speak for the people who have no say. However, I am not an eloquent speaker, nor do I have adequate authority. I just keep repeating the same words. So, the Bill will be passed anyhow, right? Just present the rubber-stamp. Tens of people will lift it up and put it down. The task will then be accomplished. Today, such an incident of unfairness is happening.

Ladies and gentlemen, I heard this song when I woke up this morning — I was supposed to turn on the radio to listen to the news. Here are some lyrics of the song sung by Rod STEWART: "If loving you is wrong, I don't wanna be right". This is what I should tell Hong Kong people, but not the Government. Rod STEWART loves his lover dearly. He sings: "If loving you is wrong, I don't wanna be right". I am doing exactly this today. If it is wrong for me to speak for the poor in Hong Kong, as well as the middle class and even the lower class who have been wronged by the property developers, in pointing out the unfairness, I would not want to be right. On the contrary, the Government should do some soul-searching on why the middle class has to be wronged. I have also had the experience of inheriting an estate — it was left behind by my mother, though I have not got it yet — the procedure was speedy. When I was asked how much money I would inherit, I replied that it should be \$10,000 or so. I was told to just fill in the application form and made a declaration.

If the Government is really determined to help the middle class or those people whose assets have been temporarily frozen by the Inland Revenue Department in relation to their business operation, it should figure out ways to

help them. Why should additional reasons be given? Should someone fix the water pipe when he is asked to fix the light? When Mr TSANG received a telephone call complaining of suspension of water supply, he replied that the problem would be fixed. He really did that. However, he ended up damaging the light bulb after fixing the light. What should the Government do when some people complain that they are miserable because the government procedures are extremely complicated, their assets have been frozen, and their companies might wind up as a result? Even I know what should be done. Can the Government not offer them interest-free loans? Under such circumstances, can the Government not "register a charge against the property titles concerned" and get the money back later? Deducting the money will only benefit those people who have no need for it, that is, the rich.

The Government is saying that once estate duty is scrapped, all the rich men in the world will queue up coming to Hong Kong. I can tell Members that this is a lie. If that is the case, why did Hong Kong economy perform so well in the past? Has the territory scrapped estate duty thrice before? Certainly not. This is just an illusion, only that Members have no idea who made such remarks. The Executive Council has now been expanded with the addition of more and more rich people, as well as professionals. Eight plus seven equals 15. Members of the Executive Council will certainly say something like that because they will be benefited as well. However, can they do that?

Today, I will definitely fail in opposing the abolition of estate duty because even the Democratic Party said that it would cast a vote for the abolition. What else can I say? However, I have to remind Members not to think that it is futile to say anything, just like it is useless to comment on the constitutional development issue. There is nothing I can do today. Even if I lose during the voting, it does not mean my comments are incorrect. If democracy really exists in this society, and if the Government really provides us with a platform for everyone to join in the discussion, as Ms Margaret put it, so that more people can be consulted through this Council, I believe we are going to win. Yet, at present, I feel so helpless.

Students, ladies and gentlemen who are listening to me, this is how the world operates. If public opinion representatives are permitted by our social system to speak their minds freely, if they do not represent the minority, if they are not relied upon to protect minority interests, they will be able to act more fairly to enable the people to be even wiser, because they know that if we are

wise, we will be able to pick wise candidates, instead of someone caring only about personal interest. The discussion on estate duty does show that we have inherited a very, very terrible estate — officials acting according to the orders of businessmen. Instead of colluding with the Government, businessmen simply tell the Government what to do. This is even worse than collusion. Basically, the three Secretaries of Departments and 11 Directors of Bureaux are not involved. Except for the three Secretaries of Departments, the 11 Directors of Bureaux are all playing the supporting role.

Frankly speaking, the Government has made an extremely rude change recently. I would not even treat my friends in the same way — people having received a dining invitation were suddenly told that there was no need for them to come because several other people had already come. This is the moral of this story: "Some people are reluctant to spend money on good causes, yet willing to waste it". I am saying all this because there is no democracy in Hong Kong. On 4 December, we can demonstrate to the Government with action that our society can get even better.

**DR PHILIP WONG** (in Cantonese): Since 1991, Madam President, I have been advocating for the abolition of estate duty. After more than a decade of discussion and consultation, a consensus has now gradually been established in the community. In this year's Budget, the Financial Secretary finally proposed to abolish estate duty. I am extremely pleased that the Revenue (Abolition of Estate Duty) Bill 2005 has been gazetted and submitted to this Council for deliberations.

As I once pointed out in this Council, the abolition of estate duty will help Hong Kong become Asia's premier asset management centre and make it a more competitive global financial services provider; enhance the investment incentives of local residents; stimulate the stock and property markets; help ameliorate the unemployment problem; and bring more revenue to the coffers.

Some opponents maintain that, while the structural fiscal deficit problem remains unresolved, the Government will lose a stable source of income as a result of abolishing estate duty. Actually, the revenue from estate duty constitutes less than 1% of the Government's total annual revenue. Compared with the overall economic benefits to be brought about by the abolition of estate duty, the price payable is indeed negligible.

For the abovementioned reasons, I support the passage of this Bill that seeks to abolish estate duty.

Madam President, I so submit.

**MR ALAN LEONG** (in Cantonese): Madam President, three other members of the Article 45 Concern Group and I oppose the Government's proposal of abolishing estate duty at this stage. The Government's original attempt to forcibly submit the Revenue (Abolition of Estate Duty) Bill 2005 (the Bill) in the hope of resuming its Second Reading before the conclusion of the Legislative Session last year was foiled as it was vetoed by the House Committee. Finally, after smoothly overcoming the two hurdles, namely the Bills Committee and the House Committee, the Bill was tabled before this Council today for resumption of its Second Reading.

Madam President, since the grounding of the Bill in the House Committee, the media has been focusing its attention mainly on the ambush successfully laid by the pan-democratic camp in the course of voting in June and July. Only a handful of more in-depth reports pointed out that the opponents were justified in opposing the Second Reading of the Bill because it had not been subjected to adequate discussion. Now that seven more meetings have been held and members of the Bills Committee also support the submission of the Bill to this Council for voting, the argument of insufficient time should no longer be valid. The general public may question why Members of the Article 45 Concern Group still have to object.

Madam President, Members are dissatisfied by the Government's earlier attempt to forcibly resume the Second Reading in total disregard of the spirit of compliance with due process. However, an originally improper act cannot be rendered proper even if the Second Reading is postponed by several months.

The abolition of estate duty will not only cost the Government \$1.5 billion in revenue, it will even affect the territory's established probate system and procedure, as well as such minor details as the forms required to be completed by applicants in dealing with estates in the future, where to obtain and how to complete the forms, what sort of affidavits should be prepared for purposes of

statement of assets and liabilities, under what circumstances safe deposit boxes can be opened, how to deal with the wide range of arrangements for safe deposit boxes, and so on. Despite these drastic and complete changes, the Bill has now been submitted to this Council for Second Reading without the general public's full discussion and knowledge simply because the Government has to complete the legislative process expeditiously. By mid-June, even though the Government had prepared to resume the debate on the Second Reading of the Bill, it had merely decided to allow the Home Affairs Department to replace the Inland Revenue Department to oversee estates. Other new arrangements and support measures, as mentioned by me earlier, were still seriously flawed and confusing. Even the public at large were kept in the dark for they did not entirely understand the minor details too. As it is, we cannot but believe that the Government has simply not conducted any in-depth study and consultation on the consequences of abolishing estate duty.

Madam President, with respect to the Government's efforts in promoting this Bill on the abolition of estate duty, I find it most disturbing that, first of all, the Government has given no consideration at all to the consequences of suddenly eradicating our proven probate mechanism, launched nine decades ago, as a result of abolishing estate duty. Second, despite the pointing out by Members of its omissions, the Government has continued to pay no heed to the need of fully consulting the public and professionals and making thorough consideration before announcing its comprehensive support initiatives. Hong Kong people should be given more chances to compare the old probate system with the new and, after deciding to adopt the new system, given sufficient time to make appropriate arrangements for personal estates under the revised probate system.

The Government has chosen to hastily handle this Bill that has originally completely neglected the impact on the probate mechanism, and hastily submit the Bill to this Council for Second Reading. What is more, the Government has even proposed that the Bill shall come into operation with retrospective effect from 15 July. Other than serving the purpose of saving the face of the relevant officials, this approach of seizing every minute is really baffling.

Madam President, although this Council is being told that these minor technical problems are already solved, the Government has yet been able to answer another crucial question requiring adequate statistical support: What

actual economic gains can be brought by the abolition of estate duty? We have merely heard the chanting of this slogan — a premier asset management centre in the Asia-Pacific Region. However, the Government has never been able to tell us, after the estate duty is abolished, what support measures or strategies will be adopted and by how many times the revenue of \$1.5 billion is expected to increase. The emptiness of this remark is indeed comparable to the one once made by the Government that Hong Kong people will eventually enjoy universal suffrage.

Madam President, the fact that 80% of the revenue from estate duty in 2003-04 was derived from less than 30% of estate duty cases does show that estate duty was paid mainly by the well-off. While the Government is acting so generously to spare this group of people from payment of \$1.5 billion in estate duty, it has been excessively mean to the Comprehensive Social Security Assistance recipients for the sake of a mere \$300 million, and has decided to slash public health care expenditure just to save \$900 million. Should a government aspiring to "serving the people" act in this manner? What is more, we must bear in mind the Government's claim that small-class teaching will cost it up to \$3.1 billion. The amount of money generously given up by it can already enable half of the students in Hong Kong to enjoy teaching of a better quality. How does the Government expect the public to interpret its behaviour?

Madam President, I wish to tender a reminder to those people who regard themselves as advocates of free economy and oppose estate duty on this ground. A lot of British and American economists who are advocates of free economy are actually staunch supporters of estate duty. Genuine advocates of free economy support the spirit of "one who works more gets more" and "everyone enjoys fair competition". These people definitely do not mind asking the rich to pay estate duty because, insofar as economists genuinely advocating free economy are concerned, descendants of rich families inheriting colossal estates not subject to estate duty will enjoy a greater edge over other heirs not enjoying the same degree of paternal protection. This will tend to result in unfair competition in society. Therefore, Members should never support this Bill proposed by the Government just because they consider themselves advocates of free economy.

Madam President, to truly evaluate the effectiveness of estate duty on economic grounds, we must not confine ourselves to arguments over making a few more pennies. Instead, the issue must be addressed genuinely from the

angle of promoting social progress and competition and creating social wealth. Our society is indeed adopting a cold-blooded double standard and, worse still, caught a split personality should it dwell on fiscal prudence in front of the disadvantaged groups and yet treat people with enormous fortunes with great generosity.

With these remarks, Madam President, I oppose the Second Reading.

**MISS TAM HEUNG-MAN** (in Cantonese): Madam President, I support the abolition of estate duty. I am aware of the concern of many opponents of the proposal, that Hong Kong will lose a stable source of revenue after the abolition of the duty. They believe that a bird in hand is worth two in the bush. Given that the Government can generate more than \$1 billion annually from estate duty, why should the Government risk abolishing it? Can the revenue to be generated by the investments lured to Hong Kong after the abolition of estate duty offset the loss incurred as a result of the abolition of the duty?

Of course, the coffers will definitely lose a stable source of income subsequent to the abolition of estate duty. However, we should not merely focus on the argument that the revenue of the coffers will be affected by the abolition of the duty. At the same time, we should consider the impact of the abolition on attracting overseas investments as well. The abolition of the duty can convey a clear message to overseas and local investors, that all investors, no matter where they come from and how much they have invested, will not see their fortune evaporate as a result of estate duty. Hence, they will feel assured in investing in Hong Kong. Through attracting more investments, we will be able to collect tax from property and stock transactions. If funds are used for opening companies, we can even generate more revenue from profits tax and probably see more job opportunities created in Hong Kong. All this is helpful to the development of our financial and investment markets.

Some people question why this policy should be continued as there is no concrete evidence proving that the abolition of estate duty in Hong Kong will definitely attract a large number of investors. As I said earlier, we must let investors know that it is our policy to encourage and welcome investment. Only in doing so can we maintain our strength and competitive edge in the global investment environment where competition has become increasingly keen. As long as we can ensure the maintenance of our competitive edge, it is not



impossible to recover more than \$1 billion annually from other channels. Will it not be even better to vigorously promote our investment market without seriously affecting public revenue?

Theoretically, it is very easy to understand that abolishing estate duty can boost investment. Even in practical circumstances, the abolition of estate duty is an excellent idea. Concerning the proposal raised by some people that the exemption threshold of estate duty be raised, there will always be a problem, regardless of the exemption threshold, and that is, if an estate comprises mainly immovable property, it will simply be impossible for the heir to the estate to raise cash to pay estate duty. Is it fair to the heir? Can his or her interest be protected by forcing him or her to sell the assets? Furthermore, if the estate comprises mainly securities, estate duty will be calculated on the basis of the prices of the securities on the day the deceased passed away. However, tax assessment usually takes one month or two, or even longer. Insofar as the prices of securities are concerned, there might be enormous movements within a month or two. A person forced to realize assets because of lack of cash might thus sustain inestimable losses. Such risks are definitely a cause for concern to investors. Of course, some people may resort to tax avoidance by such means as setting up a trust fund through financial arrangements. However, exorbitant cost will be involved in doing so. This is impractical for people with an estate amounting to just millions of dollars.

Madam President, the abolition of estate duty, though cannot fully guarantee that revenue will not fall, will bring a lot of benefits and remove a lot of worries. Hong Kong's ability to attract investment is one of its pillars of success. Why do we not look further away and refrain from just focusing on a revenue of a billion-odd of dollars and hence overlooking the benefits brought about by the abolition of estate duty?

With these remarks, Madam President, I support the abolition of estate duty. Thank you, Madam President.

**MR ANDREW LEUNG** (in Cantonese): Madam President, Financial Secretary Henry TANG has proposed in his second budget to abolish estate duty. This proposal will not only benefit Hong Kong economy, it is also a new way out for the territory to create long-term benefit.

Actually, the Federation of Hong Kong Industries, represented by me, and several major chambers of commerce have been, over the past couple of years, actively lobbying the Government to abolish estate duty. Given its strengths, including a comprehensive financial regulatory system, world-class professional services, and a highly transparent and bilingual legal system, Hong Kong has indeed got every condition to become a premier asset management centre in the Asian-Pacific Region. With the clearance of the obstacles posed by estate duty in sight, I am confident that Hong Kong will successfully take a giant step in the direction of becoming "Asia's Switzerland" with further strengthening of matching facilities by, for instance, continuously improving its financial and monetary services, strengthening manpower training, and so on.

Following the industrial shift to the north in the '80s and the '90s, some low value-added services have also started to move out of the territory to the Mainland subsequent to advanced communications technologies and enhanced transport efficiency. As pointed out by me in a motion debate conducted last week, mishandling of the logistics industry will lead to a massive job drain. Our immediate task is to identify types of high value-added jobs to make up for the loss of low value-added jobs due to the drain, for this is the only way to provide our next generation with adequate job opportunities. The abolition of estate duty will create countless high value-added posts such as fund management-related posts, fund managers, fund salespersons, bond salespersons, securities brokers, accounting personnel, financial analysts, and so on. Furthermore, sectors relating to business and real estate will be benefited as well.

Being a well-established and diversified global investment market, Hong Kong boasts numerous unique advantages. Moreover, with its wide range of excellent investment tools, such as stocks, futures, foreign exchange, bonds, and so on, for the choice of investors, the territory should be capable of attracting foreign capital. With its bilingual use of Chinese and English, it has also proved to be exceptionally attractive to Chinese capital within the Asian-Pacific Region. In particular, the mainland economy is undergoing rapid development. Having accumulated substantial wealth, a lot of people are looking for a place like Hong Kong where there are a stable, strictly and impartially regulated investment environment and experienced professionals who are capable of managing their assets. Given that Hong Kong is actively striving to become an off-shore clearance centre for Renminbi, the abolition of estate duty will surely enhance our strength.

The abolition of estate duty will give rise to a string of demands for financial services and attract fixed asset and financial asset investment from the outside. At the same time, the anticipated rise in the volume of transaction in the stock and real estate markets will bring substantial revenue in stamp duty. In the long run, the economic effectiveness thus achieved will be greater than the amount of duty thus lost.

It is our hope that the abolition of estate duty will create more jobs in Hong Kong. With these remarks, Madam President, I support the motion.

**MR CHIM PUI-CHUNG** (in Cantonese): Madam President, I speak in support of abolishing estate duty, though my arguments differ from those advanced by many Honourable colleagues. I do not believe a lot of offshore funds and foreign investors investing in Hong Kong will be subject to substantial estate duty. I hope relevant data can be provided by the Government to prove that they are so scared by estate duty that they dare not invest in Hong Kong. This should not be used as an excuse should the Government fail to provide the data. My support for the abolition of estate duty is simply based on the principle of fairness. Madam President, what does an estate mean? This refers to a relatively large sum of money left by a deceased person from his lifelong income and savings. He should have paid the Government a lawful sum of tax when making the money, unless he evaded tax or breached the law. Therefore, it is unjustifiable for us to require double tax payment after he passed away, as it would then become double taxation. And it is unfair to charge certain people double tax for possession of assets and estates. Hence, my arguments are different from those of other colleagues. They would only suggest increasing this and increasing that, but their words are totally self-deceptive.

My second argument is that many large funds, as well as people with knowledge and wisdom, have resorted to setting up firms for the sake of avoiding tax. Madam President, as we all know, insofar as our taxation system is concerned, lawful tax avoidance is protected. While tax avoidance is legal, tax evasion is not. As such, large funds are able to safeguard their property and assets in a very effective and perfect manner through their own management professionals. Under such circumstances, as it is impossible to levy estate duty on many of the heirs to an estate, it is unfair if some other people are required to pay the duty. As this is evidently unfair, the continuous imposition of estate duty is not justified. I trust many people will not bargain with the Government

how much benefit they can get from the levy of \$1.5 billion in estate duty in such an unfair manner. They just hope that the Government can maintain a stable tax income and fixed revenue in other aspects to sustain the operation of the entire society. This is why I cannot subscribe to the arguments advanced by some Honourable colleagues earlier.

I very much hope to point out that Hong Kong will not instantly turn into a so-called financial centre or paradise because of the abolition of estate duty. The Government should, whether in constitutional reform or other aspects, demonstrate its sincerity in engaging in genuine discussions and examining the future implementation of policies with Members of this Council and people from all walks of life. It must not say that our future investment environment and everything will turn better once estate duty is abolished. It must support its arguments with valid data. Of course, I am convinced that there will be a positive response. However, the public will be misled should the Government indulge excessively in its own wishful thinking.

Madam President, as stated by many colleagues earlier, \$1.5 billion is not a small sum. However, owing to our unhealthy system, land proceeds make up the largest share of our revenue. The Government can already make \$10 billion by selling a piece of land, and this sum of money is basically equal to the combined proceeds from estate duty over a period of six or seven years. What is more, we hope that the Government can, while abolishing estate duty, better safeguard the resources of the Hong Kong people, including the land situated in West Kowloon.

I speak in support of the Bill. Thank you, Madam President.

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

**MS AUDREY EU** (in Cantonese): Madam President, two members of the Article 45 Concern Group, namely Ms Margaret NG and Mr Alan LEONG, already spoke a while ago. In explaining the position of the Concern Group, Ms NG made it clear that we oppose the abolition of estate duty at this stage.

Actually, I wish to add something and give a more detailed explanation. In our opinion, the best approach is to reform the estate duty regime, instead of

abolishing estate duty. In particular, the reform can be carried out in two aspects by raising the existing threshold of \$7.5 million to \$20 million while considering whether the current taxation method can be improved. Unfortunately, however, after consulting other colleagues in this Council, we could not secure enough votes to support our proposal of raising the threshold for estate duty from \$7.5 million to \$20 million. Under such circumstances, we have decided not to propose any amendment because we believe we still cannot secure enough support even if we do so.

Madam President, Article 107 of the Basic Law provides clearly that we have to strive to achieve a fiscal balance and avoid deficits. When the fiscal deficit problem is not yet resolved and we are still debating how to widen our extremely narrow tax base, the Government, however, goes against the trend by proposing to abolish the estate duty, which has provided us with a very stable source of revenue for nine decades. Of course, it has been pointed out by many that estate duty constitutes a negligible share of our overall tax revenue only. But actually, estate duty brings us a stable tax revenue of \$1.4 billion to \$1.5 billion a year. Mr Alan LEONG pointed out earlier that it costs the Government \$3.1 billion a year to implement small-class teaching. This is actually not the case for less than \$3.1 billion is required. For these reasons, it is inappropriate of the Government to forego this tax revenue, amounting to \$1.4 billion to \$1.5 billion, at this stage when expenditure is still being slashed.

According to the Government, there are three reasons for abolishing estate duty: First, to attract overseas investments; second, estate duty is an unfair tax for rich people can resort to tax avoidance; and third, the complex estate duty procedure has caused many middle-class people cash flow problems. Madam President, I wish to discuss these three reasons cited by the Government.

First, to attract overseas investments. According to the Government, the abolition of estate duty can serve the purpose of attracting overseas investments and consolidating Hong Kong's status as a financial centre. However, I do not find this argument convincing enough. Actually, many colleagues have already raised the same question as to how much revenue can be generated after the abolition of estate duty. Compared to the loss of \$1.5 billion in revenue, how much can be recovered after estate duty is scrapped? Madam President, this is not my focus. Neither do I see it necessary for the Government to tell us how much additional revenue can be generated in future. The Government only needs to explain to us who would like to come to Hong Kong for investment but

have decided not to do so because of the estate duty. What kinds of people will be lured to Hong Kong as a result of the abolition of the estate duty? I only wish to raise this question. I have not asked the Government how much additional revenue will be generated. Yet, the Government is still unable to tell us clearly what kinds of people will come to Hong Kong for investment because of the abolition of the estate duty.

Actually, Members will certainly find out after thinking for a while that this argument of attracting more foreign investments and the second argument, namely estate duty is an unfair tax, are basically mutually contradictory and exclusive. This is because we are told, on the one hand, by the Government that estate duty will deter investors from coming to Hong Kong and, on the other, estate duty is extremely unfair because all rich people can avoid estate duty, and it is therefore simply impossible to collect this duty from them. As it is, if rich people can avoid estate duty, how will they choose not to come to Hong Kong for investment because of the imposition of the duty here?

As we all know, it is a very common practice to buy properties or engage in stock speculation under the name of offshore companies. Coupled with the fact that it is simply unnecessary for stocks to be held in a private capacity under the existing system, the abolition of estate duty will not encourage more overseas investors to invest in Hong Kong properties or stocks. The attractiveness of a place to investment hinges not on whether estate duty is imposed there, but mainly on whether it is a good place for pooling capital. A number of considerations are involved. They include a reliable system of rule of law, efficiency of a place, and the availability of an honoured culture, a good environment, a fair legal system, and even a democratic system. All these factors, which can attract or impede investors, will be taken into account by investors in deciding whether they will inject a substantial amount of capital into Hong Kong. Experience tells us that, even though Hong Kong often competes with others internationally, many people planning to invest do not necessarily consider Hong Kong in isolation. Instead, several places will be taken into joint consideration. As the imposition of estate duty varies from place to place, a basket of elements will be considered when plans are made to invest a certain amount of capital or invest under a certain fund. The decision of not to invest will not be based solely on the imposition of estate duty in a certain place.

Apart from this, I will quote some academic views, as pointed out by Ms Margaret NG earlier. In a research paper written by Prof Andrew

HALKYARD of the University of Hong Kong and his assistant, Wilson CHOW, on the issue of abolition of estate duty, it is spelt out in detail that, after in-depth studies, it is found that there is simply inadequate evidence substantiating that the abolition of estate duty will attract inward investments. Commissioned by the Joint Liaison Committee on Taxation (JLCT), Prof HALKYARD conducted a study entitled "Hong Kong Estate Duty: A Blueprint for Reform", the paper on which has been submitted to the Bills Committee.

According to Prof HALKYARD, some people argue that estate duty impedes free trade, investment and capital flow in Hong Kong and thus advocate for abolition of the duty. His paper, seeking to explore the arguments for this subject and the proposals contained in the consultation document, concludes that there is at present inadequate evidence supporting the abolition of estate duty. His consideration is based on six taxation principles. He also mentioned out that, as shown by an unofficial case investigation conducted by the Estate Duty Office in late-1997 on whether estate duty encourages transfer of funds out of Hong Kong, there is no information indicating that estate duty encourages the transfer of funds out of Hong Kong permanently or for an extended period. He also quoted a letter issued by the Estate Duty Commissioner on 10 March 1998, saying "we do not agree with the view that estate duty encourages the transfer of assets from Hong Kong in substantial amounts and on a permanent basis". Furthermore, he has made some comparisons. Just as pointed out by many colleagues earlier, the imposition of estate duty varies from place to place. After comparing these places, he concludes that the saying that a place imposing no estate duty will become a financial centre or a place imposing estate duty will not manage to do so is simply untenable. He cited Indonesia and Thailand to illustrate that both countries, where estate duty is not levied, have failed to develop into an international financial centre like Hong Kong. These examples were quoted to prove that the majority of investment decisions do not hinge on the imposition of estate duty. He also quoted some unofficial studies conducted by the Hong Kong Association of Banks to illustrate that estate duty has not been the major factor contributing to the decision of depositors of not depositing their money in financial institutions in Hong Kong over the past decade.

The Government also gave another reason, saying that estate duty is an unfair tax. This point was also mentioned by Mr CHIM Pui-chung in his speech earlier. Actually, fairness is relative. I have often found it very interesting that some members from the middle class consider it unfair since some rich people are not required to pay tax. However, the grassroots will ask:

Why do middle-class people required to pay tax complain of unfairness for they are at least richer than the grassroots? Actually, of the wide spectrum of taxes, estate duty can be considered the fairest. This is because, compared to other taxes levied on assets-holders who are alive, estate duty causes the least impact on taxpayers for estate duty is a one-off tax levied after a person has passed away. Although the levy of estate duty may not be able to resolve the problem of wealth gap, it may bring about fairness by boosting social resources and reducing the chances of the wealth gap worsening. Furthermore, there are numerous safeguards in estate duty to protect heirs to an estate. For instance, the property, where the deceased, or the deceased and his or her spouse, lived before he or she died, may be exempted. Furthermore, a combined assessable threshold of \$7.5 million is imposed, and the property of the deceased which is situated in Hong Kong is taken into account as well. The threshold is therefore definitely not too low.

This was the question raised by Mr Albert HO earlier: Who will eventually have to pay estate duty? The answer is those people who have no knowledge of tax avoidance, or those who find their assets not sufficiently large to make tax avoidance cost-effective. However, we must not forget that there are actually many well-off people. The sums leaked through their fingers from tax avoidance can be astonishing substantial. According to the record of the Inland Revenue Department (IRD), the estates of the vast majority of overseas tax cases are largely made up of bank deposits and jewellery. Why? This is because certain assets cannot avoid tax completely. Let us look at this. In 2003-04, there were 31 overseas estate duty cases, with the net value of each case amounting to \$33 million. If \$33 million can still be charged when tax avoidance is so easy, and the sum is merely considered as "small change", or jewellery, in the eyes of the ladies or gentlemen, it can be imagined that the abolition of estate duty will only benefit these people who are absolutely capable of paying estate duty.

The third argument put forward by the Government is to protect the middle class. This argument can be analysed from two aspects. First, the Government maintains that the procedure is complicated. However, the data provided by the IRD reveal that estate duty is the most efficient tax. The percentage of the cost involved in relation to revenue is also the lowest of all revenue measures. I also wish to point out that, according to the figures provided by the IRD, only eight and 16 taxable cases recorded in 2002-03 and 2003-04 respectively involve freezing of assets. If heirs to an estate wish to



defrost part of the assets, they may apply for provisional estate duty clearance. It has also been pointed out by the authorities in a document that they have no knowledge of any cases involving closure because of frozen business accounts. Under general circumstances, the majority of heirs to an estate can settle estate duty with other assets exempted from payment of estate duty, such as pension, life insurance yield, bank accounts, and so on, and they will not encounter financial hardship as a result.

As regards the taxation procedure, we can see from the Government's performance pledge in 2003-04 that, over 90% of simple and non-taxable cases, as long as properties or private corporate shares are not involved, can be resolved within six weeks; over 99% of the cases involving properties or private corporate shares can be settled within six months; and 80% of complex and taxable cases can be settled within two years. This shows that the majority of cases have not experienced undue delay or been affected because of the lack of clearance. Nevertheless, we are still more than willing to discuss such issues as the one mentioned by Miss TAM Heung-man earlier about share values. We are absolutely willing to discuss ways to reform the tax regime to minimize its impact on the public as far as possible. However, even if we are able to do so, all taxes are bound to cause a certain degree of inconvenience to the people. Yet, owing to what I said earlier, the Concern Group maintains that it is inappropriate to completely abolish estate duty at this stage according to the Government's proposal.

According to the Government, the majority of the people in Hong Kong are middle class. Yet, we were previously told by the Financial Secretary that the total assessable value of 70% of Hong Kong people is under \$20 million. However, the Government has always told us just half of a story. Members referring to the appendix will find that, in 2002-03, the amount of tax payable by cases with total assessable value below \$20 million accounts for 67% of the total number of cases but a mere 17% of tax income. However, cases involving more than \$20 million, though constituting only 32% of the total number of cases, account for 82% of tax revenue. Similarly, in 2003-04, 68% of tax cases involve less than \$20 million, and the amount of tax payable represents a mere 22% of tax revenue, whereas 31% of tax cases involve more than \$20 million, with the amount of tax payable constituting 77% of tax revenue. Therefore, taking into account various factors, we feel that it is the fairest and most appropriate to raise the threshold from \$7.5 million to \$20 million at this stage. Unfortunately, we have not managed to secure support from the majority of

Honourable colleagues, and separate voting will be conducted to this effect later. We have to therefore give up reluctantly.

For the reasons mentioned above, we oppose the Second Reading of the Revenue (Abolition of Estate Duty) Bill 2005. Thank you, Madam President.

**MR ALBERT CHAN** (in Cantonese): Madam President, the Government's earlier announcement of abolishing estate duty has not only given us an impression that the decision was made hastily, but also reflected the chaotic fiscal philosophy of the Government — an impression that it is adopting a "piecemeal" and "impromptu" approach to fiscal management. By this I mean the Government simply implements what comes to mind.

The Government has argued for years that our narrow tax base makes it necessary for us to find ways to broaden our tax base, particularly some stable and reliable sources of revenue. As a number of Members have already pointed out, estate duty, having been implemented for years, is a stable and reliable source of revenue for Hong Kong. Moreover, the cost and administrative charges involved are low. It is indeed impossible to guess what was on the Government's mind when it suddenly announced the abolition of estate duty while the review of sales tax was still underway.

As a Member elected from the geographical constituencies and having frequent contact with the grassroots, I am utterly annoyed by the Government's sudden announcement of giving up more than \$1 billion, or even billions of dollars, a year. Citing financial reasons, the Government earlier took such measures as downsizing the Civil Service to 160 000, dragging lower ranking civil servants deep into hot water, and slashing Comprehensive Social Security Assistance again. Yet, the launching of many of the new town public works programmes we often emphasize — such as the construction of a stadium, swimming pool complex and sports ground in Tin Shui Wai, an example often quoted by me — has been postponed indefinitely for financial reasons. The two public works programmes previously endorsed by the two former Municipal Councils, including the construction of a Central Library and an indoor sports ground in Tin Shui Wai, originally scheduled for completion in 2005, have also been postponed all of a sudden to 2009 on financial grounds. In other words, the construction of the Central Library, swimming pool complex and stadium in

Tin Shui Wai, estimated to cost the Government \$500 million, will not commence until the East Asian Games have ended and the Government has spent all its money.

Despite the hope of grass-roots people and those driven to remote areas for some relaxation in life, the Home Affairs Bureau has indicated that it has no money, and the Director of Leisure and Cultural Services has also told us that the plans will not be accorded higher priority. Hence, the implementation of the plans has now been postponed indefinitely. Now, the people can only continue waiting patiently because the Government has indicated that it is penniless. Yet, the Government can all of a sudden abolish estate duty that can originally bring more than \$1 billion a year. How can the Government explain to the grass-roots people, particularly those who are suffering because the Government is financially constrained? I note that the Secretaries of Departments and Bureau Directors are present today. I hope they can supervise their subordinates. The Government must not be generous at the expense of others, saying that it can give up the money for some reasons. Yet, the people have to continue to suffer and endure pain just because other departments say they have no money to provide services.

If the Government, with its departments and bureaux acting in such a discordant manner, is not confused in its fiscal philosophy, I really do not know where we can find co-operation and tacit understanding among the three Secretaries of Departments and 11 Directors of Bureaux. Earlier, I pointed out to Secretary Frederick MA that the situation in Tin Shui Wai was really unreasonable. I was told by the Secretary very seriously that the relevant Policy Bureau had received funding. However, though the Bureau appeared to have a surplus, it was reluctant to allocate funds for the construction projects. Will the Financial Secretary please examine why so many people still have to suffer while the Leisure and Cultural Services Department and, in particular, the Home Affairs Bureau have some so-called abundant financial resources? This has something to do with the split between different Policy Bureaux in terms of their fiscal approaches and ways of handling. I wonder whether it is because Secretary Dr Patrick HO has to attend at least six receptions every evening that he cannot spare the time to visit Tin Shui Wai to take a look at the plight of the residents there — the Secretary is not present today. This is why I get angry on seeing such situation. I can even feel my blood pressure rising while I am speaking.

Let me come back to the essence of the problem with estate duty, a bizarre issue. What is estate duty? It represents the punishment imposed on some of the very honest people who are willing to stay and build up Hong Kong. Those "capable" and so-called "smart" people, particularly the very rich, including some rich and smart Members who are present in this Chamber, know how to avoid estate duty. In other words, rich and smart people do not have to pay estate duty. Those people who are not so smart, but are more honest, and consider Hong Kong their home will have to pay estate duty should they pass away without a plan or planning early, or simply be unaware of it. It seems that the estate duty system is aimed at punishing the honest.

Colleagues opposing the Bill have presented a lot of data. They should provide more data to illustrate how many properties and assets owned by the richest people in Hong Kong have been exempted from estate duty through tax avoidance. I believe the number of people involved accounts for 80%, if not 90%, of the total number of those who are on the rich men's chart in Hong Kong. However, it seems incorrect to say that this system is aimed at punishing the honest people, right?

Therefore, Madam President, I will look at the issue from two angles. From the angle of overall finance or financial management, I strongly oppose the Government's proposal to give up nearly \$2 billion in revenue. Of course, even with an extra revenue of nearly \$2 billion, Secretary Dr Patrick HO might still not allocate funds to Tin Shui Wai for the construction of the library and swimming pool. He might instead use the money to organize the East Asian Games. Perhaps only \$1 billion can previously be allocated. Now, with an extra \$2 billion or so, he might eventually offer an additional funding of \$2 billion or \$3 billion to the East Asian Games. For the purpose of staging the East Asian Games, the Government has originally set aside \$300 million for a conversion of the Tseung Kwan O Sports Ground. Now the Secretary will probably spend even more lavishly. Consequently, the East Asian Games might turn into another Hong Kong Harbour Fest. Therefore, even an increase in revenue is not necessarily a good thing. However, from the angle of overall fiscal philosophy, I cannot accept a sudden reduction in nearly \$2 billion in tax revenue per annum.

However, judging from the essence of estate duty, I can see the underlying justifications for abolishing the duty, particularly considering that the middle class has not received any benefits from the Government in the past few years.

At times of a sluggish economy, they earn less income; once the economy improves, they have to pay more tax. We really cannot see that a wealthy Government must be able to benefit the middle class. Of course, some rich people will be benefited as well. Many of them have failed to make proper preparations for tax avoidance due to oversight, or probably because they did not expect to die so early. As a result, a substantial amount of estate duty will have to be paid. Nevertheless, a lot of middle-class people will still be benefited by the abolition of estate duty. In my opinion, the Government, and even this Council, have actually owed the middle-class people a lot. Therefore, the middle class is, personally or emotionally, entitled to some benefits through distribution or redistribution of social resources.

I would like to raise another point concerning the retrospective date. Of course, it was because there were insufficient information, data and discussions that the Bill had failed to be passed in the previous Legislative Session. Given that the Bill looks set to be passed after the delay and that no one can choose when to die, the Government should offer some benefits to some deceased Hong Kong people. In my opinion, bringing the retrospective date of the legislation to July this year can emotionally or personally bring some benefits to Hong Kong people. For these reasons, Madam President, I will abstain from voting during the Second and Third Readings of the Bill. Yet, I support the Government's proposal with respect to the retrospective date. Thank you, Madam President.

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

**MR HOWARD YOUNG** (in Cantonese): Madam President, I originally did not intend to speak, but after hearing so many Members' remarks on estate duty, I would like say a few words.

First of all, Mr Albert CHAN said just now that this proposal had come all of a sudden, but I have to state that as far as the Liberal Party is concerned and to the best of my memory, almost every time when we met with the Financial Secretary to discuss the revenue measures for the next financial year, we would propose curtailing, abolishing or relieving two tax items, one is estate duty and the other is red wine duty. I believe we have at least put forth this proposal to three Financial Secretaries. If the Bill on the abolition of estate duty is passed

this time, we will have one less topic to discuss next time. However, we will continue lobbying for relief on red wine duty. I thus do not think that the proposal to abolish estate duty came all of a sudden.

When the debate started just now, Mr LEE Cheuk-yan criticized that the abolition of estate duty would lead to an actual loss of \$1.5 billion. I admit that the lost is real and it is something calculable, while what we can get in return is not specific. However, as a matter of fact, I have to point out that the same applies to many aspects of work in Hong Kong. Despite the fact that some proposals are not specific, we still have to consider whether they will bring benefits in another aspect to Hong Kong. From a relatively macro point of view, whenever we ask in what areas Hong Kong holds an edge over others, we can only refer to the four pillar industries in Hong Kong, namely the sale and purchase of properties, tourism, financial services and support services for the import and export trades. Yet, there are potential risks in these four pillar industries. We often hear people from the logistics industry say that they are worried that their place will be overtaken by Shenzhen or other places in future, and this risk does exist. We thus cannot develop a mentality of reliance. If we do not reinforce these four pillar industries, the risk will always be there. These four industries simply cannot support Hong Kong's economy, livelihood and financial status forever. People engaging in the support services for the import and export trades have also voiced the question of whether the insurance and credit services for the import and export trades will, following the movement of goods, move northward together with the production line. I do not know the answer, but I know that this has become a cause of great concern to some people.

On the tourism front, some people say that the Disneyland is a booster to the industry, but we need to do more, so as not to lose our status. Of course, the tourism industry will not be drained that easily because the Disneyland will not be relocated to other places, the Peak and our harbour cannot be moved. Yet, on the financial services front, we have to face many challenges. People often say how Shanghai will become in future and some ask whether Shanghai will replace us. If we want to maintain the comparative advantage of a certain place, we have to see whether it possesses things that others do not have, or something that is unique. For example, we have an airport with a high throughput and we are the aviation hub, so we may be able to maintain our edge in air transport. As far as tourism is concerned, we have the Disneyland which is something our neighbours do not have. This is our unique advantage that people will regard as something unique to us, but not our neighbours. However,

there are conditions that others have while we do not, such as estate duty. Those who regard estate duty as a matter of concern would think that Hong Kong, among so many places in world that impose a duty on estate, is the only place that does not have estate duty. This message would attract some people's attention. I thus hold that we should not simply say that \$1.5 billion will be lost and that we do not know how to gain back this amount of money. Although I do not belong to the finance sector, I do believe that this will strengthen the investment environment of Hong Kong.

Ms Audrey EU stated just now that she had asked the Government who would transfer funds to Hong Kong for investments. I do not know how the Government would respond, but I once learnt a message in a luncheon meeting. I was sitting beside the chairman of a chamber of commerce of a South Asian country and Mr James TIEN also mentioned this country just now. The chairman asked me of the progress of the issue of estate duty. He said that he had received hundreds of enquiries in his country on when the Bill on the abolition of estate duty would be passed. If it does pass, people from his country will consider it worthwhile to transfer funds to Hong Kong. I asked him if Members of the Legislative Council were not aware of or would like to know more about this, whether he was willing to come to this Council to tell us that he had received such a message? He said he was willing to do so. However, later on the Bills Committee did not invite other people to give opinion, so it was unable to prove that once the estate duty is abolished, people from other countries will transfer their funds here. Then, what are their purposes of transferring funds to Hong Kong? I think it would be nothing more than for buying real estate and shares, or depositing into banks. In Hong Kong, buying real estate needs to pay stamp duty; no matter what kinds of buyer you are, you need to pay stamp duty. Share trading will be conducive to the stock market. Or when these companies make profits, they have to pay tax. I believe it will be beneficial to Hong Kong as a whole, and that the ultimate revenue brought to the Treasury will outweigh the short-term and superficial lost of \$1.5 billion as mentioned by Mr LEE Cheuk-yan. Although we may be fighting only on paper now, I believe in a few years' time if there sees a dramatic increase in the amount of foreign deposits and investments, a certain portion, if not all, of the increase will be attributable to the abolition of estate duty.

As to the views put forth by several Members just now, including Mr Albert CHAN, Ms Audrey EU and Mr LEE Cheuk-yan, I do not share their views. Although they all belong to the pan-democracy camp, we in the Liberal

Party do not necessarily have to disagree with their viewpoints. I agree with what Mr LEE Wing-tat said just now, that it is indeed very difficult to make an accurate forecast, but from a macro point of view, it is worthwhile to pass the Bill. Therefore, they reluctantly accepted and supported the Bill. I hold that sometimes we should not look at matters from a single perspective, nor should we start to do a certain thing only after a detailed calculation of its benefits, because this is not a business but something involves the overall interest of Hong Kong. As for the \$1.5 billion, if we use the estate duty rate for calculation, it will require a tax base of about \$8 billion to \$9 billion to generate \$1.5 billion tax revenue. In Hong Kong, I believe the assets of those deceased and are required to pay estate duty will definitely exceed several billions of dollars to a hundred billions a year. Why is the tax collected far less than this amount? This obviously shows the Government's inefficiency in levying estate duty, thereby rendering it impossible to collect the supposed amount of tax. The Government is very inefficient in this respect.

Therefore, the other Members of the Liberal Party and I strongly support the passage of the Bill.

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

**MR TOMMY CHEUNG** (in Cantonese): Madam President, I rise to speak in support of the Bill since I have received numerous requests from my constituents through phone calls or when they met with me to support the Bill. They also asked me to extend thanks to the Financial Secretary. They hold that the Financial Secretary has not proposed any measure beneficial to the sector in recent years, so they regard this Bill favourable to them. Although they may not be able to enjoy the benefit themselves, at least their descendents can benefit from it. It therefore can be regarded as a fair measure.

In addition, I want to talk about wine duty, which is, in a way, related to this Bill. Similar to the abolition of estate duty, when the Government is willing to collect a few billion dollars less on wine duty, Hong Kong may become the wine hub in Asia, and other related local businesses and the sales of wine will also be boosted. By then, the Government will be able to receive more profits tax. The amount of tax collected may even be more than the amount collected from wine duty. Therefore, after the Bill is passed, I hope the



Financial Secretary can apply the same theory and logic to wine duty. Then, he may find that tax revenue generated from the other source will greatly increase.

Thank you, Madam President.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): If not, I now call upon the Secretary for Financial Services and the Treasury to reply. This debate will come to a close after the Secretary for Financial Services and the Treasury has replied.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, the purpose of the Revenue (Abolition of Estate Duty) Bill 2005 (the Bill) is to amend the Estate Duty Ordinance (Cap. 111) (the Ordinance), in order to implement the proposal announced in the 2005-06 Budget to abolish estate duty.

I hereby express my gratitude to the Chairman of the Bills Committee on Revenue (Abolition of Estate Duty) Bill 2005 (the Bills Committee), Ms Miriam LAU, and members of the Bills Committee. The many valuable views they expressed on the Bill have made possible the resumption of the Second Reading of the Bill today.

The Government consulted the public last year on whether or not to abolish estate duty. By and large, the majority view tends to support the abolition of estate duty. Those in support of doing so consider that, although the original intent of the tax is targeted on the better-off, in practice the latter might have already made various arrangements to avoid the tax. Those in support of abolition take the view that estate duty avoidance is also very common in other places and it is no easy task to plug these loopholes. We also agree that the most unfair thing about estate duty is that people who pay the most tax are not those who are the wealthiest in society or who have accumulated the largest amounts of wealth. Moreover, some people hold that as the assessment of estate duty takes time, and the assets of citizens, as well as operators of small and

medium enterprises (SMEs), may be frozen during the assessment period, thus causing them cash flow problems. In settling estate duty, some enterprises may have to sell their assets to raise cash and as a result encounter operating difficulties.

Apart from removing the above unfairness and obstacles in the collection of estate duty, another key objective of the proposed abolition is to facilitate the further development of Hong Kong as an important asset management centre through the abolition of estate duty. Contrary to what Ms Margaret NG and Mr LEUNG Kwok-hung suggested earlier on, it is not true that this move would benefit the better-off. By abolishing estate duty, we believe Hong Kong can attract more local and overseas investors to hold assets here. This will attract companies and professionals to Hong Kong and facilitate the further development of our asset management services, create more employment opportunities, and in turn make Hong Kong more competitive as an international financial centre.

A number of countries in the Asia-Pacific Region, including India, Malaysia, New Zealand and Australia, have abolished estate duty over the past 20 years. In Europe, Italy and Sweden have abolished the tax. The House of Representatives of the United States has also passed a bill to permanently repeal estate duty and the bill has been submitted to the Senate for scrutiny.

The financial industry is an important economic pillar for Hong Kong. Its economic contribution accounts for more than 12% of the local GDP and asset management is an important sector of the financial industry. In 2004, the total asset value of the fund management business in Hong Kong was \$3,620 billion and the capital of overseas investors accounted for 63% of it, amounting to \$2,270 billion. At present, Hong Kong is already a major asset management centre in Asia, however, Hong Kong's market share in the global asset management business is still rather small. In the present period of high growth in asset management business in Asia, Hong Kong should take active steps to expand the scale of such businesses and reinforce its competitive edge. Conversely, if Hong Kong does not take decisive steps to counteract the pressures of competition from other financial centres, its financial market in the world or in the region may shrink in size and share. The abolition of estate duty will remove a major obstacle in the further development of asset management services and create more favourable conditions for future development. This is too good an opportunity to miss.

During the scrutiny of the Bill, a member of the Bills Committee suggested that the Government should quantify the economic effects of abolishing or waiving estate duty. In fact, when studying whether the estate duty should be abolished, we also referred to some overseas experience. New Zealand has abolished estate duty since 1993 and Singapore started to exempt non-residents from estate duty in 2002. Statistics show that after the introduction of the relevant measures in the above places, there has been a significant increase in the total amount of assets managed by the domestic asset management sector and their direct investment from abroad. Of course, the changes in total managed asset amount and direct investment are influenced by many factors.

Furthermore, the abolition of estate duty will reduce the time taken for probate application procedures, thereby helping the general public as well as operators of SMEs. At present, assets will normally be frozen as a result of probate application procedures from four months to four years during which the assessment normally takes about six weeks to two years from the time the Estate Duty Office received the affidavit declaring the estates. For example, in 2003-04, there were 15 620 finalized estate duty cases handled by the office. Of these, only 258, that is, 1.7%, were dutiable cases. Although the tax assessment can normally be finalized in six weeks for exemption cases that involve no property and simple business, for more complicated cases, it will normally take six months or more. Among these, 169 cases even took more than two years. These cases take up 41% of dutiable cases in that assessment year. Upon the implementation of the abolition of estate duty, the time required for heirs to an estate to go through the whole process will be greatly reduced because there is no longer any need for tax assessment. This will help ease cash flow problems that heirs to an estate may face.

Some members consider that implementation of other proposals such as that of adjusting the estate duty allowance, simplifying the assessment procedures or strengthening anti-avoidance provisions, and so on, can reduce the effect estate duty has on the public and operators of SMEs, as well as reducing the number of tax avoidance activities. I have to emphasize one point, that is, the abolition of estate duty is not simply the abolition of a tax but a long-term strategic investment in the financial industry in Hong Kong and this goal cannot be achieved by other proposals.

Some people hold the view that the abolition of estate duty is tantamount to robbing the poor to line the pockets of the rich. In fact, experience indicates

that in most of the cases in which estate duty is payable, the value of the estate after the deduction of allowances is below \$20 million. It can be seen from this that the number of SMEs and people of the middle class who will benefit from the abolition of estate duty is far greater than the number of very wealthy people.

