

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 23 January 2002

The Council met at half-past Two o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

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

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

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

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

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

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

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

THE HONOURABLE NG LEUNG-SING, J.P.

THE HONOURABLE MARGARET NG

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE HUI CHEUNG-CHING, J.P.

THE HONOURABLE CHAN KWOK-KEUNG

THE HONOURABLE CHAN YUEN-HAN, J.P.

THE HONOURABLE BERNARD CHAN

THE HONOURABLE CHAN KAM-LAM

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

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI

THE HONOURABLE ANDREW WONG WANG-FAT, J.P.

DR THE HONOURABLE PHILIP WONG YU-HONG

THE HONOURABLE WONG YUNG-KAN

THE HONOURABLE JASPER TSANG YOK-SING, J.P.

THE HONOURABLE HOWARD YOUNG, J.P.

DR THE HONOURABLE YEUNG SUM

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

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH

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

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

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

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

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE SZETO WAH

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

THE HONOURABLE LAW CHI-KWONG, J.P.

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

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

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

THE HONOURABLE LI FUNG-YING, J.P.

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

THE HONOURABLE MICHAEL MAK KWOK-FUNG

THE HONOURABLE ALBERT CHAN WAI-YIP

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

DR THE HONOURABLE LO WING-LOK

THE HONOURABLE WONG SING-CHI

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE IP KWOK-HIM, J.P.

THE HONOURABLE LAU PING-CHEUNG

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

THE HONOURABLE MA FUNG-KWOK

MEMBER ABSENT:

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

PUBLIC OFFICERS ATTENDING:

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

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

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

MR NICHOLAS NG WING-FUI, J.P.
SECRETARY FOR TRANSPORT

MRS LILY YAM KWAN PUI-YING, J.P.
SECRETARY FOR THE ENVIRONMENT AND FOOD

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

MRS REGINA IP LAU SUK-YEE, J.P.
SECRETARY FOR SECURITY

MRS FANNY LAW FAN CHIU-FUN, J.P.
SECRETARY FOR EDUCATION AND MANPOWER

MR LEE SHING-SEE, J.P.
SECRETARY FOR WORKS

MS SANDRA LEE SUK-YEE, J.P.
SECRETARY FOR ECONOMIC SERVICES

MS ELAINE CHUNG LAI-KWOK, J.P.
SECRETARY FOR HOUSING

CLERKS IN ATTENDANCE:

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

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

MS PAULINE NG MAN-WAH, ASSISTANT SECRETARY GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Prisons (Amendment) Order 2002.....	4/2002
Drug Addiction Treatment Centre (Hei Ling Chau Addiction Treatment Centre) (Amendment) Order 2002.....	5/2002
Chinese Medicine Ordinance (Cap. 549) (Commencement) Notice 2002.....	6/2002

Other Papers

No. 52 — Report by the Commissioner of Correctional Services of Hong Kong Incorporated on the Administration of the Correctional Services Department Welfare Fund for the year ended 31 March 2001

Report of the Bills Committee on Public Health and Municipal Services (Amendment) Bill 2001

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Special Inquiry on Casual Employment

1. **MR LEUNG FU-WAH** (in Cantonese): *Madam President, from April to June 2001, the Census and Statistics Department conducted a special inquiry on casual employment and published its report at the end of last month. In this connection, will the Government inform this Council:*

- (a) *of the average number of hours of work per week of the casual employees interviewed;*
- (b) *of the current number and percentage, as projected by the data collected from the inquiry, of casual employees in the territory who fall within the definition of employees on continuous contracts in the Employment Ordinance; and*
- (c) *as the inquiry report has pointed out that the number of casual employees in the construction sector decreased by 25 300 whereas the number of self-employed persons in the same sector increased by 11 900 as compared to last year, whether the Government has studied the causes of the shift in the numbers; if it has, of the details; if not, the reasons for that, and whether it will conduct a study in this regard?*

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

- (a) According to the survey results of the Census and Statistics Department, there were about 93 800 casual employees in the second quarter of 2001. These casual employees on average worked 38 hours per week, lower than the corresponding figure of 46 hours per week for the overall employed population.
- (b) The survey results indicate that amongst the 93 800 casual employees, some 8 600 worked at least 18 hours per week and had worked for their employers for four weeks or more at the time of enumeration. These casual employees could be regarded as being employed under a continuous contract (abbreviated as "4-18" employees). They accounted for about 9% of all casual employees. Another 7 200 casual employees worked less than 18 hours per week. Thus, they were "non 4-18" employees and accounted for about 8% of all casual employees.