Just now, some Members have expressed concern that the Government's loss in estate duty will affect its resource commitment to the livelihood of people such as welfare. I have to point out one thing: It is estimated that the proposal to abolish estate duty will reduce the Government's revenue by about \$1.5 billion a year, however, we estimate that the measure will help promote trading in Hong Kong's financial and property, and contribute additional revenue in the form of stamp duty and other taxes. As asset management services can foster growth in other financial activities and a series of high value-added services, other industries will also benefit indirectly. The community, and hence members of the public, will enjoy the subsequent economic benefits. The Government has always attached great importance to matters of people's livelihood and the amount of resources committed to such items as education and social welfare are enormous. We will definitely carry through the policy in this regard, so the abolition of estate duty will not have an impact on the resources that the Government commits to items relating to the people's livelihood.

It is said that not to advance is to go back. In the competition under globalization, it is necessary for Hong Kong to have vision and be bold enough to take reform measures early to consolidate and reinforce its superiority as an international financial centre. I hope all Members will bear in mind the long-term overall development of Hong Kong and support the abolition of estate duty.

Madam President, during the scrutiny of the Bill, the Bills Committee offered a lot of valuable opinions concerning the probate application procedures to be implemented after the abolition of estate duty and other related matters. Here, I wish to thank Members for their input. The Administration has accepted most of the suggestions made by Members.

In the past, the assessment of estate duty and the application for grant of representation have been closely intertwined. It does not only effectively protect the Government's collection of estate duty but also indirectly provides an additional layer of protection to estate beneficiaries and parties having an interest in a deceased's estate. When drafting the Bill, the Administration has taken into

consideration the need to ensure that the direct or indirect protection that estate beneficiaries have in law should not be adversely affected because of the change. During the scrutiny of the Bill, members agreed with this approach and also suggested that the Bill should give further protection to the interests of estate beneficiaries. We have also consulted The Law Society of Hong Kong (Law Society), the Hong Kong Bar Association, the Hong Kong Association of Banks (HKAB) and others on the Bill and related matters. We have also held many meetings with representatives of Law Society and the HKAB and listened to their views and suggestions. Here, on behalf of the Government, I would also like to thank these associations for the support they gave the Government. In order to provide more adequate and comprehensive protection to estate beneficiaries, we will later in the Committee stage propose a series of amendments and new provisions. Among these, a considerable portion is adopted from the suggestions made by the Bills Committee, the two legal professionals' organizations and the HKAB. The other amendments aim at refining the provisions of the Bill so as to perfect the legal framework and the ancillary measures protecting estate beneficiaries.

I would like to spend some time to briefly describe some important points of this protection mechanism for estate beneficiaries.

Firstly, we propose to include provisions for criminal offence to deter intermeddling with the estate without lawful authority or reasonable excuse. Under the existing law, there are statutory criminal provisions in relation to dealing with the estate without lawful authority, that is, sections 23 and 24 of the Ordinance, which aim at protecting revenue. We propose to include provisions in the Probate and Administration Ordinance to make intermeddling a criminal offence in the absence of estate duty in order to protect the interests of estate beneficiaries.

Secondly, to address the concern shared by the Bills Committee and Law Society, that is, in the absence of estate duty, the safeguards for beneficiaries provided by the existing legislation may be reduced if no inventory of the estate is required, we agree to make it a mandatory requirement to have a schedule of assets and liabilities prepared by the personal representative. We propose that in applying for the grant of representation, the personal representative will be required to file with the Probate Registry a verifying affidavit exhibiting a Schedule of Assets and Liabilities in duplicate. The duplicate of the Schedule will be annexed to the grant of representation issued by the Court. In this way,

the beneficiaries and persons concerned can understand details of the estates of the deceased by means of the Schedule of Assets and Liabilities enclosed in the grant of representation. Here, I reiterate that the Probate Registry or other government departments will not examine the contents of the Schedule of Assets and Liabilities prepared and submitted by personal representatives.

Thirdly, to ensure that the family or dependants of the deceased in straits can meet funeral expenses or their own living expenses, we propose to empower the Secretary for Home Affairs, by the Probate and Administration Ordinance, to authorize release of money from the deceased's bank account to cover funeral expenses and to pay for the maintenance of any person who was dependent on the deceased before his death and has an interest in the estate.

Fourthly, a set of measures will be provided to facilitate inspection of the safe deposit box of the deceased by the personal representative and beneficiaries before issue of the grant by the Court, for the inspection of the property therein or removal of a will therefrom, and make it mandatory for an inventory of contents in the safe deposit box to be prepared by the person who inspects the safe deposit box. Where the law permits, the personal representative and the surviving renter can take possession of documents or articles in the safe deposit box. This system does not only apply to solely-rented safe deposit boxes but also jointly-rented safe deposit boxes, with or without survivorship arrangement with the bank. Specifically on details of opening safe deposit boxes, the Administration has meetings and correspondence with Law Society and the HKAB and came to proposals acceptable to all. We believe that the new arrangements can deal with all possible situations regarding safe deposit boxes and balance the interests of all parties, including the personal representative, the deceased's family and the surviving renter.

Fifthly, members have expressed concern that after the updating of the system for the application for grant of representation, the new intermeddling provisions will make it a must for the personal representative to apply for a grant of representation. Members noticed that section 24(3A) of the Ordinance provides exemption for executors and administrators of small estates and that the intermeddling provisions will not apply to them. They also requested the Administration to consider introducing a similar exemption in the Bill. In view of this, we propose to include a mechanism to exempt persons dealing with small estates from criminal liabilities so as to strike a balance between protecting the interest of the beneficiaries and obviating an unnecessary burden for the personal

representative. In future, under the new arrangements, the personal representatives of estates concerned can file an affidavit with the Secretary for Home Affairs, declaring that the total value of the estate of the deceased does not exceed \$50,000 and the estate is wholly made up of money with details. If the affidavit is in order, the Secretary for Home Affairs will issue a notice confirming receipt of the affidavit. With this confirmation notice, the personal representative or any third parties dealing with the estates listed in the schedule enclosed in the notice would be exempted from the new intermeddling provisions. If banks are prepared to release money deposited by the deceased with them to the personal representative upon the production of the confirmation notice issued by the Secretary for Home Affairs, the personal representative may not find it necessary to apply for summary administration or grant of representation from the Probate Registry.

As mentioned above, to ensure that the family or dependants of the deceased will not be affected by the changes in procedures arising from the abolition of estate duty, the amendments to be proposed by the Administration at the Committee stage will empower the Secretary for Home Affairs to perform the following functions so as to facilitate members of the public in dealing with estates:

- (a) issue of a Certificate for Release of Money to meet funeral expenses for the deceased and the maintenance of the former dependents of the deceased who have an interest in the relevant estate;
- (b) issue of a Certificate for Necessity of Inspection of Bank Deposit Box and send public officials to witness the inspection process, who will help in the preparation of the inventory of the box where necessary;
- (c) issue of an Authorization for Removal from Bank Deposit Box; and
- (d) issue of a Notice Confirmation to confirm the receipt of an affidavit from the personal representative declaring that the total value of the estate does not exceed \$50,000 and the estate is wholly made up of money.

At present, the Commissioner of Inland Revenue performs her functions and carries out the related administrative arrangements under the Ordinance

through the Estate Duty Office. Many of these are similar to the new powers of the Secretary for Home Affairs. To ensure a smooth transition and to facilitate members of the public, the Secretary for Home Affairs will delegate his new powers to the Commissioner of Inland Revenue administratively for a period, expected to be one year, on commencement of the new Ordinance under section 43 of the Interpretation and General Clauses Ordinance. Meanwhile, the Secretary for Home Affairs is in the process of setting up a new Estate Duty Unit to take over the relevant functions from the Inland Revenue Department. The majority of the staff now serving in the Estate Duty Office of the Inland Revenue Department will be transferred to the Estate Duty Unit of the Home Affairs Bureau on its set-up.

During the course of scrutiny, members have asked whether fees would be charged on these services to be taken up by the Secretary for Home Affairs. As we have stated in meetings of the Bills Committee that in implementing the "user pays" principle, the Government has always taken into account other factors, such as public affordability and acceptability and other policy considerations. As the work proposed to be performed in the future is not more than that currently performed by the Inland Revenue Department, the Administration therefore considers it more appropriate to keep the existing arrangements in respect of fees and charges unchanged and no fee will be charged on the functions to be taken up by the Secretary for Home Affairs. The Administration has undertaken to review the situation after the new arrangements have been in operation for one year and consult the relevant panels in due course.

In view of the fact that some involved parties, such as banks and lawyers, have to make preparations for the new probate administration procedures and related matters, the Administration adopted the recommendation made by the HKAB and the Bill will come into effect three months after its publication in the Gazette. Estates of persons who pass away on or after midnight of the commencement date of the Bill will not be subject to estate duty. In addition, it is proposed that, upon the commencement of the Ordinance, the estate duty chargeable in respect of deaths occurring on or after 15 July 2005 but before the commencement date will be reduced with retrospective effect to a nominal duty of \$100 for estates of assessed value exceeding \$7.5 million. Any estate duty overpaid will be refunded. The charging of a nominal duty will ensure that all existing legislative provisions and legal documents making reference to actual charging or payment of estate duty will not be put in doubt.



In order that the above changes will not affect the personal representative and other relevant parties as far as possible, we will further explain to the public the various new arrangements related to the application for grant of representation before the commencement of the Bill. We will publish information leaflets copies of which will be available at the public enquiry service centres of District Offices, Deaths Registries, Inland Revenue Department, Estate Duty Office and the Probate Registry. We will also issue to the media press releases and briefings on the background information as well as briefing the HKAB and Law Society on the various new procedures and arrangements relating to the application for grant of representation and the new procedures for opening safe deposit boxes.

Madam President, earlier on, Ms Margaret NG alleged in her speech that the approach taken by the Government in taking forward the abolition of estate duty is improper. I wish to point out that when scrutinizing the Bill, some members of the Bills Committee expressed reservations about the proposal, however, the majority of Members supported the Government's proposal to abolish estate duty and hoped that the Bill could come into effect as soon as possible. I hope to clarify one point, that is, in June, the Government made the recommendation to the House Committee only after it had obtained the approval of the Bills Committee to resume Second Reading in July. The Government absolutely — and I stress absolutely — respects Members' views on the Bill. Today, from the proposals on the probate procedures made by the Home Affairs Bureau, it can be seen how much importance we attach to Members' views.

Honourable Members, the Bills Committee has already expressed support for the resumption of the Second Reading debate. I urge Members to support the Revenue (Abolition of Estate Duty) Bill 2005.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Revenue (Abolition of Estate Duty) Bill 2005 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

Ms Margaret NG rose to claim a division.

**PRESIDENT** (in Cantonese): Ms Margaret NG has claimed a division. The division bell will ring for three minutes after which division will start.

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

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Mr James TIEN, Mr Albert HO, Dr Raymond HO, Mr Martin LEE, Dr David LI, Mr Fred LI, Dr LUI Ming-wah, Mr James TO, Mr CHEUNG Man-kwong, Mr Bernard CHAN, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Mr SIN Chung-kai, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Dr YEUNG Sum, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Ms Emily LAU, Mr Andrew CHENG, Mr Timothy FOK, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Frederick FUNG, Mr Vincent FANG, Mr LEE Wing-tat, Mr LI Kwok-ying, Dr Joseph LEE, Mr Daniel LAM, Mr Jeffrey LAM, Mr MA Lik, Mr Andrew LEUNG, Dr KWOK Ka-ki, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Mr Patrick LAU, Mr Albert CHENG and Miss TAM Heung-man voted for the motion.

Mr LEE Cheuk-yan, Ms Margaret NG, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Ms LI Fung-ying, Ms Audrey EU, Mr WONG Kwok-hing, Mr Alan LEONG, Mr LEUNG Kwok-hung, Dr Fernando CHEUNG and Mr KWONG Chi-kin voted against the motion.

Mr Albert CHAN abstained.

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

THE PRESIDENT announced that there were 55 Members present, 42 were in favour of the motion, 11 against it and one abstained. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

**CLERK** (in Cantonese): Revenue (Abolition of Estate Duty) Bill 2005.

Council went into Committee.

### **Committee Stage**

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

### **REVENUE (ABOLITION OF ESTATE DUTY) BILL 2005**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Revenue (Abolition of Estate Duty) Bill 2005.

**CLERK** (in Cantonese): Clauses 1, 5, 11, 12 and 14 to 19.

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

(Members raised their hands)

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

(Members raised their hands)

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

**CLERK** (in Cantonese): Clauses 2, 6 to 10 and 13.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam Chairman, I move the amendments to the clauses read out just now, as set out in the paper circularized to Members.

The proposed amendments to clauses 2, 6 and 13 are textual and technical amendments. Clauses 7 and 8 of the Bill propose to amend the Non-Contentious Probate Rules by adding the new sections 24A and 49AA requiring the Registrar to provide the Commissioner of Inland Revenue with certain information for the purpose of the Inland Revenue Ordinance. I move the amendments to clauses 7 and 8 in order to clearly stipulate that they only apply to the estates of persons who pass away on or after the commencement date of the Ordinance.

Furthermore, as we will propose to add the new sections 24A and 49AA, we propose to renumber the original sections 24A and 49AA as sections 24B and 49AB, and propose to make the following amendments to clause 9 of the Bill regarding the changes proposed in the original Bill concerning the Probate and Administration Ordinance:

- (a) Following the new proposals on the inspection of safe deposit boxes, amending the proposed section 60A of the Probate and Administration Ordinance by adding five new definitions, giving interpretations to the terms used in the new provisions in relation to safe deposit boxes, namely, "jointly rented safe deposit box with survivorship arrangement", "authorization for removal", "surviving renter", "solely-rented safe deposit box" and "jointly rented safe deposit box".
- (b) Amending the proposed section 60B(3)(b) to stipulate that if the money stated in the certificate for release of money is intended for the maintenance a person, the person who gets the maintenance must be a dependent of the deceased before the death of the deceased and have an interest in the estate of the deceased.

- (c) Deleting the proposed section 60C and substituting it with amended section 60C, stipulating that both the personal representative and the surviving renter of a jointly rented safe deposit box can apply to the Secretary for Home Affairs for a Certificate for Necessity of Inspection of Bank Deposit Box, that is, the certificate for inspection. The arrangements in the proposed provisions in relation to the removal from a safe deposit box of any will, documents or articles will be substituted by the newly added sections 60CA and 60CB.
- (d) The newly added section 60CA in the amendments stipulates the procedure and criteria for the safe deposit box inspection process and inventory-taking procedure. In simple terms, under the new arrangement, the holder of the certificate for inspection must inspect the safe deposit box in the presence of public officers or an employer of the bank to ascertain if there is any will of the deceased person in the box and prepare an inventory of the contents in the box, subject to the conditions prescribed in the Ordinance. The inventory should be verified by the holder of the certificate and the public officer present at the inspection. A copy of such an inventory should be kept by the bank concerned and the Secretary for Home Affairs for a period of six years. The Secretary for Home Affairs can provide to the beneficiaries of the estate or the surviving renter of a jointly rented safe deposit box a copy of the inventory kept by him.

Just now, I mentioned that the holder of the certificate should prepare an inventory of property, subject to the conditions prescribed in the Ordinance. These conditions are that there is no will of the deceased in the box or that the holder of the certificate for inspection is neither the surviving renter nor the executor named in the will found inside the box but the holder of the certificate for inspection has previously proven to the satisfaction of the Secretary for Home Affairs that the case concerned meets the conditions prescribed in the amended section 61CA(3)(d). The latter arrangement is made in view of the provision in rule 19 of the Non-Contentious Probate Rules, which provides that if the executor named in the will inside the safe deposit box is not the holder of the certificate for inspection, then the holder may not have priority to the grant of representation.

Moreover, if, in the process of inspection of the safe deposit box, a will or similar instrument is found but the holder of the certificate for inspection does not meet the requirement stated in the provision about taking possession of the will or any similar instrument, the will or instrument should be put back in the safe deposit box, which should be closed or sealed immediately by the bank employee, after a copy of the will or instrument is made and handed over to the public officers present. Such an arrangement can facilitate the Secretary for Home Affairs in considering a later application for a grant to prepare an inventory of the contents in the safe deposit box or related matters. The Secretary for Home Affairs should keep the copy for a period of six years and can provide a copy of the copy to the person who intends to apply for a grant of representation.

- (e) The proposed addition of section 60CB stipulates the procedures and criteria for removal of documents or articles from a safe deposit box. After the preparation of an inventory of the contents in the box, the executor, the intending administrator or the surviving renter of a jointly rented safe deposit box may apply to the Secretary for Home Affairs for removal of documents from the safe deposit box. With an authorization of removal issued by the Secretary for Home Affairs, the holder of the authorization can remove the documents concerned. In general, in order to protect the interest of the beneficiaries of the estate, the Secretary for Home Affairs will not permit any person to remove any document or article of monetary value.

Moreover, section 60CB(2) is designed for the surviving renter of a jointly rented safe deposit box "with survivorship arrangement". The so-called "with survivorship arrangement" means that pursuant to the terms of the lease agreement of the safe deposit box, access to the contents of the box of the renters is not affected by the death of any of any other renters of the box. Section 60CB(2) enables the surviving renter of a jointly rented safe deposit box "with survivorship clause" to take possession from the safe deposit box documents or articles that belong to him personally according to legal provisions. Those surviving renters should support his application with an affidavit and should have obtained the written consent of the personal representative of the deceased renter before

the Secretary for Home Affairs would consider issuing the authorization for removal.

- (f) In view of the system of "authorization of removal" added in the newly proposed section 60CB, it is proposed that consequential amendments should be made to sections 60D, 60E and 60F.
- (g) Amending section 60E in the proposal by adding subsection (1A) to ensure that conditions added by the Secretary for Home Affairs to certificates for release of money, certificates for inspection or authorizations for removal would not prejudice any person's interest in the estate of the deceased.
- (h) Deleting the proposed section 60G. The original provision specifies that the relevant provisions empowering the Secretary for Home Affairs to perform residual functions shall cease to have effect on a date to be appointed by the Secretary by notice published in Gazette. Some members have suggested that section 60G should be deleted from the Bill to ensure that after the abolition of estate duty, any proposal to cease the residual functions proposed to be taken up by the Secretary for Home Affairs upon the abolition of estate duty should be effected through amendments to the principal legislation instead of through subsidiary legislation. In view of Members' suggestion, we have agreed to delete the proposed section 60G from the Bill.

Proposing to add the new section 60G to implement the proposal on the arrangement for a jointly rented safe deposit box "with survivorship arrangement". Subsection (1) of the section provides that for the surviving renter of a jointly rented safe deposit box "with survivorship arrangement", his right of access to the contents of the safe deposit box shall only be exercisable subject to the Probate and Administration Ordinance. During the 12 months after the death of the deceased renter concerned, where an inventory is prepared, the specified period means the 12 months after the death of the deceased renter concerned. If no inventory is so prepared during the 12 months, the specified period will then be extended to the time before the preparation of an inventory. The purpose of

such an arrangement is to prevent a possible occurrence of freezing the safe deposit box for an unlimited period of time, in cases where there is no personal representative, the personal representative refuses or does not care to give written consent or be present at the removal. The proposal has struck a balance between protecting the interest of the beneficiaries and of the surviving renter.

Finally, I propose to amend clause 10 of the Bill with the purpose of reflecting the new powers conferred on the Secretary for Home Affairs after the Bill is amended at the Committee stage. They include the powers in sections 60CA and 60CB concerning safe deposit boxes, and the power in section 60I about exempting a person from criminal liability for intermeddling. Just as I have said earlier on in my speech in the resumption of the Second Reading debate of the Bill, the Secretary for Home Affairs will delegate his new powers to the Commissioner of Inland Revenue administratively for a period, expected to be one year, on commencement of the new Ordinance under section 43 of the Interpretation and General Clauses Ordinance. Thank you, Madam Chairman.

*Proposed amendments*

**Clause 2 (see Annex)**

**Clause 6 (see Annex)**

**Clause 7 (see Annex)**

**Clause 8 (see Annex)**

**Clause 9 (see Annex)**

**Clause 10 (see Annex)**

**Clause 13 (see Annex)**

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

(No Member indicated a wish to speak)



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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 2, 6 to 10 and 13 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Heading of Part 2, and clauses 3 and 4.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam Chairman, I move the amendments to the heading of Part 2 and clauses 3 and 4 as set out in the paper circularized to Members.

In the resumption of Second Reading debate on the Bill, I mentioned our proposal that following the commencement of the Ordinance, on estates related to those cases of death occurring on or after 15 July 2005 but before the commencement of the Ordinance, only a nominal duty of \$100 will be charged if the assessed value of such estates exceeds \$7.5 million. For this reason, I move the amendments to the heading of Part 2 and clauses 3 and 4, so as to add a new Part 25 to Schedule 1 of the Estate Duty Ordinance to specify the amount of duty applicable to the estates concerned.

Madam Chairman, the abolition of estate duty aims to turn Hong Kong into a more attractive wealth management centre, with a view to promoting the asset management business of Hong Kong and consolidating its status as a prosperous international financial centre. We propose that the abolition of estate duty should carry retrospective effect. In this way, a clear message can be delivered to the international investment community, thus encouraging both local and foreign investors to make early preparations for transferring their funds to Hong Kong. This will be helpful to the aim of investment promotion. Besides, a greater number of people will also benefit from the abolition of estate duty as a result of the retrospective effect.

Although it is a general legal principle not to enact legislation with retrospective effect, the legal policy is that, for tax concessionary measures which will confer benefits, not a burden, on the affected class of persons, retrospective provisions should be acceptable. All profits tax and salaries tax concessions enacted in the past five years, including those proposed in the 2005-06 Budget, were applied with varying degrees of retrospective effect. For example, the legislation enacted in June and July was applied on a retrospective basis backdating to the commencement of the assessment year concerned. Such retrospective effect is founded on operational need. Besides, the exemption of the owners of Hong Kong registered ships from profits tax on income derived from the international operations of those vessels implemented by the Inland Revenue (Amendment) (No. 4) Ordinance 1992 enacted on 4 June 1992 took retrospective effect from 3 December 1990. In addition, the extension of the home loan interest deduction period from five years to seven years under the Revenue Bill 2004 was also applied with retrospective effect backdating to the 2003-04 assessment year. Moreover, in the context of estate duty, all the adjustments to the exemption threshold, duty bands and rates effected in the past 10 years were applied with retrospective effect.

As I mentioned during the resumption of Second Reading debate on the Bill, in order that all involved organizations and parties can make preparations for the changes to probate administration, we have accepted the proposal of the Hong Kong Association of Banks that the Bill should come into operation on the expiry of a period of three months commencing on the date on which the Bill is published in the Gazette as an ordinance. If the Bill is passed today, the commencement date will be 11 February 2006. I repeat, if the Bill is passed today, the commencement date will be 11 February 2006. If Members do not support our amendments to clauses 3 and 4 of the Bill, that is, if they do not support the motion on backdating the abolition of estate duty to cases of death occurring on or after 15 July 2005 but before the commencement of the Ordinance, then only those cases of death occurring on or after 11 February 2006 can benefit from the abolition of estate duty. In other words, estate duty shall continue to be levied on the estates of those who die in the seven-month period between 15 July 2005 and 10 February 2006, including those who die in the three months following the Third Reading of the Bill. I therefore hope that Members can consider all these factors and support our motion. Thank you, Madam Chairman.

*Proposed amendments*

**Heading of Part 2 (see Annex)**

**Clause 3 (see Annex)**

**Clause 4 (see Annex)**

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

**MS MARGARET NG** (in Cantonese): Madam Chairman, I wish to take this opportunity to respond to the Secretary's remark on my comment that the Government's approach violates fundamental principles and due process.

First of all, I have to talk about the issue of retrospectivity. I have raised this point in the Bills Committee that the retrospective effect of an ordinance in itself may not necessarily contravene the principle of law, except when the ordinance involves a criminal liability. But still, whether or not a provision of

an ordinance has a retrospective effect has to be governed by a principle. We have to see if there is such a need. The nature of the examples on tax band or tax rate regulation cited by the Government is entirely different from that of this ordinance. Those examples are thus not applicable for this is a policy problem. The Government's proposal of scrapping estate duty, which has existed for almost a century, from our tax regime will bring a lot of impact, so it has to have justifications for such a move. This Bill concerns another kind of problem. The Government cannot use those examples for this problem.

Madam Chairman, I find it especially resentful when the Government set the retrospective date as 15 July. Why setting it as 15 July? The Government explained that its original intention was to propose the resumption of the Second Reading debate of the Bill on 6 July, but the relevant motion was not carried, rendering the Government impossible to resume the Second Reading of the Bill on that day. However, the Government assumed that the motion to resume the Second Reading has been tabled to and carried by the Legislative Council, so it followed its original commencement date (15 July), a date set according to its wishful thinking, as the basis of the retrospective effect of the Bill. This is a very bad principle. I would not find it improper had the Government not offered this principle. This so-called principle put forth by the Government — in other words, when the Government has an intention to pass a Bill on a certain date, even if the Bill is not passed on that date, the Government assumes that it has been passed; and even if the Bill has not taken effect, the Government has to assume that it has — shows that the executive's will has to prevail over the legislative procedure. This I beg to differ. In this respect, however, I do not oppose the amendments made to the provision because (in fact, I proposed this mechanism in the Bills Committee) if the Government wants to ensure that people who pass away after a certain date will be covered by the abolition of estate duty, it only has to set a date or commencement date, so that those who pass away on or after this commencement date and before another date only need to pay \$0 in estate duty.

Madam Chairman, I always stand to my promise and I will not vote against the proposal that I made in the Bills Committee. Yet, the Government should understand my purpose and original intention of proposing this mechanism are that as long as we have this mechanism in place, the Government can put its mind at ease. Instead of forcing the Bill through the legislature now, the Government can conduct the necessary consultation, so that the public can be prepared for the change before actual implementation. However, the

Government on the one hand accepted my proposal in relation to the retrospective effect, but on the other hastily forced the Bill through the legislature and pushed for its early commencement. I think this approach is very unreasonable.

Madam Chairman, the Secretary said just now that there is nothing inappropriate because on 17 June they had already got the support of the Bills Committee for the resumption of the Second Reading debate. It has always been our understanding that whether a Bill can be resumed for the Second Reading debate depends not mainly on the support of the Bills Committee, but on whether the official or Member who proposes this motion thinks that the Bill should be tabled to the Legislative Council for resumption of the Second Reading debate. In fact, should the Secretary propose the resumption of the Second Reading debate on 6 July? First of all, in the meeting held on 17 June, we did not have any opportunity to scrutinize the Committee stage amendments, which were numerous and complicated, to be moved by the Government. It was under such a situation that Members were asked to support the resumption of the Second Reading debate. Furthermore, the Government wanted the relevant requirements to be implemented on 1 October and it was already 17 June then. Unlike the Government, even though it is likely that the Government's proposal will win the majority support of Members on that date, I cannot take that day as the date the Bill was passed. Just imagine if the Bill was passed on 6 July, we would have to get a number of things ready. If the new requirements were to be implemented on 1 October, not only the public, but also the lawyer representing a citizen to handle the estate would not have enough time to understand how this new system works. Thus, the Government should not adopt such a high-handed and arbitrary approach.

Moreover, a major reason is that, and the fact speaks for itself, the Government has not done enough preparatory work for the resumption of the Second Reading debate of the Bill. I referred to my diary just now and found that the Bills Committee had held six meetings after 17 June — it had convened six more meetings — and that the Committee stage amendments were revised time and again with many substantive revisions being made at that time. In addition, the revisions also involved changes to the existing practice of the usage of safe deposit boxes. The banks proposed that three month's time would be necessary to do the preparation and notify its customers of the changes in the contract terms and in the actual practice. The District Office would also need to make preparations, such as amending the forms. There are still lots of

questions to be finalized with Law Society, not because we cannot come to a conclusion, but because Law Society cannot say whether there will be major problems when the Bill takes effect. All of the above can prove that even the Bill is passed today, time is still too tight. The Government is too high-handed here. I have already made my points clear in the Second Reading debate just now, so I will not repeat them here. What I find sarcastic is, when Members asked for more time for the public to prepare for the changes, the Government did not accept our request; but when the banks stated that they needed three more months for preparation, the Government acceded to their request.

Madam Chairman, one of the reasons for my objection is that the approach to which estate duty is abolished violates fundamental principles and due process, and I make this point with sound arguments. Thank you, Madam Chairman.

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

**MR LEUNG KWOK-HUNG** (in Cantonese): Madam Chairman, I also think that the Government has gone over board. When the Bill was still being scrutinized, we requested the Government to work according to procedure, but the Government said it could not slow down for it had to complete the work by 1 July. Yet, the Government was willing to accede to others' request. What is the Legislative Council in the eyes of the Government? Rubbish, right? I could not imagine it would say something like this, but it did.

When other people said that the Bill could not be implemented for there were still problems unsolved, the Government acceded to their request. Members also requested the Government to solve the problems first — honestly, I have not looked into this Bill because I know that it will definitely be passed — like the problems mentioned by Ms Margaret NG to which the Government has not responded and moved on all the same. I hope the Democratic Party will change their mind because the abolition of estate duty is an extremely unfair initiative. They also mentioned in their speeches that other places have capital gains tax and a progressive tax regime, which are vexing to the rich. Yet, Hong Kong does not have these taxes but a simple tax regime. This is what they said. Now, the Government even intends to give a concession. Nevertheless, the Government said that it may introduce a regressive tax regime and sales tax in future. Its logic is that the abolition of estate duty today lays the foundation for discussion on the introduction of sales tax in future.

The Government seems to attach great importance to the interest of the minority. There are only a few types of tax left in Hong Kong and now the Government wants to abolish another one. The Government said it needs to take care of the deceased, but as I have mentioned before, this tax is levied not on the deceased but their descendents. The original intention of the Government is to free those who originally need to pay this tax from doing so and the Government went on to cite many examples in support, saying that people are avoiding this tax. However, is it not the Government's responsibility to plug the loophole of tax avoidance? There are innumerable workers who have to pay tax for the first year have to borrow money from the bank because they have to pay tax for that year as well as the provisional tax for the next. Many banks now say that repaying loans is easy for the interest rate is low. Nevertheless, instead of considering the plight of these citizens, the Government considers the system affecting the rich, saying that they are being charged too many taxes and that the system now may freeze some people's assets and prevent them from continuing their business. In fact, the amount of money they have to borrow is small, for example, a \$30 million asset will require no more than \$4 million of liquidity. If their assets are frozen by the Government, they can easily borrow \$4 million from the bank. Bankers will be willing to do this because the Government is the dealer behind and it is a strong dealer indeed.

None of the arguments advanced by the Government can convince the people of Hong Kong, even though someone or some chamber of commerce has said that the money saved from the abolition of estate duty will be used for doing business. The Government's logic is that if they do not need to pay the duty, they will use the money for investment. However, this is entirely unpredictable. The function of the Government is to use the money or resources already in its possession to serve the people. It will be meaningless to give the money back to the rich in the hope that they will do something good out of a charitable heart. From this we can see that it is a groundless thinking that the abolition of estate duty will make more people invest, for they can avoid tax. Therefore, if any tax concession has to be made, it should not be those chargeable to the rich.

Some Members chimed in and said that Macao has been doing this already. Why does Macao need to abolish estate duty? All it needs is its gambling business. The revenue is even expectable. Then, why do we not go opening a casino in Macao? The Democratic Party has spoken a lot, but all they were saying, at the end of the day, is in support of the Bill. I think they really

need to think twice. They really need to do something for the general public in Hong Kong. I also hope that other Members will reconsider this too, for it is never too late to hold back now. I hold that the Council should establish deeds of merit and virtue for and speak for the majority of the people of Hong Kong. It would be pointless now to expound on deeds of merit and virtue for the Council is restrained by a defective system, rendering the force of public opinion impossible to be voiced through directly. Nevertheless, even if we cannot establish deeds of merit and virtue, we at least have to speak for the people. I thus hope all Members will remember this by heart.

In fact, it triggered my anger when the Government spoke of levying tax. If the Government thinks that by letting these rich people go they would be encouraged to come to Hong Kong to invest and in turn the Government could increase its profits tax revenue, and that by exempting estate duty, it would be able to bring in a sum of revenue, I cannot find any proof that this will be the case. The Government can in fact recover this \$1.5 billion tax revenue from other sources such as through introducing progressive profits tax. Would the Government do this? No, it would not. The Government now wants to completely withdraw its function but also wants to win our support for its proposal. This is not right. What exactly is the function of the Government? Its function is to strive for public interest and weal. Why is the Government unwilling to recover the \$1.5 billion lost with the abolition of estate duty from progressive profits tax? This can be achieved simply by increasing, not decreasing, profits tax. Why does the Government not do this? It would be correct to let the rich help the rich and in turn increase Hong Kong's tax revenue. "Tai Pan"<sup>1</sup> should be able to do this calculation, which is, \$1.5 billion can be recovered, right?

The question, after all, remains that the Government is paying no regard to the \$1.5 billion as if it is a daughter wedded to others. However, this is our money, which should be available under the old system. Have Members ever considered that money which should be available under the old system can be manipulated by the Government? Can you all accept that the money which should be spent on serving the people of Hong Kong should vanish? I think the Democratic Party should pull back before it is too late, while Members who usually say that they are dedicated to serving the people should do likewise. I hope a miracle will take place.

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<sup>1</sup> "Tai Pan" is the nickname of Mr Albert CHENG.



I suddenly recall an incident. In a meeting convened in the Mainland, Mr YU Guang-yuan, after answering the call of nature and returning to the meeting, found that the voting result had made a complete change. Mr YU, who originally should have become the representative of the standing committee of the National Federation of Culture and Arts, was no longer holding the upper hand after coming back from the toilet because the "obstacles had been removed". I hope that in the voting today, there will be a miracle similar to what Mr YU had experienced and that Members will veto the motion of the abolition of estate duty proposed by the Government. Thank you.

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

**MR ALBERT CHENG** (in Cantonese): Madam Chairman, I originally did not plan to speak. Since Mr LEUNG Kwok-hung mentioned my name, I have to respond.

In fact, the Bill in question has already passed the Second Reading. We are now only deliberating on the question of retrospectivity. I do not know why Mr LEUNG Kwok-hung referred back to something already discussed. Do we need to debate on this motion afresh?

I wish to remind Mr LEUNG Kwok-hung that what he should consider is that this is not an economic issue, but a philosophical one. The sum of money that a person has austere accumulated by hard work in his lifetime, which he may wish to leave to his sons and nephews or family members, or even to charitable organizations, has already been taxed during his life.

Estate duty is in fact an unfair tax regime. Why do I support the passage of this Bill? It is because the person has been taxed twice for the same amount of money. As the person has already been taxed on the money in his lifetime, why does he have to be taxed again after death? As a matter of fact, the person's asset has been taxed during his lifetime.

What I suggest Mr LEUNG Kwok-hung to consider is, if one should care about the community — as Mr LEUNG Kwok-hung's logic is that one cannot bring his wealth into his grave after death — then we should think from the other way round, that we should ask the person to return all his wealth to the national treasury or treasury after death as he cannot bring his wealth with him into his

grave. This is what we should consider, rather than whether estate duty should be levied. As the levying of estate duty will lead to double taxation, it would become a punitive tax to those who do not have the ability to, do not know how to or cannot in time avoid the tax.

Therefore, if we are talking about a fair tax regime, estate duty is absolutely not one. On the contrary, if Mr LEUNG Kwok-hung cares about the community and raises the argument that one should return all his wealth back to the community after death as he cannot bring his wealth into his grave, I would consider supporting his argument. However, Mr LEUNG Kwok-hung has not made this proposal. Now, we are only deliberating on the abolition of estate duty and that the Bill will take retrospective effect from 15 July. I do not know whether he supports the Bill or not, but I personally support this Bill. Thank you, Madam Chairman.

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

**MR LEE CHEUK-YAN** (in Cantonese): Madam Chairman, Mr Albert CHENG presented his argument against that of "Long Hair" just now, but I have to tell Mr Albert CHENG that one has of course paid tax in his lifetime, but another purpose of levying estate duty is to illustrate that there is something in this world that should be redistributed between generations. Estate duty has to be levied because wealth has to be redistributed between generations. If deceased persons have estates left behind for their descendents, a bigger portion of the estates should be given to the community rather than to the descendents, because sometimes passing on too many assets to the descendents may prevent them from becoming self-reliant.

Madam Chairman, you are looking at me as if you want to say that we are not deliberating on this. I know that we are deliberating on the retrospective date. Madam Chairman, with respect to this question, I do not have a clue as to why the Government needs to set a retrospective date. The only reason is that Financial Secretary Henry TANG once said resolutely that the Bill could be passed in July and the entire community was saying the same thing, so an expectation has existed in the community. However, why is there such an expectation? One cannot say such thing lightly. Madam Chairman, one

should not casually promise others when certain Bills can take effect. If one has made such a promise, but the Bill is then vetoed, can it be retrospective? If there is such a rule, many labour ordinances should be made retrospective. The Government has promised me that there will be an ordinance on discrimination against unions, but up to this moment it has not honoured its promise. As the promise was made five years ago, can I make it retrospective to five years ago? I shall surely be hurled all kinds of abuses if I want to make a certain labour law retrospective to five years ago and be criticized that I cannot do so because the community is not prepared for it. Yet, the abolition of estate duty can have retrospective effect. Why? Madam Chairman, Mr Abraham SHEK is nodding. I hope he is showing support for my view. Thank You.

**MR ABRAHAM SHEK** (in Cantonese): I did not agree with him. I was just laughing at him. *(Laughter)*

To keep abreast of the times, I support having retrospective effect. Why? Because such an expectation exists in society and many people have passed away during the interim. Madam Chairman, our society is fair and I think the motion deserves our support.

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): If not, Secretary for Financial Services and the Treasury, do you wish to speak?

(The Secretary for Financial Services and the Treasury shook his head to indicate his wish of not to speak)

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

(Members raised their hands)

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

(Members raised their hands)

Mr LEE Wing-tat rose to claim a division.

**CHAIRMAN** (in Cantonese): Mr LEE Wing-tat has claimed a division. The division bell will ring for three minutes after which division will start.

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

**CHAIRMAN** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Mr James TIEN, Dr Raymond HO, Mr Martin LEE, Mr Fred LI, Dr LUI Ming-wah, Mr James TO, Mr CHEUNG Man-kwong, Mr Bernard CHAN, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Mr SIN Chung-kai, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Dr YEUNG Sum, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Mr Andrew CHENG, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Albert CHAN, Mr Frederick FUNG, Mr Vincent FANG, Mr LEE Wing-tat, Mr LI Kwok-ying, Dr Joseph LEE, Mr Daniel LAM, Mr Jeffrey LAM, Mr MA Lik, Mr Andrew LEUNG, Dr KWOK Ka-ki, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong and Mr CHIM Pui-chung voted for the amendment.

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Ms LI Fung-ying, Ms Audrey EU, Mr Alan LEONG, Mr LEUNG Kwok-hung and Mr Albert CHENG voted against the amendment.

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

THE CHAIRMAN announced that there were 43 Members present, 35 were in favour of the amendments and seven against it. Since the question was agreed by a majority of the Members present, she therefore declared that the amendments were carried.

**CLERK** (in Cantonese): Heading of Part 2, and clauses 3 and 4 as amended.

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

(Members raised their hands)

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

(Members raised their hands)

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

<b>CLERK</b> (in Cantonese): New clause 1A	Commencement
New clause 3A	Estate duty
New clause 3B	Exceptions for transactions for money consideration, property situate outside Hong Kong, shares on local registers and certain land in the New Territories
New clause 3C	Value of property; allowance for debts and funeral expenses
New clause 3D	Recovery of estate duty, etc.

New clause 3E	Increase of estate duty when delay in lodging affidavit
New clause 3F	Duty of executor as to unregistered shares
New clause 3G	Section added
New clause 3H	Appeal to Court of First Instance
New clause 3I	Schedule of property to be annexed to probate
New clause 3J	Penalties for intermeddling
New clause 3K	Power to reduce penalty and duty
New clause 3L	Duty to give information on death
New clause 8A	Interpretation
New heading of Part 3A	PROHIBITION AGAINST INTERMEDDLING OF ESTATE
New subheading before new clause 9A	Amendments to the Probate and Administration Ordinance
New clause 9A	Section added
New heading of Part 3B	REGISTRAR'S POWER TO REQUIRE INFORMATION AND SCHEDULE OF ASSETS AND LIABILITIES

New subheading before new clause 9B	Amendments to the Probate and Administration Ordinance
New clause 9B	Section added
New clause 9C	Section added
New clause 9D	Section added
New clause 9E	Section added
New clause 12A	Interpretation
New clause 15A	Forms
New heading of Part 6	MISCELLANEOUS
New clause 20	Power of the Secretary for Justice.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam Chairman, I move that the new clauses, new headings and new subheadings read out just now be read the Second time, as set out in the papers circularized to Members.

Regarding new clause 1A, as I said in the resumption of the Second Reading debate of the Bill, the Ordinance should come into effect three months after gazettal. So, I propose to add new clause 1A to the Bill to set out the relevant commencement date.

*Clauses 3A to 3F, 3H, 3K and 3L*

In the Estate Duty Ordinance, there are a number of provisions with references to the term "rate". As I said earlier, we propose that after the Ordinance has come into effect, in relation to the estate of a person who dies on or after 15 July 2005 and before the commencement date of the Ordinance, if the

assessed principal value of the estate exceeds \$7.5 million, the estate duty payable is a fixed nominal amount of \$100. As the term "rate" does not apply to a fixed amount of levy, in order to ensure that the operation of these provisions with references to the term "rate" in the Estate Duty Ordinance will not be affected, I propose to add new clauses 3A to 3F, 3H, 3K and 3L in order to incorporate the reference to the term "amount" into these provisions.

#### *Clause 3G*

I also propose to add new clause 3G to authorize the Commissioner of Inland Revenue, in relation to cases where the estate duty paid before the Ordinance coming into effect on the estate of a person who dies on or after 15 July 2005 and before the commencement date of the Ordinance exceeds the nominal amount of \$100, or in relation to cases other than intermeddling of estate where the penalty or interest paid before the Ordinance coming into effect exceeds the amount of penalty or interest calculated on the basis of the nominal amount of \$100, to refund the excess amount paid.

#### *Clauses 3I and 3J*

However, in order to maintain the deterrent effect of the criminal provisions, that is, sections 23 and 24 of the Estate Duty Ordinance, against intermeddling of estate, I propose to add new clauses 3I and 3J to provide that the penalty levied on intermeddling of estate in the transitional period will be based on the original estate duty amount and not on the nominal duty of \$100.

I propose to add a new clause 8A in order to incorporate the definition of "Secretary" into section 2 of the Probate and Administration Ordinance instead of section 60A of the Ordinance as previously proposed. This is because after the Committee stage amendments have been passed, the definition will be applied to many other parts, apart from Part VA, of the Probate and Administration Ordinance.

I propose to add Part 3A and clause 9A in order to provide for the intermeddling of estate (that is section 60H) and exemption for administration of small estate from criminal liability (that is section 60I). The newly added section 60H aims at protecting the interest of the beneficiaries and section 60I aims at providing certain degree of convenience to the executor of small estate.



The Government proposes to add Part 3B and clauses 9B to 9E to the Bill in order to empower the Registrar to request the applicant for a grant to provide information relating to the estate and to make it compulsory for the applicant for administering the estate to provide a Schedule of Assets and Liabilities.

In the Interpretation and Form 17 of the Appendix of the Non-Contentious Probate Rules, there are references to the term "estate duty". To ensure that the operation of relevant provisions will not be affected by the abolition of estate duty, I propose to add clauses 12A and 15A so that the words "if any" are added after the relevant references.

Finally, after the Ordinance has been passed, there will be a large number of provisions in the Probate and Administration Ordinance, the Estate Duty Ordinance and the Inland Revenue Ordinance containing references to the commencement date of this Ordinance. To enable members of the public who refer to the relevant provisions to have a better understanding, I propose to add clause 20 to authorize the Secretary for Justice, through publishing a notice in the Gazette, to repeal the relevant references by substituting the actual day, month and year on which this Ordinance comes into effect in those three Ordinances.

Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the new clauses, new headings and new subheadings read out just now be read the Second time.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK**(in Cantonese): New clauses 1A, 3A, 3B, 3C, 3D, 3E, 3F, 3G, 3H, 3I, 3J, 3K, 3L, 8A, 9A, 9B, 9C, 9D, 9E, 12A, 15A and 20, new headings of Parts 3A, 3B and 6 and new subheadings before new clauses 9A and 9B.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam Chairman, I move that the new clauses, new headings and new subheadings read out just now be added to the Bill.

*Proposed additions*

**New clause 1A (see Annex)**

**New clause 3A (see Annex)**

**New clause 3B (see Annex)**

**New clause 3C (see Annex)**

**New clause 3D (see Annex)**

**New clause 3E (see Annex)**

**New clause 3F (see Annex)**

**New clause 3G (see Annex)**

**New clause 3H (see Annex)**

**New clause 3I (see Annex)**

**New clause 3J (see Annex)**

**New clause 3K (see Annex)**

**New clause 3L (see Annex)**

**New clause 8A (see Annex)**

**New clause 9A (see Annex)**

**New clause 9B (see Annex)**

**New clause 9C (see Annex)**

**New clause 9D (see Annex)**

**New clause 9E (see Annex)**

**New clause 12A (see Annex)**

**New clause 15A (see Annex)**

**New clause 20 (see Annex)**

**New heading of Part 3A (see Annex)**

**New heading of Part 3B (see Annex)**

**New heading of Part 6 (see Annex)**

**New subheading before new clause 9A (see Annex)**

**New subheading before new clause 9B (see Annex)**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the new clauses, new headings and new subheadings read out just now be added to the Bill.

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

(Members raised their hands)

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

(No hands raised)

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

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

Council then resumed.

### **Third Reading of Bills**

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

### **REVENUE (ABOLITION OF ESTATE DUTY) BILL 2005**

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

Revenue (Abolition of Estate Duty) Bill 2005

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

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Revenue (Abolition of Estate Duty) Bill 2005 be read the Third time and do pass.

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

(Members raised their hands)

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

(Members raised their hands)

Mr LEUNG Kwok-hung rose to claim a division.

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung has claimed a division. The division bell will ring for three minutes after which the division will begin.

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

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Mr James TIEN, Dr Raymond HO, Mr Martin LEE, Mr Fred LI, Dr LUI Ming-wah, Mr James TO, Mr CHEUNG Man-kwong, Mr Bernard CHAN, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Mr SIN Chung-kai, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Mr Andrew CHENG, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Frederick FUNG, Mr Vincent FANG, Mr LEE Wing-tat, Mr LI Kwok-ying, Dr Joseph LEE, Mr Daniel LAM, Mr Jeffrey LAM, Mr MA Lik, Mr Andrew LEUNG, Dr KWOK Ka-ki, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Mr CHIM Pui-chung and Mr Albert CHENG voted for the motion.

Ms Margaret NG, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Ms LI Fung-ying, Ms Audrey EU, Mr WONG Kwok-hing, Mr Alan LEONG, Mr LEUNG Kwok-hung and Mr KWONG Chi-kin voted against the motion.

Mr Albert CHAN abstained.

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

THE PRESIDENT announced that there were 48 Members present, 37 were in favour of the motion, nine against it and one abstained. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

**CLERK** (in Cantonese): Revenue (Abolition of Estate Duty) Bill 2005.

## **MOTIONS**

**PRESIDENT** (in Cantonese): Motion. Proposed resolution under the Tung Chung Cable Car Ordinance to approve the Tung Chung Cable Car Bylaw.

## **PROPOSED RESOLUTION UNDER THE TUNG CHUNG CABLE CAR ORDINANCE**

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): Madam President, I move that the resolution as set out under my name on the Agenda be passed.

The resolution seeks to make bylaws under section 22 of the Tung Chung Cable Car Ordinance for the management and control of the Tung Chung Cable Car System. The MTR Corporation Limited (MTRCL) is the franchisee of the Cable Car System and the System is expected to open in 2006. The Bylaw is necessary for the MTRCL to manage the System properly and to ensure safety of the passengers as the Cable Car System will become a major tourism facility with high patronage.

The MTRCL proposes to make the Tung Chung Cable Car Bylaw to achieve the following purposes: firstly, to provide safe service to passengers on

the Cable Car System and people in the Cable Car System area; secondly, to avoid causing any inconvenience or nuisance to other passengers by regulating certain conduct of the passengers; and thirdly, to provide a system for the effective management of the Cable Car System and the proper traffic management in the Cable Car System area.

The Legislative Council Panel on Economic Services was consulted on the proposed Bylaw in June this year and it supported the proposal.

A subcommittee under the House Committee was formed in July this year to study the proposed Bylaw, and the MTRCL has taken on board its suggestions in revising the Bylaw. The revised Bylaw is now submitted to the Legislative Council with major amendments as follows:

- (a) to clarify the scope of the exemption clause; and to make the provision compatible with the Control of Exemption Clauses Ordinance;
- (b) to state clearly that sound-generating devices can be used with earphone or headset on the Cable Car System or in the Cable Car System area, and that consumption of water on the Cable Car System or in the paid area is allowed;
- (c) to amend the wording describing the prohibited conduct by using "to cause a nuisance" as one of the criteria to make it clear to passengers the meaning of prohibited conduct; and
- (d) to state clearly that proceeds from sale of the unclaimed lost property will be donated to charity.

The Subcommittee raised concern about the possible impact of the Cable Car System on existing public transport operation in Lantau. On this, the Government has responded in detail and reported to the Subcommittee the latest development. We are pleased that the Cable Car operator has already reached an initial agreement with the New Lantao Bus Company (1973) Limited on co-operative business arrangements. As the Cable Car project will enhance tourism development in Lantau, we believe that there will be new business opportunities for the Cable Car operator and other public transport operators when the number of visitors increases.

The Subcommittee has already completed its scrutiny of the Bylaw and supports the proposed resolution, and the House Committee has also agreed to the recommendation of the Subcommittee. I would like to thank Ms Miriam LAU, Chairman of the Subcommittee, and other members of the Subcommittee for their detailed examination of the resolution.

Subject to Members' approval of today's resolution, the proposed Bylaw will take effect upon gazettal. I hope Members will support the resolution.

Madam President, I beg to move.

**The Secretary for Economic Development and Labour moved the following motion:**

"RESOLVED that the Tung Chung Cable Car Bylaw, made by the MTR Corporation Limited on 17 October 2005, be approved."

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

**MS MIRIAM LAU** (in Cantonese): Madam President, the House Committee agreed on 17 June 2005 that a subcommittee should be formed to scrutinize the resolution made under section 22 of the Tung Chung Cable Car Ordinance (Cap. 577) (the Ordinance). On behalf of the Subcommittee, I shall brief the Council on the results of deliberations.

The main duty of the Subcommittee is to scrutinize the proposed resolution on the Tung Chung Cable Car Bylaw which was tabled under the previous notice given by the Administration (the originally proposed Bylaw). The Subcommittee has held a total of five meetings and invited submissions from the public. The Ocean Park Corporation and the New Lantau Bus Company (1973) Limited (NLB) have also given views on the originally proposed Bylaw and related matters.

The Subcommittee is aware that under section 4 of the Ordinance and the Project Agreement, the MTR Corporation Limited (MTRCL) has the right to



determine and collect fares for the use of the Cable Car System by the public during the franchise period. Notwithstanding this, the Subcommittee considers that in making any fare adjustments, the MTRCL should give sufficiently advanced notification to the public and the travel and tourism trades of such fare adjustments through effective means.

In this respect, the MTRCL has informed the Subcommittee that the public and the travel and tourism trades will normally be advised of any fare adjustments at least six months in advance through such means as the Internet, local newspapers and correspondence.

Under the originally proposed Bylaw, the Cable Car operator will not be liable for any loss or damage caused by the alteration, suspension or withdrawal of the services of the Cable Car System. The Subcommittee has sought explanation from the MTRCL on the rationale for this exemption clause, highlighting in particular the need to duly protect passengers' rights, and alerted the MTRCL of the need to ensure that this provision is compatible with the Control of Exemption Clauses Ordinance (Cap. 71).

In response to the Subcommittee's comments, the MTRCL has amended the relevant provision to specify that refunding arrangement shall be applicable to the above circumstances, and that the liability of the Cable Car operator for incurring such loss or damage involving death or personal injury shall not be exempted, so as to make the provision compatible with the Control of Exemption Clauses Ordinance.

The originally proposed Bylaw requires that no person shall, unless authorized by an authorized official or when used with an earphone or headset sufficiently insulated to avoid leakage of sound, use devices which generate sound in the Cable Car System area.

Given that the objective of the requirement is to avoid the use of a sound-generating device by a passenger causing disturbance to other passengers, the Subcommittee considers that the requirement should be drafted in more relaxed and succinct terms. In this respect, the MTRCL has amended the provision to make it clear that passengers can use sound-generating devices in the Cable Car System area provided that they use such devices with an earphone or headset.

According to the originally proposed Bylaw, no person shall consume any food or beverage in the Cable Car System area. In response to the Subcommittee's suggestion, the MTRCL has relaxed the relevant provision to the effect that passengers are allowed to drink water in the Cable Car System area.

The originally proposed Bylaw requires that no person shall, at any time in the Cable Car System area, use any threatening, abusive, obscene or offensive language, or behave in a riotous, disorderly, indecent or offensive manner. The Subcommittee is concerned that the term "offensive" has a very broad meaning and whether any language or behaviour is offensive depends very much on personal judgement. As such, law-enforcement actions taken on the strength of this provision will be open to dispute. Having considered the Subcommittee's comments, the MTRCL has amended the relevant provision by removing the word "offensive" but adding "to cause a nuisance" in describing the prohibited conduct.

With regard to the manners in which the Cable Car operator shall deal with lost property found in the Cable Car System area, the MTRCL has confirmed that the policy is to donate the proceeds from the sale of unclaimed lost property to charitable organizations. In response to the Subcommittee's suggestion, the MTRCL has made provision for this policy in the Bylaw tabled now.

With regard to the enforcement of the Bylaw, the Subcommittee is concerned whether the MTRCL has devised effective means through which the public and passengers can easily ascertain who in the Cable Car operator are the officials duly authorized to enforce the Bylaw; and in the course of taking an law-enforcement action, the relevant officials can effectively prove the authorization accorded to him/her to take the law-enforcement action.

The MTRCL informed the Subcommittee that the authorized officials cover all front-line staff, supervisors and managers of the Cable Car operator who shall ensure that the safety and comfort of all passengers is not compromised. Each authorized official will be issued an identification card with a photograph by the MTRCL, which can effectively prove that he/she is authorized to enforce the Bylaw. The identification cards, together with the staff uniforms and name badges, should enable the public to identify easily the authorized officials.

The MTRCL has also assured the Subcommittee that a manual for the authorized officials will be prepared, setting out in detail actions that an authorized official should take when he/she encounters a passenger or any other person who contravenes the Bylaw. All front-line staff, supervisors and managers will be trained on how to handle such circumstances and briefed on the escalation process involved should such a need arise.

The Subcommittee has also taken the opportunity to examine the possible impact of the Cable Car System on existing public transport services and the tourism development in other parts of Lantau. In this respect, the NLB stated that the Cable Car System will likely impact adversely on the NLB's operation, in particular, the patronage of bus routes between Tung Chung and Ngong Ping. The impact may in turn affect the provision of public transport services for local residents in Lantau and for visitors to other parts of Lantau.

The Subcommittee notes that the Government's overall policy for developing the Cable Car Project is to further develop Lantau as a tourist node. The Administration anticipates that with the operation of the Cable Car System, visitors to Lantau will increase which will promote and benefit tourism development at locations other than Ngong Ping, such as Tai O and Mui Wo. As the pie grows bigger, it should make possible a win-win situation between the Cable Car operator and the various existing transport operators.

The Subcommittee is of the view that the Administration has the responsibility to take reasonable measures to minimize the adverse effect of the Cable Car System on existing public transport services. While the Subcommittee appreciates that the Cable Car System would inevitably have some impact on the patronage of the existing Ngong Ping bus routes, there could well be good opportunities for co-operative arrangements between the MTRCL and the NLB, such as combination packages covering both cable car services and bus services in Lantau. Such co-operative arrangements could help maintain NLB's operational viability and encourage visitors to visit other places in Lantau.

The Subcommittee has therefore asked the Administration to play an active role in facilitating the discussions between the MTRCL and the NLB on co-operative arrangements, without interfering into the details of the arrangements of these two commercial entities.

Given that the MTRCL has, as it undertook previously that it would, incorporated the amendments on the originally proposed Bylaw into the Bylaw tabled now, the Subcommittee supports the Administration in moving the proposed resolution.

Madam President, I so submit.

**MR ALBERT CHAN** (in Cantonese): Madam President, with reservations, I will support this motion and the relevant Bylaw. Basically, I have great reservations about the entire Tung Chung Cable Car development project and the financial arrangements, the latter in particular. I fear that this may turn out to be another financial burden or white elephant the low patronage of which may necessitate subsidy by the MTRCL.

The second point is its damage to the natural environment. Lantau North, especially the waters and ridges on the west of it, is a place of natural beauty. But the Tung Chung Cable Car System (Cable Car System) will spoil the entire ridgeline. Tung Chung residents, especially those of Tung Chung Crescent, all oppose the construction of the Cable Car System. One must therefore question whether the environmental, financial and overall transport arrangements for the Cable Car System will bring any benefits to Hong Kong, society and the local communities, particularly the community of Lantau Island. There is still a big question over the whole project.

However, this Bylaw basically aims to prescribe legislative control over the planned and already completed Cable Car System. The enactment or otherwise of any bylaw will not change the fact that the Cable Car System has already been completed. And, we cannot possibly remove the Cable Car System from the face of the earth by voting against this motion. For this reason, in view of the futility of any further objection, I can only vote for the motion with reservations.

Madam President, in connection with the scrutiny of this Bylaw, I must first of all express my gratitude to the government officials concerned for their open and civilized attitude in handling many issues. I believe that the Bylaw on regulating the Cable Car System should be the most civilized of all the existing legislation transport regulation, including those relating to the KCR and the MTR. Ms Miriam LAU has already explained in detail the various

amendments on behalf of the Subcommittee. Every time when I travel on the MTR, I invariably see many commuters drinking water from a bottle. But under MTR bylaws, passengers are forbidden to drink water. Sometimes, a journey on the MTR may take almost an hour, as when one travels from Tsuen Wan to Chai Wan interchanging at Admiralty. One whole hour is required for such a journey. In this case, the passenger must not drink any water for one whole hour. Such a harsh, inhuman and outdated regulation must be altered. For this reason, I put forward many proposals during the scrutiny of the Bylaw, one of which was about the regulation forbidding passengers to drink water. I am very grateful that the government officials concerned eventually accepted this proposal. Second, as reported by Ms Miriam LAU on behalf of the Subcommittee just now, many regulations on passenger conduct as contained in the Bylaw have subsequently been amended.

Apart from all this, I still have two worries. Madam President, my first worry is about the definition and range of authorized officials, because under the provisions of the Bylaw, the authorities concerned still enjoy very flexible decision-making power in this respect. I have recently received a number of complaints against Housing Department (HD) staff, who are empowered under the relevant environmental hygiene legislation to take enforcement actions against littering. But I have been told that some HD staff took enforcement actions against littering occurring in places outside the jurisdiction of the HD. I am still investigating whether anyone exceeded his authority because all happened just a couple of days ago. But in the meantime the complainants have already paid the fines without knowledge of the true situation. And, the HD has replied to me, saying that since the complainants have paid the fines, the cases have been closed. But nothing has been said on whether or not HD officials are authorized to take enforcement actions against littering occurring in places outside the jurisdiction of the HD. All authorization must be clear and definite, specifying the locations and scope of enforcement and the officials concerned. Sometimes, for the sake of administrative convenience, any staff member may be given authorization to facilitate the discharge of their duties. But do the authorized officials have any good understanding of the relevant laws? Do they have any respect for the rule of law? Very often, the authorities may not necessarily have conducted any in-depth studies or provided any required training to their staff before giving them authorization. I am deeply worried about this. I therefore hope that following the passage of the Bylaw, the MTRCL or the authorities concerned can, as I advised in the Subcommittee, set out clearly in their respective homepages all the details of authorized officials, including their duties and posts. The reason is that when it comes to the

delegation of enforcement authority under the law, decisions must not be made so lightly and haphazardly through mere internal administrative decisions. There should be transparency and accountability.

My second worry is that the Cable Car System may produce disastrous impacts on the New Lantau Bus Company (1973) Limited (NLB). During the scrutiny of the Bylaw, some members ridiculed me, saying that I behaved as if I were the spokesman for the NLB. I do not have any interests at stake. And, unlike the "rich party", I do not speak for the interests of any large consortia. I am concerned that the interests of the NLB may be jeopardized because the Cable Car System will produce disastrous impacts on its overall operation. Worse still, bus services on Lantau may even be brought to an end, as the bus route to the Ngong Ping Buddha Statue is currently the main source of revenue for the NLB. As pointed out in the relevant paper, the Cable Car System will snatch most of the passengers heading for Ngong Ping. Once there is any drastic decline in the number of bus passengers heading for Ngong Ping, the revenue of the NLB will surely be adversely affected.

In the Subcommittee, I repeatedly emphasized that the MTRCL must be urged to reach an agreement with the NLB on some co-operative packages, so as to ensure that the NLB would not sustain any overall and detrimental damage, especially financial losses, due to the existence and operation of the Cable Car System. My worry has not yet been allayed. Although the MTRCL has made some minor concessions under the pressure of the Subcommittee and reached more agreements with the NLB on interchange arrangements, I still hope that the Secretary can continue to monitor this issue, because in the course of discussions, both the Hong Kong Tourism Board and the Transport Department claimed that they should not be involved. I really do not know what should be done. I do not know who should be responsible for monitoring and tackling all the problems after the passage of the Bylaw. Some may well argue that under the principle of "small government, big market", all decisions should be left to the market. But we should note that the market in this case is created by the Government itself because, without all the special financing arrangements, subsidies, concessions and support made available to the MTRCL by the Government, it would not have been possible for the latter to rely solely on market forces for the construction of the Cable Car System. In that sense, this bogus free market is the evil outcome of the Government's doing. And, the one who is going to be ultimately affected will be a company that has been providing simple and direct bus services to the public for a very long time.

Madam President, the motion today will certainly be passed. But is what lies ahead really a very rosy picture? Or, will it bring disaster to certain people? If the government officials and organizations concerned, especially the MTRCL and others, can double their efforts of mediation and co-ordination, I believe that disaster can be avoided. I have indeed given my warning, but still the outcome can be changed. The only problem is whether or not the relevant government authorities are prepared to tackle the problem. "Small government, big market" must not be flaunted as an excuse for refusing to strive for co-ordination and ensure that members of the public will not be affected, because another impact of the Cable Car System may be a big plunge in the number of visitors to Tai O. If there are no satisfactory interchange arrangements, if round trip fares of the Cable Car System are extremely low, visitors will not first use the Cable Car System and then go to Tai O and return to Tung Chung by bus. Interchange arrangements are therefore the lifeline of the transport and tourism development in the entire Lantau West. If the MTRCL is the only beneficiary of this lifeline, other locations on Lantau will surely suffer. I therefore hope that I can have another opportunity to go with the Secretary to Lantau for an inspection, so that he can enhance his understanding of the island. Local community economies must rely on the support of transport facilities. Tai O is right now developing quite soundly, but care must be taken not to destroy the thriving local community economy of Tai O due to the operation of the Cable Car System.

Thank you, Madam President.

**MR HOWARD YOUNG** (in Cantonese): Madam President, the tourism sector strongly supports the construction of the Tung Chung-Ngong Ping Cable Car System (Cable Car System) on Lantau Island and the establishment of a theme park outside Ngong Ping Station. Actually, if we had planned an integrated package, not just a single plan for the Hong Kong Disneyland (Disneyland) project when the agreement on its construction was signed in 1999 — I mean, if we had considered how the facilities of such a package could tie in with the Disneyland and how a common completion date could be set for all of them, all would be perfect now. If we had done so, the whole of Lantau would now become a new tourism area of Hong Kong, with the Disneyland at the centre surrounded by various tourism facilities.

It is certainly a pity that the Government did not approve the construction of the Cable Car System by the MTR Corporation Limited (MTRCL) until

November 2003. Had approval been given earlier, the two projects could have been completed at the same time. But now, the Cable Car System will not be completed until next year. Anyway, the tourism sector and the Liberal Party still welcome and support the construction of any projects that are conducive to tourism development. We also hope that the addition of new tourism facilities can induce more visitors to come and enrich and lengthen their stay in Hong Kong.

The natural tranquillity of Lantau and the Buddha Statue there have attracted huge numbers of local and outside visitors. As also pointed out by Mr Albert CHAN when he talked about the New Lantau Bus Company (1973) Limited (NLB) a moment ago, large numbers of people now like to visit Ngong Ping, especially during holidays. This has exerted very heavy traffic pressure on the locality, and the problem of unsatisfactory feeder transport services is compounded by the ruggedness of the mountain pass leading to Ngong Ping. If Ngong Ping is to be developed into a major tourism area, improvements to transport facilities must be accorded top priority. For this reason, the Government's proposal to construct the Cable Car System is indeed a feasible solution, as it will offer visitors an alternative means of transport.

Mr CHAN also pointed out that in the course of deliberations, some Members expressed the worry that the new Cable Car System might take passengers away from other means of transport on Lantau. Basically, this worry is not directly related to the resolution today. Fares and tickets are indeed mentioned in Part III of the Bylaw, but this Part is essentially about management instead of the levels of fares. And, the levels of fares should have nothing to do with the Bylaw. However, huge amounts of time were still spent on this matter during the discussions. I am not going to dwell on all those points, as Mr CHAN has already mentioned them all. Nevertheless, I do believe that following the inauguration of the Cable Car System and new tourism spots, many more visitors will certainly be attracted to Lantau. The demand for transport services will surely increase, and, in this connection, we must not forget that visitors must still rely on other means of transport to travel to Lantau and other tourism spots. That being the case, with the availability of the Cable Car System, other transport operators may spare more resources for the provision of feeder services. This will perfect the transport network on Lantau. If sufficient promotion efforts can be made to increase throughput, it will be possible to achieve an all-win situation.



In the case of ticketing, for instance, individual visitors must now buy round trip tickets at the cable car station. But is it possible to sell tickets through other channels such as bulk purchases by travel agencies? When passengers for the first arrival all show up at the station to purchase tickets, they may have to wait in a long queue and their time may be wasted. If more tickets can be sold through bulk purchase, waiting time can be shortened and this will reduce the incidence of causing delay to visitors. Therefore, I hope that more options of efficient ticket sale can be introduced. Thoughts may be given to offering discounts to travel agencies and holding joint promotion campaigns with the tourism sector, with a view to boosting the patronage of the Cable Car System and achieve an all-win situation.

The mentioning of Lantau will invariably remind us of the Disneyland. On-line purchase is adopted by the Disneyland to sell tickets, but I do not think that this is entirely suitable for the market of Hong Kong. Besides, since the Disneyland failed to inform the tourism sector and travel agencies of its ticketing arrangements when tickets were first put on sale, the tourism sector was frankly not quite so satisfied. I hope that the Skyrail-ITM can learn a lesson from this and step up communication with travel agencies on its ticketing arrangements as early as possible. That way, it can listen to the advice of the sector and make arrangements for efficient ticketing arrangements. In addition, it should also notify those interested parties in the tourism sectors of its ticketing arrangements as soon as possible, so that all can act with co-ordination.

Mr CHAN talked about many issues just now. During the discussions of the Subcommittee, he remarked that the round rip fare was very low and thus wondered whether visitors would all choose round trips on the Cable Car System instead of taking any buses. I can use an actual example to answer his question, because I happened to visit Cairns in Australia this July. There is a cable car system in this place, also operated by Skyrail-ITM. The main scenic attractions of Cairns are this cable car system and the Scenic Rail, a railway constructed at the beginning of the last century. This railway was once used for transporting ores but was later deserted. It has now been developed as a tourism attraction. I found out that a round trip train ticket was just slightly more expensive than a single-journey one. And, I also noticed that a round trip cable car ticket was likewise just slightly more costly than a one-way ticket. But did I eventually choose a round trip on the cable car or the train for travelling uphill? I did not do so. Why? The reason was that if I used all three means of transport, that

is, if I took a one-way journey on the train and the cable car and then went back to the urban areas using a single-journey bus ticket, I would not have to go the way back. As a matter of fact, I took all the three means of transport. During the discussions of the Subcommittee, I heard Members talk about what visitors would do. Putting myself in the shoes of a visitor, I also do not think that it is so attractive to go the way back despite the low price of a round trip ticket. A person living in Tung Chung having to work in Ngong Ping every day may prefer round trips. But visitors will likely prefer an indirect route involving a richer variety of transportation means — travelling on the MTR to Tung Chung for the cable car, then taking the NLB to Silver Mine Bay and finally back to Hong Kong Island by ferry. Honestly speaking, this route will be more appealing to visitors because it can avoid going the way back. It is thus an all-win option.

Miss CHAN Yuen-han has also questioned whether the Cable Car System will damage the ecology and natural environment of Lantau. I once had a chat with the tourist coach operator in Cairns. He told me that at the very beginning, the local residents were very negative towards the construction of a cable car system, for they thought that it would completely ruin the natural environment there. The cable car system is already completed, but, to everybody's surprise, it can fit so well into the local environment. Even the colour of its pillars is in harmony with the natural environment. In brief, the result is very satisfactory. Besides, the cable car operator will meet with the tourist coach operator and the train company once a year to explore how the overall patronage can be raised and how this highly appealing and top-class brand-name tourism attraction of Cairns can be most effectively utilized. I hope that we can do the same in Hong Kong.

Having said all this, I must return to the point that this Bylaw is in fact about management. However excellent the hardware is, it will still be useless in the absence of sound management. Therefore, the tourism sector and Liberal Party strongly support the MTRCL's proposal to enact the Bylaw, with a view to enhancing the efficiency of management, coping with circumstances that may affect the operation and safety of the Cable Car System and laying down a clear system.

With these remarks, Madam President, I support the resolution on approving the Bylaw.

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, as rightly pointed out by Mr Howard YOUNG, this Bylaw is about perfecting the management of the Cable Car System. Supposedly, therefore, it should not involve any other issues.

However, Madam President, as Members all know, if the management of the Cable Car System is sound, more passengers will be attracted actually. This will in turn bring about better development for the operation of the Cable Car System. In that case, Lantau Island as a whole will be affected. There will surely be certain impacts, whether positive or negative. An increased throughput of visitors will definitely bring about changes to Lantau Island. But the question is: Just where will all the changes occur? This is our greatest concern.

The first point raised by Mr Howard YOUNG just now was that the cable car fare may not necessarily produce too much impact on other means of transport. Madam President, I do not intend to argue with him over this. Why? It is because we do not have any substantial scientific data to establish whether the impacts will be positive or negative. If there really turns out to be no negative impact on other means of transport, it will of course be fine and everybody will be very happy. But I wish to ask the Secretary what will happen in case — Madam President, just in case — things do go wrong. Will the Government sit aside with folded arms? Or, will it take any positive steps to tackle the problems? It is most important to answer these questions. If they are not answered, it will be impossible to allay residents' worry.

The NLB claims that things will be alright and it will be able to resolve the problems, but is it at all likely for the undertaking and these words to be kept for any prolonged period? This is the greatest concern of residents. As Members may ask, if the bus operator, that is, the NLB, runs into financial difficulties, will it still seek to maintain the existing fare levels by making incessant subsidies, instead of adjusting or raising its fares? This is our greatest concern. I therefore wish to ask the Secretary a question today. The Bylaw under discussion today is no doubt about perfecting the operation of the Cable Car System, but what will the authorities do when faced with a situation under which the sound operation of the Cable Car System makes it a far more popular passenger choice than NLB buses? I hope that the Secretary can give us an answer, so that we can support the Bylaw without any worries.

Apart from this, Madam President, environmental conservation is also an extremely important issue, because once the number of visitors to a certain place increases, there will always be environmental impacts. That being the case, how is the Government going to strike a balance between development of Lantau and environmental conservation, with a view to achieving positive results in both cases? This is also a great concern of mine. I hope that while striving continuously to perfect the operation of the Cable Car System, the Secretary can also explore how to do a better job in environmental conservation.

Third, I wish to make one point clear. Everybody will naturally be very delighted if there can be a continuous increase in patronage after the inauguration of the Cable Car System. But suppose the situation does not turn out to be as good as we desire, suppose patronage is not high enough to meet routine operating costs (This reminds me of the Buddha Statue, which was once very popular in the first few years after its completion, but which has since recorded a drastic decline in the number of visitors), what are we going to do? This is my greatest worry. In case the business of the Cable Car System turns out to be unsatisfactory, should subsidies be made out of elsewhere? Will the general public be made to bear such subsidies? This is our greatest concern and worry.

It is not my intention to throw a cold blanket on anyone today. My only intention is to express our various worries, in the hope that the Secretary can tell us more positively whether there are any sound remedial measures to allay people's worries in case all these problems really emerge. As a matter of fact, there have been some cases which can convince us that our worries are not ungrounded. The Airport Express is an example. We once thought that there would be very nice development prospects for the Airport Express, but we have now come to realize that its development is not as satisfactory as originally desired. Then, how is the Government going to deal with the problem of subsidies? The case of the Cable Car System is exactly the same. It will be wonderful and all very nice if the Cable Car System can attract hundreds and thousands of passengers after its inauguration. But what shall we do if the business of the Cable Car System turns poor when people subsequently grow tired of the Cable Car System, in very much the same way as they grow tired of the Buddha Statue? I think this really warrants our attention and concern.

I still wish to repeat one point. The Bylaw put before us today is about management, but what is management all about? Sound management is about

better operation and better operation is about attracting more passengers. This is the logic involved. In case there is smooth development, everybody will of course be very happy. But will the development of things always be as satisfactory as we desire? This is doubtful. When there is any doubt, should we take any precautionary actions? Not only this, should we also make sure that these precautionary actions are good enough, particularly to give everybody assurance beforehand?

Madam President, I so submit.

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

**MR LEE WING-TAT** (in Cantonese): Madam President, I rise to speak in support of the resolution.

I shall first talk about my personal experience. During the summer break, I went to Germany and Sweden for sightseeing. One day, I wanted to go to a certain place by boat. But the fare was exorbitant, as high as 20 Euros, or HK\$240, for a round trip. At the beginning, I was reluctant to pay this fare, but then I decided that since I had travelled such a long way, I really should not give up going to the place. In the end, I came to realize that it was really easier to cheat visitors in general — my destination was actually not much different from Lantau, not to mention the fact that a ferry trip to and from Lantau costs only some \$30.

This is not the topic of my discussions with Members today, though. What I want to discuss is the Bylaw on the Cable Car System. The Subcommittee has held many discussions on comparing this Bylaw with the MTR Bylaw. I agree that the MTR Bylaw is much stricter, but I must also comment that a better job has been done this time around because a consultation exercise was held. I also share Members' views on the several problems they raised during the process.

First, is it possible for the Government to do a better job in the areas of economic development and labour to promote tourism? The so-called tourism spots in other countries that I have visited are in some cases not much different

from those in Hong Kong. We sometimes like to go bathing in Southeast Asia, but I must say that both Sai Wan and Long Ke in Sai Kung are much more beautiful than the beaches over there. Maybe, the publicity is really very effective, so many people think that those places are all very beautiful. Actually, there are many possible areas of tourism development in Hong Kong, the construction of the Cable Car System being the most notable example. I agree that our overall direction should be to construct the Cable Car System as a means of creating more jobs and tourism attractions. It is only in this way that a win-win or all-win situation can be achieved.

Besides, I agree with some Members that we must pay attention to the traffic impacts of the Cable Car System although these impacts are outside the ambit of the Bylaw. It was estimated during the deliberations of the Subcommittee that the Cable Car System will take away 20% to 30% of the passengers of a major Lantau bus route. We are very concerned about the impacts of this on the operation of the NLB. The reason is that those affected will not be limited to visitors. The residents of southern Lantau will also be affected because most of them depend on the NLB for earning a living. Having said that, I will still support the resolution, in the hope that more business opportunities can be created to foster the co-operation of the cable car operator with the local bus company.

Initially, the response of the cable car operator was not very positive. Fortunately, after all the discussions held by Members, it started to be adopt a more positive attitude. If some large organizations in Hong Kong can adopt a more open attitude in handling problems, they will be able to co-operate with many small local organizations. That way, the development of local community economies can be boosted and many minor tourism spots rejuvenated. For example, the Cable Car System can be used as a means of accessing such tourism spots as Tai O, Pui O, Tong Fuk and southern Lantau. I maintain that the Secretary should reconsider this idea in conjunction with the organizations concerned. This is a good way of creating business opportunities.

For all these reasons, Madam President, I support the resolution. But I still hope that the authorities can make some extra efforts to extend the benefits brought about by this project beyond Ngong Ping, so that the tourism development of Lantau as a whole can be fostered. Thank you, Madam President.

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

**MR WONG KWOK-HING** (in Cantonese): Madam President, I support the resolution. But I also hope that the Government can consider the addition of other facilities to increase the tourism appeal of the Cable Car System. That way, apart from worshipping the Buddha Statue, tourists at Ngong Ping can at the same time enjoy a whole package of other tourism facilities. This is also a very important point. If we look at the Ocean Park, we will notice that having taken the cable car to the uphill side, tourists will find many more attractions. This was the point raised by Islands District Council members and residents' organizations of the outlying islands during my meetings with them.

Another point is that the roads on Lantau are still closed to vehicles in general. This is doubtlessly a factor hindering the economic development of Lantau because, as pointed out repeatedly by local residents, when roads are blocked, so will be the source of revenue. Although the Cable Car System can make Lantau "half open", it will still be unable to provide enough impetus to the economic development of the island. I therefore wish to take this opportunity to call upon the Secretary to fight for us for the "complete opening" of Lantau. The Cable Car System will only make Lantau "half open", just like the stems of water spinach. Full access to all the existing roads on Lantau will certainly bring forth revenue and much brighter development prospects for Lantau. Thank you, Madam President.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): If not, I now call upon the Secretary for Economic Development and Labour to reply.

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): Madam President, I am grateful to Members, including Mr Albert CHAN, who have just spoken in support of the Bylaw. Although they have left the Chamber, I will still respond to their points.

The problems mentioned by Members just now are mostly outside the ambit of the Bylaw. For instance, Mr LEE Wing-tat and Mr WONG Kwok-hing asked whether the authorities, after the completion of the cable car, will develop other tourism projects on Lantau Island. We fully agree that we should do so. In fact, people of overseas tourism industry are very interested in our cable car project and hope that it can be completed as soon as possible. They also said that they would come to try the cable car and help promote it for us. Of course, as we all know, the cable car is only one of the tourism projects on Lantau Island. After arriving at Ngong Ping Market, the tourists can also visit the Po Lin Monastery, the Buddha Statue and the "Heart Sutra" Inscription. A series of tourism projects have already been planned. We will then take a closer look at other developments on Lantau Island and do our best to effect co-ordination in this connection.

I have also listened to Mr WONG Kwok-hing's comments. His prime concern is whether the construction of road networks can tie in with the development. I have listened to Members' views in this aspect. We will do our best to develop the Lantau Island. Just now a number of Members also expressed their concern about the impact of development on local residents and transportation. I would like to point out that at the initial stage, I emphasize, the initial stage of the operation of the cable car, relevant departments such as the Transport Department and the Tourism Commission will pay attention to the impact of the cable car on the transportation on the Lantau Island as a whole. They will also liaise closely with the MTR Corporation Limited and the New Lantao Bus Company. As we all know, these two companies have reached a draft agreement. We will encourage them to maintain close contact with the tourism industry.

Mr Albert CHAN has mentioned his worries. He is concerned about the ambiguities in enforcement of the Bylaw by the authorized persons. I would like to inform Mr CHAN that the authorized persons will be issued with identity cards with photos and work procedure manuals. They will also be given sufficient training. Of course, the Skyrail-ITM is well experienced in handling these problems. Here I would like to thank Mr CHAN for his appreciation that this is a civilized piece of bylaw.

Today, I hope this Bylaw can be passed so that all Members and I can enjoy the beautiful scenery of Lantau Island on the cable car after it has been



completed. I hope we will bring a bottle of drinking water. I am sure in future when tourists bring along their drinking water in taking the cable car, they will think of the efforts made by Mr CHAN and the Subcommittee. Thank you, Madam President.

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

(Members raised their hands)

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

(No hands raised)

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

## **MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Members' motions. 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 amendments; the movers of amendments will each have up to 10 minutes to speak; other Members will each have up to seven minutes for their speeches.

First motion: Perfecting the food safety regulatory mechanism.

## **PERFECTING THE FOOD SAFETY REGULATORY MECHANISM**

**MR WONG YUNG-KAN** (in Cantonese): Madam President, I move the motion as printed on the Agenda.

Madam President, I remember there was a cooking programme which when translated into Chinese was "What shall we have for supper tonight?" It was the ideal programme for those housewives who were thinking hard about what to buy for supper. Now when housewives go to the market these days, they will not be worrying about what kinds of dishes to make, but what they will buy to prepare the meals for their families and what kinds of food are safe for human consumption. Over the past few months, Hong Kong has been hit by a spate of food incidents. They are all negative news. At first, we had pork from Sichuan Province which was infected with the bacteria *Streptococcus suis*. Then coral reef fish was found to carry ciguatera poison. For freshwater fish, malachite green was found. For the crabs, residues of chloramphenicol were found. Fortunately, the chemical was found only in the hairy crabs, for if not, it would be a great trouble if no one would want to buy any kind of crabs. To top it all, there are outbreaks of avian flu all over the world. No wonder my wife said to me lately that she felt the psychological pressure when she went to the market. She told me that I should not grumble about the same dishes on the table every day. She even said to me that had I gone to the market in her place, I would have great worries too, feeling concerned that buying even some spring onions might be unsafe.

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

Madam Deputy, even this view from a housewife is unique and carries a lot of sense. This spate of food safety incidents have served to expose precisely the loopholes in food safety control by the Government of the Hong Kong Special Administrative Region (SAR). The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) has summed up four major points on the shortcomings of how the Government has dealt with the issue of food safety.

First, there are too many bodies responsible for policy-making. As early as around end 1997 to the beginning of 1998 when the avian flu broke out for the first time in Hong Kong, the Government hired a consultancy to make recommendations on reorganizing the food safety regulatory framework. It was suggested that the then Environment and Food Bureau, the Food and Environmental Hygiene Department and the Agriculture, Fisheries and Conservation Department should be set up to replace the two former Urban Councils, the two former Municipal Services Departments and the Department

of Health and take up work in the monitoring of foods. Then after the introduction of the Accountability System for Principal Officials in 2002, there was a reshuffling of the duties of the Policy Bureaux. The existing Health, Welfare and Food Bureau took over the work in the monitoring of foods while the enforcement work remains the responsibility of the Food and Environmental Hygiene Department and the Agriculture, Fisheries and Conservation Department. After numerous reorganizations, resources are still not centralized and various departments are still minding their own business. It has become apparent that the past reforms failed to address the problems and they merely aimed at shifting the focus of attention.

Madam Deputy, in the past the regulatory framework for food safety was fragmented, but at most the consequences were problems in efficiency and unclear division of labour. Now the most fatal problem is that there are yawning gaps in the food safety regulation framework. The most obvious example is after the incident of malachite green in live fish, it has suddenly dawned on the public that there is no control whatsoever on the hygiene and safety of live fish. This is in fact like saying that anyone can sell fish if he can import them into Hong Kong, for there is no quarantine required.

Besides, we all know that malachite green is harmful to the human body. This is not something known only today, for as early as more than a decade ago, people engaging in aquaculture in Hong Kong had acted at their own initiative and stopped using this drug commonly used by veterinary surgeons. It is surprising to see the SAR Government has remained unaware of this for more than a decade and the use of malachite green has not been prohibited. The result is that the Government only took hasty steps to legislate after some incidents had happened. This inability to act on time has let an unknown number of people eat harmful fish all through these years. Business of the freshwater fish trade has also been severely damaged as great quantities of stock are forced to be destroyed. People from the trade have complained to me many times. They said that had there been laws prohibiting the use of malachite green, they would have carried out careful inspections and if the fish they have imported are found to have problems, they would gladly be penalized. But the Government has turned all of a sudden from being slow in action to acting in great hurry and so these freshwater fish importers are really caught unprepared. The DAB thinks that these backward food safety standards, when compared with the unsound regulatory framework, would do even more harm to undermine public confidence.

Madam Deputy, another fatal point about the monitoring of food safety is that the authorities are being excessively passive. As much as 90% of the foods in Hong Kong are imported. But the SAR Government has never shown any intention to monitor foods at source. There is an over-reliance on the hygiene certificates issued by health authorities at the places of origin. What the Government will do is only to carry out sampling inspection at the consumer level. Therefore, the monitoring of foods is very passive. I can cite one example for this. Members may recall incidents about toxic vegetables in the mid-1990s. After these incidents, Hong Kong reached a consensus with the Mainland and things changed from having almost no monitoring at all in the past to a requirement that vegetables imported into Hong Kong must come from reputable farms and vegetables are sample tested in Man Kam To for pesticide residues. But this measure is only limited to vegetables. The quarantine system and source monitoring for pigs and chickens were implemented only after the occurrence of many incidents. It is only after the malachite green incident has come to light that the Government realizes that fish farms should be regulated and registered. All these incidents show that the Government is only mindful of things happening right before its own eyes and there is nothing done to promote the idea of source monitoring to all kinds of food. And so incidents have happened one after the other and the public is time and again shocking as the trade has time and again complained.

The third point I wish to say is about the shortcomings of the notification system. In the past, this notification system between the Mainland and Hong Kong was only about food for export outside China. There was no safety requirement on food from other provinces and municipalities and no notification system existed. The incidents about *Streptococcus suis* infection in pork from Sichuan Province involved pig farms which were not registered; as these incidents did not happen in Guangdong Province, this had prevented Hong Kong from getting the right information promptly for action. On the other hand, Hong Kong does not require the establishment of a tracking system for foods from other places. This when coupled with the absence of a notification system between Hong Kong and these places, it has rendered the Hong Kong Government very passive and ineffective when it comes to monitoring foods from other places, that is, foreign countries.

Lastly, I would like to point out that the sector has long been dissatisfied with the consultative framework set up by the Government and it is criticized as being a "one voice" framework. The DAB has taken reference of successful experience in the monitoring of foods in other places which is basically a pooling

of forces from the government, the sector, the medical profession, the veterinary profession, the academia and the consumers. However, our SAR Government adores microbiologists and medical scientists and the consultative framework set up as a result is in fact going against the global trend. This over emphasis on microbiologists and medical scientists is in effect barring participation from the veterinary profession, the sector and the consumers. The consequence is that the "one voice" opinions raised unilaterally by this consultative body have triggered off strong opposition from the sector and hence government efforts on food safety and monitoring have encountered great obstacles and minimal results are achieved.

Madam Deputy, just now I have spent much time commenting on the inadequacies of the present food safety regulatory framework. Actually, the DAB already proposed the idea of setting up a centre for food safety to Mr TSANG a few months ago. Now in this latest policy address the plan of reorganizing the food safety regulatory framework is formally brought up. The DAB welcomes this acceptance of our suggestion and the improvement effort on the part of the Government, and we support the reorganization plan proposed. However, I would like to make two comments about the plan. First, the DAB urges that the Government should ensure that in the process of reorganization, the jobs of front-line staff will not be affected. This will dispel their worries. Besides, the Government must explain to this Council in detail how duties will be divided under the new framework and the arrangements concerned. We do not wish to see in this new framework the reappearance of blurred powers and officials shirking their responsibilities.

Madam Deputy, the DAB is more concerned about the reforms to be implemented in the new regulatory framework. We know that the SAR Government has signed agreements respectively with the Guangdong Provincial Government and the General Administration of Quality Supervision, Inspection and Quarantine in which new plans of co-operation are laid down and Hong Kong officials are permitted to inspect registered farms and food processing plants on the Mainland. In addition, the notification system of the two places is to be perfected. From now on, liaison officers will notify the other side of significant animal epidemics immediately, there will be experience-sharing on food safety control and disease prevention requirements, regular meetings on management and technical matters for officials from both sides and joint-studies on aligning the quarantine procedures, methods and standards of both places. All these improvement initiatives are proposals made by the DAB earlier to the

SAR Government and the Guangdong Provincial Administration of Quality Supervision respectively. We are very glad to see that the governments of both sides have accepted the recommendations and included them into the new agreement. We hope very much that the SAR Government will soon give an account of the specific arrangements to the public as to how these proposals are to be taken forward. This will enhance public confidence in the food safety notification mechanism.

A substantial amount of foods in Hong Kong still come from other places, so if the SAR Government is to enter into similar agreements with other places in the same way as it has done with the Mainland, it would be much more difficult. Now the international community is beginning to establish a tracking system to monitor imported foods. Put it simply, the system makes use of the registration system to provide information on food safety in the various stages of food production, processing and marketing. Such information would include the use of pesticides, management of processing plants and sources of raw materials, and so on. All such information vital to food safety will be provided to the monitoring bodies, people in the food industry and the consumers. This is like issuing an identity card and preparing a resume for foodstuffs. It will facilitate identification by consumers. For the monitoring bodies, should incidents happen, these bodies will be able to track down the causes within a short time, hence the knock-on effects of the incidents can be minimized. Actually, as early as in 2003, this system was used in Japan to handle incidents about beef and the system is regarded as an important step in reforming the food safety regulatory framework of Japan. The system has now been extended to include aquatic food products.

Madam Deputy, I know that the Government intends to reorganize the existing consultative framework on food safety and it is even contemplating a new framework specially tasked with studying food safety standards. Here, I strongly urge the Government to include representatives from the agriculture and fisheries industries, the veterinary profession and consumer organizations into this new consultative framework. This will serve to pool the strengths of many sectors in doing a good job of food safety supervision.

Lastly, I would like to respond to the amendment proposed by Mr Tommy CHEUNG. Basically, there is not much difference in wording between Mr CHEUNG's amendment and my original motion. However, I would like to point out that if the focus of work in food is put on the monitoring of foods at

source, there is really a need to allocate more resources, increase the number of inspection staff in the frontline, engage in related training and enhance the capability of the laboratories. I therefore hope that Mr CHEUNG will clarify in his speech later whether or not his amendment will mean that the Government is required to commit more resources to cope with food safety work after the implementation of the improved regulatory initiatives.

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

**Mr WONG Yung-kan moved the following motion: (Translation)**

"That, as a number of food safety incidents which occurred recently in Hong Kong have exposed the Government's shortcomings in the regulation of food safety, its slow reaction to emergencies and the inadequacies in the notification system between Hong Kong and the Mainland, and have also seriously affected the public's confidence in the Government's capability to perform the gate-keeping role, this Council urges the Government to:

- (a) expeditiously implement the plan to reorganize the food safety regulatory framework after consulting this Council and the public at large, to ensure that the posts of front-line staff are not affected by the reorganization plan, and to enhance training for staff so that they can grasp the ever-changing food safety knowledge and meet the related new technological requirements;
- (b) strengthen and reorganize the existing consultative framework on food safety by including representatives from the agriculture and fisheries industries, catering industry, veterinary profession and consumer organizations, so that they can more comprehensively advise the Government on food safety matters;
- (c) step up Hong Kong's monitoring of foods at source at their places of origin;
- (d) conduct a comprehensive review of the existing standards and legislation on safe production of foods, including strictly regulating the use of drugs and chemicals and their residue contents in foods as well as the microbe counts in foods, etc, so as to ensure food safety;

- (e) perfect the food safety notification systems between Hong Kong and the Mainland as well as other places supplying food to Hong Kong, and to strengthen co-operation with the Mainland in combating food smuggling;
- (f) devote more resources to enhance the Government's capability in food testing and hygiene inspection;
- (g) study the establishment of a food tracking system and the implementation of food recall arrangements, so as to raise the Government's capability in handling food safety incidents;
- (h) study the establishment of a food safety certification mechanism whereby identification labels are awarded to safe, quality food products so as to help consumers make their choices; and
- (i) expedite the pace in promoting a quality production and management scheme for local agricultural and fishery products, and to establish a branding system for local products,

in order to fully enhance Hong Kong's capability in regulating food safety and safeguard public safety in food consumption."

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr WONG Yung-kan be passed.

**DEPUTY PRESIDENT** (in Cantonese): Mr Tommy CHEUNG 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 Tommy CHEUNG to speak and move his amendment.

**MR TOMMY CHEUNG** (in Cantonese): Madam Deputy, I move that Mr WONG Yung-kan's motion be amended.



Madam Deputy, it is a consensus in the community that Hong Kong should enhance its capability in monitoring food safety. That is why in general the Liberal Party and I support Mr WONG Yung-kan's motion on "Perfecting the food safety regulatory mechanism", in particular on aspects like monitoring of food at source, training for staff, strengthening the consultative framework and perfecting the food safety notification system between Hong Kong and the Mainland.

Any policy on food safety should encompass every link from the farm to the dining table and as the last one in the chain, restaurants and food retail outlets should not be excluded. Point (f) in Mr WONG Yung-kan's motion is made in response to the call for monitoring work in this regard. I do not oppose to devoting more resources to perfecting areas in our food monitoring system found to have problems, but we must make clear first whether or not problems do exist in the regulation of restaurants and food retail outlets. If a wrong suggestion is made and newly added resources are put into the wrong places, then it will only backfire. This is especially true because the Secretary has often been criticized by me for being selective in listening to views. Therefore, I feel compelled to propose an amendment to the motion to facilitate discussion by Members.

First of all, I would like to talk about the inspections. Now the Food and Environmental Hygiene Department (FEHD) adopts a risk assessment mechanism and food premises are classified according to such risk loadings as "high", "medium" and "low". The number of inspections will then be set at once for every four, 10 or 20 weeks respectively. Figures from the FEHD show that in the year 2004, the number of inspections made by health inspectors to some 10 000 restaurants and food retail outlets in Hong Kong was as many as 276 000. I have inquired with the Department of Health and I have been informed that there were 821 cases of food poisoning in that year and of these 532 cases involved food premises. In other words, are these inspections which number close to 300 000 a year with such huge input of manpower and costs effective?

As a matter of fact, we have no proof showing that the number of inspections will bear any relation to food poisoning cases. In other words, will more inspections lead to fewer food poisoning cases and less inspections will mean more food poisoning cases? On the other hand, when we look into the matter closely, we find out that the assessment criteria used by the authorities in conducting inspections of food premises are very problematic. For example, a point will be deducted if a tile in the kitchen of a restaurant is chipped. What

does this have to do with food poisoning and hygiene? If Members will recall, most of the food poisoning cases in recent years are caused by incorrect ways of handling and storing cooked and uncooked food, that is, the cross-infection problem. The next cause is contaminated or poisonous foods at source, such as eating coral reef fish contaminated by ciguatera poison.

On software problems like the correct ways and mindset of industry workers in handling food, these can be improved gradually only with long-term education and publicity efforts and after these have been fostered in both the management and front-line staff. Maybe the health inspectors could say a few more words and in greater detail during their inspection visits, reminding the staff of how they should handle food correctly. Could other more cost-effective means be used to achieve the same goal of educating the management and front-line staff in the catering industry, such as airing advertisements on the TV, holding seminars and mailing pamphlets, and so on?

Food poisoning cases due to contaminated sources such as fish with ciguatera poison or fish tanks infected with *Vibrio Cholerae* cannot possibly occur less with more inspections. Therefore, the authorities should address the problem and strengthen source control of the water for fish tanks and coral reef fish so as to ensure that contaminated food will not be sold on the market. This is how the problems should be addressed at root.

As a conclusion of the above, I am convinced that there is room for reducing routine inspections. But please do not misunderstand that I am calling for a reduction of the number of inspections across the board in favour of restaurants. I fully agree with the public demand for better food safety and the sector would also be most willing to co-operate. However, the authorities should use the best ways to achieve this goal, that is, the existing risk assessment system should be improved. For food premises with a low risk and clean record, the number of inspections made should be reduced. This will enable manpower to be deployed to dealing with high-risk premises, the unlicensed food premises, contingencies and complaints. An example is the recent spate of mass food poisoning cases related to the buffets of some hotels owing to the improper handling of sushi. The authorities should increase the manpower to conduct more inspections of those food premises with these incidents. I would not object to making a daily inspection if it is considered necessary. When all these are coupled with territory-wide sampling and blitz inspections, I think the effect would be marked. Another main point of my amendment is to urge the

authorities to streamline administrative work and deploy resources suitably. This is precisely what I mean.

I should like to mention in passing that another area where resources can be deployed other than in hygiene inspections is in the restaurant licensing system which I often talk about. I do not want to talk about this topic now because I have spoken on it many times and this is not related to the question today. The licensing system in Hong Kong is actually very stringent and trivial matters like the colour of the tiles is subject to regulation. A lot of cumbersome administrative work is involved in the application process. The relevant laws are enacted by many different departments and so approvals have to be sought from the FEHD, the Buildings Department, the Fire Services Department, and so on. It can be seen that the licensing system in Hong Kong is very stringent, even excessively complicated. Do the authorities not think that it is justified to take reference of overseas practices and remove the hurdles and streamline the administrative work?

The Government's capability in monitoring work at source is at best mediocre. Often in a bid to let the public see that it is taking immediate actions, the Government will shift its attention to clam up its monitoring of the restaurants and the retail outlets in the markets, even to the extent that such action smacks of over kill. It seems that the responsibilities for all the problems are heaped onto their heads. This is a point I have raised in the Motion of Thanks debate on the policy address earlier.