As for the remaining 78 100 casual employees (that is, 83% of all casual employees), they worked at least 18 hours per week, but had not yet worked for their employers for four weeks or more before

the time of enumeration. In the absence of any information on whether or not they would continue to work for the same employers after the enumeration, the survey results could not clearly identify whether they were 4-18 employees.

The Census and Statistics Department conducted another special topic inquiry in the third quarter of 2001, collecting data on the number, working conditions and employees' benefits of non "4-18" employees in the private sector. The survey findings are expected to be available by mid-2002.

- (c) Between the third quarter of 2000 and the second quarter of 2001, the number of casual employees in the construction sector decreased by 25 300. This was mainly attributable to the continued slowdown in the construction sector over the past year or so. In fact, as a result of the reduced work volume, the total number of employed persons in the construction sector (comprising employers, employees and self-employed persons) also fell by 16 900 over the same period.

As to the increase of 11 900 self-employed persons in the construction sector over that period, this was possibly related to more opportunities for self-employment generated in the construction sector as a result of increased sub-contracting arrangements for cost saving and enhanced flexibility.

MR LEUNG FU-WAH (in Cantonese): *Madam President, the Secretary mentioned in part (a) of the main reply that around 93 800 casual employees worked on average 38 hours per week; in part (b), the Secretary also mentioned that about 7 200 casual employees worked less than 18 hours per week. If we take the figures mentioned by the Secretary in part (b) of the main reply, the actual number of working hours per week of the majority of casual employees is very high. If this is the case, can we deduce that no employer, or few employers, employs these casual employees for more than four weeks in order to avoid compliance with the requirements on "4-18" employees as provided in the Employment Ordinance?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I do not have the detailed breakdown of the number of hours of work of each and every interviewed casual employee. All I have is only the overall average number, which is 38 hours per week. If 7 200 casual employees are working less than 18 hours per week, the implication of course is that a large proportion of the casual employees is working more than 18 hours per week. If Mr LEUNG requests for the relevant data, I can give him a written reply afterwards. (Annex I)

MR CHAN KWOK-KEUNG (in Cantonese): *Madam President, in recruiting a Clean Hong Kong Community Organizer for the Sai Kung District, the Home Affairs Department (HAD) stated clearly that the employee would not work more than 17 hours per week, and this post is not within the civil service establishment. Would this mode of recruitment by the Government encourage other employers to follow suit, depriving a lot of wage earners of the protection they should have?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I cannot comment on the employment conditions of HAD but I believe that the number of hours of work of casual employees should be set in accordance with the actual working condition. Under the present Employment Ordinance, non "4-18" employees have in fact enjoyed most of the protection. The only difference between "4-18" employees and non "4-18" employees is that the latter are not entitled to paid annual leave, paid leave, sick allowance, maternity protection and benefits, severance pay, long service payment, and so on. Basically, the impact of these on short-term staff is very minimal.

MR TAM YIU-CHUNG (in Cantonese): *Madam President, the Secretary mentioned in part (c) of the main reply that the number of self-employed persons in the construction sector was increasing steadily. Some self-employed persons once told me that they were forced to become self-employed, and in so doing, they lost their protection under the labour insurance cover. As we all know, the accident rate of the construction industry is very high. Under such circumstances, they will not have any protection in case fatal accidents occur to them. Has the Secretary taken note of this?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, now and then we would hear of complaints that employees are forced to become self-employed. However, under existing legislation, so long as the employees are not willing, employers cannot turn employees into self-employed persons on an unilateral basis. If employers do so unilaterally, employees can claim compensation from the employers.