What I wish to add is, restaurants and retail outlets in the markets are not capable of ensuring that food is 100% safe. How can a worker in a restaurant know, for example, if there are *Vibrio Cholerae* bacteria in the fish tank? He may have already acted in compliance with the requirements of the authorities and installed a disinfectant, but if disinfection has not been done on time and if someone sells seawater and fish to him and if seawater with *Vibrio Cholerae* is poured into the tank, how can disinfection be carried out at once? In the end, the restaurant will be closed by the authorities. The regulation of food safety is the Government's responsibility and the industry can only assist government efforts. The industry does not object to installing disinfection equipment but it is simply unreasonable to hold the industry responsible if *Vibrio Cholerae* is found in the fish tanks. Despite our repeated calls to urge the Government to sample test and introduce a licensing scheme for those who sell water for use in fish tanks and fish mongers, the Government has not done anything. We

support therefore the motion moved by Mr WONG Yung-kan because our demand is that the Government should do more in monitoring at source.

The fact that foods in Hong Kong are unsafe is because a majority of our foods are imported and monitoring of foods at source and quality inspection of imported foods remain to be improved. Why does the public have so much confidence in the freshwater fish raised in Hong Kong? The main reason is that the Agriculture, Fisheries and Conservation Department will send people to monitor the fish farms in Hong Kong and they will tell people not to use malachite green but to resort to other proper ways of treating skin problems in the fish. What is most needed now is that the officials will go to the chicken farms, pig farms and fish farms on the Mainland to deal with these problems. As a matter of fact, the garoupa mariculture farms in Thailand and Taiwan also use malachite green. But why do our officials not go to these places to examine how they deal with the problem and how they raise the fish in the ponds? Should we not be careful too?

The authorities should therefore not just listen to one side of the story and concentrate their efforts on supervising the restaurants and shops in the markets. They should aim at downsizing those links in the existing system which waste resources and redeploy resources to improving communication with the Mainland and establishing a surveillance system for foods imported into Hong Kong. Notification systems for the safety of foods from overseas should be perfected. The capabilities for sample inspections and testing of food should be stepped up, especially at the wholesale level. When problems are detected in the foods, the whole shipment should be detained to make sure that no substandard food will trickle into the market. This is the best way to minimize incidence of cases.

Secretary, I would like to point this out to you that if you wish to increase resources, the Liberal Party will not object to it but we should like to know where the resources will be spent. There must also be monitoring of foods at source.

Lastly, I would like to point out that a few years ago when I was paying a visit to Los Angeles, I met with the officials from the health department there. They told me that they would only inspect the restaurants two or three times a year and they would make an appointment with the licence holder beforehand. When they knew that our authorities made 480 000 inspections a year, they were

simply stunned. They thought that there were hundreds of thousand restaurants in Hong Kong and they could not figure out why there could be so many inspections when there were only some 10 000 restaurants here. For them, they would only conduct an inspection when an appointment was arranged and if the restaurant was busy, they would not make the visit. We often say that that we can take reference from the anti-smoking measures as practised in the state of California, but why do we not take reference of the way they inspect the restaurants? I think the Secretary should really think about this and work on a better deployment of resources. Thank you, Madam Deputy.

**Mr Tommy CHEUNG moved the following amendment: (Translation)**

"To delete "devote more resources to" after "(f)" and substitute with "through streamlining of administrative work and suitable deployment of resources,"; and to delete "food testing and hygiene inspection" after "enhance the Government's capability in" and substitute with "sampling inspection and testing of food, and perfect the hygiene inspection system based on the existing risk assessment mechanism"."

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment moved by Mr Tommy CHEUNG to Mr WONG Yung-kan's motion be passed.

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

**MR FRED LI** (in Cantonese): Madam Deputy, the ultimate goal of the reorganization of any framework is better management and greater efficiency in duty performance. For private-sector organizations, the objective is of course making more profits as a result of the reorganization. But for public organizations and the Government, the goal of reorganization is different and what they are after is greater value for money and more protection.

If after this reorganization of the regulatory framework there will be better implementation of food safety policy and smoother operation, the Democratic Party will fully support the proposal to create more posts, especially in the non-directorate ranks where many of them involve professional duties. At

present, the Food and Environmental Hygiene Department (FEHD) has a manpower shortage problem and in such circumstances we agree that the manpower establishment under the newly-formed Food Safety, Inspection and Quarantine Department (FSIQD) should be expanded.

In principle, the Democratic Party supports a reorganization of the food safety regulatory framework to meet government expectations of control and monitoring at source. As we review the history, ever since the beginning of the year 2000, this is now the third revamp of the food safety regulatory framework. Ever since the two Municipal Councils had been dissolved and all decision-making powers were vested in the officials, there was reorganization at the decision-making level as the Environment and Food Bureau was changed into the Health, Welfare and Food Bureau. At the functional level, the two Municipal Services Departments were changed into the FEHD, to be followed by the proposed FSIQD. From this it can be seen that the mechanism for the formulation and enforcement of food safety policy has seen the most frequent changes in recent years. Each time when there is reorganization in the Government, it is hoped that the policy concerned can be better formulated and enforced. But often things do not come out as expected. We think the Government should try to convince Members of this Council that the reorganization this time around would be better than the past reorganization attempts, that food safety matters can be better handled and there can be better protection of public interest.

As far as I know, insofar as the modes of organization in the regulation of food safety matters are concerned, there are basically two types. The first one is that found in Canada, Denmark, Ireland and Australia and such places where all food safety regulation departments are unified into one single independent food safety organization to effect a uniform regulation of the entire process from food production, marketing and trade to consumption. This is done in the hope that problems like a blurred division of power and the lack of co-ordination among departments can be solved. The second one is found in places like the United States and Japan. Though the food safety regulation bodies there are found in different departments, a clear-cut division of labour is laid down to prevent any lack of co-ordination. In the case of the United States, work is divided according to various types of food. In Japan, different departments are responsible for work in different links of the food production process "From Feed to Table". As we understand it, the framework reorganization now proposed by the SAR Government seems to be going in the direction of the

model adopted in Canada and Australia. But in terms of specific implementation details, it seems that it is doubtful if the present situation of too many departments making different policies can be avoided. When the Secretary attended a briefing on the policy address, he mentioned the problem of managing the markets. Quarantine work to cope with the avian flu threat is to be done by this FSIQD. As for the day-to-day disease prevention work in the markets, including work during the days when the markets are closed for cleansing, this is to be done by the new Agriculture, Environmental Hygiene and Conservation Department. But will this likewise lead to any unclear division of labour?

Madam Deputy, I believe many people are asking all kinds of questions and the Secretary should also have learned from the extensive coverage in today's newspapers that the preserved eggs from Guangdong Province have lead contents 1.8 to eight times more than the permitted level. I have no idea whether or not these preserved eggs are sold in Hong Kong. The newspaper reports also say that some vegetables from Guangdong Province contain metals like potassium. In many ways we are closely related to Guangdong Province and Mr WONG Yung-kan was right when he said that the people had often asked us which kinds of food were safe. Though we are members of the Legislative Council Panel on Food Safety and Environmental Hygiene, at times we are unable to answer these questions. Secretary, what foods are fit for human consumption? I do not know if you could tell us what preserved eggs are safe and what vegetables are safe and whether or not tinned foods are safe. I hope we can all attach great importance to food safety. This is especially the case when after malachite green was found in freshwater fish sometime ago. It is the public's ardent expectation that the reorganization proposal this time will lead to greater protection in food safety as many of our foods are imported, especially the Mainland.

Lastly, I would like to talk about my views on the amendment, though incidentally Mr Tommy CHEUNG is not in this Chamber now. I have listened to all the speeches made and I would also like to thank Mr CHEUNG for lending me his script for a look. The thrust of Mr CHEUNG's amendment lies in his deletion of point (f) in Mr WONG Yung-kan's original motion of the words "devote more resources to", and substitution with "through streamlining of administrative work and suitable deployment of resources". The amendment also seeks to delete capability in "food testing and hygiene inspection" and substitute it with "sampling inspection and testing of food". I am afraid the

Democratic Party cannot lend its support to this suggestion for the reason that hygiene inspections are absolutely necessary and they should even be stepped up. There have been too many food poisoning incidents this year and there have also been many food poisoning incidents related to food in the lunch boxes consumed by students in the schools. A lot of such cases have happened this year, so how can these words in the original motion be deleted? As to the question of whether or not more resources should be deployed, I would think Members can discuss about it. But if we are to delete these words, I will be worried whether or not the heightened expectation of the public can be fulfilled by the streamlining of administrative work and suitable deployment of resources. Therefore, though the amendment only seeks to amend a few words, we in the Democratic Party can only support the original motion. I so submit.

**MR WONG KWOK-HING** (in Cantonese): Madam Deputy, as the Chinese saying goes, "food is people's paramount concern" and though Hong Kong is reputedly a gourmet's paradise, I am afraid this paradise will become hell in no time given the recent spate of food incidents and if the problem does not get government attention. More importantly, these things are directly related to the people's health and the slightest lapse will lead to casualties and losses of life.

Over the few months past, first came the incidents about pork containing the bacteria *Streptococcus suis*, then the carcinogen malachite green was found in the eels and freshwater fish. For some time the people of Hong Kong were forced to abstain from consuming pork and fish. These incidents serve to expose the loopholes in food safety control on the part of the Government and people are very worried about how public health can be protected.

All along the Government has never formulated any long-term policy on agriculture and fisheries, despite the fact that our food supplies are mostly imported and with those from the Mainland taking up the bulk of the imports. As foods are not locally produced, their production process is beyond our control. What can be done on the part of the authorities is only to solve the problems after they have cropped up and nothing more than piecemeal efforts are made. As a matter of fact, the authorities have never formulated a proactive and comprehensive policy to assist the development of agriculture and fisheries in Hong Kong. For all the problems found in the agriculture and fisheries sector, the Government will handle them in a most passive manner and actions are only taken to outlaw related activities. When there are problems with chickens, then



the licence for chicken farming will be revoked. When there are problems with pigs, then the licence for raising pigs will be taken away. This gives people an impression that the Government is only trying to minimize its blunders by doing less and it is even striving to be blunder-free by simply doing nothing. That is why the Government only knows to ban and outlaw farming activities. The Government can actually be more proactive in these matters, like promoting the development of agriculture and fisheries in Hong Kong, encouraging farmers and fishermen to create their own brands and quality products. A successful example is the local product of Kamei Chicken. Despite the recent development of mainland authorities allowing officials from Hong Kong to inspect their fish farms and other farms, since the producers are on the Mainland, there is very little we can do. But if the Government is willing to help the agriculture and fisheries sector in Hong Kong, this will not only enhance control of foods at source but will also provide more choices to the people and boost employment.

After the recent spate of food incidents, the Government, in a bid to remedy things, has hastily proposed in the policy address just released that it plans to reorganize the food safety regulatory framework by revamping the Food and Environmental Hygiene Department and the Agriculture, Fisheries and Conservation Department into the Food Safety, Inspection and Quarantine Department (FSIQD) and the Agriculture, Environmental Hygiene and Conservation Department. Both new departments carry long names, the former has nine Chinese characters and the latter has 11 Chinese characters. After all, this is a proposal and it means that the authorities are not sitting back and doing nothing. But the Government must assure the people that after the framework reorganization will not affect the jobs and salaries of the existing staff and that they can be transferred to the new departments smoothly. A more important thing is that this reorganization must fulfil the primary objective of providing greater safety to the people. In principle, I do not object to reorganizing the framework, and I also hope that after listening to views from all quarters, the authorities will ensure that the proposed FSIQD will come into operation at the soonest.

In addition, I also hope that the notification system between Hong Kong and the Mainland can be perfected. After the discovery of malachite green in the freshwater fish imported from the Mainland, a list of approved fish farms was supplied by the Mainland to the Health, Welfare and Food Bureau of Hong

Kong. The list led to a farce because some of the so-called approved fish farms on the list, after probing by the media, were found to be non-existent and some of these fish farms are now nothing but waste land. This shows great problems in the communication between both sides and this must be addressed. I also hope that a spokesman system should be established as this will ensure the dissemination of information right after some problem has occurred or when there is any update on the latest development. This will enable the public to be kept in the full picture. If this is not done properly, the people will lose their confidence in the SAR Government.

Madam Deputy, in a word, I am for the emphasis being put by the Government on food source control. But apart from work on food safety control, it is also important to open up new sources of food supply. It is only by doing so that work can serve a long-term purpose and take on a positive meaning. I recall at a briefing on the policy address the officials explained that the name for the new department was very long because they wanted to pay tribute to the functions of the agriculture and fisheries sector and so the Chinese words for "agriculture and fisheries" are retained with this intention. I think that if the authorities really attach great importance to the sector, that is, the sector which Mr WONG Yung-kan represents, it would do more than just by adding these words to the name of the new department. This is because the inclusion of these words does not necessarily mean great importance is attached. To show the importance of the sector in the eyes of the Government, an integrated and sustainable policy on assisting the agriculture and fisheries sector should be proposed and more resources must be allocated to its development. Only these would truly mean attaching great importance to the sector. Would Mr WONG Yung-kan agree?

With these remarks, Madam Deputy, I support the original motion. We are of the view that the amendment has certain inadequacies and only the original motion will merit our support.

**DR KWOK KA-KI** (in Cantonese): Madam Deputy, the motion moved by Mr WONG Yung-kan is a timely one. Perhaps we all owe a big thank you to Mrs WONG after all for, like other people in Hong Kong, she has to think about what safe food to buy in the market every day.

After reading the paper submitted by the Government to this Council on the reorganization plan for the food safety regulatory framework, I cannot help but show my disappointment. Though the food incidents this time may have been caused by malachite green or Sichuan pork, these are only the tip of the iceberg. As Mr WONG Yung-kan has said earlier, the fish farms in Hong Kong ceased to use malachite green at their own initiative more than a decade ago. Before these incidents took place, despite the fact that malachite green was outlawed three years ago on the Mainland and banned for use in the fish farms or food, and despite the full-scale ban in the European Union and other countries on the use of malachite green in the farms, the Hong Kong Government is completely ignorant of this and other outlawed drugs and chemicals. Even at the initial stages of the incidents, the response from the Government was that it was still under consideration. It was only when eels were recalled on the Mainland and it was reiterated that food with malachite green was harmful that our Government began to take action. Apart from proposing to revamp the framework, the Government has done nothing to restore public confidence in its capabilities to handle problems in food safety from a new perspective.

Sometime ago after the incidents had taken place, the Secretary said on a public occasion that he hoped to set up a centre for food safety. In this connection, we have done some research and found that setting up a centre for food safety or reorganizing the existing framework to set up such a centre is not something unique to Hong Kong. The issue of a food safety framework is high on the agenda of governments in the European Union, the United States, Japan and Australia during the past five or 10 years. But what these countries have done is unlike what Hong Kong is presently contemplating, that is, merely reorganizing the departments or even changing the name of the department in Chinese from 14 characters to 20 characters. A new department with nine Chinese characters has been set up recently and that is the Food Safety, Inspection and Quarantine Department (FSIQD). This shows that the Government is thinking that after reorganizing the departments, the problem of food safety will be over and done with.

From the experience of many overseas countries, including the United States and Britain which are the favourite destinations of the Chief Executive's overseas visits, we can see that they have a concept of a food safety authority. Such a food safety authority or food safety administration is headed by experts in the field. The most important ones are some professionals and these are not the

doctors or microbiologists whom Mr WONG Yung-kan has mentioned earlier though these professionals may be included, but the most important ones are those professionals who have solid training and experience in the formulation of food safety policies, including the setting of standards with respect to poisons, chemicals, residues, and so on. They are not responsible for execution matters. This is because we cannot hope to rely on the food safety centre and not the other departments in enforcement.

Earlier on, I have seen an example and that makes me think that even if the present attempt at reorganization is complete, it may not necessarily be useful. My example is related to point (g) in Mr WONG Yung-kan's motion, that is, on the food tracking system. I agree that this system should be established but it does not have to be implemented by the existing Food and Environmental Hygiene Department or the FSIQD in future. The importation of foods is the responsibility of the Trade and Industry Department (TID) and the Customs and Excise Department. If the Government still wants to achieve co-ordination, then does it want to include the Customs, the TID and such like departments concerned into the FSIQD? Things should not be done this way. The importance of a centre for food safety lies in the collection of all related intelligence, conducting reviews of the standards adopted in each country, setting up standards and requiring the Government to formulate an effective policy for implementation by various administrative departments. The duties of a centre for food safety do not lie in making inspections or tracking down sources. Such duties must be performed by some other government departments.

(THE PRESIDENT resumed the Chair)

I am also gravely worried that the reorganized framework will only be attractive in appearance. This is because a lot of senior staff must be deployed there to show how important it is. As mentioned earlier, its head is someone at the rank of Directorate Grade 8. Some other directorate grade posts have to be created. But are all these enough to put our minds at rest? No, not at all. Actually, as Mr Fred LI has mentioned earlier, this is the third time that the topic of food safety control has been brought up. Does reorganization mean that the system will be perfected? I have great reservations about it. I hope that the Government will listen to public opinion very carefully. What we need is a professional and well-experienced food control centre. It should be an

administrative authority set up with central co-ordination or an independent body, to be supported by government departments in enforcement.

Due to the time constraint, I can only mention some other aspects very briefly. I support fully the idea of setting up a food safety certification mechanism as proposed in the motion, as well as promoting local agricultural produces. Now it is really the best time for doing these for, as evident in the malachite green incident, local agricultural produces can pass the safety tests. It is unfortunate that the Government fails to seize the opportunity to make the public see this point and launch publicity efforts to promote a quality production scheme for local agricultural produces. What the Government is saying is that it has to study the matter slowly. This is really unacceptable.

As for the amendment proposed by Mr Tommy CHEUNG, I am afraid I cannot lend it my support. Although hygiene inspections are not the most important thing, why is there a need to conduct 480 000 such inspections? The reason is clear enough: there is room for improvement in food safety in the restaurants. Therefore, there is a need for inspections. If restaurants in Hong Kong can reach the standards in other countries, that will put our minds at ease and it will not be necessary for the Government or the Secretary to conduct so many inspections.

I support the original motion. Thank you, Madam President.

**MR CHAN KAM-LAM** (in Cantonese): Madam President, Mr WONG Yung-kan has made a consolidated speech on perfecting the food safety regulatory mechanism and he has outlined the proposals made by the DAB.

The Government proposes to set up a Food Safety, Inspection and Quarantine Department to consolidate work on food safety control previously undertaken by the Food and Environmental Hygiene Department and the Agriculture, Fisheries and Conservation Department. Related resources and manpower will be focused on this new department. I think that this move will help raise the efficiency in food safety control. Furthermore, from the management perspective, Mr TSANG, the Chief Executive, mentions in his policy address that a new round of reorganization will be carried out. The Health, Welfare and Food Bureau also plans to create a permanent secretary post

specifically tasked with food safety matters. We support this idea. Madam President, if food safety work is to be properly carried out, apart from defining the powers and responsibilities in the framework and making the division of labour arrangements, a one-stop food safety regulation system should be set up, embracing all links from the farm to the dining table. A clear and highly transparent inspection and quarantine system should also be set up and the existing food safety standards should be perfected.

Work on perfecting the food safety regulatory mechanism should in theory start from the sources of production, that is, the pesticides, feeds and fertilizers used in the farms, as well as the water quality, pollution on the land and environmental hygiene, and so on. All these may cause problems in the quality of agricultural and fisheries products. Then there is also the monitoring of food processing factories and the same for safety and hygiene in the restaurants and retail markets. In our opinion, such a one-stop monitoring service is very important.

How should the monitoring of foods at source be carried out? Apart from sending officers to inspect farms and processing plants registered on the Mainland, there should also be rigorous inspection and quarantine work at the border and in the wholesale markets, as well as on the inspection of health certificates for imported foods. On the other hand, we think that sample testing of wholesale and retail foods should be enhanced, and more resources should be put in to raise the capability of the Government Laboratory which is already over-burdened to enable it to cope with contingencies arising from sudden incidents. To ensure the smooth conduct of monitoring work and enforcement of the relevant requirements in all links in the food production chain, including farms, processing plants, wholesale markets and retail outlets and restaurants, the Government should increase its capability in health inspections.

The Government must work with the industry to set up a food tracking system with the main objective of recording information and production procedures of the food sources during the entire process from raw materials to finished products. This will enable information on sources of food incidents be readily identified and hence more effective preventive work can be undertaken. Now many advanced countries like the United States, members of the European Union and Japan all have a stringent food tracking system. Similar tracking systems have also been set up in the food and fast food giants. Large

supermarkets in Hong Kong sell fresh produce and they also have a tracking system which enables them to identify the sources when problems arise. I think the Government may take reference of this when it is to formulate some regulatory practices.

Now more than 90% of the foods sold in Hong Kong come from other places, of which about half come from the Mainland. After the recent spate of food safety incidents, the Hong Kong Government has entered into an agreement with the General Administration of Quality Supervision, Inspection and Quarantine of China to set up a more stringent food monitoring and notification system. In future, officers from Hong Kong can be sent to inspect the registered farms and factories on the Mainland to ensure that the production there meets the Hong Kong requirements. However, as there are no similar arrangements between Hong Kong and other sources of food supply, mainland foods and foreign foods are like subjected to different monitoring arrangements, hence confusions and monitoring loopholes may arise. Therefore, we hope that the Government can conduct a review of the situation with other food supply countries to make the food monitoring system uniform, thereby boosting public confidence in this regard.

Recently, the avian flu problem has caused widespread concern in the world and certain countries have even succumbed to fear as the people there are afraid that food safety problems will affect economic or social stability. Apart from food safety, we are more so worried about the spread of the epidemic, that is why we hope that the Hong Kong SAR Government will act with prudence and take effective measures to protect public health. It remains, of course, that food safety is an issue of prime importance. I hope that the Government will perfect the regulatory mechanism and we are well aware of the fact that such a task cannot be completed within a short time. That is why we should start right now, for the journey ahead is long. Thank you, Madam President.

**MR VINCENT FANG** (in Cantonese): Madam President, as the saying goes, diseases enter by the mouth. More importantly, this is also a matter about life and safety. Recently, there have been incidents of *Streptococcus suis*, malachite green, avian flu, and so on, and all these viruses and harmful substances may be present in the food we eat. But if it is only after people's health is affected and shops go out business and such like high costs paid that the Government will devise a policy to regulate foods, that would really be

something that does not come by so easily. How then can regulation be carried out to ensure foods are safe while the businesses can survive? Most Honourable colleagues would agree that there should be monitoring of foods at source.

At this time when the looming threat of avian flu has sent a chill down the spine of everyone, I would like to cite the monitoring mechanism for live poultry in Hong Kong as an example. There is panic around the world now at the possibility of an avian flu pandemic. Following outbreaks in some countries in Southeast Asia, even in Japan which is a country widely-recognized for the importance it attaches to food safety and health matters, the virus was found in some of its chicken farms. But Hong Kong can still say proudly that all the live poultry sold in our markets are healthy and fit for human consumption. This achievement can be attributed to the lesson learned from the first outbreak of avian flu in 1997 and the effective control measures and stringent monitoring taken ever since during the entire process from farms at the source to import, wholesale, retail and transportation. The industry has also contributed to this by exercising self-discipline and being co-operative.

After the malachite green problem that appeared in August, the Bureau has taken contingency measures that are similar to the methods used to control live poultry. There are certification and monitoring at source, then there are regular sample tests conducted at the wholesale and retail levels. As malachite green is not an infectious substance, its control is not as stringent as in the case of chickens. Therefore, we cannot rule out the possibility that there is fish from non-approved fish farms on sale in the markets.

Yesterday, I received a group of vegetable wholesalers who obtain their supply of vegetables from those approved farms on the Mainland. However, as the mainland market is open and there is no import control for vegetables into Hong Kong, so some businessmen would import vegetables from other mainland sources and send them directly to the markets and restaurants in Hong Kong. The industry is worried about the possibility that business will be affected if the vegetables from these non-approved farms are found to contain excessive concentration of residual pesticides.

This shows that any regulatory system would entail long-standing work and it can only be successful if there are one-stop services available and self-discipline and co-operation from the industry.



More than 90% of the beverages and foods in Hong Kong are imported from places all over the world. If there is no sound food safety regulatory mechanism in place, there will only be two scenarios: one is that we will never eat with peace of mind and the other is that nothing is fit for human consumption. In my opinion, the first line of defence in food safety is in the sources of the foods. For fresh foods, a certification system like the one for chickens can be adopted, coupled with regular inspections and tests to ensure that the products from the sources are safe and sufficient to meet the demand in Hong Kong. We know that the Food and Environmental Hygiene Department (FEHD) is practising a certification and monitoring system for chilled pork imported from Thailand. The second line of defence would be the inspection and quarantine work at the border. If the electronic customs clearance system can come into force soon and be aligned with the mainland customs, then the contents of a shipment would be clear to the authorities before it is sent to the customs for inspection. This will eliminate loopholes for unscrupulous businessmen. For imported foods not subject to any regulation, there should be more sample inspections to be conducted by the new Food Safety, Inspection and Quarantine Department. This would prevent an inadvertent lapse from leading to far-reaching consequences.

If inspection at source is sound, then the industry will only need to exercise self-discipline at the wholesale and retail levels and the Government will only need to carry out inspections and sample tests without interfering with the business of the operators. These will be quite enough to ensure that foods found in the markets are safe.

As for the regulation of the safety of non-fresh foods, I think the existing system as practised by the FEHD would suffice. The system imposes safety standards on milk products and other related products. It requires pre-packaged food suppliers to provide sufficient information for consumers in making choices. Sample tests are done on a regular basis and once substandard products are found, the industry would be very co-operative and recall the products concerned. However, if a recall is required due to food safety reasons, the industry will have to suffer heavy losses. The Liberal Party therefore thinks that the Government should set up a compensation and *ex gratia* payment system for wholesalers and retailers. In addition, as the wholesalers and retailers play an active role in the food industry and they are at the fore front of the market, the Liberal Party considers that when the Government is to reorganize the food safety consultative framework, apart from inviting representatives from the agriculture and fisheries

sector, the veterinarians and consumer groups, there is a need to include the wholesale and retail sectors as well. This will enable members of the sectors to obtain relevant information promptly while they can also reflect what is happening in their sectors instantly. This would be beneficial to all other sectors across the community as well.

With these remarks, I support the perfecting of the food safety regulatory mechanism. Thank you, Madam President.

**DR JOSEPH LEE** (in Cantonese): Madam President, after the debate on the policy address, it seems that food safety has become another subject of our discussion. Today, the newspapers have published news reports on certain unsafe food items, such as preserved eggs that have exceeded the safety standards, vegetables that contains excessive amount of heavy metal from pesticide residues, and pickles that carry worms, and so on. We would like to see what actually the Government will do to perfect the food safety regulatory mechanism.

The Government is now bringing the focus of the entire food safety discussion to the structural reorganization of the departments concerned. Now, all we can see is nothing but reforms initiated by the restructuring of the relevant framework. However, we cannot see any specific measures that will be implemented by the Bureau in this connection. We have not seen any undertaking made by the Government on the feasibility of the new policies and whether their effectiveness can bring about some changes to the quality of the policies, thereby perfecting the work of regulatory control on food. We think the Government should give a detailed explanation on the two major issues as follows: First, how will the Government make use of the present proposal of framework reorganization to perfect the existing food safety regulatory mechanism? After the executive framework has been expanded, in addition to the possible creation of more directorate posts at D8, does it mean that the duties, abilities, workload and professional knowledge of front-line operational staff will also be upgraded at the same time? Now, let me reiterate one point: I think reorganizing the framework is not a bad idea, but it is absolutely necessary for the Government to announce the hierarchical arrangement and functions of front-line staff before and after the reorganization, so as to prevent the public from criticizing the Government of boosting the establishment at the top, while streamlining it at the bottom. Apart from this, the Government should also

expeditiously announce how it will make arrangements for the provision of suitable training to these front-line staff, so as to enable them to adapt more comprehensively to the above changes in their work, especially in performing their duties in making inspection visits and sample testing, and so on, thereby exercising better food safety regulatory control.

Secondly, how does the Government specifically implement the concepts of "From Feed to Table" or "From Land to Table"? And how does the Government ensure that its operating plan can strike a balance between the interests of the public and those of the industry?

Madam President, food safety can be depicted as requiring food to comply with mandatory standards in such activities as planting, culture, processing, packaging, storage, transportation, sales and consumption, and there should not be any poisonous or harmful substances that may hurt or threaten the health of the people, nor should there be any risk that may endanger the health of consumers. This concept demonstrates that food safety includes production safety, operation safety, process safety, outcome safety and future safety. This kind of food safety concept of "From Feed to Table" or "From Land to Table", I believe, is not unfamiliar in international works on regulatory control of food safety. Therefore, we think that, no matter we are referring to management at source, operational process or management levels, or even management at the retail level, most of them must be linked to sample inspection or examination on a comprehensive scale. The Government must set up a sound and precise sample inspection and examination network; allocate more resources for boosting the functions of local laboratories; set up control points at different districts, so as to ensure that both food imported into Hong Kong and food products manufactured locally can reach international safety standards. And it should conduct more risk assessment of high-risk food items which have not exceeded the standards. In the meantime, I hope the Government can allocate additional resources to strengthen the functions of local laboratories, and actively study whether Hong Kong can issue certification labels to imported food, thus boosting the confidence of Hong Kong people in consuming such food.

With regard to source management, moreover, we should also strengthen the monitoring of food products which appear to be safe now but could become unsafe in future. According to the information provided by the Hong Kong Vegetable Marketing Organization, 85% of the daily supplies of vegetables in Hong Kong are imported from such districts as northern Guangdong, Pearl River

Delta (PRD) Region and Dongguan, and so on. Recently, there are press reports saying that about 40% of the soils of agricultural land in the PRD Region have been contaminated by heavy metals. As far as we understand it, the work of sample testing the amount of heavy metals contained in vegetables is the responsibility of the Food and Environmental Hygiene Department (FEHD). However, FEHD staff said that so far no sample has been found to contain excessive amounts of heavy metals. Yet, the FEHD may have overlooked the fact that heavy metals will bring about extremely high risks to the physical health of the people and can cause many different kinds of illnesses. For example, if the people have been consuming food containing heavy metals over a long period of time, even if the amount has not exceeded the standard, such heavy metals will accumulate inside the body and lead to all kinds of illnesses, such as cancer or impairment of the kidneys or the nerve system. As the gatekeeper for the health of the people, the FEHD should take a proactive approach in intercepting such food at source which may bring chronic risks to the people in future. Apart from stepping up the sample testing operations, the FEHD may, when appropriate, even stop the importation of food which cannot meet the required standards, so as to perfect food safety and create the atmosphere of a healthy city in Hong Kong.

Madam President, Hong Kong is a city that almost entirely relies on the importation of food from foreign countries or the Mainland. So, actually, it is impossible or not cost-effective for us to conduct source monitoring on all kinds of food supplied by various countries and the enormous international food market. Therefore, it is not a good approach to increase the number of inspection visits. As such, it is a more desirable approach for the Government to strive to establish a better notification system with governments of places of origins of our imported food, and reach various agreements with them on the quality of food. We think that we must ensure the information is accurate by maintaining a high degree of transparency of our food notification system, so as to achieve the purpose of maintaining effective source management. We hope that, through sample testing, the Government can assess whether the supplier countries have lived up to their commitment of operating in compliance with safety standards, and whenever necessary, it may take the initiative of exercising the rights granted under the agreements by refusing the importation of food not meeting the standards; and a complete ban may even be imposed on the importation of such food. We think that only by doing so can we implement effective source management.

With these remarks, Madam President, I support the original motion and the amendment.

**MR ALAN LEONG** (in Cantonese): Madam President, during the summer that has just passed, Hong Kong was caught in a spate of food scare incidents. When housewives went to buy food from the market, they could not buy pork for the reason of alleged *Streptococcus suis* infection. Nor could they buy fish due to the possible risk of malachite green and *Vibrio Cholerae* infection. What has made us worry most is that we could eat by mistake chickens, ducks, and geese which might have been infected with avian flu, or the O-157 beef which can easily be found in the market, or the vegetables which may contain excessive pesticide residue. All these make us ordinary citizens worry a lot, and we do not know when we might have taken certain food that could make us fall sick, and the situation may even evolve into an epidemic beyond our control.

The people are particularly disturbed by the slow reaction of the Government of the Hong Kong Special Administrative Region (SAR), resulting in a time lag in obtaining the latest information. In grasping such information as the epidemic outbreak in Sichuan, the recall of pork in Shenzhen and the suspension of export of harmful fish by certain provinces and cities, the Food and Environmental Hygiene Department (FEHD) learned of such news from the newspapers, not through the channel of the notification mechanism between Hong Kong and the Mainland. Malachite green has long been put on the ban lists by such countries as Canada, European countries, the United States, Korea and Japan, and so on. Even the Mainland already banned the use of it three years ago. When several countries had detected malachite green on fish exported from China in June, Hong Kong, being a cosmopolitan city, was surprisingly so insensitive to such information easily available from news reports or Internet search engines. It was not until August that Hong Kong started to realize that it should enact legislation to ban the use of malachite green.

Madam President, in the face of rapid development in biochemistry and the frequent emergence of new banned drugs, the assurance of food safety cannot be achieved by just relying on passively stopping the importation of dangerous foods or stepping up punishment. Instead, we should adopt the strategy of monitoring "From Land to Table", that is, we must formulate quality standards and enforce strict monitoring of the various work processes such as the use of

pesticides, feedstuffs, production, processing, packaging, sales and distribution, and so on, and that attention should be paid to the latest development in food science, so as to update our safety standards. Whenever incidents have occurred in places of origin, the Government should keep a watch on the development of events, so that it can deal with any contingencies that may arise. Instead of blindly following the trend commonly adopted by different countries in delegating all food safety responsibility to a centralized policy-making department, the newly established food safety framework in the SAR should work towards concurrently meeting two major requirements, namely, adequate access to information and clear division of labour.

In fact, centralization does not necessarily mean that one single department should take up all the responsibility in this regard. For example, in the United States, apart from the Food and Drug Administration (FDA), there are many other agencies responsible for food safety testing and checking at the federal level as well as in different states and districts. In the United States, the President's Council on Food Safety is tasked with the responsibility of co-ordinating the work of different departments and it governs different categories of food products or such businesses in different geographical districts. So there is absolutely no overlapping of responsibility. As such, in spite of such meticulous division of labour, centralized management can still be enforced.

Many advanced countries tend to consolidate various food safety bodies into one single food safety department, or alternatively, one single department is charged with the responsibility of formulating food safety policies and then it will delegate the work to other departments for performing actual enforcement duties. For example, in Canada, its health department, Health Canada, is responsible for formulating the standards, whereas its agriculture department (Agriculture and Agri-Food Canada), its fisheries department (Fisheries and Oceans Canada) and its industry department (Industry Canada) would act according to the standards in exercising regulatory control over agricultural food, fishery food and processed food respectively. In Denmark, its agriculture department, its fisheries department and its food department have been merged together to form the Danish Directorate for Food, Agriculture and Fisheries.

Madam President, it is noteworthy that when different countries reform their food safety frameworks, apart from launching initiatives in legislation and

consolidation of departments, they should also strengthen the links between manufacturers and consumers in their respective countries. Food manufacturers are targets of regulatory control, but they can also play the role of demonstrators of good manufacturing procedures as well as providers of information on the latest development in food production. And consumers can also play an equally important role in food safety.

In overseas countries, the cabinet official responsible for food safety would, for either political reasons or respect for stakeholders, set up agricultural and fisheries organizations, consumer organizations as well as a committee consisting of food science academics, so as to comprehensively review and consider whether the risk assessment standards adopted by the food safety department are fair and accurate. Such organizations would also urge the departments concerned to pay attention to the new trends on food safety in society, so as to target strengthened regulatory control measures at high-risk sectors. The FDA in the United States often holds public hearings before implementing new regulations. These practices are worthy examples that Hong Kong may learn to adopt.

Madam President, agricultural and fisheries bodies and consumer organizations in foreign countries are usually significant components in civil societies. In comparison, the agricultural and fisheries industries of Hong Kong have never enjoyed any significant status in our urban economy, whereas non-government consumer organizations are also not at all active. If we want to strengthen the roles of the agricultural and fisheries industries in Hong Kong, the most effective method must be the establishment of a platform to facilitate the participation of the civil society in the policy-making process on food safety, so as to enable local food manufacturers, consumers and food science academics to interact with each other. In this way, they will be able to exert pressure on officials concerned in responding to public demands in respect of food safety, thereby boosting the people's confidence in local quality food products.

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

**MR LEUNG YIU-CHUNG** (in Cantonese): Madam President, earlier on Mr Alan LEONG mentioned the headache he had in shopping for food in the market. I believe many of our friends having the genuine need of buying food in the

market would share his feelings. When they buy fish, they fear that the fish may contain ciguatoxin or malachite green. When they buy vegetables, they fear that they may contain some pesticide residues. These problems really make many people, not just housewives, have such worries, as long as they have to do the shopping in the market.

Indeed, this problem must be solved. But the question of how this can be solved does pose a very major problem. Why is it a major problem? It is because, according to the Hong Kong Annual Report, about \$50 billion of food is imported into Hong Kong annually. With such an astronomical figure, it is not easy to handle the issue properly. For this reason, the Chief Executive has proposed in the policy address of this year that certain functions of the Agriculture, Fisheries and Conservation Department (AFCD) and the Food and Environmental Hygiene Department (FEHD) will be consolidated to form a new Food Safety, Inspection and Quarantine Department and a centre for food safety, and it is proposed that such measures will be implemented in April 2006. This is a policy direction to which we agree, but how the policies can be effectively implemented remains the most significant problem.

Madam President, if we want to effectively ensure food safety, one of the possible approaches is to have a good quarantine system. As far as what we have seen, in the sampling inspection of vegetables, the Government had on average sampling inspected 0.76 samples per truck in 2000, whereas in 2004 the figure was increased to 1.47 samples. In this aspect, the Government in fact is also aware of the significance of quarantine. That explains why it had stepped up its efforts in this regard. I am not sure whether the increase in the number of samples in such inspections would entail a substantial increase in manpower. If it really calls for a substantial increase in manpower, then the Government really needs to think about the issue carefully, that is, we cannot limit the scale of our work by the resources available. If it is really necessary to do certain work, then we must allocate the required resources for the purpose.

Apart from the significant work of quarantine, I think another aspect of work is also crucial, that is, the effective enforcement of the regulatory control and management of the food tracking system. Take the ciguatera poisoning incident as an example. In December 2004, the Government said that a Code of Practice would be introduced for voluntary compliance by the industry. The Code includes the declaration of fish orders to the FEHD and the proper



record-keeping of sources of sea fish, suppliers and retailers, and so on. Unfortunately, during the first six months of 2005, 33 cases of suspected ciguatera poisoning had occurred, in which information on many suppliers and retailers were unavailable. This has substantially aggravated the difficulties in tracking down the sources of problem fish, thus rendering the Government unable to identify the sources, nor could it tackle the problem or co-operate effectively with the local districts or governments. So the problem continues to exist. Therefore, it is very important to seriously carry out work in this regard. After the establishment of the quarantine centre, the Government should study how to strengthen its work in this regard. Otherwise, if we cannot track down the sources effectively when a problem is identified, then all we can do is nothing but adopt the approach of "treating the head when there is a headache, and curing the leg when there is some leg pain in it". This may not be effective.

Earlier on, an Honourable colleague mentioned that the malachite green incident had illustrated the existence of several problems. First, before the outbreak of the incident, the Government had not made reference to the practices adopted in the Mainland as well as other countries. When malachite green had already been listed as a harmful substance by other places, Hong Kong still did not take the same measure. It was not until other countries had encountered the problem that we started to realize, with hindsight, the existence of the problem and took action to deal with it. Why should we lag behind others? If we cannot identify the root of this problem, what we are doing may not be effective at all. Therefore, I think the Government must make improvement in this regard.

Another aspect is even more important, that is, the Government is now putting the majority of the blame on the traders and retailers while giving them no support. On the one hand, the traders and retailers may not be able to tackle the problem, and on the other, it is also unfair to them. Take the malachite green incident as an example. The fish traders and stalls had suffered great losses when the Government implemented the ban on malachite green nearly overnight without giving any prior notice. They did not know the existence of such problems beforehand. Prior to this, the Government had not asked them to pay special attention to such a problem. But all of a sudden, they were notified that they could not sell such fish anymore, and that they had to immediately destroy their stock of such fish. With no compensation or arrangement whatsoever, they suffered enormous losses.

I think the Government has adopted an inappropriate course of action. So they must pay more attention to this. They simply cannot shift all the blame to others and then just sit back with folded arms — just couldn't care less, no commitment and no involvement at all. I think this approach is absolutely unreasonable.

Later, the Government introduced the Harmful Substance in Food (Amendment) Regulation 2005, which stipulates that retailers have to prove their innocence if they are found to be selling products containing malachite green; otherwise, they will be prosecuted.

This is a disturbing approach. Madam President, I am not sure whether you have noticed that, earlier on when everybody was talking about malachite green, the Government said that they would identify some fish farms for importing fish after confirming their safety standards. However, as we all know now, the first draft of the list of fish farms presented by the Government was full of errors. This has become the laughing stock. The list of government approved fish farms on the Mainland obtained by the Government contained some farms that were no longer in existence — just a piece of desolate land with no fish ponds. But they were still included on the list.

While even the Government has encountered difficulties in doing this, why do fish traders and retailers have to do it? Why does the Government not take up the responsibility? I really feel that this is most unfair. Therefore, when the Government has decided to implement these measures, it must understand that the ordinary citizens have only limited resources and abilities. The Government simply cannot ask them to shoulder all the responsibilities as soon as the relevant legislation has been enacted. The Government should shoulder a greater share of the responsibilities and provide the traders and retailers with support. Otherwise, apart from making the traders and retailers lose all their money, this is also unfavourable to the people.

Madam President, I so submit.

**MS AUDREY EU** (in Cantonese): Madam President, normally if I find that my opinions are similar to the mainstream view, then I would choose not to speak because it would be unnecessary and also I do not wish to delay the time for everyone to go home. However, when the Secretary last came to the Legislative Council to attend the debate on the policy address, I noticed that he

had been very meticulous in doing some counting, to see how many Members had spoken and he held that those who had not spoken were not concerned about his policy portfolio.

Therefore, Madam President, today, I have to tell the Secretary that I am also very concerned about food safety. Of course, it is because food safety is a major issue that has a bearing on the health of the people, and since many incidents have happened in Hong Kong this year, many Honourable colleagues have discussed a lot on this issue. This point also reflects that the food safety problem on the Mainland has become very serious now. We have seen a lot of news reports over the television on some extremely dirty bean curd factories or soy sauce plants, and so on. So when we are shopping for some canned food, we are often at a loss as to what to do, nor are we sure whether we should buy certain fermented bean curds or canned foods. Besides, certain processed food or those foods with colouring or braising sauce foods also make us worry a lot.

The Government's performance in dealing with these incidents has been really poor — hesitant and undecided. The Government now proposes to reorganize the Agriculture, Fisheries and Conservation Department (AFCD) and the Food and Environmental Hygiene Department (FEHD), so as to strengthen food safety regulation. The Government also proposes to act in accordance with the concept of "From Feed to Table" to establish a food-chain management system, so as to remedy the situation. Madam President, this move should merit our support. However, in the "From Feed to Table" food chain, only the smallest and last part falls within the Hong Kong territory. Therefore, Hong Kong must establish a strict mechanism for implementing cross-boundary quarantine control and sampling inspection at the retail level, in order to do the gate-keeping work properly.

In fact, it is very difficult to implement source monitoring in many places. But Hong Kong's situation is rather unique because most of our foods are imported from the Mainland, and we have the co-operation with the Mainland in many different aspects. As such, the authorities can really implement source monitoring. Of course, it is necessary for the reorganized department to enhance the notification mechanism with the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ). But notification alone is insufficient. Earlier on, the press reported that — I believe the Secretary must have a good memory of this — among the 18 designated fish farms for supplying

freshwater fish to Hong Kong, some of them surprisingly had been left abandoned or disqualified for exporting fish out of China for a long time. Upon learning about this news, we simply did not know how we should react. Therefore, the Government cannot simply act passively by waiting for notification by the Mainland. Instead, the Government should take the initiative of negotiating for the right to participate in drawing up the list of designated mainland suppliers for food exports to Hong Kong, and in the meantime, the Government should dispatch staff to the Mainland to monitor major suppliers. Most important of all, Hong Kong should have the power to ban the importation of "problem food" into Hong Kong, and that such decisions should not carry any political consideration.

Presently, many chain-stores which use low prices as its major attraction have emerged in the market. These stores specialize in selling vegetables, fruits and foodstuffs imported from the Mainland. However, the hygiene conditions of such stores are usually quite bad. In addition, it seems that the foods offered by such stores are not subject to any regulatory control. I hope the authorities can make more inspection visits to them, so as to protect the health of the people, and consideration should be given to imposing restrictions on or exercising regulatory control over parallel imported foods from unknown sources. Otherwise, if we cannot ascertain the sources of the food, there is no way for us to implement source monitoring.

Some Honourable colleagues mentioned the FDA of the United States. In fact, there are two points we can learn from it. First, the distinction between food and medicines has become rather obscure now. Chinese medicine practitioners often say, "Medicines and food share the same origin." In addition to fish, shrimps, crabs, chickens, cows and pigs (which we often mention) as well as preserved eggs (which we have mentioned today), all kinds of medicines and health foods should all be subject to regulatory control. Last year, we enacted the Undesirable Medical Advertisements Ordinance to govern the claims made by certain health foods in their advertisements, and we shall make further efforts to strengthen the governing of reasonable and correct direction of future development.

Besides, what we can learn from the FDA is its public education. If we visit its website, we will find that it is grossly different from other ordinary government websites. It attaches great significance to its communication with the public. There is even a children version, which can attract the children into

surfing the contents on its website on the one hand, while making them learn food safety knowledge on the other. And members of the public may also report on problem food products through the Internet.

Finally, I would like to say a few brief words on the amendment moved by the Liberal Party. In fact, many Honourable colleagues have spoken on why they could not support Mr Tommy CHEUNG's amendment. Strengthening food safety would really entail the introduction of some additional services. Therefore, it is understandable that additional manpower will have to be engaged. So I cannot support Mr Tommy CHEUNG's amendment. However, Madam President, I would like to seek a clarification on this: In the paper provided by the Government, we have seen for the moment the proposal of a one-off creation of four directorate posts. Actually, apart from these four posts, how many additional officers would be required and what kinds of work would they be doing? I hope the Government can provide us with more detailed information for consideration. Besides, this also reflects that the majority of Members of the Legislative Council in 2002, in which I was not included, supported the Government in implementing the Accountability System for Principal Officials in an extremely rushed manner. In fact, I had told the former Secretary that I thought it was extremely unfair because the division of labour among the different bureaux was absolutely uneven. For example, the policy portfolio of the Health, Welfare and Food Bureau is exceedingly large, and now it even seeks to create four additional posts. There are also talks about the surge of SARS and avian flu. And now we also have the issue of food safety. Therefore, Madam President, I think another point that warrants our discussion is the implementation of the Accountability System and the division of labour, which is where the greatest problem lies.

With these remarks, Madam President, I support the original motion, but oppose the amendment.

**MR TAM YIU-CHUNG** (in Cantonese): Madam President, food safety is the most basic condition for protecting the health and life of the people. Therefore, the work of the Secretary for Health, Welfare and Food is very important. As an ancient Chinese saying goes, "We have harsh demands on you just because we have great love for you." As such, the Secretary has always been the target of public criticism on the issue of food safety.

Recently, the Government has agreed to the DAB's suggestion and announced that the food safety regulatory framework will be restructured with the addition of a permanent secretary specially tasked with the responsibility of supervising food safety. With regard to the executive departments, the responsibility of supervising food safety was shared between the Food and Environmental Hygiene Department and the Agriculture, Fisheries and Conservation Department in the past. Now, all such responsibilities will be consolidated and taken over by the newly created Food Safety, Inspection and Quarantine Department. During the past few months, the Government has kept intensifying the notification system between Hong Kong and Guangdong, and Secretary Dr York CHOW has also gone to the Mainland in person to sign a new co-operation agreement with the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ). Doubtless the Government attaches great significance to food safety. However, this policy area does carry far-reaching responsibilities, and there are a lot of inadequacies that call for improvement.

The food safety situation in Hong Kong is facing two major threats: The first one is originated from epidemics, and the other one is from human factors. Regarding epidemics, I think two points warrant the attention of the Government. The first point is, in disseminating any information to the public, the messages must be clear. Regardless of the comments made on either the use of malachite green in food fish during the period of adjournment of meetings of this Council, or those remarks made on the recent avian flu incident, including the suggestions of closing all boundary control points or the need for stocking the relevant medicines, and so on, the responsible officials have expressed their opinions in a less than cautious manner; contradicted earlier remarks; and expressed conflicting views, thus causing unnecessary fear and concern among the people. The Government should have appointed a designated spokesman in releasing messages on food safety, and the wordings used should have been carefully deliberated beforehand with consistent standpoints, thereby maintaining the confidence of the people and heightening their awareness in this regard in an appropriate manner.

Secondly, epidemic precautions should be comprehensively co-ordinated as packaged measures. For example, the Government intends to withdraw chicken farming licences, so as to reduce the population of poultry kept in Hong

Kong. However, people engaged in chicken farming may lose their jobs, lose the means of a living. How can they earn their living? A lump-sum compensation payment can ease their temporary financial problem, but how can they make a living afterwards? In order to protect public and food safety, the Government must provide sufficient training and employment opportunities to people currently working in the affected trades, so as to help them switch to other professions. Otherwise, people of the industry will continue adopting a wait-and-see attitude.

With regard to the prevention of food poisoning caused by human factors, the Government should first of all start monitoring food at source. The Government has been too passive in the existing food monitoring system. Although over 90% of food in Hong Kong is imported, the Government has never had the mentality of monitoring food at source. Basically, the Government has all along relied entirely on the certification documents issued by health authorities of the respective places of origin. Locally, it has just conducted sampling inspection at the consumer level. So far, with the exception of vegetables, pork and chickens from the Mainland, no monitoring at source has been conducted for most of other imported food and food products.

The DAB thinks that the Government should expeditiously perfect the monitoring of food at source. For example, with regard to fish for human consumption, the Government should step up its co-operation with mainland authorities for the establishment of a comprehensive and thorough health and safety monitoring system, which will enforce comprehensive, strict and scientific monitoring of food from the source of production to transportation to Hong Kong. This would mean striving for the involvement of Hong Kong hygiene and quality control officials in monitoring all the processes, from breeding, production, processing to transportation for export; or for the compliance with Hong Kong's food hygiene standards in all these processes. For any production bases with huge quantity of food exports to Hong Kong, the Government should dispatch relevant staff to inspect them regularly. On the other hand, the Government should extend the present compulsory regulatory scheme of coral fish to all food fish, specifying that all importers must provide details on the places of origin and import channels. Vendors of all levels must keep all relevant invoices to establish a "tracking system" for the sales network of all kinds of food fish, thereby facilitating the effective operation of monitoring of food at source.

With the establishment of these mechanisms, it will help Hong Kong's major food supplying sources, especially the Mainland, to establish a better production and sales mechanism, so as to make good use of market competition and the safeguard of goodwill to maintain the impetus of winning commendations of consumers. If these measures are adopted, the vendors will not dare to ignore the interests of consumers while attempting to maximize their profits. On the contrary, they will step up their self-discipline and raise food safety standards. Only by doing so can we fundamentally enhance the food safety of Hong Kong people, and this will indirectly assist the Mainland in enhancing market regularization.

Locally, the Government should make great efforts in promoting the development of the plantation industry and the fish farming industry. For example, regarding the fish farming industry, the Government should extend the existing Accredited Farm Scheme to the local fish farming industry, so as to facilitate the establishment of good brand names. During our last visit to Guangzhou, when DAB Chairman MA Lik expressed our concern about food safety to Secretary ZHANG Dejiang, Mr ZHANG spoke in a firm tone that they would definitely work hard to ensure that Hong Kong compatriots could enjoy eating with a relaxed mind. Therefore, we hope the Government can strive to co-operate with the mainland authorities in doing a good job of ensuring food safety.

With these remarks, I support the original motion.

**MR BERNARD CHAN:** Madam President, food safety is a fundamental part of public health and therefore one of the most basic and important responsibilities of the Government.

In the last few months alone, we have had scares about the safety of pork, chicken and fish.

As well as threatening residents' well-being, this sort of thing can do long-term damage to Hong Kong's international reputation.

The Government has announced some serious measures to address this threat. It will merge various functions from the Agriculture, Fisheries and Conservation Department and the Food and Environmental Hygiene Department, and create a new Food Safety, Inspection and Quarantine Department.



The Government is also enhancing its ability to monitor food imported from the Mainland. As part of this, Hong Kong officials will operate on the Mainland to monitor the farms and other facilities. This is a practical example of co-operation and good communication bringing benefits to both sides.

The success of the Government's action will be obvious to everyone. If the number of food scares goes down, we can give our officials credit for doing a good job. If we carry on having problems with food safety, we will know that we need to do more.

Madam President, so much has been said in this Council this evening, I think it is about time for us to wrap up this debate, and let our Honourable health minister go home, enjoy a good decent meal, rest up and stay healthy to deal with all the new challenges he has to face the following day.

Madam President, I fully support the Government in this area. Thank you.

**MR LI KWOK-YING** (in Cantonese): Madam President, my friends and I threw a feast of hairy crabs when such crabs were in season earlier. I have no knowledge about hairy crabs. But in view of the fact that they are allowed to be imported into Hong Kong and there is so much publicity about them, I believe they meet the food safety standard and their quality is guaranteed. So, I feasted with an ease of mind. However, after having read a newspaper report a few days ago, I found that the sale of hairy crabs is not subject to any regulation in Hong Kong because even a cell phone shop can set up a sideline business of selling such crabs by placing a refrigerator at the shop front. Finding that the crabs they bought have perished, the purchasers questioned whether these shops were selling such crabs without a licence.

Are cell phone shops really selling hairy crabs without a licence? In other words, is it necessary to get a licence for selling such crabs? The answer must be shocking. According to a newspaper report, the Food and Environmental Hygiene Department (FEHD) said that shops selling hairy crabs are not required to get a licence or permit for running such a business under the existing legislation. That means everyone can sell hairy crabs, no matter he is a store-keeper or owner of a newspaper stall or cell phone shop.

It is even more shocking that both the source and method of storage of hairy crabs are not subject to any legislative control. A shop selling such crabs in a bamboo basket is not regarded as violating the law. Even though the shop is equipped with a refrigerator, the quality of the crabs cannot be guaranteed because they may deteriorate if the door of the refrigerator is not properly closed or the temperature is not maintained at a suitable level for cold storage. On the other hand, as monitoring is almost nil, consumers can hardly know the source of such crabs. Consequently they will never know whether the crabs are living or dead, young or old, or whether they are smuggled into Hong Kong.

Perhaps in the Administration's opinion, hairy crabs are seasonal food which is not available all the year round, shops are therefore allowed to sell them without a licence. However, as hairy crabs are a kind of aquatic product, they must be handled properly just like any other chilled foods. Moreover, as hairy crabs are imported from the Mainland, they will perish easily due to improper handling in storage or transit. Furthermore, we have often heard that some unscrupulous vendors would add some harmful substances such as antibiotics or even arsenic to the crabs. In view of this, we have to look squarely at the import and sale of hairy crabs. The Administration should not, for the sake of administrative convenience and considering that hairy crabs are seasonal food, refuse to impose regulation because this will enable the unscrupulous businessmen to take advantage of the opportunity and smuggle hairy crabs for sale. Or they just ignore safety and hygiene standard when selling the crabs, thus jeopardizing public health.

In fact, the hairy crab incident is just like the tip of the iceberg in relation to the spate of food safety problems in Hong Kong. The malachite green incidents that happened earlier have reflected that there is a lack of consistent food safety standard in Hong Kong which has lagged much behind other regions in the world in terms of food monitoring. If we look up the information, we will find that the authorities of the United Kingdom discovered malachite green in salmon in June this year and notified other European Union countries immediately. Afterwards, malachite green in fishes was tested by the authorities of Beijing and Shanghai. On 26 July, South Korea ordered the recall and destruction of all Chinese eels which contained malachite green.

However, when the SAR Government was criticized of being too slow in responding to the incidents relating to malachite green, Mr Gregory LEUNG, the

Director of FEHD defended that they had already begun to collect information on malachite green right after reading the news on 26 July. Obviously, the Director's explanation reflects that the so-called expeditious response and the implementation of a series of measures have lagged behind other regions from the very beginning. Worse still, since malachite green is not subject to any legislative control, the Government, after such an incident has occurred, hastened to amend the legislation in order to include malachite green as a harmful food substance subject to regulation.

The reason is that the SAR Government has not adopted a co-ordinated approach and the policy-making of several departments overlap with each other. Apart from the FEHD and the Agriculture, Fisheries and Conservation Department, the Centre for Health Protection under the Department of Health and even the Customs and Excise Department responsible for interception of goods all shoulder enforcement responsibilities. However, they have not allocated any resources to the study of food safety. They merely follow international standards or standards of foreign countries. All they do is just some patch-up job. Under a passive surveillance system, they rely on the certificates on places of origin and ignore the importance of regulation of imported foods. I fully understand that our daily necessities rely on imports from other countries, particularly the Mainland. Perhaps due to other reasons, the SAR Government cannot be too picky about the food suppliers in order to ensure sufficient supplies. However, a spate of food scares such as contaminated vegetables and fishes have occurred in recent years, and as I just mentioned, all kinds of foodstuffs are covered. In order to protect public health, adequate communication between the Government and the mainland authorities is a must. More importantly, the Government should study the standard of food safety with the concerted efforts of local academics, the industry and the consumers. In particular, as Chinese food culture is unique, the quantities and categories of harmful substances contained in foods may also differ, it is necessary for the authorities to formulate a set of food safety standards to meet the needs of Hong Kong people.

No matter it is for the sake of making expeditious response or mending the fold after the sheep has gone, the SAR Government should look squarely at the importance of food safety and formulate a set of food safety standards suitable for the local situation in order to protect public health.

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

**MISS CHAN YUEN-HAN** (in Cantonese): Madam President, I believe that just now, a number of colleagues have already discussed a lot concerning the regulation of foods imported into Hong Kong from the Mainland or other areas. As a matter of fact, our foods are mainly imported from other places. However, our general standard under the regulatory system is rather low. For instance, if the malachite green incident had never happened, we would not have noticed that such situation has long been existing in other places. Some people even tease us that our food safety standard is dispensable, which is even more backward than the neighbouring places like Japan. I think that we really have to put more efforts in this regard. It was mentioned by a number of colleagues earlier, and I also share this view.

After the series of incidents, the Government has set up the Food Safety, Inspection and Quarantine Department, and also the Centre for Food Safety. I think that these are appropriate moves, albeit belated. If not for the spate of incidents, it appeared that the Government would not have been so determined in stepping up regulation of food safety.

Madam President, on such matters, as Mr LI Kwok-ying just said, we have to understand that our foods are largely imported from other places and thus we have to rely on others. Very often, we will request the Government to monitor foods at source. Of course, if the Government is to achieve this, it has to deal with cultural differences among different places and even different countries, and there will always be difficulties. Nonetheless, I think that since there are cities similar to Hong Kong in this world, when others have already set their own standards, I very much hope that the Government can do a good job in this regard.

However, while we are discussing this topic, another discussion has been induced locally. However, it is a pity that a wide discussion in the community has not been aroused. We see that there are indeed numerous types of food consumed in Hong Kong each year. If we pay more attention to the local situation, we will find that there is also local supply of such food. For instance, we have more than 40 organic farms. We also have not a few vegetable farmers. For chickens, which are the concern of Mr WONG Yung-kan, there is also local supply. Recently, we have the supply of Paris chickens. Locally, we also have the supply of quality chickens like Kamei chickens and Tai Wo chickens. In regard to pigs, some of them is also supplied locally. In other words, when

we say that we have to rely on others, there will have regulatory difficulties. Thus, we have to do well in this regard, and this is a must. On the other hand, although I see that certain kinds of food are also supplied locally, the Government is often oblivious to the related problems, and scarcely shows concern for the situation.

Madam President, since we are concerned about food products, I frequently travelled to the New Territories recently. I do not intend to replace the position of Mr WONG Yung-kan, but I just hope that the fishermen and vegetable farmers concerned know that we also care about local culture, economy, creative industries, and care very much about their employment opportunities. Mr WONG Yung-kan, they asked me one question, and that is: Does the Government care about their development? They said that they had indeed made not a few achievements, such as cultivating white bitter gourds, beautiful hairy gourds and seedless water melons. They have been putting enormous efforts in doing such things. I know some people among them, and find out that they have participated in the Agricultural Land Rehabilitation Scheme (ALRS). Since the employment opportunities in 1997 were especially scarce, this group of urban dwellers were thus attracted to work in the New Territories. At first, they even felt that they were being treated as honoured guests.

On one stormy day — there were heavy downpours on that day in Hong Kong, and one person died in an accident — I went to the New Territories. I arrived at a farm under the ALRS. When I stood under the mat-awning for gourds in that farm, I found that I was shielded from rain or wind. However, when I walked into the farm, I was completely drenched after walking a short distance. On the contrary, I was completely fine when standing under the mat-awning for gourds. Those people engaging in organic farming told me that they were promoting the ALRS which was subvented by the Government. In fact, this Scheme is not bad. Originally, they were totally green to growing vegetables and doing related work. But now, they have already mastered the skills. However, they felt being cheated by the Government. It is because when they first came to the New Territories for agricultural land rehabilitation, they were told that organic vegetables and produces with special features would be cultivated. But at present, no one cares about them. For example, they very much hope that the produces that they cultivated can be introduced to the market and help improve the sluggish sale situation. And it seemed that the Government has also done something. Afterwards, I contacted Mrs Carrie

YAU. However, her reply to me is tantamount to giving no reply at all. Later on, I had a meeting with some vegetable farmers in Kadoorie Farm. I found that many vegetable farmers are new farmers. Similar to those who promoted the farming industry and produces in the early years in Taiwan, they are young and knowledgeable. In fact, this kind of vegetable farmers are indeed those whom the Government has to support nowadays.

The work of vegetable farmers can be divided into organic cultivation and non-organic cultivation. They said that their request was very simple. There is the Vegetable Marketing Organization (VMO) in Hong Kong. Once the vegetables, no matter local vegetables or mainland vegetables, are sent to the VMO, the originally well-priced produces will become especially cheap due to keen competition. One may say that it is already lucky if these vegetables can merely be placed together with other produces for sale. They said that they had already relayed this problem to the Government a long time ago. This new group of young to middle-aged farmers with aspirations was humbugged by the Government into joining the ALRS in the New Territories. I hope that the Government can introduce a sustainable policy to support our production of green food.

It is undeniable that we depend mainly on importation from other places for our foods. Nevertheless, since there is a group of people among us who were willing to farm on their own, or a group of new farmers similar to those in Tainan back then have emerged nowadays, why do we not consider the development in that direction? At present, the good quality of Taiwan fruit is well-known. When we see the development trends of the two places, and when we see that fruit can almost serve as an ambassador, we have to question ourselves. In fact, Hong Kong has such conditions. Why are we not promoting the development in this direction? I thus asked the Agriculture, Fisheries and Conservation Department, and they explained to me why there was the ALRS. They told me that there was a lot of vacant agricultural land which needed cultivation, and this would be beneficial to our entire ecological environment.

Madam President, for the general public, especially those whose bodies have some minor problems, they would want to eat healthy food. There is such a demand in the market. Of course, if the healthy food is highly priced, it will not be viable. However, if the Government can formulate a policy on green food in respect of our foods, I believe this can definitely create new horizons in Hong

Kong. I am not naively saying that we have to replace other products, including products imported from the Mainland, with local products. But at least we have to give local farmers a chance and let them walk their own chosen path.

It actually does not begin today that our friends chose to walk this path of cultivating green food. They have already walked for a long period of time. At the present moment while Hong Kong people are concerned about the standard of food, why does the Government not consider introducing related policies? Why does the VMO still insist on placing local vegetables together with mainland or foreign vegetables? Why does the Government not conduct consultation and listen to the views concerned?

Madam President, recently, I talked to them again in the New Territories and they wanted very much to negotiate with the Government. They said they did not want to resort to such actions as taking to the streets, but just wanted to fight for a chance to talk to the authorities about the development of local food products. I hope that the Secretary can really grant their wish. If the Secretary is willing to do that, I believe Mr WONG Yung-kan and us are also prepared to take up the liaison work for them.

Thank you, Madam President.

**MR PATRICK LAU** (in Cantonese): Madam President, it is reported in the newspaper today that the result of food monitoring conducted by Guangdong Province over the past five years found that one fifth of vegetables and fruit had residues of pesticide, the amount of food additives in pickles and preserved fruit was very much higher than the standard, meat and seafood was easily contaminated, and the lead content of preserved eggs was even eight times higher than the state standard and consumption of which for a long period of time might cause cancer. In Guangdong Province alone this year, there were 18 cases of serious food poisoning, in which 562 people suffered from food poisoning and 19 people died. The food contamination problem in the Mainland is worrying indeed.

Many Members have also mentioned that as the saying goes, "bread is the staff of life". Since food products in Hong Kong are mainly imported from the Mainland, in order to prevent contaminated foods from being imported into Hong Kong which may result in any disaster, the Government should formulate a

comprehensive food safety regulatory and notification system as soon as possible. It will be desirable that there is monitoring of foods at source so as to prevent any illnesses caused by contaminated foods. In my opinion, any attempt to allocate more resources or redeploy resources should aim at protecting the health of the public which is the most important premise.

I agree that through food safety notification, the notification systems established with mutual trust with the Mainland and other places of food supply can reduce the impact of contaminated foods on human health. However, the most effective way of prevention is monitoring of foods at source. Therefore, I support the co-operation of Hong Kong and the Mainland in stepping up monitoring of foods at source. Nevertheless, I worry that there are certain difficulties in the monitoring of foods from other countries at source. Do we have to send people to each country to conduct inspections? This move is not practicable, and thus we have to study this matter in depth.

We may consider other ways of monitoring and make reference to other countries. For example, Japan has formulated laws on proper labelling which provide that all imported foods must carry clear labels with information on the ingredients, contents, food additives, and so on. Besides, there will be testing of foods newly imported in order to ensure that the information on the labels is correct. And food products must pass the safety test before they can be put on sale in the market. For those food products not newly imported, there will be a stringent sampling inspection mechanism to ensure food safety. In formulating the laws, we should make reference to the different practices of different countries, for example, standards of the United Nations and the rules of the food safety administration of the United States. We should choose those rules that are applicable to Hong Kong so as to solve the food safety problem in the long run.

In my opinion, when enforcing the laws concerned, we should seriously combat the illegal smuggling of foods. We should particularly strengthen co-operation with the Mainland, prevent lawbreakers from evading the law and bringing contaminated foods into Hong Kong, thus affecting the health of the public.

The laws on food labelling only provide for monitoring of packaged food products. As regards fresh foods, especially primary food products like poultry and livestock, fish and vegetables which are needed every day, I reckon that the existing test and inspection system should be strengthened, and the samples for random inspection should be increased. Besides, food tests should also be



conducted at border control points, and food products could be imported only if they pass the test on-site.

Madam President, the avian flu is rapidly spreading globally and death cases have been reported from time to time. Its main transmission media are birds and poultry. It is even reported that consuming not fully cooked eggs may also contract avian flu. Since most of the live poultry and eggs sold in Hong Kong come from the Mainland, in case there is an outbreak of avian flu in any mainland province or city, particularly in close-by Guangdong Province, Hong Kong will surely be affected. Hence, we should not overlook this.

In order to prevent any local outbreak of avian flu, apart from strengthening monitoring of migratory birds in the conservation areas and reducing the number of wild birds inhabiting in residential areas, the most important point is to properly deal with tens of thousands of poultry imported from the Mainland every day, so as to ensure that they do not carry or spread any viruses. Therefore, a stringent sampling inspection mechanism is very important. I think the Government should step up co-operation with universities in studying and introducing new technologies to enhance the testing standard, to the effect that the quickly mutating viruses can be dealt with and contracted poultry can be detected promptly and be banned from being imported into Hong Kong.

A stringent mechanism can truly reduce the risk of sick poultry being imported. However, since it is merely sampling inspection, there is no guarantee that it is 100% safe. Thus, I agree that central or regional slaughtering should be implemented as soon as possible so as to reduce the chances of human beings contracting the viruses through contact with live poultry. However, concerning the location of central slaughtering, we should consider from the perspective of overall planning. The location should be far away from residential areas and should avoid causing air pollution. We should also pay special attention to the design of the ventilation system of the building, to make sure that the health of the staff inside and the people in the vicinity will not be affected.

Madam President, as food safety is very important to us, we should immediately start to solve the food contamination problem at source. We must have a comprehensive food safety monitoring mechanism to protect our health and life. Thank you, Madam President.

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

**MR ALBERT CHAN** (in Cantonese): Madam President, regarding food safety, I believe, in view of the current social development, it is the peak of public panic in history. The reason is that problems occur to almost all kinds of food. Previously, a food scare occurred with game. Now the same problem occurs with pork, beef, chickens, vegetables, fish and seafood because they may carry virus and bacteria, prone to causing food poisoning. Moreover, they may contain carcinogenic substances, pesticide and mercury. Problems are too numerous to be mentioned.

Now, wherever people go and whatever food they buy, they are worried and at a loss as to whether the food they purchase are safe for consumption. Sometimes when I chatted with the kaifong, I was told by many housewives that they liked steaming pork with pickle in the past. But now they dare not buy pickle because they do not know what is contained in it. As for many traditional foods, people are panic-stricken when they are mentioned. People really do not know what kind of food is safe. In the past, I liked eating giant grouper. But now I dare not eat much even being invited by some fishermen for I am not sure whether or not the fish contains mercury or any other toxins. In short, I am worried enormously.

In Hong Kong, very often the Government will come to realize the seriousness of a problem only when public health is jeopardized and the symptoms of a disease appear after the people have consumed a certain kind of food. So, there is an urgent need to reform the food regulatory mechanism. Under the prevailing system in Hong Kong, when a government official strives for more resources, he will say that he is responsible for certain duties. But when problems occur, everybody will say that he is not involved in it so as to shift the responsibility onto others. Food safety should involve the responsibilities and division of labour of three departments, namely the Food and Environmental Hygiene Department (FEHD), Agriculture, Fisheries and Conservation Department (AFCD) and the Department of Health. Of course, the Consumer Council may also be partly responsible because it can conduct more inspections of food samples. If more inspections and tests of food samples are conducted and publicity is enhanced so that the food manufacturers, retailers and distributors become more vigilant, there will not be so many food safety problems which may put public health in peril.

Recently, the Government has put forward a specific proposal which is the reorganization of relevant departments. Although we have only one Bureau Director attending the meeting today, I have to express my concerns. Two bureaux including the Health, Welfare and Food Bureau and the Environment, Transport and Works Bureau will be involved in the reorganization. The former oversees the AFCD, the Department of Health and another important department, the FEHD. My prime concern is that once reorganization of some departments is involved, it will be based on the personal opinions of some high-ranking bureaucrats. The structure after reorganization is not necessarily based on careful consideration and comprehensive review. Particularly when directorate posts at D8 level are created, some bureaucrats, for the purpose of building up their own kingdom or influence, will formulate some criteria which are not consistent with institutional reform but cater for the setting up of a new system of their own. As a result, staff of other government departments are on tenterhooks while staff of middle and lower ranks dare not speak out but just suppress their rage. Finally, it leads to a waste of public fund and the reform itself may bring about a more serious disaster. So, although I am not a member of the Health Services Panel, I also hope that members of the Panel will review the system with due care. I express my grave concern about it.

Madam President, another problem is that the differentiation between foods and drugs becomes thinner and thinner. Every time when we read the newspapers, we will see advertisements which claim that some drugs are as effective as a panacea — if this is the case, the first emperor of the Qin Dynasty needed not send a fleet of people to look for a panacea — and those who have consumed it will have an impregnable body stronger than the Protean "Monkey King". Such advertisements even claim that the drugs can cure cancers and senile diseases and stimulate hair growth, not to mention ordinary illnesses. Despite such exaggerated claims on the efficacy of the drugs by such advertisements, the Government imposes no regulatory measures on them. Sometimes, on seeing such advertisements, I have an impulse to buy and try such medicine. But after taking a look at the brand name, I cannot place confidence in it because it is run by an unscrupulous businessman.

So, Madam President, in my opinion, the problem will become very serious if the Government remains to be an on-looker because many people I know have bought these drugs. Furthermore, these drugs are not cheap. A few years ago when a drug of this kind was first marketed, I bought it at less than \$1 per tablet in Canada. But in Hong Kong the price is five or six-fold although

it is merely an ordinary health food. In the supermarkets in the United States and Canada, different kinds of health foods are displayed on shelves, thus providing consumers a variety of choices. And the prices range from CAN\$20 to CAN\$30 per bottle only. But in Hong Kong, the selling price of these drugs may be as much as \$500 per bottle. These drugs, which have been boosted by these advertisements, do not really have an efficacy which is as powerful as claimed.

I do not know whether the Secretary has made any improvement to the regulatory measures on these "panaceas". In my opinion, such advertisements are tantamount to a fraud, particularly the merchants concerned have taken advantage of public concern about health and profited by taking advantage of public panic. These are all unscrupulous businessmen and they are smart. If the Government allows these unscrupulous businessmen to make use of their smartness and take advantage of public panic in order to deceive people, it is a dereliction of duty on the part of the Government. I am sure the Secretary also understands it. I am sure the Secretary will see such advertisements when he glances through the newspapers. I hope he will glance through the newspapers tonight to see whether there are any advertisements by these smart and unscrupulous businessmen. Then I hope he will, with his wisdom, regulate these unscrupulous acts in order to protect the health and wealth of the people. Thank you, Madam President.

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

**MR HOWARD YOUNG** (in Cantonese): Madam President, just now, Mr Tommy CHEUNG exhausted his 10 minutes of speaking time. But I noticed that Mr WONG Yung-kan had asked why Mr Tommy CHEUNG had moved his amendment. Does deployment of resources mean that no additional resources are required? I would like to say a few words on Mr Tommy CHEUNG's amendment to Mr WONG Yung-kan's motion.

I have studied point (f) of the motion very carefully and compared the amendment with the motion on this point in order to find out the difference. In point (f) of the motion, it is said that the Government should devote more resources. Just now, Mr Tommy CHEUNG made it very clear earlier. He agrees that food testing is necessary, particularly more resources, rather than less,

should be devoted to monitoring of foods at source. Also, he has mentioned whether resources for other aspects would be reduced. In my understanding, the amendment hopes that more resources could be devoted to hygiene inspections, including those conducted in the Mainland, where necessary. We very much agree to this. However, as explained by Mr Tommy CHEUNG earlier, if some resources for administrative work are not essential, the Government should first consider whether redeployment of these resources is possible. Resources should be increased if they are found to be inadequate after deployment. This does not violate the principle of resource deployment.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): If not, I will invite Mr WONG Yung-kan to speak on Mr Tommy CHEUNG's amendment.

**MR WONG YUNG-KAN** (in Cantonese): Madam President, I am grateful to Mr Tommy CHEUNG and Mr Howard YOUNG for their elaboration on the amendment. Why point (f) is added in my original motion? This is because if the Government intends to set up a new department but there is a lack of resources, particularly when there is no professional staff to be assigned to the work in relation to food safety, it will be very difficult to achieve the mission of the department. If staff belonging to the general executive grade are assigned the work, they may not have the knowledge to handle it. Even if they do, they may not have the expertise. This precisely explains why there have been so many problems in food safety in the past few years. This in fact is due to a shortage of professionals. From my observation, whenever a problem occurs in the Mainland or in other places, it will be handled immediately by professionals, including the officers in charge in relevant departments and the Bureau Directors responsible for foods and aquatic products respectively. They all have studied relevant subjects relating to aquatic products or agriculture. So, in our opinion, if the Government lacks expertise in this aspect, the newly established Food Safety, Inspection and Quarantine Department is just old wine in a new bottle. It will be just an organization run by laymen. This has been our long-standing prime concern.

Mr Tommy CHEUNG may have some misunderstanding of my motion. When I discussed the matter with him on that day, I explained to him that the purpose of my motion is to urge the authorities to deal with the problem at source. Should the department concerned conduct inspections on local eateries? Regarding the problem of hairy crabs as mentioned by Mr LI Kwok-ying just now, I have been interviewed by the complaint section of a newspaper about why hairy crabs could be sold without labels. These crabs are just stored in a refrigerator at the roadside. They are sold to people even though some are dead or even stink. So, if no one is responsible for conducting random inspections, the Government should at least amend the relevant legislation in order to regulate the sale of hairy crabs. If the legislation is not amended or the problem is not addressed squarely, there will be a very big loophole here. Now, the annual production of hairy crabs is on the rise, particularly in the past couple of years. In view of this, I think the Government should attach greater importance to this area so that the problem can be better handled.

From their speeches, I have noted that Mr Tommy CHEUNG and Mr Howard YOUNG do not oppose dealing with the problem at source. In fact, a dozen of colleagues have spoken today. None of them opposes the idea. Instead, they have also advised that efforts in this area should be strengthened. However, when problems occurred to eels, we found that, according to official figures, more than 90% of live eels are imported from overseas and 90% of roasted eels are imported from the Mainland. These figures clearly show that 90% of eels from both sources have problems. Although problems relating to eels from the Mainland can be handled in a more expeditious way, what can we do about eels from overseas? So, I think the Government should set up a system so that the problem can be better handled.

The Democratic Alliance for the Betterment and Progress of Hong Kong has discussed the amendment proposed by Mr Tommy CHEUNG. Up till now, we maintain that part of his amendment is acceptable and part of it is not. For instance, should the wet markets be exempted from inspections? This is impossible. Regarding inspections, I agree with Mr Tommy CHEUNG that eateries or seafood stalls should not be the targets. Rather, food monitoring should be done at source. In my opinion, this is the right approach. So I support the Government's proposal that seawater be drawn at designated locations or supplied by designated suppliers. I think this is the right approach because at least sample tests will be conducted. I hope Honourable colleagues

will vote of their own free will and I also hope that they will support my original motion. Thank you, Madam President.

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, first of all, I thank Mr WONG Yung-kan for proposing a motion on food safety today.

Food safety has always been an issue of the utmost concern to the people of Hong Kong. In Hong Kong, food safety has all along been regulated in accordance with the risk analysis principles advocated by the Food and Agriculture Organization of the United Nations and the World Health Organization, encompassing intertwining processes of risk assessment, risk management and risk communication.

Risk assessment mainly includes hazard identification (such as biological or chemical agent in food that may affect health), hazard characterization, evaluation of the amount of intake of harmful substances, and risk characterization and evaluation of the effects on public health, with the objective of making decisions on how regulatory measures can be implemented accordingly. Risk management mainly seeks to ensure that all food on sale in the market is wholesome and fit for human consumption. Besides, risk management also covers the handling of food incidents and the contingency measures. Risk communication aims to establish contacts with consumers and the industry through various channels and facilitate communication in respect of information on food safety, such as providing consumers with information on food safety risks of topical concern, holding press conferences and distributing publicity materials directly to the trade, stakeholders and the press, with a view to informing consumers of the associated risk factors and advising them the ways to reduce the risks.

At present, the Food and Environmental Hygiene Department (FEHD) and the Agriculture, Fisheries and Conservation Department (AFCD) share out the responsibilities of managing agriculture and fisheries matters, which include food animals and non-food animals as well as food safety. As both departments are responsible for executing part of the veterinary public health and food safety functions, the allocation of human resources cannot be optimized under the existing structure. Given limited resources and the fact that most of our food come from different countries, the existing regulatory framework can only allow

sampling inspection mainly at the retail level instead of effectively exercising control at source. Judging from latest food safety management concepts, management and control at source is the best way to ensure food safety.

In view of increasing public concern for food safety and the community's expectation for comprehensive regulation of all food sold in Hong Kong to ensure that they are safe and wholesome, we have conducted a comprehensive review of the current surveillance system and regulatory framework.

To pool our resources for more effective control of the whole food supply chain to ensure food safety, we announced to the Legislative Council Panel on Food Safety and Environmental Hygiene on 17 October the decision to reorganize the FEHD and the AFCD. We announced that a new Food Safety, Inspection and Quarantine Department (FSIQD) would be formed, so that all functions concerning food safety, veterinary public health, inspection and quarantine of animals and plants, vegetables, fresh water fish for food purpose, seafood and food products, as well as control over local livestock and poultry farms and mariculture farms, would be transferred from the FEHD and the AFCD to the FSIQD.

A Centre for Food Safety (CFS) will be set up under the FSIQD. We will create a post of Controller, Centre for Food Safety, to oversee the daily operation and management of the CFS, identify objectives and formulate strategies on food safety, and also act as the spokesman on food safety. The Controller must have professional expertise and experience in public health and food safety, and a good rapport with food safety regulatory authorities in the Mainland and overseas to ensure the smooth operation of the CFS. The FSIQD will increase the number of support and professional staff, including veterinarians, medical doctors, various food scientists such as toxicologists and biotechnologists. Under the FSIQD there will be various branches with specific responsibilities to oversee matters related to food safety and veterinary public health.

At the Policy Bureau level, to cope with the enhanced functions in food safety of the newly established FSIQD, it is necessary to strengthen support at the top policy-making level. We will, therefore, create an additional post of Permanent Secretary in the Health, Welfare and Food Bureau (the Bureau), responsible for the management of the newly established FSIQD and the Agriculture, Environmental Hygiene and Conservation Department (AEHCD) as



well as the Government Laboratory. We expect that the new arrangements will help the Bureau to more effectively monitor the existing legislation relating to food safety comprehensively and carry out preparatory work for reviewing and improving the regulatory legislation.

I very much agree with Mr WONG that a review of the existing legislation is necessary, and I am glad to tell Members that the Government is in the course of reviewing various ordinances. For example, as the existing legislation regulating animals and birds was enacted several decades ago, many provisions contained therein cannot meet the needs of present-day society. There is, therefore, a need to review and update the existing regulatory regime to see whether it should also cover live fish, fishery products, other animals for food purposes such as amphibians, animal products, fodder used for animals and birds, and so on. Moreover, in view of the malachite green incident, we decided to look into ways to enhance the existing regulatory regime for fishery products in order to cope with the latest need for fishery safety.

We are also planning to update the regulatory measures in legislation relating to poultry eggs in accordance with the latest guidelines issued by the World Organization for Animal Health on prevention and control of avian influenza. Although there is no evidence showing that eggs are a means of human infection of avian flu, the World Organization for Animal Health has still expressed concern about this. We will also review the Harmful Substances in Food Regulation to bring it in line with international food safety standards, such as the latest development in the Codex Alimentarius Commission or in European countries and the United States.

After the establishment of the new framework, we will further improve the regulation of food safety in Hong Kong. For instance, we will implement measures to step up monitoring at source. We will provide additional manpower to strengthen regulation and inspection of local livestock and poultry farms, vegetable farms and mariculture farms. A number of special teams comprising various professionals will be formed to step up inspection of registered farms, fish processing plants and fish ponds in the Mainland. Similar measures will also be taken in other countries supplying food to the territory. Meanwhile, through the FSIQD we will step up food surveillance at import, wholesale and retail levels to provide assurances to the public on the safe consumption of food supplied by the Mainland or other countries.

Intercepting smuggled food products has always been a key area of work of the Government. At present, requirements are imposed on the import of certain kinds of food with higher risks (such as meat). To provide support to the Customs and Excise Department, the FEHD has taken vigorous interception actions against smuggled meat specifically. Last year, a total of 146 operations against smuggled meat were launched by various government departments concerned. About 680 000 kg of smuggled meat was seized and prosecution was instituted against 154 persons. In this regard, we have been working very closely with the Mainland.

On Mr WONG's proposal of strengthening and reorganizing the existing consultative framework on food safety, government advisory bodies relating to food safety mainly include the Advisory Council on Food and Environmental Hygiene under the Bureau, and the Scientific Committee on Enteric Infections and Foodborne Diseases and Scientific Committee on Emerging and Zoonotic Diseases formed under the Centre for Health Protection. We plan to expand and strengthen the existing consultative framework on food safety under the new framework. Apart from these advisory bodies, we will also set up a Food Standards Review Committee consisting of experts and academics to enhance consultation with the industry and stakeholders and step up work in relation to the formulation and review of food safety standards.

On the other hand, I very much agree with Mr WONG's proposal that it is necessary to perfect the communication between Hong Kong and the Mainland and other places on the safety of food supplied to Hong Kong. Members must be aware that the Mainland is a major supplier of poultry, livestock, aquaculture produce and other foodstuffs to Hong Kong. In view of this, our communication with the Mainland in respect of food safety is therefore very important. In September this year, with the support of the Central and local authorities in the Mainland, the Hong Kong-Guangdong Food Safety Notification Mechanism was set up with the Guangdong Provincial Government and a mechanism for communication and exchange of information between Hong Kong and Shenzhen on unexpected incidents relating to food and public hygiene was also set up with the Shenzhen Municipal Government. Through these mechanisms, notification systems will be set up between Hong Kong and the Mainland at the day to day work level. This will facilitate communication between the two sides in advance on major and unexpected food incidents, the necessary contingency measures as well as other matters that may affect food safety in both places.

The scope of notification can cover major food, animal or plant incidents in either place, large-scale food safety measures to be taken, major food safety policies or amendments to inspection standards. We particularly hope that both sides can notify each other prior to the implementation of large-scale food safety measures, so that corresponding measures can be taken at the other place, thereby providing proper protection of public health in both places. We believe that this arrangement underpinned by mutual support can effectively prevent unwarranted panic among members of the public and help cushion the impact of untrue rumours on the people of both places.

Moreover, two weeks ago I signed a new co-operation arrangement with the General Administration of Quality Supervision, Inspection and Quarantine in Beijing to further enhance exchanges and collaboration between the Mainland and Hong Kong with regard to food safety, inspection and quarantine of animals and plants as well as sanitary and phytosanitary measures. Under the new co-operation arrangement, both sides agreed to step up control at source. Hong Kong will gradually enhance inspection, quarantine and surveillance work at source by sending staff to inspect crop and animal farms in the Mainland on a regular or ad hoc basis to ensure that the food and farm products supplied to Hong Kong are safe and hygienic. Besides, under the new co-operation arrangement, the Mainland and Hong Kong will jointly conduct studies on the adoption of unified procedures, methods and standards for inspection and quarantine, including laboratory techniques for tests and analysis. Both sides also agreed to further step up efforts to combat illegal import and export activities and enhance co-ordination in major international issues relating to inspection and quarantine. In general, there are already better and more effective channels for communication between the Government of the Hong Kong Special Administrative Region and the Mainland on the safety of food supplied to Hong Kong. With the establishment of the new food safety framework, I believe co-operation between Hong Kong and the Mainland will be further enhanced.

With regard to food recall, the need to set up a mandatory food recall system in Hong Kong was initially explored in the information paper submitted to the Legislative Council Panel on Food Safety and Environment Hygiene on 14 December 2004, and Members also put forward very constructive views. At present, we are focusing on the details of the proposed regulatory regime in our consideration. We hope that we can, as the next step, look into the details of the proposal and consult the Legislative Council and the industry on the proposed details.

Besides, Mr WONG also proposed to study the establishment of a food safety certification mechanism. I would like to brief Members on the views of the Government and the work that we have done in this respect. First, with regard to the food safety certification mechanism, we would like to point out that the most desirable certification mechanism for any commercial product is one that is operated by the trade itself or by the business sector, whereby certification standards, methods and systems as well as the verification work are devised in the light of the nature and *modus operandi* of different industries. Food production is no exception. Hong Kong is a city of free trade with over 90% of food imported from overseas. Therefore, the Government is duty-bound to set safety standards for imported food to ensure that all food products imported through proper channels are wholesome and fit for consumption by consumers.

With regard to promoting the management of local agricultural and fishery products, in fact, the AFCD has been actively supporting the Hong Kong Organic Resource Centre jointly set up by the Hong Kong Baptist University, the Hong Kong Organic Farming Association and the Produce Green Foundation for the purpose of developing and promoting a certification system for organic production and processing in Hong Kong. The relevant certification standards were officially initiated at the end of 2004, and the applications for certification currently being handled involve more than 20 producing units.

Moreover, with regard to promoting a quality production and management scheme for local agricultural and fishery products, and establishing a branding system for local products, the AFCD has been working with the local industry in many aspects. For example, the Accredited Farm Scheme, which was introduced in November 1994, has enabled the public to more easily identify quality and safe vegetables and promoted good vegetable growing techniques and also enhanced consumers' confidence in the quality of vegetables marketed through the Vegetable Marketing Organization (VMO). Under this Scheme, participation from farmers is voluntary and the AFCD will teach participants the ways to use pesticide properly. Pre-harvest crop is subject to pesticide residue monitoring, in order to ensure that the products meet the relevant standards. Besides, accredited produce will be further spot checked by the VMO before marketing to accredited retailers, in order to ascertain whether the level of pesticide residue is safe for human consumption. As at October 2005, a total of 239 vegetable farms (including 30 farms in the Mainland) participated in the Scheme, covering a production area of 1 593 hectares in total, including 1 513

hectares in the Mainland. The average daily supply of accredited produce was over 70 tonnes.

Since December 2000, organic farming support services have been provided to assist local farmers to convert to organic farming. Under the conversion scheme, the AFCD is responsible for providing the necessary knowledge, technical support and loans at low interest rate, whereas the VMO will assist farmers in the sale of organic vegetables through its sales outlets. As at October 2005, a total of 50 local farms participated in organic farming, with the total farmland area exceeding 25 hectares. A daily average of 2 tonnes of organic vegetables was produced. As far as I know, almost all these vegetables were reserved for advance orders.

Apart from that, the AFCD has since June this year actively promoted the Accredited Fish Farm Scheme. The objective is to assist local fish farmers to increase the competitiveness of their aquaculture products and to provide quality and safe aquaculture products to the public. Under the Accredited Fish Farm Scheme, participating farms are required to adopt good aquaculture practices and meet hygiene standards, and to follow a predefined management regime. The AFCD and the Fish Marketing Organization (FMO) will help participants set up the brand name of "accredited fish farms" for quality assured aquaculture products from registered fish farms, in order to highlight the quality and safety of local aquaculture products. So far, the AFCD has received a total of 57 applications from local fish farmers for participation in the Scheme, and is in the process of inspecting these fish farms one by one. It is expected that the first batch of accredited fish farms will be successfully registered in November this year, and the first batch of aquaculture products with the brand name of "accredited fish farms" will be available for sale in the market at the end of the year.

In addition, the AFCD and the FMO will continue to help the industry to promote local fishery products. The FMO has recently set up a processing centre for fishery products, with a view to developing quality fishery products and setting up local brand names to promote the sale of these products. The AFCD has also assisted in the formulation of the list of fishery products under the Mainland/Hong Kong Closer Economic Partnership Arrangement. This Arrangement will be conducive to opening up the mainland market for local fishery products.

Finally, I wish to take this opportunity to point out that food safety can be assured only through the tripartite collaboration between the Government, the trade and the community. Simply put, the Government is responsible for monitoring compliance by the industry with various food hygiene and safety rules and legislation, and providing information on food safety to the public; the industry is responsible for making the utmost effort to ensure that the food imported, produced or sold by them is wholesome and safe for consumption; and consumers (or members of the public) must pay attention to the associated risks in choosing and buying food and follow proper and hygienic methods in handling food at home. Particularly, the industry must pay attention to the fact that many food manufacturing companies in the world have already adopted the Critical Control Point system to prevent food-related problems, and Hong Kong should also give careful consideration to this system. The FEHD has specifically drawn up a food safety scheme in accordance with the principles of the Critical Control Point system for reference of managers in the local catering industry. I encourage the industry to actively take part in this scheme to further enhance the safety of the production and sale of food.

Furthermore, through permanent food surveillance mechanisms, the FEHD conducted microbiological and chemical tests on over 62 000 food samples in 2004. Results of these tests showed that the overall failure rate in the year was 0.3%, which is the same as the figure in 2002 and in 2003. This shows that food safety in Hong Kong has consistently been maintained at a reasonably high level over the past few years.

Madam President, I absolutely think that Mr WONG's motion is very much consistent with the work currently carried out by the Government. Regarding Mr Tommy CHEUNG's amendment, we all know that as the work under our proposal now differs significantly from the past practices, the provision of additional manpower, talents, facilities and resources is certainly required in order to accomplish the tasks. I know that Mr Tommy CHEUNG has added many words or lines to the original motion to spell out work in this area, but he has deleted words about devoting more resources and this, I think, is regrettable, and it is difficult for the Government to accept it. So, I hope Mr CHEUNG will understand that with regard to the other areas of work proposed by him, such as streamlining administrative work, enhancing the capability in sampling inspection and testing of food and perfecting the hygiene inspection system, we will carry out all such work accordingly, but there must be sufficient resources before we can accomplish these tasks.

During the past year since I took office as the Director of Bureau, I had never applied for the provision of additional resources. But after careful analysis, I am well aware that it is practically impossible to accomplish these tasks satisfactorily if we simply rely on the present level of manpower and resources. That is why we have applied for additional resources to cope with work in these areas. I can assure Members that we can achieve the work objectives with the resources that we have asked for and there will not be any waste of resources. I hope Members will support Mr WONG's motion.

Finally, I hope that under the FSIQD to be established soon and the new framework relating to the regulation of food safety, public health will be better protected. I hope Members can support our work, so as to provide better protection to the health of Hong Kong people. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr Tommy CHEUNG to Mr WONG Yung-kan's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr SIN Chung-kai rose to claim a division.

**PRESIDENT** (in Cantonese): Mr SIN Chung-kai has claimed a division. The division bell will ring for three minutes, after which the division will start.

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

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

**Functional Constituencies:**

Mrs Sophie LEUNG, Mr Howard YOUNG, Ms Miriam LAU, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE, Mr Daniel LAM, Mr Jeffrey LAM, Mr Andrew LEUNG, Dr Fernando CHEUNG and Mr Patrick LAU voted for the amendment.

Ms Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Mr WONG Kwok-hing, Dr KWOK Ka-ki and Mr KWONG Chi-kin voted against the amendment.

Dr Raymond HO, Mr Bernard CHAN, Mr WONG Yung-kan and Mr WONG Ting-kwong abstained.

**Geographical Constituencies:**

Mr James TIEN and Ms Emily LAU voted for the amendment.

Mr Martin LEE, Mr James TO, Miss CHAN Yuen-han, Dr YEUNG Sum, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG and Mr Albert CHENG voted against the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Mr Albert CHAN, Mr LI Kwok-ying, Mr LEUNG Kwok-hung and Mr CHEUNG Hok-ming abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 22 were present, 12 were in favour of the amendment, six against it and four abstained; while among the Members returned by geographical constituencies through direct elections, 19 were present, two were in favour of



the amendment, eight against it and eight abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

**PRESIDENT** (in Cantonese): Mr WONG Yung-kan, you may now reply and you have one minute 11 seconds.

**MR WONG YUNG-KAN** (in Cantonese): Madam President, I am grateful to the 17 Members who have spoken in support of my motion. The Secretary has also clearly elaborated on the Government's future work direction and the way forward. But I do not wish to see that the Government is vigilant at the beginning but lax at the end. The public also welcome the establishment of the new Food Safety, Inspection and Quarantine Department. I hope the Government will not adopt its previous model. The points just put forward by the Secretary are also supported by us. However, I feel most upset by the fact that the Government's consultative framework does not attach importance to the sector which includes the eateries and the fisheries and agricultural industry. The Government only said that academics and professionals would be invited to join the future consultative framework. We support the idea that it needs the participation of these people. But why can representatives of the sector not be included? Moreover, it is just a consultation, according to the Government. The Government will consult the sector only after the framework has been set up. I think this is not a desirable approach. I hope Members will support my original motion.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr WONG Yung-kan be passed.

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

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Second motion: Comprehensively developing the border area.

### **COMPREHENSIVELY DEVELOPING THE BORDER AREA**

**MR WONG TING-KWONG** (in Cantonese): Madam President, I move that the motion on the Agenda be passed.

Madam President, the issue concerning the opening up of the Hong Kong-Shenzhen frontier closed area (FCA) has been discussed by the community for eight years, if not a decade. I can still remember clearly our debate on a related motion in the Legislative Council last year. Today, although the same issue is discussed in this Chamber, I believe Honourable colleagues have a mood different from last year because the newly announced policy address this year has finally affirmed the direction of opening up the FCA. Our discussion today will not be non-conclusive, rather, we can offer pragmatic and specific suggestions on opening up the FCA.

The opening up of the FCA cannot be implemented by Hong Kong alone. It will also involve co-operation from the Mainland in administration, trade and economic affairs, security and environmental protection. These are all significant issues that should be carefully considered and discussed. But what we need to do is not to handle these issues slowly. Rather, we should speed up our pace so that the plan can be implemented expeditiously. In the past few years, Hong Kong has suffered from an imbalance of industrial structure. What we need most is new growth areas for promoting economic development and creating more job opportunities. So, we cannot afford procrastination anymore.

We have been waiting for the development of the border area for quite a number of years. Perhaps we do not mind waiting for another couple of years for announcement of the first blueprint of the plan. But I am worried that the

Government will revert to its previous stalling attitude. As a result, another three years will be wasted and the development of the border area cannot be implemented in the foreseeable future. All our efforts will be futile like drawing water with a bamboo basket. We are most unwilling to see such a situation. At long last the public have restored their confidence in the administration of the Government. So, it should expedite the completion of the realignment of the closed area and formulation of the planning proposals in order to show its determination in improving its governance.