Furthermore, if the status of an employee appears to be that of a self-employed person but his actual employment relationship with the employer remains unchanged, the Court has the right to rule in accordance with the actual situation that the two parties still maintain an employment relationship. During the implementation of the Mandatory Provident Fund Scheme, we have heard of a lot of such complaints, and the Mandatory Provident Fund Schemes Authority has studied these cases with many trade unionists. However, up to now, we have no substantial cases to prove that employees are forced to become self-employed persons.

MS AUDREY EU (in Cantonese): *Madam President, I also want to follow up on the supplementary question raised by Mr TAM Yiu-chung just now on self-employed persons in the construction industry. The Secretary said just now that there was no evidence indicating that these employees were forced to become self-employed persons, and that the Court would study individual cases. However, the Secretary also knows that most litigation cases require much time for scrutiny and involve a lot of resources but the results are difficult to say. Under the present employment compensation, the main contractor is responsible for taking out insurance for all workers in the construction site, including those not directly employed by him. In order to avoid employees complaining of being forced to become self-employed persons or wasting time on litigation, I would like to ask the Secretary if she would consider expanding the scope of the legislation concerned, making the main contractor legally responsible for providing these self-employed persons with compensation for injuries sustained in the course of work?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I know that the Labour Department is also studying this matter. The Department has set up a tripartite working group on the construction industry, with employers, employees and government representatives as members. The matter has been put down on the agenda and is being discussed, only that no conclusion has yet been arrived at.

MR HOWARD YOUNG (in Cantonese): *Madam President, it seems that the Secretary has put her focus on the construction industry, and as we all know, this may be due to the fact that the industry itself needs to hire a lot of casual employees. I would like to raise a question on the report of the Census and Statistics Department (I have not gone through the report in detail). Has the Department compiled classified statistics on employees of several major trades not satisfying or satisfying the "4-18" requirements? If so, we will be able to know more clearly whether some trades have to employ a particularly larger number of casual employees because of their needs; we will also be able to know which trades may experience the worries expressed by some Members just now, that is, those employers would resort to other ways not in line with the original intention of the legislation in hiring employees.*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): *Madam President, we can see from this survey that there are more casual employees in the handicraft and non-technology related trades. However, the purpose of the inquiry on this special topic is not to find out the conditions of "4-18" employees. Although I pointed out in the main reply that 83% of all casual employees worked at least 18 hours per week, I cannot say for sure whether they were "4-18" employees or not because those interviewed during the survey period have worked for the same employer for less than one month. The Census and Statistics Department particularly conducted another survey in the third quarter last year on the conditions of "4-18" employees, making inquiries to employees if they had been working less than 18 hours per week over the past four weeks. I hope that some more in-depth information on the subject of "4-18" employees can be released by mid-year.*

MR LEUNG FU-WAH (in Cantonese): *Madam President, the Secretary pointed out in part (b) of the main reply that at the time of the survey, 83% of all casual employees had not worked for the same employer for four weeks. This survey was carried out from April to June last year, I do not understand why such a large proportion of casual employees happened to be employed during that period and that they had not worked for four weeks? I would like to ask the Secretary if classified statistics on the trades and positions concerned has been compiled?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I have to refer to the details of the report again before answering this supplementary question. (Annex II) However, I have expressed that this survey is mainly for the purpose of compiling statistics on the number of casual employees and not on the number of "4-18" employees. Thus, I believe another survey report to be released in the middle of the year on this subject will give Members a clearer picture.

PRESIDENT (in Cantonese): Second question.