In the policy address, it is announced that the size of the closed area will be significantly reduced for redevelopment. It is estimated that the area of land to be released will not be less than 1 400 hectares. It is learnt that the Lok Ma Chau Loop, Heung Yuen Wai and Kong Nga Po are the three sites in the closed area which have initially been assessed to have potentials for medium- and long-term development. As for the remaining major part of the area, there is no immediate need for development and the Government tends to maintain the *status quo*. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) is of the view that the Government's idea of opening up the area in a limited extent at the initial stage should be regarded as the first step of developing the closed area and the basis for formulation of a comprehensive strategy in future. The long-term target should be the comprehensive development of the Hong Kong-Shenzhen border area. So, only through comprehensive development will it be possible to promote the natural and economic productivity of the border area from the perspective of efficient utilization of land and the rationalization of preserving the natural landscape and ecology.

In the past, many scholars and the industry have looked into issues relating to developing the border area. These studies are very useful reference for the Government in formulating its planning. The DAB, in a joint effort with a mainland research institution, published a research report entitled "Options for and discussion on all-direction development of the Hong Kong-Shenzhen border area" last year. We proposed a comprehensive development plan under which Sha Tau Kok, Ta Kwu Ling, the river-loop area and the coastal area along the Western Corridor would be developed into areas of different economic functions. They will respectively be the river-loop integrated economic zone, the Ta Kwu Ling industrial and high technology park zone, the Sha Tau Kok Hong Kong-Shenzhen interactive tourism zone and the Western Corridor industrial park zone.

According to the planning in our study, three major industries can be developed in these four functional areas, including tourism, manufacturing industry and business services. In respect of tourism, it will include eco-tourism in the wetlands of the loop area and the seaview and scenery of Daya Bay and Deep Bay as a whole. In respect of manufacturing industry, the focus will be on the development of high technology, creative industry, food processing and the production of high-tech equipment and parts for the automobile and aerospace industries. In respect of business services, it will be suitable for the development of logistics, large-scale exhibition facilities for the Mainland and international markets, the provision of accommodation for people travelling between Hong Kong and Shenzhen for work, retail facilities, education and medical services.

We believe that if the closed area can be fully developed, it will facilitate the development of advanced manufacturing industries to a certain scale and then the research and development of such industries. If the most advanced technology is adopted in the mode of production there, it will take a lead in the industrialization of the Pan-Pearl River Delta Region and further promote the resources integration of Hong Kong and the Mainland. This will create a competitive edge for us in terms of technology, information, creative industry and technology industry, thus creating new growth areas for our economic development. Besides, under the DAB's proposal, 3 500 to 4 000 workers will be needed by the construction industry during the entire development and construction period. This will greatly ameliorate the underemployment problem in the construction industry. Meanwhile, the co-operation between Hong Kong and the Mainland in the development of the Hong Kong-Shenzhen border area will create as many as 120 000 direct and indirect positions. The comprehensive development of the FCA will contribute a lot to Hong Kong's economic development and creation of new employment opportunities.

Apart from the infrastructure planning for the closed area, we should not neglect the support facilities in the peripheral area such as improvement to the boundary clearance facilities. The development of the closed area carries strategic significance in promoting co-operation between Hong Kong and the Mainland. It will also promote the flow of people, goods, information and capitals between the two places. However, at present, our boundary clearance facilities have lagged much behind the actual demand. As far as future planning is concerned, a piecemeal approach has been adopted which cannot meet the future demand. A most obvious example is the extension works of the Lok Ma

Chau control point. It has already reached maximum capacity before completion, thus illustrating the problem of a lack of vision in the policy on the boundary control points.

On the contrary, Shenzhen, which came to realize the growing trend of vehicular flow a few years ago, proposed to establish a new boundary control point at Lian Tang in 2001 in order to divert the traffic flow at Man Kam To. Unfortunately, the Hong Kong Government then was apathetic towards the proposal which consequently fell through. As a result, Man Kam To has to suffer from heavy congestion. So, it is a lesson for all. I have learnt that Hong Kong and Shenzhen reached a consensus last month on the formation of a study group to look into the development of the Lok Ma Chau Loop and agreed to enhance exchanges on the establishment of a boundary control point at Lian Tang. The DAB welcomes this development and hopes that the government officials of Hong Kong will learn a lesson, act on sincerity and adopt a pragmatic approach in the co-operation with the Mainland so that the Lian Tang new control point project can be launched expeditiously as part of the strategy for the development of the closed area.

It is proposed in the amendment that a comprehensive ecological assessment of the plan be conducted. The DAB has steadfastly adhered to the principle of attaching importance to environmental protection and nature conservation. At the initial stage of designing our plan, we already included elements of environmental protection because we highly treasured the ecology of the FCA. According to our regional planning and landscape-ecological construction planning, the slope management at the Ta Kwu Ling area, the cultivation of mangrove assemblages from Mai Po to Inner Hau Hai Wan Wetlands and the restoration of the eco-agriculture at the river-loop area will enhance the natural productivity of the zone. Besides, the conservation zone between the development area of the Western Corridor and the Inner Hau Hoi Wan Wetlands will not inflict any adverse impact on the ecological functions of the wetlands. Moreover, the research and development of cultivation technology for mangrove assemblages at the river-loop area will boost the further development of the ecological engineering technology for the mangrove family.

A moment later, colleagues of the DAB will further elaborate their views on the comprehensive development of the border area from various perspectives.

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

**Mr WONG Ting-kwong moved the following motion: (Translation)**

"That, as the Chief Executive has announced in his policy address the decision to significantly reduce the size of the closed area and to redraw the limits of the new closed area so as to release land for redevelopment, this Council urges the Government to expedite the completion of the realignment of the closed area and formulation of the planning proposals, and to devise an overall strategy on this basis to comprehensively develop the border area between Hong Kong and Shenzhen, so as to create new growth areas for Hong Kong's economy, promote co-operation between Hong Kong and Shenzhen, facilitate the development of Hong Kong's trade in services, industries and tourism, and create new employment opportunities."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr WONG Ting-kwong, be passed.

**PRESIDENT** (in Cantonese): Mr SIN Chung-kai 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 SIN Chung-kai to speak and move his amendment.

**MR SIN CHUNG-KAI** (in Cantonese): Madam President, it is announced by the Chief Executive in the policy address that the size of the frontier closed area (FCA) will be significantly reduced. It will be reduced by at least one half from the existing 28 hectares so that land can be released for development. In fact, as early as two years ago, in the third stage consultation paper of the "Hong Kong 2030: Planning Vision and Strategy", a number of sites in the border area were already identified as having potentials for development. These include the Lok Ma Chau Loop which can be developed into an international trade expo; Heung Yuen Wai which can be developed into a logistics centre; and Kong Nga Po which can be developed into a new town. This shows that the Government has been conceiving an idea of developing the border area in its mind.

The Democratic Party shares the view that the alignment of the FCA has already been outdated and a realignment of the border area to release land for development will bring economic benefits to the area. However, development of the closed area will involve some significant issues such as the long-term planning of the land policy, land use and some related environmental issues. The Government should deal with them in a prudent manner. The Democratic Party opines that any development plan should tie in with the principle of sustainable development so as to strike a balance among economic development, ecological and cultural conservation, and the preservation of traditional features of the community.

The Democratic Party is particularly concerned about the fate of the sites of ecological value after opening up of the FCA. Due to the remoteness of the FCA which is rarely frequented, many locations have developed into sites of high ecological value. For instance, wetlands account for 25% of the FCA as a whole. If we do not implement prudent planning and a suitable conservation policy before development, it will lead to ecological disasters. According to the study of some local green groups, Lin Ma Hang and Hung Fa Leng in Sha Tau Kok are sites with the highest ecological value. From Lin Ma Hang to San Kwai Tin, significant bat habitats and streams are found. Apart from that, there is a virgin sub-forest behind the village which provides a habitat to many animals such as muntjac, a rare species of snake belonging to the *opisthotropis andersonii* family and three unique species of moth. Hung Fa Leng is a semi-mature forest which also has certain ecological value. Besides, the Ma Tso Lung at Sheung Shui within the FCA with patches of fish ponds which provide birds with abundant food sources is also of high ecological value.

Besides, in the closed area, international-renowned wetlands are found between Mai Po and Lok Ma Chau. In this large piece of wetland, we can find mudflats, mangroves, common reed-grass, gei wai and fish ponds. They play an important role in the ecology of the cross-boundary major waters and coastal areas. In 1995, this piece of wetland was declared an international important wetland under the Convention on Wetlands of International Importance especially as Waterfowl Habitat (or the Ramsar Convention). Being confirmed as the seventh Ramsar Wetland in China, it is now under the care of the Agriculture, Fisheries and Conservation Department. According to a study, the mangroves and wetlands play a significant role in maintaining ecological balance. Mangroves and wetlands are not only the refuge of many unique or endangered

species of flora and fauna but also provide the latter with abundant food sources, habitats and breeding grounds, not to mention the fact that they can protect the shorelines from sea erosion and prevent flooding.

From this, we can see that there are many ecologically significant sites within the FCA. Two of them have been identified as Sites of Special Scientific Interest and are therefore very valuable. The Democratic Party considers that these natural sites with ecological value are precious natural assets shared by the people of Hong Kong. So, any large-scale development plan which may cause serious damage to these sites should be given detailed consideration and careful planning before implementation because any damage done may not be undone.

The Democratic Party urges the Government to carefully balance the need of opening up the closed area and the need of ecological conservation. The Long Valley Wetland incident five years ago has clearly shown that when large-scale planning and development project is to be implemented, environmental issues should be seriously considered and options which allow sustainable development be adopted in order to secure public support. So, the Hong Kong Special Administrative Region (SAR) Government should formulate a comprehensive planning before opening up the closed area. Meanwhile, it should conduct a comprehensive ecological assessment of the planned development and then formulate corresponding conservation measures for the ecology and our social assets. The SAR Government, where necessary, can co-ordinate with the Shenzhen Government in respect of its conservation plan in order to ensure that the development plan will not impact on the ecology and our social assets.

The Democratic Party proposes that if the closed area is really to be opened up, the future development should adhere to the principle of low density in order to preserve the original rural landscape and tradition. Sites with ecological value as important habitats should be designated as green belts and conservation zones in order to ensure that they will not be affected by the development. In fact, the FCA has been closed for more than 50 years now. Apart from the features of natural ecology, there are many traditional villages such as Heung Yuen Wai and Ha Heung Yuen where unique rural culture, heritage and monuments are preserved. They have potentials for the development of cultural tourism. For this reason, the Democratic Party proposes that the Government proactively promote and develop eco-tourism and cultural tourism within the border area. In doing so, it can adhere to the



principle of conservation and sustainable development on the one hand and give impetus to the local economy on the other. This is killing two birds with one stone.

Finally, the Democratic Party would like to reiterate that one of the determinants of sustainable development is the involvement of stakeholders. Before implementing any significant development strategy, the Government should fully consult the green groups, the local residents and the public in order to reach a consensus about development. Besides, the Government should formulate the procedures and selection criteria to allow green groups, non-governmental organizations, professional bodies, and community organizations to substantively and fully participate in the planning and consultation process of projects which may impact on the environment and ecology. This will ensure balanced discussion and exchanges before formulation of specific policies. The Democratic Party considers that only by listening to the experience and views of the stakeholders and allowing their participation in the strategy formulation process can a policy for sustainable development be truly materialized and implemented.

In short, from the perspective of land use, the Democratic Party does not oppose reducing the FCA to release land for development. But we emphasize that before any large-scale development is carried out, environmental issues should be prudently considered. The Government should also implement corresponding and suitable conservation measures to avoid any irreversible damage to the ecology of the area.

I so submit.

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

"To add "; but given the presence of many sites of ecological and conservation value, such as wetlands and streams within the closed area, the Government must, in considering the development of these sites, ensure that the development plan is in line with the principles of sustainable development and nature conservation, and should conduct a comprehensive ecological assessment of the plan and then formulate suitable conservation measures and conduct planning in a prudent manner; the Government should also allow stakeholders, including green groups, to participate in the planning process with a view to ensuring that the

policy of sustainable development can materialize" after "create new employment opportunities".

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

**DR RAYMOND HO:** Madam President, shortage of land is always a challenge to us. Traditionally, we relied on reclamation and cutting slopes to make room for development. The Government has so far found it difficult to solve the land lease problem in many cases.

However, the growing awareness of environmental protection has made reclamation a less appealing option. Meanwhile, cutting slopes to form platforms for buildings requires regular slope maintenance. This means more resources and higher costs. Even so, we see a proliferation of slopes from 10 000 slopes in 1977 to 57 000 slopes at present as we have to cut more and more slopes to make room for new developments. Although land is available in the New Territories, more often than not, entangled land claims are always a drag on the development.

On the other hand, a vast stretch of vacant land is lying idle within the closed area along the border between Hong Kong and Shenzhen. For some time, I have been urging the Government at the relevant Legislative Council panels to reduce the size of the closed area along the border so as to free more land for development. The need for a buffer zone of the present size along our border region is no longer justified given the changes which have taken place in the past eight years. First, Hong Kong is now part of the Motherland under "one country, two systems". Second, rapid economic development on the Mainland, Southern China in particular, has greatly reduced the number of illegal immigrants attempting to sneak into Hong Kong.

With good planning, the border area will provide us with a vast area of high potential for development. Indeed, the Alliance, of which I am a member, is considering to raise funds for commissioning a local university to carry out a research on the feasibility of developing medical facilities including check-ups, surgeries and convalescence homes for the elderlies in the region. Of course, this is only one of possible options.

In whatever forms of development to be adopted, it is essential for us to pay attention to the environmental protection, as we all know that the area is a natural habitat for a diversity of fauna and flora.

Nevertheless, the Government must not sit on its hands on the pretext of environmental protection. Instead, it should demonstrate its will and ability to take up the challenge in utilizing the full potential of the border region with a creative and sustainable development plan.

With these remarks, Madam President, I so submit.

**MR CHEUNG HOK-MING** (in Cantonese): Madam President, as we all know, the crux of the high land price problem which has been dogging Hong Kong over a long period of time is the scarcity of land in relation to its large population. This time, the Chief Executive, in his maiden policy address, announced the release of a large piece of land along the border between Hong Kong and Shenzhen. For the overall development and benefits of Hong Kong in the long term, this may be considered as an opportunity for survival and a gift to the public. However, how can we be sure that everyone will be happy with this present and that everyone can benefit from it?

I think the Government of the Hong Kong Special Administrative Region (SAR) has to think more and be more creative. It should forge ahead cautiously, striving to break through the conservative mindset of the past to release the 2 800 hectares of land in the FCA along the border and to draw up comprehensive planning for the development direction and land use, thereby creating a platform with invigorated land resources and economic vitality to foster the sustained thriving development of the return of industrial operations, tourism, logistics, and so on. The lands, which have been frozen for a long period in the past, particularly include a large part of privately owned sites and wetlands with conservation value, and the cost involved for development will be huge, careful consideration must thus be given to the overall planning of the site. The authorities must strike a balance between economic development and conservation, and conflicts between these two elements which may stifle the potential development of this precious site should be avoided by all means.

I would like to add a few lines in this respect. I believe no one will oppose the concept that "everyone should be responsible for the conservation of ecology", and we all understand that damaging our environment will only cause harm to our future generations, depriving them of a desirable and healthy living environment. However, in the past, the SAR Government adopted a straitjacket approach in dealing with issues of nature conservation and development. Its uncompromising attitude that requires all conservation zones remain intact and its sweeping approach to freeze all the land concerned have resulted in wasting a lot of sites in the New Territories. Since no one takes care of or develops these sites, many environmental and hygiene problems have thus arisen. Particularly when diseases transmitted by mosquitoes have become rampant in Hong Kong in recent years, such as the succession occurrence of Japanese Encephalitis and Dengue Fever, the problem has now escalated to a serious level, threatening the life of the public. Therefore, the SAR Government must change its deep-seated conservation policy; otherwise, the release of this large piece of land in the FCA will only be empty talk, and no breakthrough development can be made practically.

When the planning vision of these sites awaiting revival is laid down, the authorities have to identify the essential hardware to tie in with the plan. I think there are several significant considerations. Firstly, drainage infrastructure and transport networks should be developed in support of the plan. Without sound drainage infrastructure, the great plan concerned can hardly achieve a natural success, for no development can take place without the supply of "water". Just imagine, if the drainage issue is not properly handled, the site may be affected by the improper emission of sewage and floods. By then, who will be willing to invest in the development of the site? Take Kung Nga Po, a place where the SAR Government intended to develop, as an example. Since 40% of the land there is located at or above the 20 m contour, apart from undertaking land formation work, the Government still has to tackle the problem of flooding in the low-lying areas.

In addition to drainage, transport infrastructure is another aspect that cannot be overlooked, particularly under the prevailing integration development between Hong Kong and Shenzhen on the industrial and trading fronts. If we lack a smooth road network connecting and running through different areas, how can the potential of the release of the site be brought into full play? This is particularly so for the Eastern Corridor proposed by Shenzhen which links up the

two highways, the Shenzhen-Huizhou Expressway and the Shenzhen-Shantou Expressway, and connects with the eastern part of Guangdong. It is also planned that Liantang will be developed into a new boundary crossing point, so as to ease the congestion caused by trucks at Man Kam To and Sha Tau Kok. Upon the completion of these transportation network facilities in the Mainland, Heung Yuen Wai, being the focus of the development and owing to its geographic advantage, will surely develop into a cargo transshipment zone and a logistics centre coupled by the development of a dedicated railway link and ancillary customs facilities. In fact, when Financial Secretary Henry TANG attended the seminar on Cross-Boundary Infrastructure and Strategic Positioning of Hong Kong earlier, he revealed that the SAR Government and Guangdong Provincial Government had conducted initial studies and negotiations on the restructuring and extension of the Liantang Control Point, Hong Kong-Shenzhen Eastern Corridor and the Man Kam To Control Point, and were preparing for the next stage of cross-boundary infrastructure reinforcement work.

Madam President, in general, it is estimated that the SAR Government will at least open up half of the land along the border. The DAB has long since conducted studies and drawn up proposals on the development of this precious site and put forth four major development directions. My colleague, Mr WONG Ting-kwong, has already introduced the proposal in detailed earlier, so I will not repeat it here. I just want to say that on 13th this month, the DAB will hold a forum in conjunction with the Heung Yee Kuk on the development of the FCA in the closed area at Sha Tau Kok; invitations will be widely issued to persons interested in the topic inviting them to examine the issue together. I would also like to take this opportunity to sincerely invite Secretary Michael SUEN and Secretary Stephen LAM to attend our forum to discuss the development of the FCA together. We very much hope that the SAR Government can capitalize on the advantage of the opening up of the FCA to create a better tomorrow for Hong Kong in terms of employment and economic development.

With these remarks, Madam President, I support the original motion and the amendment.

**MR JEFFREY LAM** (in Cantonese): Madam President, since the Chief Executive, Mr Donald TSANG, assumed office, he has been emphasizing the

need to help our economy to power ahead. I think that the reduction of the size of the closed area and the opening up of the frontier area by the Government is one good way to provide proactive support.

At present, the FCA covers an area of about 28 sq km. At the beginning, one of the reasons for establishing the FCA was to intercept illegal immigrants. However, upon Hong Kong's reunification with the Motherland and the Mainland's implementation of reforms and opening to the outside world, the living standard of mainlanders has seen remarkable improvement, and the number of illegal immigrants trying to enter Hong Kong secretly has dropped drastically. According to the figures provided by the Security Bureau, in 1997, 2 400 illegal immigrants were caught trying to cross the border. But by 2004, the figure had dropped significantly to 870. In other words, the daily average number of illegal immigrants caught by the authorities concerned at the FCA is only two.

Chief Executive Donald TSANG stated clearly in his policy address delivered last month that "on the basis that an effective border will be maintained, we have decided to reduce the size of the closed area significantly", and that how the land released would be put to use would be studied. I welcome this very much.

However, the existing land transport infrastructure at the boundary is obviously inadequate in providing support to the development of the area. As is known to all, along the boundary, there are some major roads, such as the San Tin Highway and the Fanling Highway, linking the three boundary crossings at Lok Ma Chau, Man Kam To and Sha Tau Kok. Regarding other roads in the FCA, they are originally designed for the use of villagers there, which are actually not suitable to be opened up for public use, not to say to cope with the future development in various aspects. The roads in the area are therefore not adequate.

For the above reason, if the Government has to open up the FCA, be it for commercial or industrial development or other purposes, I think it will have to a sound plan for the necessary support transport arrangements. It should, at the same time, strengthen the cross-boundary transport arrangements between Hong Kong and the Mainland, optimizing the advantage of our integration with the Mainland.

Over the years, the business and industrial sector has been vigorously promoting the development of the Eastern Corridor to the Government. Recently, the authorities of Shenzhen and Hong Kong have both responded to the views of the business and industrial sector, agreeing to commence a preliminary study on the development of the Liantang crossing. If a crossing point can be established at Liantang, truck drivers crossing the boundary may take the highways linking directly to the rapidly developed areas like the eastern and northern parts of Guangdong, Fujian and Jiangxi, instead of running through the now heavily congested roads in the centre of Shenzhen. This may also alleviate the demand of cross-boundary traffic at the crossing points at Man Kam To and Sha Tau Kok.

According to the paper on "Additional Cross-boundary Link To the Eastern Part of Guangdong Province — Eastern Corridor" from the Planning Department, it is estimated that by 2020, the daily average of the total cross-boundary vehicle trips will reach 141 000, and by 2030, it will increase further to 181 000 vehicle trips, and over 60% of the total will take the crossings on the eastern part.

In less than two months, the third phase of CEPA will be implemented, and more and more Hong Kong businessmen will move back to Hong Kong. Many manufacturers have also indicated their intention to relocate their operation to Hong Kong, for they may cope better with the development of the Pan-Pearl River Delta after such relocation. We can foresee that transport demand for the Eastern Corridor and cross-boundary transportation will both surge. If the Government can capitalize on this advantage and effectively utilize the geographic edge of the FCA to strengthen Hong Kong's position as the window in southern Mainland to the outside world and promote its co-operation with Shenzhen and other provinces to head forward together, it will certainly attract Hong Kong businessmen and foreign investors to invest in Hong Kong, thus promoting the development of our economy and creating more job opportunities.

It is undeniable that the opening up of certain sites in the FCA is controversial, for there are a lot of sites with ecological and conservation value in the FCA. Therefore, the planning of these sites must be done cautiously and a right balance should be struck, ensuring that attention has been given to the interests of both.

I remember that when the Kowloon-Canton Railway Corporation (KCRC) developed the West Rail, since the alignment of the West Rail went pass some of the fish ponds and marshes with high conservation value in the rural New Territories, the KCRC recreated 12 hectares of wetland at Kam Tin Valley to produce a natural environment. This piece of wetland has once attracted the Dancing Dropwing, a dragonfly species which has never been found in Hong Kong, to inhabit there. Regarding the Lok Ma Chau Extension of the KCRC now under construction, the KCRC will also create 37 hectares of wetland.

I believe the development of the FCA and the protection of the environment are not mutually exclusive, and they can go hand in hand given proper planning. A case in point is the promotion of eco-tourism or green tourism as strongly advocated by Mr Howard YOUNG.

Therefore, all along, I agree and support that the principles of sustainable development and conservation of natural environment should be considered. I believe the Government will consult more widely the views of various sectors in drawing up the relevant policies with a view to conducting a better planning for the development of the border area.

Madam President, I so submit.

**MR BERNARD CHAN:** Madam President, the closed area along the border with Shenzhen is a sign of how times have changed. Twenty years ago, we saw it as essential to our security. Today, we look at it and wonder why it is here.

The gap in living standards between the Mainland and Hong Kong has narrowed. Nowadays, most mainlanders come in buses as tourists, rather than climb over fences to find work. Also, co-operation between Hong Kong and mainland immigration and customs has become much better. Today, we no longer need to keep such a large area closed off.

Times have changed in other ways, as well. People's expectations about how the Government uses land have changed.

Of course, it would be a waste to leave this newly available land exactly as it is. But we should be extremely careful how we use it — whether it is



privately owned or public land. This is essentially true after the recent debates we have heard between environmental groups and government officials about the use of reclaimed land in Central and about the use of prime waterfront sites.

It seems to me that there is a mismatch between traditional government thinking on land usage and civic society's concerns about the quality of life. Our officials see land as revenue. More and more people — including many in business circles — are deeming it as short-sightedness. They believe Hong Kong's future depends on attracting and keeping talent. The people we need will not come if we make Hong Kong's environment and living conditions less attractive.

Just over a month ago, nearly all of us in this Council went on a visit to Guangdong Province. One of the things that amazed me was the open, green space in the downtown part of Dongguan. Living standards are obviously lower there in many ways. But I could not help thinking about how nice that town was.

This may be in the long term. But I think it is possible that one day — if we do not change our priorities and our officials' way of thinking — people will prefer to live and bring up a family in places like Dongguan.

Some of the closed area house rare wildlife and other valuable ecological features. We should make it clear from the start that such areas will be off-limits to development.

In some other areas, the scenery is very attractive. Again, we should make it clear that any development in those places will not damage the visual appearance of the area.

In those areas where we do allow development, I believe it should be planned in such a way as to protect our long-term interests in quality of life as much as short-term opportunities for revenue and profit.

There are various ideas about how we could use the land that can be developed.

Some groups say the land should be allocated for industrial use. I do not understand the idea of bringing large-scale manufacturing industry back to Hong

Kong. It has left Hong Kong, just like it has left New York or London. What is the point of going back to the 1970s? The only way we could attract factories back on a meaningful scale would be to offer subsidies. And at the end of the day, those subsidies would come from ordinary taxpayers, and other parts of the economy, such as my own sector, the insurance industry.

We also have millions and millions of square feet of vacant factory space already built, in urban areas, with transport and other infrastructure already in place. Even if going back to manufacturing made sense, we would not need to build new factories.

There will probably also be calls to use some of the land for tourism purposes, or for various sorts of cross-border trade facilities. These may be good ideas. However, in all cases, I think the Government should ensure that decisions are made openly and objectively, and we avoid any more accusations of collusion. As with the environment and quality of life, the community's expectations are rising. Just because an interest group says it can "create jobs", it does not mean they should get a free lunch.

Some of my colleagues in the Alliance group of legislators have come up with an interesting idea, which I think could be considered. And that is, that some of the land could be devoted to retirement communities, particularly residential homes for our growing elderly population.

Such development would be low-density, so it would not damage the natural scenery too much. It would free up space occupied by homes and other facilities for the elderly in the urban areas. Unlike general residential development, residents would not be commuting into town.

Most important of all, it could give our elderly citizens a more pleasant choice of living environment than many of them currently have in the crowded parts of the city.

Government input would be necessary in the provision of some residential housing, care and social centres and other facilities for the elderly. But development of a retirement region in the border area would also offer plenty of opportunities for private-sector involvement and perhaps also for partnerships between the welfare sector, the voluntary institutions and the business community.

Many of us prefer to retire on the Mainland in the years to come. The cost of living would make a significant difference. But I expect that we will still have to find more space for our elderly population in the years ahead. And the closed area may be an excellent location.

Madam President, this is just one idea. The important thing is that when we look at this new supply of land, we see an example of how times have changed. We should see it as an opportunity to do things differently — especially to conserve the wildlife and the scenery, and to put a serious emphasis on the quality of life in those parts we develop. Thank you.

**MR WONG KWOK-HING** (in Cantonese): Madam President, I speak in support of the original motion. I think that in order to completely open up the closed area and initiate changes to it, the SAR Government's mind-set of governance should change in the first place. It is a prerequisite to have a completely open mind-set and a philosophy of governance with foresight. Why do I say this? Here, I want to talk about the old days like an old maid in an imperial palace. Let us look back at the times before the reunification. During the 48 years from 1949 to 1997, the policy for ruling Hong Kong was formulated in London, while the colonial officials of Hong Kong were responsible for the enforcement of policies on the prevention of Communism, infiltration and illegal immigration. Therefore, the closed area had been subject to very tight security control. And, the tighter the control, the better it would be. DENG Xiaoping headed the administration for nearly 20 years since 1979, and his successor was JIANG Zemin. During these years, the area to the north of the Shenzhen River were completely opened and reformed, and fully utilized as well. Although DENG Xiaoping has passed away, the promotion of his thinking on opening and reform still continues today. Even our motion debate is about the need to change the closed area. All this shows that, without a completely open mind-set, it is impossible for the SAR Government to address the issue of closed area comprehensively. Furthermore, looking back at the eight years after reunification, from 1997 to 2004, we had an ossified mentality, being complacent, believing in "Hongkongism", and were conscious not to model on the Mainland. However, looking back at the past 20 to 30 years, the streets of Shenzhen used to be short with only 1 000-odd residents and had just one cinema. But nowadays, the area to the north of the Shenzhen River has become a scene of prosperity, while that to the south is desolate land. We should know where the problem lies.

Chairman of the Hong Kong Federation of Trade Unions (FTU) CHENG Yiu-tong was the first proponent of a development plan for the river loop area, and a proposal was also submitted on this. However, the proposal put forth by CHENG Yiu-tong on behalf of the FTU was shelved by the SAR Government without any study and discussion. Looking back at the past eight years, from JIANG Zemin to the new successor HU Jintao, the area has been utilized and developed comprehensively by the Central Authorities. Today, even Legislative Council Members in Hong Kong have to visit the subway in Shenzhen in view of its rapid changes. Therefore, in order to open up the closed area comprehensively, principal officials and the Chief Executive of the SAR should, in the first place, liberalize their mind-set.

Secondly, there should be correct and forward-looking targets for the opening and development of the closed area, which have to be adaptive but not fossilized, and that all restrictions have to be lifted and relaxed. A number of mass-circulation newspapers reported in the past two days that some corporations and consortiums with foresight have bought sites adjacent to the closed area, and were prepared to undertake large-scale developments together. The sales of metal spades has probably increased nowadays as everyone is holding a spade to prepare for the next round of battle in real estate. Is this true? What is the policy of the Government? This gives rise to a significant problem: Does the Government really have foresight to initiate development in the closed area and set clear targets?

The FTU has suggested at a much earlier stage that the closed area at the boundary river loop should be developed and fully utilized. The long-standing structural unemployment problem in Hong Kong that has remained unresolved should be addressed by fully utilizing the piece of land in close proximity to the Mainland; introducing or adopting high technologies, as well as attracting talents to solve the unemployment problem of local workers belonging to the "two lows and one middle" category. It is hoped that the Government will seriously consider the proposals put forth by the FTU. Having no land, no money and not capable of buying land in advance as the developers do, the FTU can only put forth proposals. However, as the Government possesses the ability of governance, it should consider at the earliest possible opportunity about how the closed area can be fully utilized, and how to make use of the resources of the Mainland, coupled by the existing edges of Hong Kong, and fully co-operate with the Mainland in undertaking development. It is hoped that the SAR Government will seriously consider this proposal.

Certainly, the new Executive Council has been formed. As noted from press reports, there is very good division of labour within the Executive Council. Subsequently, the Commission on Strategic Development was also established, and the community has high expectations on the newly-formed council. How should the FCA be developed and fully utilized for the benefit of Hong Kong? I think this is the best examination question for the new Executive Council and the Chief Executive. It is hoped that the Chief Executive and the accountable officials can give us a satisfactory answer paper that will focus on the future of Hong Kong rather than the various developments undertaken during their tenure.

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

**MR DANIEL LAM** (in Cantonese): Madam President, the Chief Executive, Mr Donald TSANG, pointed out in his maiden policy address that since illegal cross-border activities were in check because of effective co-operation between Hong Kong and the Mainland after the reunification, in the light of the advice given by the Security Bureau, it was decided that the size of the closed area along the border of Shenzhen would be reduced and the limits would be redrawn. The land thus released would be put to proper use.

The Heung Yee Kuk strongly agrees to the decision made by the Government and hopes that it will speed up its work and listen to the Kuk because the Kuk has made great contribution to the development of new towns in the New Territories in the past.

Madam President, this proposal has come belatedly. When we stand and look from the border area, we can see vast stretches of desolate land on the Hong Kong side, whereas the Shenzhen side is densely-populated. Looking at such land resources lying idle, I can only feel a pain in my heart beyond description.

The opening up of the border area is an affair of Hong Kong. But the Government should also liaise with the Shenzhen authorities at the co-operation meetings held between Shenzhen and Hong Kong, and try its best to co-ordinate planning for the opening up of land.

The community has put forward many suggestions on the development of the FCA in recent years. In the policy address, the Chief Executive also agrees that land is a kind of resource which can be better utilized. The Kuk thinks that the Government should put more effort on planning and development, and consider opening up the FCA to build such facilities as an exhibition centre for industry and commerce, a logistics centre between China and Hong Kong, an intermediary service centre and even those for the elderly services, and so on, thereby exploiting the advantages of Hong Kong with a view to combining the manpower, technological strength and huge market of Shenzhen. The Kuk is optimistic about the future development of such land and in our opinion, the decision to open up the land at the border area is absolutely correct.

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

**MR LEE CHEUK-YAN** (in Cantonese): Madam President, regarding today's question, I do not support Mr WONG Ting-kwong's motion. However, it does not mean that I do not disagree with the development of the border area. I just think there should not be "utopianism" or "Shenzhenism". What is "Shenzhenism"? I am not an opponent of Shenzhen. I do really hope that Shenzhen residents will not mistake my words at hearing my remarks. What I meant is the purpose of opening up the Hong Kong border is not for Shenzhen residents to work here. However, according to the many messages which I have received, many people apparently have such thinking. Earlier, Mr Daniel LAM also said that Shenzhen residents would be allowed to work there. Besides, it was stated in the paper submitted by the Mr WONG Ting-kwong that the border area should be developed into an industrial zone, so that people of Shenzhen and Hong Kong could work together in the same area. Despite that people from both Shenzhen and Hong Kong may work together in the same place, but I am concerned that the number of people from Shenzhen will exceed that of Hong Kong. If this is really the case, are we expanding Shenzhen into Hong Kong? I think this is not feasible. Therefore, I consider that extra caution should be exercised in the development of the border area.

Furthermore, I do not agree with what Mr WONG Kwok-hing said earlier. He said that DENG Xiaoping had very good vision in respect of opening. The development of Shenzhen was not very satisfactory at first, but it achieved great development after his visit to the south. I do not disagree that this is the fact, and yet be it DENG Xiaoping, JIANG Zemin or HU Jintao, the development of

the special economic zones was geared towards the economic development of China. What I do not want to see is: While everyone talks about the development of the border area, no one has ever given a thought to the economic positioning and development of Hong Kong, and all the resources will be concentrated on developing the border area. Yet, this is not feasible as the prevailing economy of Hong Kong has to be taken into consideration. If this is the case, we must admit the fact that low wages should not be a lever for the development of Hong Kong industries. If the development of the border area is meant to encourage Shenzhen residents to work there and take advantage of their low wages, then I may think: Would it not be better for development to take place in Shenzhen instead?

I do not know what Honourable colleagues saw in the Mainland. During our visit to the Mainland, we saw that the Pearl River Delta Region had a lot of developments in technologies and industry, so it is impossible for Hong Kong to compete with it in this respect. Hong Kong must develop its own edges and not to engage in technology-based or labour-intensive industries like Shenzhen. The industries of Hong Kong have to rely on higher value-added output, probably in design. Our swift response to market needs is our edge, so we should capitalize on this edge of doing things just in time and compete with the world. We should also co-ordinate with Shenzhen instead of developing high technologies, for example, aerospace technologies, like Shenzhen, and compete with it in view of its great achievements in this respect, which is impossible. If we engage in any development which resembles that of our competitor, and employ the same group of workers at their wage level, then why do we not undertake development in Shenzhen instead of Hong Kong? Therefore, I think that extra caution should be exercised in the development of industries. We should not come up with something which may not be helpful to the economic development of Hong Kong in the end.

As regards industrial development, I eagerly hope that Hong Kong industries can be developed. However, we have to make it clear that the industries concerned must have a relative advantage over others before it is developed in Hong Kong. Some people may say that there will certainly be some industries which can develop successfully in Hong Kong. If this is the case, it is not necessary for them to be developed at the border. There is no lack of space for the development of industries in Hong Kong as empty land is available in industrial estates. And, there are also a lot of vacant factory buildings. It is therefore not necessary to identify sites for the development of

industries in the boundary industrial zone even if space is required. It is readily available in Hong Kong. Space in fact is not a problem. If we only hope that people can work there, I really wonder: What will be the benefit to Hong Kong?

If tourism and conservation is to be developed at the border area, I think there is no problem at all because these industries possess unique characteristics and will not have any resemblance in the Mainland. It is precisely the two places have different land, scenery and characteristics that I think there is no problem in this respect. We should avoid undertaking developments which resemble that of others, for example, business expo. An exhibition centre has already been established at the airport, whereas Wan Chai on Hong Kong Island also has one. Is it necessary to build another one at the border area? One may say that Shenzhen residents will be attracted by the convention centre to go there. Yet, let me turn and ask from an investor's point of view: Is there a big difference between the building of a convention centre at the border area and Shenzhen?

I think all developments should capitalize on the strengths of Hong Kong rather than simply following others' footsteps. Regarding this question, I will not vote on it because I do not want to vote against Honourable colleagues. Neither will I vote for it. On this issue, I think that extra caution should be exercised, and if anyone offers any bright ideas, I think consideration should be given to the development of the border area. But in order to succeed, any development should not deviate from the actual condition of the Hong Kong economy. Thank you, Madam President.

**MS AUDREY EU** (in Cantonese): Madam President, if we look at the original motion and the amendment today, we will find that they actually contain three key points. First, it is reducing the size of the closed area and redrawing the limits of the new closed area. This is why we can see that the Secretary for Security is present. Second, the development of the border area calls for an overall strategy. This is why we can also find Secretary Michael SUEN here. Third, the principles of sustainable development and nature conservation, a point of concern raised in the amendment. However, Madam President, it is a pity that I cannot find the Secretary for the Environment, Transport and Works here. This makes me even more worried that Members only care about the first two main points while neglecting environmental protection, conservation and sustainable development. I hope the two Secretaries can, in delivering their



speeches later, tell us on behalf of Secretary Dr Sarah LIAO if this point is equally important — I hope she is unable to attend the meeting today because she is engaged, not because she is acting indifferently to this issue on behalf of the Government.

Actually, our worries are not unfounded. Members can check out today's newspapers — Mr WONG Kwok-hing also mentioned this when he spoke earlier. Madam President, the front page of one of the newspapers reads "Three major developers scramble for land at the border". It is also reported that they have all bought land in advance. Furthermore, the original motion does reflect its position of "comprehensively developing the border area". The question inevitably reminds us of the saying of our great national leader: Development is the absolute principle. Sometimes, I find the words of Mr Donald TSANG carry something of this flavour too. This is why I will get extremely worried whenever I see the words "comprehensive development".

Here is a study report published by the DAB in December 2004. The report has, in addition to raising the idea of developing the border area, spelt out in detail the proposals raised on exploring the border area over the years. In 1985, there was a proposal to set up a border industrial zone. In 1997, there was a proposal to build a major theme park-cum-playground and a brand-name bazaar. In 2000, there was a proposal to develop the border area into a special zone within the Special Administrative Region (SAR) for the purpose of developing the environmental protection industry, a Chinese medicine research centre and emerging industries. In 2002, it was proposed that the border area be developed into an industrial finishing zone and a new convention centre. In 2003, Mr LI Ka-shing proposed to develop a special industrial zone there. As for other proposals, the consultative document published by the SAR Government, namely Hong Kong 2030: Planning Vision and Strategy, has also mentioned the need to build a convention and exhibition venue, a trade and expo centre, or a university town in the area. In 2004, some people raised the idea that the river-loop area can be developed into an ecological, economic and historical heritage zone.

Madam President, the border area is being closely watched by various camps with diverse views. Therefore, the second key point, concerning an overall strategy, is extremely important. I wish to emphasize that a lot of preparatory work must be carried out should the Government propose to develop the border area. First of all, Members must be informed of the cost of

developing the area because the problem of contaminated sludge in this area warrants careful consideration. It is reported that 1 million cu m of sludge was produced in the Shenzhen River Regulation Project. If we calculate in accordance with the cost of addressing the problem of pollution at the old Kai Tak Airport site, it will cost \$200 million to \$400 million to address the problem of sludge in the river-loop area. It cost the Government an extra \$450 million in treatment of sludge at the Cheoy Lee Shipyard during the construction of the Disneyland years ago. The amount of contaminated soil accumulated in the river-loop area is reportedly 50 times the amount of that at the Cheoy Lee Shipyard. How much treatment charges will be involved? How will the sludge be disposed of? The Government must give us a clear explanation with respect to these issues.

Having been closed to the outside world for years with few people living there, the closed area can be developed into sites of ecological and conservation value. A number of examples, such as the Ramsar Wetland and farmland designated as site of Special Scientific Interest, were quoted by Mr SIN Chung-kai when he spoke earlier. If we are really to study the feasibility of development, we must consider how to preserve places of ecological value and give holistic consideration to all these proposals to identify one which is suitable for Hong Kong development. I subscribe to some of the questions raised by Mr LEE Cheuk-yan in his speech earlier, particular the one concerning the development of a convention and exhibition centre. As a convention and exhibition centre has already been built at the Hong Kong Airport, and the Hong Kong Convention and Exhibition Centre in Wan Chai will also undergo expansion, is it really necessary to build one more exhibition venue in the closed area? In the long run, will Hong Kong be benefited as a result?

Madam President, my position is that I have no objection to the major principles of the motion or the amendment. However, I very much hope that the Government can devise a comprehensive strategy before commencing development, consult the public and, in particular, pay attention to the principles of sustainable development and conservation. Thank you, Madam President.

**MISS CHOY SO-YUK** (in Cantonese): Madam President, I notice that the Secretary is not present..... I am grateful to Mr SIN Chung-kai for proposing the amendment and the DAB fully supports this amendment.

Madam President, the Chief Executive stressed in his policy address the building of a harmonious society. I hope that he will devote an equal amount of effort to maintaining the harmonious relationship between man and nature.

On the plan to develop part of the FCA, I am very concerned that should this stretch of closed area, which has been reputed as an "ecological corridor" nurturing innumerable animals and plants, be opened up, it will be subjected to damage, and the number of species there will be drastically reduced, thus even causing an irreversible ecological disaster.

In order to forestall such an eventuality and to send a clear message to the public that even as the Government is helping the economy to power ahead, it will not compromise in any way the conservation of the natural ecology, it is necessary for the Government to accomplish three tasks.

Firstly, the Government should conduct a comprehensive study on the ecological value of the closed area as soon as possible, publish the results and, after reaching a consensus with the public, determine the areas that should be conserved and other areas that can be developed. In fact, it will not be difficult for the Government to do this since there are already quite a number of completed studies and literature for its reference. Only by clearly identifying the areas that should be conserved and those that should be developed can we do a better job in development and conservation. Secondly, it should offer incentives so that a financing plan for the sustainable management of conservation areas can be formulated. Concerning this point, I will explain our proposal in detail later. And thirdly, it should supervise the entire development plan throughout the process stringently, in particular, it is necessary to prevent any development project in non-conservation areas from affecting the high ecological value of the conservation areas.

Madam President, at present, the plot ratio of agricultural land in the New Territories is zero, which means that if developers want to develop it, they have to pay the full land premium. Even so, the maximum plot ratio for this type of land is only 0.4 and it is a far cry from the ratio of about 10 for land in the urban area in general. Therefore, to developers, the agricultural land does not hold any particular appeal. If there is no one to till the land, agricultural land will usually become abandoned or it will even degenerate into dumping sites or container storage yards, thus spawning many environmental problems.

We believe that instead of allowing agricultural land with little conservation value to become abandoned, it is better to relax the development restrictions to unleash the economic benefits that can otherwise be derived and translate them into support for genuine nature conservation. Only in this way will the conservation policy become more positive and effective.

To this end, we propose that the Government introduce a conservation-linked development system. Developers only have to purchase a piece of land under conservation in the closed area in order to be allowed to transfer the plot ratio of the land under conservation to another piece of agricultural land in the New Territories to which permission for development has been given. In this way, more revenue can be derived from development and an economic incentive for conservation can also be offered.

I will try to give an example. Take agricultural land given development permission in general as an example, if the developer concerned has already paid the full land premium and the plot ratio for the agricultural land has been raised to 0.4, it is only necessary to buy another lot classified as conservation area in the closed area and pay the full premium before the plot ratio of 0.4 for the piece of land under conservation can be transferred to the agricultural land to which development permission has been given. In other words, after going through such a procedure, the plot ratio of the agricultural land can be increased to 0.8. After the transfer of the plot ratio, the developer has to return the conserved land to the Government without receiving any payment in return. Meanwhile, if the developer wants to further raise the plot ratio to higher than 0.8, depending on the circumstances, it is possible to approve a lease modification from the developer and to credit the additional revenue from the lease modification to a nature conservation trust, to be used as resources for managing conservation areas throughout Hong Kong.

The nature conservation trust can follow the line of the National Trust in Britain as a body independent of the government. It owns and is in charge of managing all land with conservation value throughout Hong Kong. Since the trust has an independent source of income and does not have to rely on public funds for its operation, it is in a position to formulate a set of proposals for sustainable development and ensure greater continuity in conservation.

This is a very important merit. Although the Government proposed in December last year to manage sites with ecological value through two proposals,

namely, "management agreement" and "public-private partnership", in the long run, these two proposals will encounter the problem of a lack of funds. Concerning the former, the Government will only commit itself to the recurrent expenditure for the first two years, while the latter is nothing more than a co-operation agreement lasting 10 years, therefore, they can only be regarded as medium-term measures. What is more, these two proposals cannot solve the problem of ownership of privately-owned land placed under conservation and this will cause simmering discontent among landowners. The nature conservation trust and the conservation-linked development plan proposed by us will precisely address the crux of the problem.

In sum, this is a win-win proposal that has taken into account the interests of various parties. Without receiving less public revenue or having to shoulder the management expenses of conservation areas, the very thorny issue of the conservation of privately-owned land can be resolved in one stroke. Meanwhile, sustainability can be ensured in the very important task of conserving the ecology without being constrained by the financial situation of the Government. Furthermore, to centralize the power of management of all conservation areas under a trust can balance the interests of developers and landowners effectively, so that the Government can avoid attracting further accusations of "collusion between the Government and business" altogether.

Madam President, I hope that the Government can actively consider this set of proposals to prevent the ecology in the FCA from vanishing as another piece of history amid economic development, just like our old trees and historical buildings.

Madam President, I so submit.

**MR HOWARD YOUNG** (in Cantonese): Madam President, the tourism sector heartily welcomes the Government's decision to open up the FCA. The opening up of the closed area will not only bring substantial revenue to the Treasury, it will also promote the economic activities and employment in the area. However, since there are at present a lot of private land and wetlands with conservation value in the border area and the cost of development is very high, the tourism industry agrees that the Government must carry out planning cautiously.

The FCA is connected to the wetlands in Deep Bay and to Wutung Shan State Forest Park and has been named the "ecological corridor" and "the backyard of Hong Kong". Since the FCA has been isolated for many years, quite a number of ancient villages have been preserved to this date and some of them even have a history of over 200 years, therefore, they offer great potentials of development as major cultural and heritage tourism attractions. The Mai Po Nature Reserve is also a stop-over for rare migratory birds and has become a world-renowned bird-watching site long ago. In the area around Sha Tau Kok, there are also many nesting grounds for migratory birds, so these places also have development potentials. In addition, in the areas surrounding Lin Ma Hang and San Kwai Tin, major breeding grounds for bats, the rare Anderson's Stream Snake and three types of moths unique to Hong Kong can be found. These precious resources can all be developed into valuable resources for tourism in Hong Kong.

What is worthy of mention is that in the "Hong Kong 2030: Planning Vision and Strategy", it is pointed out that there are in fact only three areas with development potential in the FCA and they include the Lok Ma Chau Loop, Heung Yuen Wai and Kong Nga Po. In fact, apart from these three places, I believe Chung Ying Street also have great development potentials.

In this year's policy address, the Government has indicated its inclination to mainly open up the land around Lok Ma Chau for development and to partially open up the Sha Tau Kok FCA. On grounds of security, the authorities still have reservations about opening up the Chung Ying Street.

Chung Ying Street got its name from its special historical and geographical background. In the past, many Members have also proposed that it be opened up as a sightseeing spot. Unfortunately, for many years, due to the special position of Chung Ying Street and the security risks involved, no serious consideration has been given to its development. I hope that the Government can actively consider incorporating Chung Ying Street into the area to be opened up. If the Government does not want to achieve that in one stride, it can consider opening it up only to tour groups. The impact may perhaps be tolerable in terms of security. I noticed that advertisements had been put up in travel agencies everywhere in Shenzhen claiming that it was possible to join tour groups visiting Chung Ying Street at any time, whereas it is not possible for us to do so in Hong Kong.

In the golden week that has just passed, the number of visitors from the Mainland was lower than expected. It can be seen that the appeal of Hong Kong to mainland visitors runs the risk of gradually fading. The Government should expedite the study on opening up the closed area and implement the plan to develop ecological tourism, so as to attract visitors who are also nature lovers from various places, including overseas countries.

The FCA has great development potentials, however, there are also places with high ecological and conservation value or strong cultural traditions. To develop ecological and cultural tourism, apart from improving the infrastructure, it is also necessary to step up management.

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

**MS LI FUNG-YING** (in Cantonese): Madam President, today, this Council is debating the development of the border area. I have two roles to play. The first is that of an indigenous villager. My home is at Sha Tau Kok inside the FCA. Therefore, I will first express my views as a resident of the border area. After that, I will voice some views on comprehensively developing the border area.

It can be said that the residents now living in the FCA have been forgotten by society and female indigenous residents are discriminated against under policies. In saying that the FCA has been forgotten by society, I mean that all community development programmes and social services have left the border area out in the cold. It is already difficult for the rural area to retain its young people and neglecting them in social policies has exacerbated the exodus of young people, so that at present, in many villages in the border area, either only elderly people are still living in them or most of the houses have been deserted and most of the people in these villages are people advanced in years. At present, one major problem for the villagers in the border area is the lack of normal social activities. If friends and relatives want to call on them, the problem has to do not so much with the remote location as the many obstacles imposed regarding the closed area. With an ageing population in villages in the border area and the remote location of these villages, together with the many restrictions, one major problem facing residents who have moved out of these villages is the caring of their elderly folks. This problem also involves some very absurd government policies which are discriminatory against women whose

parental home is located in the closed area but who are married to outsiders or have moved out. I have a profound personal feeling about this.

As we all know, members of the public who want to enter the FCA have to apply for permits. For people who are still living in the FCA, applying for permits poses no problem. However, if they have already moved out of the closed area or are married and living in the urban area, rather serious and obvious discrimination exists with regard to the application of resident permits or the renewal of such. Why is it that a birth certificate is not sufficient in proving that one intends to visit relatives back at one's village? Such a policy is simply ridiculous and has given rise to a situation in which outsiders who have moved into the FCA act as guarantors for indigenous residents wishing to go home to visit relatives. On this issue, I once made enquiries with officials of the Security Bureau, who replied that such measures were taken because of the demands of the policy on security. If married women going home to visit their parents have to comply with security requirements, why is it that male indigenous residents who have moved to the urban area and who want to visit their parents can do so as a matter of course, without having to comply with security requirements and securing guarantors? If this is not discrimination, then what is it? Such a discriminatory policy not only impedes women married to outsiders from going home to visit their relatives, it also impedes the relatives and friends of these women from going back to visit their relatives and engage in normal social interaction, and still less is it conducive to enabling relatives and friends to take care of elderly people. Therefore, Madam President, I strongly demand that irrespective of whether the Government will develop the border area, these problems should be solved as soon as possible all the same.

I will now express some specific views on how the border area should be developed. I agree with the strategy to develop the border area proposed by the Chief Executive, Mr Donald TSANG, in his policy address. Specifically, when developing the border area, it is necessary for the Government to strike a balance among four areas: firstly, an effective boundary of administration should be maintained; secondly, the rights of indigenous residents should be fully respected; thirdly, employment should be promoted and fourthly, the countryside, in particular, land with conservation value, should be cherished. At present, one major misunderstanding in society is that the people who will stand to gain the most from the development of the border area will be the indigenous residents who own land. This is in fact not true because many indigenous residents have



already sold their land at very low prices, so the very first people who will benefit from the development of the border area are probably property developers who got hold of the land by hook or by crook. Therefore, here I have to remind the Government that when developing the border area, it is necessary to consider the interests of the indigenous residents in the area and the interests of property developers adequately.

I do not wish to see the mistakes made in the development of the New Territories repeated in the development of the border area. The lessons that the Government has to learn from implementing its policies on the development of the New Territories in the course of over a decade are indeed too many and highly significant. Unregulated container storage yards, scrap yards, dumping sites and even dumping ground for electronic waste must not reappear in the development of the border area. Not only did they cause a great deal of nuisance to nearby residents, they also created a host of environmental and transport problems. The development of the border area cannot follow the practice of developing Tin Shui Wai by treating such a move as a way to relocate grass-roots members of the public to a remote area. The development of the border area should not mean the continual expansion of the urban area without respect for the culture or traditions of the New Territories.

Madam President, I support the comprehensive development of the border area. What I mean by comprehensive development is that in considering the development of the border area, it is necessary to consider all aspects, rather than an all-out development from a purely economic or profit-making point of view.

Madam President, I so submit.

**MR LI KWOK-YING** (in Cantonese): Madam President, due to historical reasons, the land in the border area has been frozen for a long time. However, with increasing interactions between Hong Kong and Shenzhen, opening up the border area so as to promote further co-operation between Hong Kong and Shenzhen has taken on greater urgency.

At present, there are various types of land in the closed area, including farmland, wetland, marshes and hills. Of these, the area to the west of the river loop in the border area is the Ramsar site, which has the greatest conservation value in Hong Kong. This area, with its clear water, fine sand, pleasant

sceneries, mangroves and reed-grass, is also the stop-over for many migratory birds. In sum, the border area, having been set apart and located in a remote corner, has been isolated and free from interference from the outside world for several decades. Abundant land and natural resources are tucked away in it, awaiting exploitation and discovery.

For many years, many groups and academics have put forward proposals on developing the FCA, so as to put the ecological function of the closed area to maximal use. As I have said, there are wetlands, mangroves, and so on, of extremely high ecological value in the closed area, which can be exploited to develop eco-tours in a tropical wetland. In addition, traditional fishing villages can be found on the outlying islands in the vicinity of Sha Tau Kok, such as Kat O and Tap Mun. These villages have a Hakka setting, traditions and culture with a history of more than one hundred years. All these features are very special and new to a lot of people who grew up in the city.

The discussion on the development of the border area is not a novel topic. Various parties such as academics, business associations, labour groups and political parties have put forward many proposals to the Government at different times over the years. One of the most frequently discussed topics is the establishment of an industrial zone at the border. Insofar as the DAB is concerned, we once submitted a document entitled "Proposals on and Supporting Evidence for Comprehensively Developing the Border Area between Hong Kong and Shenzhen", in which appropriate proposals are made concerning areas with development potentials in the entire border area, for example, to develop Sha Tau Kok into a tourism area, to develop Ta Kwu Ling into an industrial area and to develop the river loop at Huanggang into a Comprehensive Development Area, and so on. However, apart from the incessant calls from Hong Kong society to develop the border area, the attitude of the Mainland towards co-operating with Hong Kong in developing the land in the border area has always been very positive throughout the years and the Mainland has already carried out studies and planning on its own long ago. Some of the projects have even been given approval by the State, a case in point being the establishment of a new control point at Liantang with a view to easing the traffic in northeast New Territories.

Some environmentalists believe that the closed area is the backyard of Hong Kong and should it be developed, places with very high ecological value will be ruined in no time. In the face of such claims by environmentalists, are we going to give up the development of the closed area, which is a project beneficial to the Hong Kong economy?

As the saying goes, you cannot have a cake and eat it. Everything in the world probably has its merits and demerits, only that the question is how a balance can be struck between them. If we apply this to environmental protection and economic development, the two are not opposed to one another or inherently and mutually exclusive. It is only necessary to carry out appropriate planning in order for development and environmental protection to co-exist and for genuine sustainable development to be achieved.

In November last year, the Government, when announcing the new nature conservation policy, chose 12 sites that would get priority in receiving enhanced conservation and these sites will be jointly managed by the business sector and non-government organizations. As regards the use of these ecologically important sites, there are all sorts of recommendations, for example, the construction of ecological parks, a Chinese herbal medicine garden or holiday resorts. Put simply, this is to support environmental protection with economic activities and to make environmental protection contribute to the economy. They are complementary and they can go hand in hand.

Hong Kong people have been renowned for their flexibility and resourcefulness in dealing with matters. Given that a vast tract of land at the border lies abandoned, is it true that if we continue to leave the precious natural resources, including the wetlands and mangroves, in the closed area to the care of nature, it can then be ensured that these resources will continue to be treasured in future and left undisturbed? Moreover, a lot of the resources in this area, such as the Fung Shui woods in many villages, are not just the pets of environmentalists. Even local residents will not exploit them lightly because such a move affects the fortune of the entire village. Members can consider if the villagers will just stand by passively should someone want to damage the life force of the village?

Therefore, I hope that members of the public, in particular, green groups, can adopt a cautious and open attitude towards opening up the border area and should not be unduly alarmed. We have to know that residents in the closed area have been segregated for half a century. As landowners, they have the right to decide the use of their land. Moreover, with appropriate scientific planning, the protection of the ecology and environment will not be an issue at all. Therefore, I hope that after the discussion today, the misunderstanding of various

parties in society about opening up the border area can be removed and all of us are looking forward eagerly to the day when the border area will be opened up again.

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

**MR ANDREW LEUNG** (in Cantonese): Madam President, the establishment of an industrial zone in the border area has always been a subject of discussion in the Legislative Council. As early as the '80s in the last century, a certain Member proposed the establishment of an industrial zone at the border with a view to solving the problem of labour shortage. Sometime ago, the Chairman of the Federation of Hong Kong Industries, Mr Kenneth TING, also pointed out that the industrial sector hoped that the river loop could be developed into an industrial zone by capitalizing on the strengths of both Shenzhen and Hong Kong, in order to help the Hong Kong economy develop and promote employment. However, in the past, on the opening up of the closed area, the Government was still hesitant even after conducting reviews and consultations repeatedly. It was only in the policy address delivered last month that the Government said that the coverage of the FCA as a whole could be reduced, however, the details and effects will have to be studied, discussed and determined internally at the final stage. I hope that the Chief Executive can develop this tract of hinterland at the border as soon as possible.

Concerning the decision of the Government of the Hong Kong Special Administrative Region (SAR) to open up the border area, I very much welcome it. I also support the comprehensive development of the border area, so as to promote the development of commerce, industry and tourism in Hong Kong. In the debate on the Motion of Thanks last week, I already covered the main points concerning how Hong Kong would benefit from using the opened-up border area to construct the Eastern Corridor at Liantang, so I am not going to repeat them today. Nevertheless, I wish to talk about how the Hong Kong economy will benefit from using this piece of hinterland for high value-added industries, scientific research, training and the grooming of talents.

This piece of land located at the border can play a significant role in the regional economy. If we can move in line with the developments in Guangdong

Province and Hong Kong and make good use of the advantageous geographical position of this piece of land, it will yield economic benefits for the SAR. I suggest that the authorities should consider using part of the land for high value-added industries, scientific research, training and education, so as to enhance Hong Kong's competitiveness.

At present, in the face of global competition, Hong Kong industries nowadays must move towards high added value. The SAR Government can consider exploiting this piece of land with its advantageous geographical position to establish an industrial zone at the border and develop high value-added industries such as fashion, electronics, Chinese medicine, high-end foodstuff, the environmental protection industry, the creative industry, high technology and vehicle parts, so that this piece of land can become a special zone within the Special Administrative Region and mainland and Hong Kong residents will be allowed to enter the zone freely to work there, so as to increase the employment opportunities in both places.

Together with this hardware of an industrial zone at the border, if appropriate complementary software can be put in place, the result will be even more pronounced. Talking about software, it is necessary to mention the symbol of quality that "made in Hong Kong" stands for. This symbol of quality commands considerable recognition in the international market due to the quality and design of the goods. Our garment and clocks and watches industries are also outstanding and they are the forerunners in the international market. In addition, the well-established legal system in Hong Kong and the respect for intellectual property rights have also made shopping in Hong Kong a mark of confidence. We can take this opportunity to burnish the emblem of "made in Hong Kong" and promote this symbol of quality and the well-known brands of Hong Kong.

In order to derive greater benefits from the development of the border area, the governments on both sides should make an effort to promote high value-added manufacturing industries. CEPA III has already been implemented, so the clocks and watches of quality brands made in Hong Kong can now also enjoy zero-tariff treatment. This will be favourable to the clocks and watches industry in accessing the mainland market and it is believed that these conventional industries can be attracted back to Hong Kong again, and burgeon and take root here.

We understand that in order to be successful in the keenly competitive economic environment nowadays, it is a must to become integrated into the regional economic core of the Pan-PRD Region and the PRD Region as far as possible and strive to maintain a leading position in the regional economic core, so as to power the Hong Kong economy ahead and create employment opportunities.

With the rapid pace of economic development in the Pan-PRD Region, the demand for talents from companies is very keen. If the quality of human resources in the Pan-PRD Region can be enhanced, this will also be beneficial to the Hong Kong economy because if the producer services provided by Hong Kong in the PRD Region can be relocated back to Hong Kong, this will be conducive to the continued enhancement of the service industries in Hong Kong. In view of this, the governments on both sides must start with education and training and upgrade the skills of workers in the PRD Region, so as to maintain long-term competitiveness. Moreover, since Hong Kong factory owners employ more than 10 million workers in the Pan-PRD Region, if this piece of land at the border can be used for education and the grooming of talents, a vast number of business opportunities will be created.

In addition, universities in Hong Kong and the Vocational Training Council are also doing an outstanding job in providing training. The Government can consider establishing educational institutions at this place to conduct scientific research and provide training. Such a move will have a positive effect on turning out professional talents in commerce and industry and on converging with the international community.

In addition, in order to complement the development of high value-added industries, the governments on both sides should step up co-operation and communication in the technological domain. The strengths of Hong Kong and Guangdong Province can be pooled together and the international outlook of Hong Kong, its well-established legal foundation and its respect for intellectual property rights can be capitalized to carry out scientific research, product development and design on this piece of land at the border, so that professional talents from Hong Kong and the Mainland can congregate to research into, develop and design products in a pleasant environment. It must be realized that time is money, and time saved is money saved. After the designs are drawn up on this piece of land at the border, they can be dispatched to the hinterland, that is, to the PRD Region for production. This will be time-saving and convenient and productivity can be greatly enhanced.

Finally, apart from industrial development, the land at the border can also be put to various types of uses. The SAR Government can consider using part of the border area for ecological and environmental education and create employment opportunities through the development of tourism in this area.

Madam President, today, I am pleased to see that the Government has resolved to open up the closed area for development. We hope that the Government can consult the public and listen to their views more before formulating its policies, so that this piece of hinterland can be developed in the optimal way.

With these remarks, I support the motion.

**MR PATRICK LAU** (in Cantonese): Madam President, since 1951 when the former Hong Kong British Government set up the FCA between Hong Kong and the Mainland, many places in the border area have been rarely frequented by people. At that time, no one could have foreseen that precisely because of this historical reason, these places have remained undisturbed by urbanization over the past 50-odd years and seem to have become the Eden in the modern world. According to the Kadoorie Farm and Botanic Corporation's survey, the border area, apart from being a tract of wetlands, streams and mangroves of high ecological and conservation value, also provides the only suitable habitat in the world to some endangered or rare species of fauna and flora in Hong Kong.

Just when the Government has decided to significantly reduce the size of the border area in order to release land for development, I have learnt from various media reports that there are proposals on developing high technology industries and eco-tourism in the border area. Just now some Members have also expressed their views on that. So, we are concerned about what will happen to the "ecological treasure" there. I must emphasize that I do not totally oppose these proposals. However, if any mistake is made in the planning and operation of these developments, it would prone to be an ecological disaster.

So, in the process of formulating a comprehensive strategy for developing the border area, I share the views of Mr Jeffrey LAM. We should be prudent and consider various factors in our study before arriving at a decision as to how the sustainable development and conservation of the area can be ensured. As

the saying goes, more haste, less speed. If we just look at the short-term benefit, we will lose sight of the long-term effect. We should conduct a comprehensive assessment on the ecological value of the area before deliberating on how to expedite the completion of the realignment of the closed area and formulate a planning proposal.

Madam President, in fact, apart from the popular notion of ecological conservation and environmental protection, we must also consider how to preserve and promote the heritage and monuments in the closed area. Recently I had the honour of visiting the Lo Wu Village and exchanged views with some indigenous villagers. We all agree that the closed area is one of the most representative areas in Hong Kong history because it bears witness to Hong Kong's colonial history. Moreover, the original features of many historic relics can be preserved just because they are located in the closed area. I am sure that many Hong Kong people will have a nostalgic feeling on seeing the old Lo Wu Bridge at the Ng Tung River. There are also many buildings, such as the clusters of tombs of the YUEN family in Lo Wu, which are relics with unique local features and of high cultural value. I have learnt that the descendants of the YUEN family are planning to rebuild their ancestral hall at Lo Wu Village.

I think there is a need for the relevant government departments to sincerely and fully consult the indigenous inhabitants in the closed area before conducting any cultural studies and assessments in order to ensure that indigenous customs are respected and sufficient importance is attached to improving the ecological environment in implementing any cultural projects. I think this is a good opportunity for the departments to strengthen communication and co-operation with the local residents with a view to improving the living environment and the community facilities there.

Madam President, as the border area can provide us with a scenic living environment, fresh air and sites of high historic and cultural value, I believe many senior citizens would like to spend their retirement life there. So, colleagues of The Alliance and I opine that the area should be developed into a "retirement village" for the elderly. In order to ensure that the natural landscape will not be affected, low-density environmentally-friendly facilities should be constructed as residence for the elderly, who will then be provided with a one-stop service as other complementary facilities such as hospitals and community centres are also erected there.



This will not only provide a comfortable living environment to the elderly but also create job opportunities which will in turn boost the economy. Furthermore, many elderly people would also like to go shopping in the Shenzhen Municipality nearby for they can buy quality goods at inexpensive prices. Meanwhile, Shenzhen residents can also have the opportunity to make use of the medical and other related services in the retirement village where necessary. In other words, this can promote exchanges between Hong Kong and the Mainland.

Of course, in order to develop the closed area in a successful way, the Government should also devise a plan on improving the local transportation networks such as the East Rail extension to Lok Ma Chau and other places. Besides, the Hong Kong Government should also set up a task force with the Shenzhen Municipal Government in order to exchange views and hold discussions on mutual assistance with a view to upgrading the people's quality of life in both Hong Kong and Shenzhen.

Thank you, Madam President.

**MR LAU WONG-FAT** (in Cantonese): Madam President, in his policy address the Chief Executive resolutely responded to the aspirations of various sectors of the community and decided to reduce the size of the FCA significantly to release land for redevelopment. This is absolutely a correct decision, and if this decision can be implemented to cope with the current development needs of Hong Kong by grasping the opportunity, it would certainly be a major achievement of the Government under its governing philosophy of striving for the well-being of the people.

I said "grasping the opportunity" because we have indeed stalled for too long. This year is already the eighth anniversary of Hong Kong's reunification with the Motherland, and such a decision is taken only in the eighth year under the leadership of the new Chief Executive. Although we have not missed all the prime opportunities for development, we have already missed opportunities of making a head start and to put it in more commonly-used terms, we have been lagging behind the times. That is already water under the bridge, and now, all the Government can do is to implement its policies swiftly and efficiently, work hard and catch up.

The entire FCA in Hong Kong measures about 2 800 hectares. I think the ultimate goal should be to abolish the FCA in its entirety and put the precious land resources to good use for the long-term interest of Hong Kong. The Government should capitalize on the geographical advantages of the closed area and consider developing it into a border city with the function of facilitating the integration of Hong Kong with the Pearl River Delta Region. But the key lies in speed. In view of the rapid development of the Mainland, how can we keep pace with it if we do not quicken our pace?

Madam President, I hope that the situation of not being able to reach decisions after discussions and not taking actions on decisions will never recur. The proposal to significantly reduce the size of the closed area is widely supported by the community, and a Government which stresses strong governance should attach great importance to this. The Government should make a new start with the people and take prompt actions to address urgent issues, and to this end, I suggest that the Chief Executive should be actively involved in this issue by establishing an inter-departmental task force, with a view to conducting consultation and research studies and formulating sound planning proposals on the direction and scale of development and for striking a balance between security, conservation and the rights and interest of the residents in the area in the shortest possible time.

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

**MR ABRAHAM SHEK:** Madam President, as my colleagues have just informed us, a closed border area of 28 sq km was originally set up by the colonial government in 1951, the purpose then was to stamp the tide of mainland refugees seeking asylum in the territory. Now, we open our bordergates to welcome them as tourists. The Chief Executive, in all his wisdom, decided to reassess the border land for the benefit of society. He called for a study in his last address to decide what to do with this area.

I appreciate and welcome the release of considerable land at the border area. It is definitely more productive to make good use of it than to leave it idle. But then, some questions came to me. How much land will be opened? In what form will it be released? How exactly will it be used? What potential adverse effects might there be if there are major developments? Lastly, who

will benefit from this development? The Real Estate Developers Association, in response to the "Hong Kong 2030 — Planning Vision and Strategy", recommended that the *status quo* of the area should be maintained, for the development costs for preparing the land for development in this area is astronomical.

The allocation of land in advance of its development is an important issue to consider. The Administration's economic policy might directly affect its outcome. Hong Kong has been operating all these years along a free market philosophy, and this land allocation process should follow such a policy. Land should be distributed in line with market-oriented initiatives, including fair competition and equity. Following that, the issue of appropriate and sustainable development should be followed. Obviously, there are numerous plans on how this border area should be developed. Ideas include commercial and retail centres, industrial estates for light manufacturing or garment industries, residential projects for luxury town houses, a high-tech park, logistic centres and tourist attractions are among the proposals. However, like other environmentalists, I cherish the idea of maintaining a green natural environment. Nature conservation is an important priority for Hong Kong, especially given the lack of open space in Hong Kong. However, I am practical enough to ponder the productive use of this land, too. Somehow, the idea would obviously be that we have to strike a balance between the two. If we can preserve the undisturbed and natural characteristics of the area, perhaps we can also explore ideas like developing eco-tourism spots or retirement residences, as my colleagues have said earlier. This balance would achieve a win-win situation as development would be compatible with socio-economic goals.

We are all well aware of the adverse environmental effects created from heavy industries in the Pearl River Delta Region. This is one strong argument against using the border land for industrial use. Without doubt, the closed area is too precious and environmentally sensitive to be subject to large-scale development, be they heavy, light or high-tech type factories. Inevitably, any dramatic increase in logistics and transportation flow will have an effect on the surrounding environment, and as time goes by, further industrial expansion will worsen the situation.

In his policy address, the Chief Executive focused his concern on caring for the elderly and the needy, and creating a harmonious society. Issues such as job creation, nurturing a vibrant economy and achieving a self-sustainable

environment were all given great emphasis. Given these are his goals, establishing tourist attractions and low-density housing may well be the most suitable plan.

Firstly, tourism requires moderate construction which will not dramatically alter the natural scenery. Eco-tourism would be an ideal option. Together with small retail businesses or an exhibition centre, it could make the site economically viable and create jobs. These new developments, acting as bridges between Hong Kong and Shenzhen, can attract significant tourists as well as eco-minded companies who want a scenic environment with the business opportunities of Hong Kong. When the idea is fully executed, it could boost demand for service and retail labour.

Secondly, it would be feasible to create a low density retirement community in the zone, as my colleagues have said. A retirement community would offer a relaxed spacious environment for seniors and free up valuable urban space currently occupied by homes and facilities for them. A concentration of such a community will induce similar clustering of affiliated services and facilities, thus encouraging resource allocation efficiency. Furthermore, the elderly can take advantage of the location to access lower cost daily necessities in Shenzhen, while retaining the availability of high quality medical service on the Hong Kong side. The fact is that many seniors have higher confidence in and security about the health care services in Hong Kong. They also want to stay close to their family working on this side of the border. Moreover, the development of such a retirement region on the border will generate many other opportunities for ancillary private enterprises and businesses. As business grows, jobs will increase, thus benefiting local workers and those on the Mainland. This kind of mutual benefit will be good to nurture more co-operation between Hong Kong and Shenzhen, as we share the achievements together.

Ultimately, this proposal should positively affect all aspects of the community — in social, economic and environmental terms. In the end, we preserve a pristine natural environment while creating jobs and economic opportunities. With an ageing population ahead for Hong Kong, elderly needs as well as other welfare services will be a growing trend in the coming years. Developing the border area into an integrated tourism-retail-retirement region is a progressive win-win situation for Hong Kong and China. With these remarks, I support the motion.

**MR LEUNG KWOK-HUNG** (in Cantonese): Madam President, in this motion, Mr WONG Ting-kwong has, in fact, said a lot of things that are very abstract. From the remarks made by the two Chief Executives, we know that as Mr TUNG has said, trade, logistics, financial services and tourism are the four major pillars of the Hong Kong economy. How exactly do these four major pillars perform their functions? Nobody has ever said anything about this. Have they been chipped and eroded, and if so, how can remedies be made? Nobody has ever said anything about this.

The Government did not say anything about this. Nor did it give us its "report card". It only said that there is a vast expanse of land and so, why do we not open it up for development? I always hold that there should not be any closed area, because since the two places are already within the same country, the need for this sort of closed area for security reasons does not exist anymore. Yet, the question is when we are going to open up this very site measuring some 2 000 hectares in the closed area, what criteria should we adopt? If we hastily decided on its opening without conducting any detailed review of the four major pillars beforehand, this will very likely lead to serious consequences, like what happened in the many cases that we have seen before of having to accept the consequences helplessly. That is, we would have no choice but to allow the so-called *fait accompli* to be flushed down our throat.

In fact, many people said that we must launch all the projects at a quicker pace. But what happened in the end? We have seen that the Cyberport had been launched very quickly but there are now very serious consequences. While we still need to spend much time on the West Kowloon Cultural District (WKCD) development, it is now proposed that a third project be implemented in another area. Indeed, this has reflected that after the bursting of the economic bubbles, those consortiums hoping to make as much money as they did in the past now wish to relive the good old days and hope to make a fortune again through the Government's opening up of its resources, including government funding for infrastructure projects.

Insofar as this project is concerned, let us not consider for the time being what benefits can actually be achieved. Just a brief mention of it has already caused the price of those concept stocks in Hong Kong to go up. In the Mainland, people have long become tired of speculating on concept stocks and it is now Hong Kong's turn to speculate on concept stocks. We must understand that for red chip stocks in the Mainland or certain stocks in Hong Kong, the price

of these stocks can increase considerably if the Government revealed plans to develop a particular area, and the shareholders could then make a fortune and they would be rolling in money. As to whether or not the Government's plan can generate benefits in the future and whether those "big white elephants" created by these developments will have to be slaughtered for use as ingredients for Hot Pot, it is unnecessary to say anything about it.

It is, in fact, entirely irresponsible to put forward this proposal without conducting a review of the four major pillars in Hong Kong at all. I must cite an example. On the tourism front, we have spent some \$20 billion on subsidizing the construction of the Disneyland and that has eventually plunged us into this sorry state. Worse still, Shanghai has even said that a Disneyland would be built in the next five years. May I ask what this is all about?

I would also like to cite the example of the logistics industry. Mr WONG Ting-kwong's motion does not mention the logistics industry, one of the four major pillars. In fact, how possibly can the logistics industry be promoted by this plan in any way? This is not where the problem with the logistics industry lies. The problem lies in the clearance arrangements of the two places, and it is necessary to speed up this area of work.

In fact, with regard to this problematic proposal, we can consider another option and that is, by making use of the new speculation craze emerged under the pretence of promoting the four major pillars and high value-added industries, we can sell those "big white elephants" that have been created by the developments but cannot be used as Hot Pot ingredients to other people as pot-stewed fowl or meat. In that case, they would become non-high-value-added; the situation is similar to that in the processing zone in Sri Lanka — Since these developments are already there, we might as well develop a processing zone and allow the mainlanders to live there. They could be confined to this area to engage in low value-added jobs. This is actually viable if we do it in this way, for these are the activities that we have been engaging in over the past eight years.

In fact, after CEPA and "Nine plus Two", what say do Hong Kong people have in the development of Hong Kong? As Mr TSANG said when he put forth his proposals on constitutional development, let us not be so naive as to think that Hong Kong can decide on its own the pace of constitutional development, for we must ask for the permission of the "Grandfather". Today, we open the door, saying that we will spend much money on certain projects. We have been

bragging about many proposals, but this plan was not even mentioned last year. We visited those factories in the Mainland, but I do not know what other Members had seen there. But all I had seen was that the factories were processing imported materials. What sort of high value-added activities are these? When I visited the factory of Honda, I saw that all the work being carried out there was just assembling work, and they were not manufacturing products designed by the Mainland. I do not know what those high-tech factories are all about, although I found that only a small part of the things in the factory was made in Chang An. Not even the Mainland can do it. Can Hong Kong possibly do it? If we cannot do it here, then the answer is that such development is not viable. So, if it is said that this proposal could create job opportunities for Hong Kong people, that is not true, because if that processing zone could absorb a large number of cheap labour, the wages would only be very low and ever dropping. Moreover, to the small and medium enterprises or small businessmen in the border area, the surge in land price would certainly make their operation even more difficult and they might even have to close down, unless they managed to promptly switch to another trade.

For these reasons, I will not support such an abstract motion. I think before drawing up any plan, a review of the four major pillars must be conducted and some degree of protection must be provided to Hong Kong people, such as imposing heavy taxes in the processing zone and channelling the tax revenue to social welfare or scientific research purposes. Otherwise, I can tell Members that this proposal will surely become a replica of such "big white elephants" as the Cyberport, the WKCD, and so on. I hope Members will understand this point and will not agree to it in a slapdash manner.

Thank you, Madam President.

**MR ALAN LEONG** (in Cantonese): Madam President, the Chief Executive said in the policy address that the size of the closed area would be reduced to release more land for development. At present, the FCA covers 28 sq km from Sha Tau Kok to Deep Bay. For a long time, the border area has remained closed for security and political reasons, denying access by outsiders, and has been a unique place with a sparse population.

After more than two decades, Hong Kong is now reunited with the Mainland under the same country. Now, Hong Kong people can easily go to

places in Guangdong and Shenzhen for shopping and for fun as they wish, and mainland tourists are even more welcomed to visit Hong Kong. The role of the border area as a segregation point or a buffer zone has significantly diminished. The Government's decision to conduct studies on reducing the size of the border area is indeed a step taken for the convenience and benefit of the people.

That said, how the land to be released in the border area can be utilized has become another issue that may arouse controversies. The Legislative Council has repeatedly passed motions earlier, calling on the Government to consider developing an industrial zone in the Lok Ma Chau river-loop area. I noticed that there are many views suggesting the development of the river-loop area to reinvigorate the local manufacturing industry. Together with other matching economic measures, it is hoped that new opportunities can be created for the economy of Hong Kong as well as that of the Pan-Pearl River Delta. Certainly, many people have also expressed concern about whether the ecology in the border area would be compromised in the course of development. Views are diverse and there has been no consensus.

To me, however, it is most worrying that the development of the border area would kick start again the established mode and practice of land development in Hong Kong. That is, when different interest blocs see development potentials in a district, they will openly or secretly scramble for the land. The Government will consider from the angle of the revenue to be generated to the Treasury and economic benefits in deciding on the allocation of land and drawing up planning proposals. The so-called public consultation to be conducted is, in substance, merely to explain to residents or the groups concerned how land will be resumed and the arrangements for compensation or rehousing. As for the environmental impact assessments required by law, some may not pass the assessment for going too far, whereas some may just barely pass the assessment under the slogan of "striking a balance between development and environmental protection".

It is not because I am concerned about the threats to the natural environment that I oppose the development of the border area in a broad-brush manner. What I am worried about is that the Government will again adopt a very passive attitude towards land use and distribute interests in a way which it considers fair itself, thinking that the matter can be settled when everyone is given a share of the pie. The authorities are also minded to obtain revenue for the Treasury in the process, and it is only after all the money-making plans are



made that consideration will finally be given to the impact on the environment. Once it is found that damages may be caused to the ecology, the ecology will be put in direct confrontation with development in the "zero-sum game", followed by a process of bargaining between revenue and trees.

In fact, could this very *modus operandi* be the right attitude of Hong Kong in maintaining sustainable development in land use in the 21st century? When the natural ecology has bit by bit yielded to man-made development, could this be the way to maintain sustained development of the environment? Even if some of the lots with greater conservation value are set aside, could we really have Mother Nature segregated as such, so that these lots would not be affected by the development in other parts of the land? Madam President, I strongly believe that Hong Kong has already paid too high a price for such "piecemeal" type of planning which sets eyes only on money. It is now high time for us to think with a cool head about how we should deal with our limited reserve of precious land. What kind of an environment do we wish to leave to the next generation of Hong Kong after 20, 30 or 50 years?

Human activities which pose threats to the natural environment are not limited to factory production emitting black smoke and discharging sewage. Even if the planning of the development in the border area will only include high value-added industries or tourist activities, it would still lead to a considerable increase in the flow of people and vehicles in the area. According to the projection made by the Planning Department two years ago, the effluent load of Deep Bay had long been saturated. In the next decade, great efforts must be made to reduce sewage, and the quality of water at places surrounding Sha Tau Kok also shows a deteriorating trend. Besides, given the hilly terrain and a lack of roads and water mains in most parts of the border area, considerable site formation and infrastructure works will certainly be required in order to develop the area, and this will inevitably cause damages to the surrounding ecology.

The Government must particularly pay attention to the fact that the wetlands in Mai Po and the inner Deep Bay are within the scope of protection of the Ramsar Convention. The Government must have regard to its obligations under international conventions and endeavour to conserve the wetlands.

Therefore, the Government must not fantasize that it can please everyone by designating certain parts of the area as conservation zones to dismiss the appeal of the environmentalists, while condoning developers in doing whatever

they wish in other parts of the area. Madam President, I hope that the Government can expeditiously draw up strategies for the development of the border area, set out the primary role and objectives of the development of the border area and actively consult the views of residents, civil society, green groups and other stakeholders, in order to come up with a direction of economic development that can best conserve the natural outlook of the border area and hence truly make good use of the land to be released after the realignment of the border area.

Madam President, I so submit.

**MRS SOPHIE LEUNG** (in Cantonese): Madam President, I am very grateful to Mr WONG Ting-kwong for raising this issue on the development of the river-loop area today, and the development of a border industrial zone was also mentioned. As Mr Andrew LEUNG said earlier, this has been a topic for discussion in this Chamber since the '80s. It was Mr Stephen CHEONG, a relative of Mr Andrew LEUNG, who raised this issue for discussion in this Chamber.

Later, I became a Member of the Legislative Council. Madam President, I believe you are aware that I have also raised this issue many times, as I would raise it at least twice or three times a year. Today, many Members unanimously stressed the need to develop the border area. I think the situation is not in any way like that described by Mr WONG Kwok-hing as "a grey-haired maid in the imperial palace recounting stories of the old days", because firstly, I have no grey hair; secondly, I am not a maid in the imperial palace; and thirdly, I think it is right to go through such a process.

Today, two government officials are in this Chamber and it is the first time that they are here to listen to our speeches. In the past, normally it was the Secretary for Economic Development and Labour or the Secretary for Commerce, Industry and Technology who was here listening to us. Why do we still react as if we have just awakened from a dream when the discussion of this issue is still carried on today? In my view, Madam President, I do not think that the Government has made any mistake. Perhaps it is only because I have not made my points clearly and accurately enough, or perhaps I have not been persevering enough to convince the many Members of this Council to join me in vigorously fighting for it. Even my friends in the industrial and commercial

sector sighed that I should not bring up this issue anymore, because it will be getting nowhere. But today, are we not getting somewhere? It is said in the press today that many friends in the industrial and commercial sector have shown keen interest in this site.

In fact, Madam President, had we developed the border industrial zone earlier, we would not have come to this situation today, and our textiles and garment industries would not have come to the present state; in 2005 when the textiles quota was abolished, we would not have been subject to the sanctions imposed by the United States; China would not have been subject to so many sanctions, and our investment in China would not have been turned into a complete fiasco as it is today.

A number of colleagues spoke of protectionism today, consistently arguing that we should protect our own job types and our own job opportunities and that there must not be low wages, so on and so forth. I think these colleagues have overlooked a very important point and that is, when we talk about developing a border industrial zone, if we continue to worry about this and worry about that, once another "exodus" occurred in our industries, there would simply be nothing left for us to worry about; all we could do then would be to sit there idly and sink.

As I have said time and again, the development of a border industrial zone is not merely to benefit certain existing industries, but to help the existing industries to become pillars of the economy, so that they can continue to survive healthily. In the process, the area will be turned into a breeding ground for new industries, which is just natural. I can guarantee that if the development of this area can truly be pressed ahead expeditiously, we will see the emergence of the diamond polishing industry in the area and it will develop to become second to none in the world. As for biochemical medicine, as long as our measures and those of the Mainland are well co-ordinated, we will make much headway in its development. I can guarantee that I will live to 90 and Members can take me to task then. Moreover, the creative industries of the young people will also be nurtured in this area. At present, we have nothing at all; all we have is just a few industries. I, therefore, strongly believe that if we can work hard with this development, the emerging industries can grow and take off again in this area.

Please do not ask me why such development is not viable in the Pearl River Delta and why we should come back to the border area for development.

It is because to develop an area, there must be a society where the rule of law prevails, where the people must have a global vision and a market vision, and our advantage is that we have all these conditions. While we are saying that we should maintain the job opportunities here, what should we do in the absence of a large labour force? We cannot just cling to the concept and the rule of law but take no concrete action at all.

Madam President, I am very glad today, because so many people are here seriously discussing the issue of the development of the river-loop area. I very much share the view of Mr Alan LEONG, that we must have a comprehensive plan. That said, I do not wish to see that no action is taken for fear of something again. We all must really work for the development of the river-loop area in one mind. Only in this way will Hong Kong have another opportunity for development. Otherwise, if we just go on dragging our feet, the situation would be like that of the post-quota era back in 2005 and we would be letting slip a prime opportunity of development for no good reason. Thank you, Madam President.

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

**MR ALBERT CHAN** (in Cantonese): Madam President, the speech made by Mrs Sophie LEUNG earlier on was very touching. Certainly, we must stand united for the future and industrial development of Hong Kong. Yet, we must also heighten our vigilance, for there was the precedent of the Cyberport. The unscrupulous businessmen will often take advantage of the people's anxieties and the Government's vulnerability to exert influence on the top echelons of the Government, so that they can gain privileges through the backdoor and take forward their own projects in the name of developing high technology.

The development of the loop and the border area also faces the same problem. Judging from logic and principles, I have no reason to oppose the opening up of the border area. Regarding the construction of the Lok Ma Chau Spur Line back then, I was the first among all Members of the Legislative Council to propose its construction, and I said that there was no reason why other means of public transport in Hong Kong could not access Lok Ma Chau. At that time, some people said that this had to do with the security policy and the

Policy Bureau overseeing transport matters did not have any say on this issue. In the end, we invited officials of the Security Bureau to attend meetings of the Transport Panel in order to force the Government to open up Lok Ma Chau. Similarly, I have time and again pointed out in the Legislative Council that public transport is also denied access to the border area of Hong Kong (that is, Lo Wu), and this, I think, is ridiculous and lagging behind the times.

A few months ago, I went to Sha Tau Kok with "Tai Pan", and I had very deep feelings at the time. The part in Sha Tau Kok that is within the jurisdiction of the Mainland has undergone redevelopment; the development there is thriving with a completely new outlook. Quite on the contrary, the part governed by Hong Kong has remained backward and looked very much the same as the rural village in the '60s. So, we should adopt an open attitude, and work to open up and develop the border area according to the pace of the times. But as this involves land use in the entire river-loop area and the border area, we must be extremely careful in planning, urban planning and land use. We must not repeat the stupid decision of the Cyberport.

To the Southeast of Sha Tau Kok, there is a small island called A Chau measuring about 4.4 hectares. Since 1981, A Chau has been home to hundreds of herons. Many different kinds of herons can be found there, each with its own value in the nature. In 1985, the Government designated A Chau as a site of special scientific interest, establishing the island's unique scientific and ecological value. According to a survey on the nests of herons in Hong Kong in 2004, of all the 19 places with nests of herons in Hong Kong, A Chau has the highest number of nests as 224 nests of herons were found there, accounting for 25% of the total number of heron nests in Hong Kong. I cited this example to caution the Government that it must have regard to the natural ecology in developing land.

I remember that with regard to the development of the Chek Lap Kok Airport, I also cited the following example in this Chamber. Chek Lap Kok used to be a rural village, and many old farmers had planted many fruit trees there. But the development of Chek Lap Kok immediately brought about complete changes to the outlook of northern Lantau in its entirety. Coupled with the construction of the Hong Kong-Zhuhai-Macao Bridge as well as the Tung Chung Cable Car System mentioned by me this afternoon, the outlook of the entire northern Lantau has been drastically changed. By the same token, we must be very careful in handling land in the border area and in the river-loop area.

Today, on the page of main news of *The Sun*, there is a report mentioning plenty of information which warrants our careful consideration: "People from all sides put forward their proposals one after another as soon as Chief Executive Donald TSANG ordered the 'liberalization' of the closed area"; there is also much information on the consortiums: "Plans are made to develop a 'little Hong Kong' in San Tin, the river-loop area and the Lok Ma Chau crossing area for industrial, business and residential purposes, involving construction works of a massive scale and providing an opportunity for the Hong Kong economy to take off again". This may be what Mrs Sophie LEUNG has in mind about reinvigorating the industries of Hong Kong. Further down the page it is said that after the delivery of the policy address, a group of residents in the frontier closed area are elated, for the fish ponds will be turned into gold. It is also mentioned that on the land to be made available to the developers, residential and commercial gross floor area worth \$40 billion at market value can be built; "The 20 million sq ft of land in the hands of the developers is equivalent to the entire area from Central to Causeway Bay, covering four MTR stations. According to estimation in the market, even if the plot ratio is only 0.4" — let us not make it 1, but only 0.4, and Prof LAU should know best that this is a very low ratio indeed — "residential and commercial gross floor area worth \$40 billion at least can be built according to conservative estimate."

As we discuss such an important development here in this Chamber, for whom are we making all these efforts and to whom the benefits will go? Particularly as we are going to develop the river-loop area into an industrial zone and we have to finance such development by ourselves, the industrialists nevertheless said that the wages of Hong Kong workers are high and that mainland workers will have to be taken on in order to develop the river-loop area. Is this not breaking the "rice bowls" of our own people? For whom are we making all these efforts here?

Madam President, I have time and again proposed the opening up of the border area before, particularly the development of Sha Tau Kok, because there is no reason for our development to compare less favourably to the neighbouring Mainland. We can do better. However, I cannot support the theme and tone of this motion today. The motion basically puts excessive emphasis on creating new growth areas for Hong Kong's economy, promoting co-operation between Hong Kong and Shenzhen, facilitating the development of Hong Kong's trade in services, and so on, having little regard to environmental protection at large and the characteristics of the area as a whole. Therefore, overall speaking, I will vote against the original motion and the amendment.

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

(No Member indicated a wish a speak)

**PRESIDENT** (in Cantonese): Mr WONG Ting-kwong, you may now speak on Mr SIN Chung-kai's amendment. You have up to five minutes to speak.

**MR WONG TING-KWONG** (in Cantonese): Madam President, Mr SIN Chung-kai of the Democratic Party has moved an amendment to my original motion of "Comprehensively developing the border area". In his amendment, he urges the SAR Government, in considering the development of the border area, to adhere to the principles of sustainable development and nature conservation and to conduct a comprehensive ecological assessment of the plan and then formulate a conservation policy, allowing the participation of green groups with a view to ensuring that the policy of sustainable development can materialize. I note that the amendment has not deleted anything from my original motion. Mr SIN Chung-kai has just simply added these proposed environmental and conservation measures at the end of my motion.

In the past, industrial development did not take account of the importance of environmental protection, and so subsequent remedies were difficult. Having learnt a lesson, we understand that development of land resources and environmental protection should be planned and studied ahead, particularly for the closed area which has high ecological value. We strongly believe that, with suitable planning, development and environmental protection are compatible and complementary to each other and will absolutely not impact on the existing ecological functions served by the area.

There should not be any fundamental conflict of interest between economic development and environmental protection. I am grateful to the many Members who have spoken on the motion. But I note Mr Bernard CHAN's view that we cannot attract industries back to Hong Kong. I think the return of industries is not the only problem. Can our economic structure be perfectly fine without the industries? I think it is a structural defect. Perhaps my speech has deviated from the issue of developing the border area. But I am always concerned about the non-engaged youths who have not performed so well in school. Does each one of them possess good qualifications and professional skills that can help them

make a living? In my opinion, our economy should comprise an industrial sector which can absorb the manpower of these non-engaged youths. Besides, there is a group of people who are elder but do not possess any skills or expertise that enable them to eke out a living. Even if they want to work as watchmen, there are not so many such positions. I think the existence of industries can make up for the deficiency and reduce the unemployment rate.

Besides, the Central Government has granted CEPA to Hong Kong SAR in the hope that Hong Kong can pursue further development in the manufacturing sector and other industries, thus providing a stimulus to the economic development and creation of job opportunities. The purpose of CEPA does not serve as a channel to import services from Hong Kong. Nor does it serve as a stepping stone for Hong Kong people to enter the mainland market. Rather, its purpose is to enable Hong Kong to produce its own products. So, in my view, colleagues should look at the issue in a wider perspective.

I have noted that some Members such as Mr LEUNG Kwok-hung, Mr Alan LEONG and Mr Albert CHAN are concerned about the development of the border area. In relation to this, there is a phrase mentioned by them, not me, and that is "collusion between business and the Government" which particularly refers to the property developers. In fact, Members should ask themselves whether they have the ability to monitor such a problem. Are the media also playing a monitoring role in this? What position should such monitoring efforts be placed? As no one opposes the development of the border area, should there be such worries? What we should do is to work together in order to get things done.

Thank you, Madam President.

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, the Frontier Closed Area (FCA) was first established in 1951, and the present alignment of the area was drawn up in 1962, covering approximately 2 800 hectares of land south of the border between Hong Kong and Shenzhen.

All along, the FCA is an important security measure for maintaining the integrity of the boundary between Hong Kong and the Mainland. The main function of the FCA is to serve as a buffer zone separating the Hong



Kong-Shenzhen boundary and the more densely populated districts in Hong Kong, and the police can tackle illegal immigration and cross-boundary criminal activities through regulating the inward and outward visitor flows of the closed area. Other security measures include the installation of sensor fencing and barbed wired fencing along the boundary as well as the deployment of officers to patrol and conduct some ambush operations there. For visitors with a genuine need to enter the FCA, the police will issue permits to them.

Since the reunification, Hong Kong and Shenzhen have had increasingly close co-operation in law enforcement. The authorities have already effectively tackled cross-boundary criminal activities. And the number of illegal immigrants who have been successfully intercepted has dropped from 2 400 persons in 1997 to 870 persons in 2004, a reduction of over 60%.

In the light of changes in the security environment of the border area, we have conducted a review of the scope of coverage of the border area. The findings of the review show that, through implementing effective matching security facilities, we may substantially reduce the scope of the closed area without compromising the integrity of the closed area. At present, most of the residents of the closed area are not required to apply for a closed area permit. With regard to whether certain districts should be removed from the closed area, the Government's prime concern is whether this will constitute any security risk, and whether there are sufficient security measures as remedy. Our major premise is, while reducing the scope of coverage of the closed area, we still have to ensure that we can effectively tackle cross-boundary crimes and prevent illegal inward and outward passenger flows and smuggling activities.

Madam President, we are working with the authorities concerned to go full steam ahead in drawing up the limits of the new closed area, and we are in the final stage of assessing the impact of the limits of the new closed area on the existing security facilities and strategic deployment, so as to make the corresponding adjustments, thus ensuring that the effective management of the closed area can be maintained. When we announce the limits of the new closed area, we shall explain to Honourable Members the relevant matching security measures in detail. By then, we hope Honourable Members can support the proposal of the Government.

In the review of the scope of coverage of the closed area, apart from considering whether there is room for reducing the coverage from a security

perspective, the Government has also taken into account various factors such as planning, transport, land use, development needs, environment and infrastructure development, and so on, and give them careful consideration. Members have already mentioned these aspects earlier on. I know the Secretary for Housing, Planning and Lands will explain to Members later on the planning and development of the land removed from the closed area after the reduction of the closed area. With the assistance of various parties, we expect that the actual locations of the limits of the new closed area can be released in early 2006. Thank you, Madam President.

**SECRETARY FOR HOUSING, PLANNING AND LANDS** (in Cantonese): Madam President, I would like to thank Mr WONG Ting-kwong for moving this motion today, for he has given us an opportunity to discuss how the land released by the reduction of the closed area should be utilized. I would also like to extend my thanks to many Honourable Members for their valuable input on this subject.

The Secretary for Security has just explained the background and progress of the Government's review of the scope of the closed area, and I shall next brief Members on the planning study that we shall conduct on the land released from the closed area.

At present, the majority of land in the closed area is not covered by any statutory zoning plans, that is, such land is not subject to any land use guidance or planning control.

Between 2002 and 2004, the Planning Department studied the subject of "Hong Kong 2030: Planning Vision and Strategies". In the course of this study, the authorities concerned made a preliminary study and assessment on the future land use of the closed area. As reflected by the opinions collated in that research study, members of the public hold divergent views on the future land use of the closed area. Some view the issue from the perspective of nature conservation and environmental protection, holding that the closed area should maintain its *status quo* and continue to serve as an ecological corridor. On the other hand, there are people who think that we should make the best use of the strategic position of the closed area given its close proximity to Shenzhen, and as such it should be developed as far as possible.

Now, in the light of the amendment to the limits of the closed area, we should grasp this opportunity to explore carefully the potentials and development limits of the land released through a comprehensive planning study. The study will take various factors into consideration such as land use, transport infrastructure facilities, nature conservation and the future development of Shenzhen, and views from the public will be considered as well. After considered all these, the authorities will draft a proposal on the future land use of such land, so as to draw up a statutory zoning plan for the land in accordance with the Town Planning Ordinance.

With regard to the arrangements and the schedule of the planning study, we shall commission an independent consultancy to conduct the planning study. It is expected that the planning study will commence in the beginning of next year and will take 18 months to complete. In the course of conducting the study, we shall employ various approaches and channels to consult the public. We plan to collect public opinions through releasing consultation papers, holding public forums and making use of the Internet. We shall also go to the different levels of councils, such as the Legislative Council, Heung Yee Kuk and the relevant District Councils, and so on, to listen to their views.

Next, I would like to discuss some of the principles of this planning study. We agree with Members' view that the development of the closed area will help promote the co-operation between Hong Kong and Shenzhen. The closed area is just a river away from Shenzhen, so it has great strategic significance. With the closer relationship between Hong Kong and Shenzhen, many planning developments on either side of the boundary will have an impact on the other side. We agree that the promotion of co-operation between Hong Kong and Shenzhen will be one of the significant principles in considering how this piece of land should best be utilized. We shall continue to listen to the views of the public in this regard.

Besides, we have also noticed that there are 21 recognized villages in the closed area, which are scattered in Sha Tau Kok, Lin Ma Hang, Heung Yuen Wai, Ta Kwu Ling and the area west of Lo Wu. In planning for and considering the future land use of the existing closed area, we will take the aspirations of these village inhabitants into consideration.

In considering the future land use of the closed area, we must have regard to the environmental ecology there. The area west of the closed area includes

the Deep Bay, the Mai Po Nature Reserve and the fish ponds in the neighbourhood. All these are places with significant ecological value. Both the Robin's Nest in the eastern part of the closed area, and the Wutong Mountain in Shenzhen, which is identified as a national forest park, belong to the same ecological system. Besides, a site in Ling Ma Hang, inhabited by many bats, is also considered a place with special scientific value. A freshwater stream in Lin Ma Hang is also an ecologically sensitive site. When we draw up the statutory zoning plans for the area, we must ensure that these places with high ecological value can be given suitable protection.

Besides, a large area of the closed area falls within the catchment area of the Deep Bay and Mirs Bay Water Control Zone. We must ensure that the water quality of these two bays will not be affected by the implementation of new developments in the closed area. Other environmental problems such as noise and air quality problems caused by the increase in traffic flow will also be taken into careful consideration by us.

Transport and other infrastructure facilities are also important subjects of our planning study. In the transport aspect, the existing roads in the closed area are mainly village roads and roads that lead to the border control points. We shall study the demand on transport infrastructure facilities brought about by the future land use, and we shall ensure that the opening up and the development of the closed area will not cause an excessive burden on the road networks, and we shall ensure that the flow of cross-boundary traffic will not be affected. Besides, we shall also assess the demands on other infrastructure facilities such as water supply, drainage, sewerage and electricity brought about by the development.

Next, I would like to respond to Mr SIN Chung-kai's amendment. The amendment moved by Mr SIN Chung-kai mainly requests the Government to ensure that the development plan is in line with the principles of sustainable development and nature conservation and it should also allow stakeholders, including green groups, to participate in the planning process. In fact, Mr SIN needs not worry about that because sustainable development is an important element which must be considered in all government policies.

Since the announcement on the plan of reducing the size of the closed area, we have heard of many different suggestions on its future land use put forward by people from different sectors of society. For example, some suggested using

the land for logistics facilities or a scientific research centre, industrial processing, tourism, residential purposes, a service industries centre and a medical village, and so on. On the other hand, we also notice that some organizations and institutions have expressed the hope that the Government can introduce some measures to protect sites of ecological value in the closed area. In the process of conducting the planning study, we will adequately study and consider the planning principles and all the relevant factors mentioned by me as well as suggestions put forward by people from different sectors of society, thereby enabling us to strike a balance between development and conservation when we decide the future land use of the area.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr SIN Chung-kai to Mr WONG Ting-kwong's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(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 WONG Ting-kwong, you may now reply and you have three minutes 24 seconds.

**MR WONG TING-KWONG** (in Cantonese): Madam President, I thank Secretary for Housing, Planning and Lands Michael SUEN and Secretary for Security Ambrose LEE for their replies. I am also grateful to the 21 Members

who have offered many valuable comments. In recent months, it is rare that we have meetings that last well into the night. So I also thank Members for their efforts.

Once again, I urge the Government not to be indecisive and dragging its feet in getting the study and planning of the development of the border area started. The border area has a special status and no other area can take its place. At present, there is a waste of resources in terms of land resource and the functions of the border area. To develop the Hong Kong-Shenzhen closed area will fully utilize the respective advantages of the Mainland and Hong Kong in technology, land resources and human resources. Resources can be saved by complementing each other and the redevelopment of Hong Kong's manufacturing industry can be materialized. However, the main purpose of developing the border area is not for attracting the return of traditional industries, rather, it is for attracting industries which can embrace the international trend and will bring much more benefits to Hong Kong. Thus, it will support the long-term prosperity and a second take-off of Hong Kong economy.

I believe that, with the concerted efforts of Hong Kong and the Mainland and when the respective advantages of both sides have been brought into full play, the development of the border area will bring us conspicuous success in upgrading the competitiveness of Hong Kong and the Mainland and in promoting the prosperity of the whole region. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr WONG Ting-kwong, as amended by Mr SIN Chung-kai, 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.

## **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 11.00 am on Wednesday, 9 November 2005.

*Adjourned accordingly at twelve minutes to Midnight.*

## Annex

## REVENUE (ABOLITION OF ESTATE DUTY) BILL 2005

## COMMITTEE STAGE

Amendments to be moved by the Secretary for  
Financial Services and the Treasury

<u>Clause</u>	<u>Amendment Proposed</u>
New	<p>The following is added immediately after clause 1 -</p> <p><b>"1A. Commencement</b></p> <p>This Ordinance shall come into operation on the expiry of the period of 3 months commencing on the day on which this Ordinance is published in the Gazette."</p>
Part 2	<p>In the heading, by adding "AND TRANSITIONAL REDUCTION OF ESTATE DUTY" after "DUTY".</p>
2	<p>In paragraph (a), by deleting "died on or after 1 January 1916 and before the commencement" and substituting "dies on or after 1 January 1916 and before the commencement date".</p>
3	<p>By deleting paragraph (c) and substituting -</p> <p>"(c) in column 2 of the Table, by adding "15 July 2005" opposite to "1 April 1998" in column 1 of the Table;</p>



- (d) in column 3 of the Table, by repealing "Part 24;" and substituting "Part 24";
- (e) by adding at the end of the Table -
- "15 July 2005 the Part 25;".
- commencement
- date of the
- Revenue
- (Abolition of
- Estate
- Duty)
- Ordinance
- 2005
- ( of 2005)

New By adding -

**"3A. Estate duty**

Section 5 is amended by repealing "graduated rates" and substituting "amount or graduated rates, as may be applicable,".

**3B. Exceptions for transactions for money consideration, property situate outside Hong Kong, shares on local registers and certain land in the New Territories**

Section 10(d) is amended by adding "an amount or" before "a rate" where it twice appears.

**3C. Value of property; allowance for  
debts and funeral expenses**

Section 13(6)(a) and (b) is amended by adding  
"amount or" before "rate of".

**3D. Recovery of estate duty, etc.**

Section 14(17)(b) is amended by adding "amount  
or" before "rate".

**3E. Increase of estate duty when  
delay in lodging affidavit**

Section 16(1) is amended by adding "or amount"  
after "the rates".

**3F. Duty of executor as to  
unregistered shares**

Section 17(3) is amended by adding "amount or"  
before "rate".

**3G. Section added**

The following is added -

**"20A. Provision concerning refund  
in respect of persons who  
die between 15 July 2005  
and commencement date of  
Revenue (Abolition of  
Estate Duty) Ordinance 2005**

(1) This section applies to the estate of  
any person who dies on or after 15 July 2005  
and before the commencement date of the

Revenue (Abolition of Estate Duty) Ordinance 2005 (        of 2005).

(2) Where the amount of estate duty paid before the commencement date of the Revenue (Abolition of Estate Duty) Ordinance 2005 (        of 2005) in respect of the estate of a deceased person exceeds the amount set out in Part 25 of Schedule 1, the Commissioner shall, as soon as practicable, cause to be refunded the excess amount.

(3) Where the amount of a penalty paid under section 14(17) or 42(2) before the commencement date of the Revenue (Abolition of Estate Duty) Ordinance 2005 (        of 2005) in respect of the estate of a deceased person exceeds the amount of penalty calculated on the basis of Part 25 of Schedule 1, the Commissioner shall, as soon as practicable, cause to be refunded the excess amount.

(4) Where an amount of interest paid under section 12(6) before the commencement date of the Revenue (Abolition of Estate Duty) Ordinance 2005 (        of 2005) in respect of the estate of a deceased person exceeds the amount of interest calculated on the basis of Part 25 of Schedule 1, the Commissioner shall, as soon

as practicable, cause to be refunded the excess amount.

(5) For the avoidance of doubt, an excess amount refunded under subsection (2), (3) or (4) does not carry interest.

(6) A liability that arose before the commencement date of the Revenue (Abolition of Estate Duty) Ordinance 2005 ( of 2005) to pay, in respect of the estate of a deceased person, any amount of estate duty that exceeds the amount set out in Part 25 of Schedule 1 shall, as from that date, be deemed to be a liability to pay the amount set out in that Part.

(7) A liability that arose before the commencement date of the Revenue (Abolition of Estate Duty) Ordinance 2005 ( of 2005) to pay, in respect of the estate of a deceased person, any penalty under section 14(17) or 42(2) or interest under section 12(6) calculated on the basis of any amount that exceeds the amount set out in Part 25 of Schedule 1 shall, as from that date, be deemed to be a liability to pay a penalty or interest calculated on the basis of the amount set out in that Part.”.

**3H. Appeal to Court of  
First Instance**

Section 22(1)(c) is amended by adding "amount or" before "rate".

**3I. Schedule of property to be  
annexed to probate**

Section 23 is amended by adding -

"(1A) The reference in subsection (1) to the rate set out in the applicable Part of Schedule 1 shall, in relation to the estate of a person who dies on or after 15 July 2005 and before the commencement date of the Revenue (Abolition of Estate Duty) Ordinance 2005 ( of 2005), be construed as a reference to the rate set out in Part 24 of Schedule 1."

**3J. Penalties for intermeddling**

Section 24 is amended by adding -

"(3B) A reference in subsection (1), (2) or (3) to the rate set out in the applicable Part of Schedule 1 shall, in relation to the estate of a person who dies on or after 15 July 2005 and before the commencement date of the Revenue (Abolition of Estate Duty) Ordinance 2005 ( of 2005), be construed as a reference to

the rate set out in Part 24 of Schedule 1.”.

**3K. Power to reduce penalty and duty**

Section 27 is amended by repealing “rate” and substituting “amount or rate, as may be applicable,”.

**3L. Duty to give information on death**

Section 42(2) is amended by adding “amount or” before “rate”.

4

By deleting everything after “Schedule 1 is” and substituting -

“amended -

- (a) within the square brackets, by adding “20A,” after “17,”;
- (b) in the heading of Part 24, by adding “and before 15 July 2005” after “1 April 1998”;
- (c) by adding -

“PART 25

(Persons dying on or after 15 July 2005  
and before the commencement date  
of the Revenue (Abolition of  
Estate Duty) Ordinance 2005  
( of 2005))

Where the principal value of the estate

exceeds \$7,500,000, the amount of  
estate duty payable shall be \$100."."

- 6
- (a) In paragraph (a)(i), by deleting "died before the commencement" and substituting "dies before the commencement date".
  - (b) In paragraph (b), in the proposed paragraph (c) of the proviso to section 54, by deleting "died at any time on or after the commencement" and substituting "dies at any time on or after the commencement date".
- 7
- (a) By renumbering the proposed section 24A as section 24B.
  - (b) In the proposed section 24B, by adding "in respect of the estate of a person who dies on or after the commencement date of the Revenue (Abolition of Estate Duty) Ordinance 2005 ( of 2005)" after "section 24".
- 8
- (a) By renumbering the proposed section 49AA as section 49AB.
  - (b) In the proposed section 49AB, by adding "in respect of the estate of a person who dies on or after the commencement date of the Revenue (Abolition of Estate Duty) Ordinance 2005 ( of 2005)" after

"section 49".

New

By adding immediately before clause 9 -

**"8A. Interpretation**

Section 2 of the Probate and Administration Ordinance (Cap. 10) is amended by adding -

"'Secretary' (局長) means the Secretary for Home Affairs;".

9

(a) By deleting "Probate and Administration Ordinance (Cap. 10) is amended by adding" and substituting "following is added".

(b) By deleting the proposed heading of Part VA and substituting -

**"PART VA**

**BANK ACCOUNTS AND BANK DEPOSIT BOXES  
KEPT BY DECEASED".**

(c) In the proposed section 60A -

(i) by deleting the definition of

"Secretary";

(ii) by adding -

"'authorization for removal' (取去物

品授權書) means an

Authorization for Removal

from Bank Deposit Box issued

under section 60CB(1) or (2);



“jointly rented safe deposit box”

(聯名租用保管箱) means a safe deposit box jointly kept at a bank in the names of 2 or more persons;

“jointly rented safe deposit box with survivorship

arrangement” (有尚存安排聯名租用保管箱) means a jointly rented safe deposit box kept pursuant to an agreement under the terms of which the access to the contents of the box of any of the renters of the box is not affected by the death of any other renter of the box;

“solely rented safe deposit box” (單人租用保管箱) means a safe

deposit box kept at a bank in the sole name of a person;

“surviving renter” (尚存租用人), in relation to a jointly rented safe deposit box, means, where any renter in whose name the box is kept dies, any

surviving renter in whose name  
the box is kept.”.

- (d) In the proposed section 60B(1)(a)(i), by deleting everything before “of the Revenue” and substituting -

“(i) in respect of the estate of a deceased person who dies on or after the commencement date”.

- (e) In the proposed section 60B(3)(b), by deleting everything after “any person” and substituting -  
“who -

- (i) was dependent on the deceased immediately before his death; and  
(ii) appears to the Secretary to have an interest in the estate of the deceased.”.

- (f) By deleting the proposed section 60C and substituting -

**“60C. Certificate for inspection  
of safe deposit box kept  
by deceased**

- (1) The Secretary may -  
(a) upon an application made in a manner specified by him;  
(b) upon being satisfied by the applicant that a deceased person who dies on or after the

commencement date of the  
Revenue (Abolition of Estate  
Duty) Ordinance 2005 (of 2005) kept -

(i) a solely rented  
safe deposit box;  
or

(ii) a jointly rented  
safe deposit box,  
at a bank immediately before  
his death; and

(c) upon such proof as he  
considers sufficient,

issue to the applicant a Certificate for  
Necessity of Inspection of Bank Deposit Box in  
respect of the estate of the deceased.

(2) An application under subsection (1)  
may be made -

(a) by the executor or any one of  
the executors of the deceased  
concerned;

(b) by a person who intends to  
apply for a grant in respect of  
the estate of the deceased  
concerned; or

(c) where the safe deposit box

concerned is a jointly rented  
safe deposit box, by any  
surviving renter.

**60CA. Inspection of safe deposit  
box and inventory of  
contents**

(1) If -

(a) the Secretary issues a  
certificate for inspection  
relating to a safe deposit box  
in respect of the estate of the  
deceased; and

(b) the holder of the certificate -

(i) presents the  
certificate to the  
bank concerned; and

(ii) produces sufficient  
proof of his  
identity to the  
bank,

the bank shall allow the holder of the  
certificate to inspect, subject to the  
condition attached to the certificate under  
section 60E(1) (if any) and in the presence of  
such public officers as the Secretary may  
authorize and an employee of the bank, all items

contained in the box only for any or both of the purposes prescribed in subsection (2).

(2) The prescribed purposes referred to in subsection (1) are -

- (a) ascertaining whether there is any will of the deceased or similar instrument in the safe deposit box;
- (b) preparing an inventory under subsection (3).

(3) After a safe deposit box has been inspected pursuant to subsection (1) by the holder of a certificate for inspection, the holder shall, where -

- (a) the safe deposit box is a jointly rented safe deposit box of which he is a surviving renter;
- (b) no will of the deceased concerned or similar instrument is found in the safe deposit box;
- (c) a will of the deceased or similar instrument naming him as the executor or one of the executors of the deceased

concerned is found in the safe  
deposit box; or

- (d) the Secretary includes in the  
certificate a statement that  
he has been satisfied by the  
holder that a will of the  
deceased or similar  
instrument has been found in  
the safe deposit box and that –

- (i) the will or  
instrument is not  
valid; or

- (ii) no executor is named  
in the will or  
instrument or that  
the executor or all  
executors named in  
the will or  
instrument –

- (A) cannot be  
located;

- (B) refuse to act  
as executor;

- (C) have died; or

- (D) are otherwise  
not capable of

acting as  
executor,  
prepare, in the presence of the public officers  
and the employee of the bank, an inventory of  
the articles and documents contained in the  
safe deposit box.

(4) If -

(a) a will of the deceased  
concerned or similar  
instrument is found in a safe  
deposit box upon an inspection  
made pursuant to a certificate  
for inspection;

(b) (i) the holder of the  
certificate is not a  
surviving renter of the  
safe deposit box; and

(ii) (A) the holder of the  
certificate is not  
the person or one of  
the persons named  
in the will or  
instrument as the  
executor or  
executors of the  
deceased

concerned; or

(B) no executor is named

in the will or

instrument; and

(c) the certificate does not  
contain a statement of the  
Secretary referred to in  
subsection (3)(d),

the employee of the bank shall immediately -

(d) make a copy of the will or  
instrument;

(e) put the will or instrument back  
into the safe deposit box;

(f) close or seal the box; and

(g) hand over the copy of the will  
or instrument to the public  
officers present.

(5) A copy of a will or similar  
instrument made under subsection (4)(d) shall  
be kept -

(a) by the Secretary for a period of  
6 years after it is made; and

(b) either -

(i) in a legible form; or

(ii) in a non-legible form  
capable of being



reproduced in a  
legible form.

(6) Where -

(a) a will of the deceased  
concerned or similar  
instrument is found in a safe  
deposit box inspected  
pursuant to subsection (1);  
and

(b) the holder of the relevant  
certificate for inspection is  
named in the will or  
instrument as the executor or  
one of the executors of the  
deceased concerned,

the bank shall allow the holder of the  
certificate to, subject to the condition  
attached to the certificate under section  
60E(1) (if any), take possession of the will or  
instrument after placing a copy of it in the  
safe deposit box.

(7) The truthfulness and correctness of  
an inventory prepared under subsection (3)  
shall be verified by -

(a) the public officers present at  
the inspection; and

(b) the holder of the certificate  
for inspection who prepared  
the inventory,  
by signing on the inventory.

(8) A copy of an inventory prepared  
under subsection (3) shall be kept by the bank.  
Another copy shall be kept by the Secretary.

(9) A copy of an inventory kept under  
subsection (8) shall be kept -

(a) for a period of 6 years after  
the preparation of the  
inventory; and

(b) either -

(i) in a legible form;  
or

(ii) in a non-legible  
form capable of  
being reproduced in  
a legible form.

(10) Where a copy of a will or similar  
instrument is kept by the Secretary under  
subsection (5), the Secretary may -

(a) upon an application made in a  
manner specified by him;

(b) upon being satisfied that -  
(i) the applicant

intends to apply  
for a grant in  
respect of the  
estate of the  
deceased  
concerned; and

(ii) the will or  
instrument is  
necessary for or  
relevant to the  
application for a  
grant; and

(c) upon payment of a fee specified  
by the Secretary,

provide to the applicant a copy of the copy of  
the will or instrument kept by the Secretary.

(11) Where an inventory has been prepared  
under subsection (3) in respect of a safe  
deposit box, the Secretary may -

(a) upon an application made in a  
manner specified by him;

(b) upon being satisfied that the  
applicant -

(i) has a legitimate  
interest in the  
estate of the

deceased

concerned; or

- (ii) (in the case of a jointly rented safe deposit box) is a surviving renter of the safe deposit box; and

- (c) upon payment of a fee specified by the Secretary,

provide to the applicant a copy of the inventory kept by him under subsection (8).

**60CB. Authorization for removal**

(1) Where an inventory has been prepared under section 60CA(3) in respect of a safe deposit box, the Secretary may -

- (a) upon an application made -

- (i) in a manner specified by him; and

- (ii) by -

- (A) the executor or any one of the executors of the

deceased

concerned;

(B) a person who  
intends to  
apply for a  
grant in  
respect of the  
estate of the  
deceased  
concerned; or

(C) (in the case of  
a jointly  
rented safe  
deposit box) a  
surviving  
renter of the  
safe deposit  
box; and

(b) upon being satisfied that –

(i) a document  
(including a will  
or similar  
instrument)  
included in the  
inventory is  
necessary for or

relevant to an  
application under  
section 15 or 24(1)  
or an application  
for sealing of a  
probate or letters  
of administration  
under section 49;  
or

- (ii) a document included  
in the inventory -
  - (A) belongs prima  
facie to a  
person other  
than the  
deceased who  
has an urgent  
need for the  
document; and
  - (B) the removal of  
the document  
from the safe  
deposit box  
will not  
prejudice the  
legitimate

interest of  
any person in  
the estate of  
the deceased,  
issue to the applicant an Authorization for  
Removal from Bank Deposit Box specifying the  
document.

(2) Where an inventory has been prepared  
under section 60CA(3) in respect of a jointly  
rented safe deposit box with survivorship  
arrangement, the Secretary may -

- (a) upon an application made in a  
manner specified by him by a  
surviving renter of the safe  
deposit box;
- (b) upon being satisfied by an  
affidavit by the applicant  
that any document or article  
included in the inventory  
belongs to the applicant; and
- (c) (where the applicant is  
neither the executor nor one  
of the executors of the  
deceased concerned nor a  
person who intends to apply  
for a grant in respect of the

estate) upon production by the applicant of a written consent of -

- (i) the executor or one of the executors of the deceased concerned; or
- (ii) a person who intends to apply for a grant in respect of the estate of the deceased concerned,

to the removal of the document or article from the safe deposit box,

issue to the applicant an Authorization for Removal from Bank Deposit Box specifying the document or article.

(3) For the avoidance of doubt, an authorization for removal can be issued under both subsections (1) and (2).

(4) If -

- (a) the Secretary issues an authorization for removal in



respect of a safe deposit box;

and

(b) the holder of the

authorization –

(i) presents the

authorization to

the bank concerned;

and

(ii) produces sufficient

proof of his

identity to the

bank,

the bank shall, subject to subsection (5), allow the holder of the authorization to, subject to the condition attached to the certificate under section 60E(1) (if any), take possession of the document or article specified in the authorization.

(5) If a document specified in an authorization for removal is a will of the deceased concerned or similar instrument, the bank shall only allow the holder of the authorization to take possession of it under subsection (4) after placing a copy of it in the safe deposit box.”.

(g) By deleting the proposed section 60D and

substituting -

**"60D. Form of certificate and  
authorization**

The form of -

- (a) a certificate for release of  
money;
- (b) a certificate for inspection;  
or
- (c) an authorization for removal,  
shall be specified by the Secretary."

- (h) In the proposed section 60E(1), by deleting  
everything after "thinks fit" and substituting -  
"to -

- (a) a certificate for release of  
money;
- (b) a certificate for inspection;  
or
- (c) an authorization for  
removal."

- (i) In the proposed section 60E, by adding -

"(1A) The Secretary shall not attach a  
condition under subsection (1) if it may likely  
prejudice the legitimate interest of any person  
in the estate concerned."

- (j) In the proposed section 60F, by deleting "or 60C(2),  
(4) or (5)" and substituting ", 60CA(1), (4) or (6)  
or 60CB(4)".

- (k) In the proposed section 60F(a), by deleting "or".
- (l) In the proposed section 60F, by deleting paragraph (b) and substituting -

"(b) allowing the holder of the certificate for inspection to inspect the safe deposit box under section 60CA(1);

(c) closing or sealing the safe deposit box under section 60CA(4);

(d) allowing the holder of the certificate for inspection to take possession of anything under section 60CA(6); or

(e) allowing the holder of the authorization for removal to take possession of anything under section 60CB(4).".

- (m) By deleting the proposed section 60G and substituting -

**"60G. Surviving renter's right  
subject to this Ordinance  
in 12 months following  
death of joint renter**

(1) Notwithstanding anything in the contract between a surviving renter of a jointly rented safe deposit box with survivorship arrangement and the bank concerned for the renting of the safe deposit

box, his right of access to the contents of the safe deposit box under the contract shall -

(a) (where an inventory is prepared under section 60CA(3) in respect of the safe deposit box during the 12 months after the death of the deceased renter concerned) during the 12 months after the death of the deceased renter concerned;

(b) (where no inventory is so prepared during the 12 months after the death of the deceased renter concerned) before the preparation of such inventory,

only be exercisable subject to this Ordinance.

(2) It shall be the obligation of the surviving renter to satisfy the bank as to the date of death of the deceased renter concerned.”.

New

By adding immediately after clause 9 -

## "PART 3A

PROHIBITION AGAINST INTERMEDDLING  
OF ESTATE**Amendments to the Probate and  
Administration Ordinance****9A. Section added**

The Probate and Administration Ordinance (Cap. 10) is amended by adding immediately before section 61 –

**"60H. Prohibition against  
intermeddling  
of estate**

(1) This section applies –

(a) in relation to the estate of any person who dies on or after the commencement date of the Revenue (Abolition of Estate Duty) Ordinance 2005 (of 2005); and

(b) to –

(i) any part of an estate; or

(ii) any property, situated in Hong Kong when the deceased concerned dies.

(2) Any person who, without lawful authority or reasonable excuse, deals with –

- (a) any part of the estate of a deceased person; or
- (b) any property held by the deceased in the capacity of a trustee or the manager of a Tso or Tong,

which is not set out in the schedule and additional schedule (if any) -

- (c) exhibited under section 15A;
- (d) annexed to a grant made in respect of the estate; or
- (e) annexed to an instrument effecting the sealing of a grant in respect of the estate under section 49AA,

commits an offence.

(3) Subject to section 60I(9), any person who, being neither the executor of a deceased person nor the person entitled in priority to the administration of the estate of a deceased person, takes possession of or in any way administers -

- (a) any part of the estate; or
- (b) any part of the income of any part of the estate,

without -

(c) lawful authority or  
reasonable excuse; or

(d) first filing an application in  
respect of the estate -

- (i) to the Official  
Administrator for  
the exercise of his  
power under section  
15;
- (ii) for a grant under  
section 24; or
- (iii) for sealing of a  
grant under section  
49,

supported by an affidavit  
exhibiting a schedule, or a  
corrective affidavit  
exhibiting an additional  
schedule, setting out such  
part of the estate,

commits an offence.

(4) If an employee of a bank through whom  
the bank performed its function under section  
60B(4), 60CA(1), (4) or (6) or 60CB(4) has  
acted in good faith and has exercised due care  
for that purpose, the employee and the bank

shall, for the purposes of determining whether he or it has committed an offence under subsection (2) or (3) by performing that function, be regarded as having acted with lawful authority.

(5) If -

(a) a bank acting through an employee of it allows a surviving renter of a jointly rented safe deposit box with survivorship arrangement to exercise, subject to section 60G, his right of access to the contents of the safe deposit box under the contract for the renting of the safe deposit box; and

(b) the employee has acted in good faith and has exercised due care for that purpose,

the bank and the employee shall, for the purposes of determining whether it or he has committed an offence under subsection (2) or (3) by allowing the exercise of that right, be regarded as having acted with lawful authority.



(6) Subject to section 60I(9), any executor of a deceased person or any person entitled in priority to the administration of the estate of a deceased person who -

- (a) takes possession of, or in any way administers, any part of the estate or the income of any part of the estate within the prescribed period commencing on the date on which the deceased dies; and
- (b) fails to submit within the prescribed period an application in respect of the estate -

- (i) to the Official Administrator for the exercise of his power under section 15;

- (ii) for a grant under section 24; or

- (iii) for sealing of a grant under section 49,

supported by an affidavit

exhibiting a schedule, or a  
corrective affidavit  
exhibiting an additional  
schedule, setting out such  
part of the estate,

commits an offence.

(7) Subject to section 60I(9), any  
executor of a deceased person or any person  
entitled in priority to the administration of  
the estate of a deceased person who takes  
possession of, or in any way administers, any  
part of the estate or the income of any part  
of the estate after the expiry of the  
prescribed period commencing on the date on  
which the deceased dies without first  
submitting an application in respect of the  
estate -

- (a) to the Official Administrator  
for the exercise of his power  
under section 15;
- (b) for a grant under section 24;  
or
- (c) for sealing of a grant under  
section 49,

supported by an affidavit exhibiting a  
schedule, or a corrective affidavit exhibiting

an additional schedule, setting out such part of the estate commits an offence.

(8) In subsections (6) and (7),  
“prescribed period” -

(a) in a case in which -

(i) an application to  
the Official  
Administrator for  
the exercise of his  
power under section  
15; or

(ii) an application for  
a grant under  
section 24,

is made, means 12 months;

(b) in a case in which an  
application for sealing of a  
grant under section 49 is  
made, means 18 months.

(9) A person who commits an offence  
under subsection (2), (3), (6) or (7) shall be  
liable on conviction to -

(a) a fine at level 3; and

(b) an additional penalty equal to  
the value of -

(i) the relevant part of

the relevant  
estate; or  
(ii) the relevant part of  
the income of the  
relevant part of the  
relevant estate,  
as the case may be.

**60I. Exemption from section 60H  
for estate not exceeding  
\$50,000**

- (1) This section applies to -
- (a) any deceased person who dies  
on or after the commencement  
date of the Revenue (Abolition  
of Estate Duty) Ordinance 2005  
(        of 2005); and
  - (b) any property situated in Hong  
Kong when the deceased  
concerned dies.
- (2) The Secretary may -
- (a) upon an application by the  
executor of a deceased person  
or the person entitled in  
priority to administer the  
estate; and
  - (b) upon being satisfied by an

affidavit of the applicant  
that -

- (i) all properties  
beneficially owned  
by the deceased as  
at the date of his  
death are money not  
exceeding \$50,000  
in aggregate; and
- (ii) the deceased did  
not hold any  
property as trustee  
or as the manager of  
a Tso or Tong as at  
the date of his  
death,

issue to the applicant a confirmation notice  
in respect of the estate.

(3) An affidavit under subsection (2)  
shall -

- (a) exhibit a schedule in  
duplicate setting out all  
properties beneficially owned  
by the deceased as at the date  
of his death; and
- (b) verify the truthfulness and

correctness of it and of the  
schedule exhibited by it to  
the best of the knowledge,  
information and belief of the  
person by whom it is sworn.

(4) Where a confirmation notice is  
issued upon an application supported by an  
affidavit, a duplicate of the schedule  
exhibited by the affidavit under subsection  
(3) shall be attached to the confirmation  
notice.

(5) Where -

(a) a confirmation notice is  
issued under subsection (2) in  
respect of the estate of a  
deceased person; and

(b) the applicant for the  
confirmation notice is  
subsequently -

(i) aware of any  
property  
beneficially owned  
by the deceased as  
at the date of his  
death which has not  
been disclosed in

the schedule  
exhibited to the  
affidavit  
concerned;

(ii) aware that the  
deceased held any  
property as trustee  
or as the manager of  
a Tso or Tong as at  
the date of his  
death; or

(iii) aware of any  
inaccuracy in the  
schedule attached  
to the confirmation  
notice,

the applicant shall, as soon as practicable,  
give a written notice of the fact to the  
Secretary.

(6) If, at any time after issuing a  
confirmation notice under subsection (2), the  
Secretary is satisfied on reasonable ground  
(whether upon a notice given under subsection  
(5)) that -

(a) the estate of the deceased  
concerned is not wholly made

up of money not exceeding  
\$50,000 beneficially owned by  
the deceased as at the date of  
his death;

(b) the deceased held any property  
as trustee or as the manager of  
a Tso or Tong as at the date of  
his death; or

(c) there is any material  
inaccuracy in -

(i) the affidavit filed  
in respect of the  
confirmation  
notice; or

(ii) the schedule  
exhibited by such  
affidavit,

the Secretary may, by notifying the holder of  
the confirmation notice in writing, cancel the  
confirmation notice.

(7) Where the Secretary cancels a  
confirmation notice under subsection (6), the  
holder of the notice shall surrender it to the  
Secretary as soon as practicable.

(8) A person who contravenes subsection  
(7) commits an offence and shall be liable on



conviction to a fine at level 1.

(9) Where a confirmation notice issued under subsection (2) is in force, section 60H(3), (6) and (7) shall not apply to -

(a) the taking possession or administration by the holder of the notice of any property which is set out in the schedule exhibited by the affidavit to which the confirmation notice relates; and

(b) any act incidental to such taking possession or administration of property.

(10) An application, affidavit, schedule or notice under this section shall be in such form as the Secretary may determine."."

New By adding immediately before Part 4 -

"PART 3B

REGISTRAR'S POWER TO REQUIRE INFORMATION  
AND SCHEDULE OF ASSETS AND LIABILITIES

**Amendments to the Probate and  
Administration Ordinance**

**9B. Section added**

The Probate and Administration Ordinance (Cap. 10) is amended by adding immediately after section 8 -

**"8A. Registrar may require information**

The Registrar may -

- (a) require any applicant for a grant to provide any information relating to the estate concerned, including but not limited to the value of the estate, which appears to the Registrar to be necessary for the purposes of the exercise of the jurisdiction under section 3; and
- (b) require provision of such information in the form of an affidavit."

**9C. Section added**

The following is added -

**"15A. Affidavit concerning assets and liabilities of estate relating to summary administration**

- (1) In this section -

(a) "assets" means assets in the form of real property or personal property situated in Hong Kong;

(b) "liabilities", in relation to a deceased person, means -

(i) liabilities contracted by the deceased in Hong Kong to persons ordinarily resident in Hong Kong; or

(ii) any other liabilities contracted by the deceased and charged on any property of the deceased situated in Hong Kong.

(2) An application to the Official Administrator for the exercise of his power under section 15 to get in and administer the estate of a person who dies on or after the commencement date of the Revenue (Abolition of Estate Duty) Ordinance 2005 ( of 2005)

shall be supported by an affidavit sworn by the applicant and filed by the applicant with the Registry.

(3) An affidavit referred to in subsection (2) shall exhibit a schedule setting out the assets and liabilities of the deceased as at the date of his death (including assets and liabilities of the deceased in the capacity of a trustee or the manager of a Tso or Tong) known to the applicant.

(4) If, at any time before or after the Official Administrator exercises his power under section 15, any inaccuracy in a schedule exhibited under subsection (3) or an additional schedule exhibited under subsection (5) comes to the knowledge of the applicant concerned, he shall file a corrective affidavit with the Registry.

(5) A corrective affidavit referred to in subsection (4) shall exhibit an additional schedule setting out -

- (a) the details of the inaccuracy in a schedule exhibited under subsection (3) or an additional schedule exhibited under this subsection; and

(b) (where applicable) the assets and liabilities of the deceased as at the date of his death known to the applicant that should have been set out in that schedule but are not so set out.

(6) An affidavit or corrective affidavit referred to in subsection (2) or (4) shall verify the truthfulness and correctness of the schedule or additional schedule exhibited by it to the best of the knowledge, information and belief of the person by whom it is sworn.

(7) An affidavit, a corrective affidavit, a schedule or an additional schedule referred to in this section shall be in a form specified by the Registrar by general notice published in the Gazette.”.

**9D. Section added**

The following is added -

**“24A. Affidavit concerning assets and liabilities of estate**

(1) In this section -

(a) “assets” means assets in the form of real property or

personal property situated in  
Hong Kong;

(b) "liabilities", in relation to  
a deceased person, means -

(i) liabilities  
contracted by the  
deceased in Hong  
Kong to persons  
ordinarily resident  
in Hong Kong; or

(ii) any other  
liabilities  
contracted by the  
deceased and charged  
on any property of  
the deceased  
situated in Hong  
Kong.

(2) An application for a grant in respect  
of the estate of a person who dies on or after  
the commencement date of the Revenue (Abolition  
of Estate Duty) Ordinance 2005 (        of  
2005) shall be -

(a) supported by an affidavit sworn  
by the applicant and filed by  
him with the Registry; and

- (b) accompanied by a duplicate of the schedule exhibited by such affidavit under subsection (3).

(3) An affidavit referred to in subsection (2) shall exhibit a schedule setting out the assets and liabilities of the deceased as at the date of his death (including assets and liabilities of the deceased in the capacity of a trustee or the manager of a Tso or Tong) known to the applicant.

(4) If, before the court makes a grant under section 3, any inaccuracy in a schedule exhibited under subsection (3) or an additional schedule exhibited under subsection (5) comes to the knowledge of the applicant concerned, he shall file -

- (a) a corrective affidavit; and
- (b) a duplicate of the additional schedule exhibited by such affidavit under subsection (5),

with the Registry.

(5) A corrective affidavit referred to in subsection (4) shall exhibit an additional schedule setting out -

(a) the details of the inaccuracy in a schedule exhibited under subsection (3) or an additional schedule exhibited under this subsection; and

(b) (where applicable) the assets and liabilities of the deceased as at the date of his death known to the applicant that should have been set out in that schedule but are not so set out.

(6) Where the grant applied for is to cover only a part of the estate of the deceased, the reference to "the assets and liabilities of the deceased" in subsection (3) or (5) shall be construed to mean the assets and liabilities of the deceased constituting that part of the estate.

(7) The duplicate schedule referred to in subsection (2)(b) and any duplicate additional schedule filed under subsection (4) in respect of an application for a grant shall be annexed to the grant.

(8) If, after the court makes a grant under section 3, any inaccuracy in a schedule or additional schedule annexed to the grant



comes to the knowledge of the executor or administrator, he shall -

(a) file -

(i) a corrective

affidavit; and

(ii) a duplicate of the additional schedule exhibited by such affidavit under subsection (9),

with the Registry; and

(b) deliver the grant to the Registry together with such affidavit.

(9) A corrective affidavit referred to in subsection (8)(a) shall exhibit an additional schedule setting out -

(a) the details of the inaccuracy in the schedule or additional schedule annexed to the grant; and

(b) (where applicable) the assets and liabilities of the deceased as at the date of his death known to the executor or administrator that should have

been set out in that schedule  
but are not so set out.

(10) Where a grant covers only a part of the estate of a deceased person, the reference to "the assets and liabilities of the deceased" in subsection (9) shall be construed to mean the assets and liabilities of the deceased constituting that part of the estate.

(11) Where a grant is delivered to the Registry under subsection (8)(b), the court may -

- (a) amend the grant appropriately (if necessary); and
- (b) return the grant to the executor or administrator with the duplicate additional schedule filed under subsection (8)(a)(ii) annexed to the grant without removing any duplicate schedule or duplicate additional schedule previously annexed to the grant.

(12) Notwithstanding subsections (6) and (10), the court or the Registrar may require an applicant for a grant or an executor or

administrator to file an affidavit exhibiting a schedule setting out all of the assets and liabilities of a deceased person as at the date of his death known to the applicant, executor or administrator despite the grant covers or is to cover only a part of the estate.

(13) For the avoidance of doubt, the value of assets other than cash does not have to be stated in a schedule or an additional schedule exhibited under this section.

(14) An affidavit or corrective affidavit referred to in subsection (2), (4), (8) or (12) shall verify the truthfulness and correctness of the schedule or additional schedule exhibited by it to the best of the knowledge, information and belief of the person by whom it is sworn.

(15) An affidavit, a corrective affidavit, a schedule or an additional schedule referred to in this section shall be in a form specified by the Registrar by general notice published in the Gazette.”.

**9E. Section added**

The following is added -

**“49AA. Application for sealing of  
grant to be supported  
by affidavit**

(1) In this section -

(a) "assets" means assets in the form of real property or personal property situated in Hong Kong;

(b) "liabilities", in relation to a deceased person, means -

(i) liabilities contracted by the deceased in Hong Kong to persons ordinarily resident in Hong Kong; or

(ii) any other liabilities contracted by the deceased and charged on any property of the deceased situated in Hong Kong.

(2) An application for sealing of a grant under section 49 in respect of the estate of a person who dies on or after the commencement date of the Revenue (Abolition of Estate Duty) Ordinance 2005 ( of 2005) shall be -

(a) supported by an affidavit sworn by the applicant and filed by him

with the Registry; and

- (b) accompanied by a duplicate of the schedule exhibited by such affidavit under subsection (3).

(3) An affidavit referred to in subsection (2) shall exhibit a schedule setting out the assets and liabilities of the deceased as at the date of his death (including assets and liabilities of the deceased in the capacity of a trustee or the manager of a Tso or Tong) known to the applicant.

(4) If, before the court seals the grant under section 49, any inaccuracy in a schedule exhibited under subsection (3) or an additional schedule exhibited under subsection (5) comes to the knowledge of the applicant concerned, he shall file -

- (a) a corrective affidavit; and
- (b) a duplicate of the additional schedule exhibited by such affidavit under subsection (5),

with the Registry.

(5) A corrective affidavit referred to in subsection (4) shall exhibit an additional schedule setting out -

- (a) the details of the inaccuracy in

a schedule exhibited under subsection (3) or an additional schedule exhibited under this subsection; and

- (b) (where applicable) the assets and liabilities of the deceased as at the date of his death known to the applicant that should have been set out in that schedule but are not so set out.

(6) Where the grant if and when sealed will cover only a part of the estate of the deceased, the reference to "the assets and liabilities of the deceased" in subsection (3) or (5) shall be construed to mean the assets and liabilities of the deceased constituting that part of the estate.

(7) The duplicate schedule referred to in subsection (2)(b) and any duplicate additional schedule filed under subsection (4) in respect of an application for sealing of a grant shall be annexed to the instrument effecting the sealing.

(8) If, after the court seals a grant under section 49, any inaccuracy in a schedule or additional schedule annexed to the instrument

effecting the sealing comes to the knowledge of the executor or administrator, he shall -

(a) file -

(i) a corrective affidavit; and

(ii) a duplicate of the additional schedule exhibited by such affidavit under subsection (9),

with the Registry; and

(b) deliver the grant and the instrument effecting the sealing to the Registry together with such affidavit.

(9) A corrective affidavit referred to in subsection (8)(a) shall exhibit an additional schedule setting out -

(a) the details of the inaccuracy in the schedule or additional schedule annexed under subsection (7) to the instrument effecting the sealing of the grant; and

(b) (where applicable) the assets and liabilities of the deceased

as at the date of his death known to the executor or administrator that should have been set out in that schedule but are not so set out.

(10) Where a grant as sealed covers only a part of the estate of a deceased person, the reference to "the assets and liabilities of the deceased" in subsection (9) shall be construed to mean the assets and liabilities of the deceased constituting that part of the estate.

(11) Where an instrument effecting the sealing of a grant is delivered to the Registry under subsection (8)(b), the court may -

(a) amend the instrument appropriately (if necessary); and

(b) return the grant and the instrument to the executor or administrator with the duplicate additional schedule filed under subsection (8)(a)(ii) annexed to the instrument without removing any duplicate schedule or duplicate additional schedule previously



annexed to the instrument.

(12) Notwithstanding subsections (6) and (10), the court or the Registrar may require an applicant for the sealing of a grant or an executor or administrator to file an affidavit exhibiting a schedule setting out all of the assets and liabilities of a deceased person as at the date of his death known to the applicant, executor or administrator despite the grant if and when sealed will cover, or the grant as sealed covers, as the case may be, only a part of the estate.

(13) For the avoidance of doubt, the value of assets other than cash does not have to be stated in a schedule or an additional schedule exhibited under this section.

(14) An affidavit or corrective affidavit referred to in subsection (2), (4), (8) or (12) shall verify the truthfulness and correctness of the schedule or additional schedule exhibited by it to the best of the knowledge, information and belief of the person by whom it is sworn.

(15) An affidavit, a corrective affidavit, a schedule or an additional schedule referred to in this section shall be in a form specified by the Registrar by general notice published in the

Gazette."."

10 By deleting "60D and 60E" and substituting "60CA, 60CB, 60D, 60E and 60I".

New By adding immediately before clause 13 -

**"12A. Interpretation**

Rule 2(2) of the Non-Contentious Probate Rules (Cap. 10 sub. leg. A) is amended, in the definition of "gross value", by adding "(if any)" after "duty".

13 By deleting "of the Non-Contentious Probate Rules (Cap. 10 sub. leg. A)".

New By adding immediately after clause 15 -

**"15A. Forms**

The Appendix is amended, in Form 17, in paragraph 3, by adding "(if any)" after "estate duty".

New By adding -

**"PART 6**

**MISCELLANEOUS**

**20. Power of the Secretary  
for Justice**

The Secretary for Justice may by notice published in the Gazette amend any provision of -

(a) the Probate and Administration

Ordinance (Cap. 10);

(b) the Estate Duty Ordinance (Cap. 111);

and

(c) the Inland Revenue Ordinance (Cap.

112),

as amended by this Ordinance by repealing a reference to the commencement date of this Ordinance and substituting the actual calendar date on which this Ordinance came into operation.”.



## Appendix I

## WRITTEN ANSWER

**Written answer by the Secretary for the Environment, Transport and Works to Dr Raymond HO's supplementary question to Question 3**

As regards details based on which the increase in urban greeneries from 18% to 19% or 130 hectares has been arrived at, an Annex showing the comparison of greened areas in Hong Kong between early-2003 and mid-2004 is attached. If Members wish to obtain any further information, please access our website at < <http://www.etwb.gov.hk> > or contact the Bureau direct.

Annex

## Breakdown of Artificial Greened Areas in Hong Kong

<i>District</i>	<i>Area (sq km)</i>	<i>Built-up Areas<sup>Note</sup> (sq km)</i>	<i>Artificial Greened Areas in early-2003 (sq m)</i>	<i>% of Artificial Greened Areas in early-2003</i>	<i>Artificial Greened Areas in mid-2004 (sq m)</i>	<i>% of Artificial Greened Areas in mid-2004</i>
Central and Western	12.39	5.94	748 666	12.60%	852 180	14.35%
Eastern	18.70	7.66	1 487 134	19.41%	1 619 408	21.14%
Islands	175.92	1.73	951 938	55.03%	1 403 797	81.14%
Kowloon City	10.02	9.35	778 858	8.33%	790 912	8.46%
Kwai Tsing	22.90	14.44	3 835 471	26.56%	3 815 917	26.43%
Kwun Tong	11.26	8.43	1 156 110	13.71%	1 182 338	14.03%
North	136.66	7.11	1 679 261	23.62%	1 752 694	24.65%
Sai Kung	136.17	9.20	1 511 207	16.43%	2 015 956	21.91%
Sha Tin	69.22	18.05	3 219 248	17.84%	3 181 083	17.62%
Sham Shui Po	9.35	7.95	892 123	11.22%	942 561	11.86%
Southern	39.39	12.08	739 120	6.12%	964 681	7.99%
Tai Po	148.24	10.83	2 384 762	22.02%	2 319 202	21.41%
Tsuen Wan	62.14	7.07	2 127 477	30.09%	1 969 482	27.86%
Tuen Mun	84.61	14.27	3 481 770	24.40%	3 430 557	24.04%
Wan Chai	9.92	4.75	609 261	12.83%	627 440	13.21%
Wong Tai Sin	9.30	5.15	1 423 302	27.64%	1 301 895	25.28%
Yau Tsim Mong	6.98	6.94	765 427	11.03%	791 644	11.41%
Yuen Long	138.56	9.43	1 650 390	17.50%	1 746 398	18.52%
Total	1101.73	160.38	29 441 525	18.36%	30 708 145	19.15%

1.3 sq km (that is, 130 hectares)

Note

Metro and new town areas excluding natural grassland, shrubland, woodland and country park.