Reviewing Housing Policies

2. **MR ALBERT HO** (in Cantonese): *Madam President, the housing policies implemented by the Government in recent years have aroused criticisms from various sectors, and the findings of some opinion surveys even reveal that the public are most dissatisfied with housing policies. In this connection, will the Government inform this Council whether:*

- (a) *it has reviewed if it has made mistakes in housing policies over the past few years; if the review result reveals that mistakes have been made, whether the Chief Executive and the officials concerned will apologize to the public; if the review result reveals that no mistakes have been made, of the justifications for that;*
- (b) *the Chief Executive and the officials concerned will express regret to those people who have made decisions to purchase properties according to their comments and subsequently become negative-equity property owners with the depreciation of their properties; and*
- (c) *"achieving a home ownership rate of 70% by 2007" remains an objective of its housing policies?*

SECRETARY FOR HOUSING (in Cantonese): Madam President,

- (a) According to the overall result of the opinion survey referred by the Honourable Albert HO, citizens were most concerned about the

economic situation and employment problems. Housing was their third area of concern. One subsidiary finding of the survey was that those with monthly incomes between \$20,000 and \$30,000 were most dissatisfied with the housing policy. This to a considerable extent may reflect the impact on these families of the problem of negative equity. The Government fully understands the situation and sympathizes with this group. In fact, it was the financial crisis in 1998 and subsequent downturn in the economy which have led to a significant fall in property values, and affected many owners who had bought property at high prices. It was not the result of our housing policy.

Since reunification, we have achieved a great deal in implementing the key areas of our housing policy. For example, all old-type Temporary Housing Areas and most of Cottage Areas have been cleared; the number of overcrowded households in public rental housing has been reduced by more than half; and many households living in squatter huts and in old public housing estates have been allocated new public housing flats. Since 1997, more than 200 000 families have moved into public rental housing through various channels, while the average waiting time for public rental housing has been reduced from seven years to 3.8 years. At the same time, the Government's subsidized home ownership schemes and loan schemes have been well received and enabled a total of over 230 000 families to purchase their own homes. Thus the quality of living of over 430 000 families has improved significantly with government assistance. Last year, the United Nations Committee on Social, Economic and Cultural Rights commended the SAR Government for its achievements in housing. This commendation has greatly encouraged us.

The underlying housing policy objective of the Government has always been very clear: it is to help families in need to acquire adequate and affordable housing. In the process of implementing individual housing policies, the Government understands fully that members of the public who are affected may be discontented while those with vested interests may ask for more. The Government regularly communicates with the public. Whenever a potential deficiency in existing policy is identified, the SAR Government

reviews its position and responds flexibly by adopting suitable measures in the public interest.

- (b) One of our policy objectives is to promote home ownership among households who wish to acquire their own homes. In this context, government officials analyse the property market according to the most up-to-date and objective data. Home ownership, however, as with other types of investment, remains the choice of a family or an individual, who should make such an investment after considering their own needs and financial circumstances. Government officials have never insisted that the public should purchase their own homes.

The Government is deeply concerned for and sympathetic to owners in negative equity and has been working hard with the banking sector to work out measures to ease their burden as far as practicable.

- (c) The Government believes that home ownership remains the aspiration of many households. Home ownership also fosters a sense of belonging to Hong Kong. At present, the home ownership rate in Hong Kong stands at 55%. This is a positive achievement. In response to public demand, the Government will continue to provide assistance to eligible households to help them realize their aspirates for home ownership. The Government hopes that a home ownership rate of 70% will ultimately be achieved.

MR ALBERT HO (in Cantonese): *Madam President, before I raise the supplementary question, can I ask the Secretary to respond to that part of the main question which has not yet been answered?*

PRESIDENT (in Cantonese): Yes, you can.

MR ALBERT HO (in Cantonese): *Madam President, the Secretary has not answered two parts of the question. As regards part (a) of the question, the Secretary has not formally replied if the Government will apologize for its mistakes in the policy; part (c) of the question is on whether the objective of*

having 70% of the families own their homes still exists. The Government only expressed that this objective would ultimately be achieved, without saying whether this policy still exists or not.

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

SECRETARY FOR HOUSING (in Cantonese): Madam President, I have in fact given in part (a) of the main reply a detailed reply to part (a) of Mr HO's question. We are always reviewing our housing policy which has remained unchanged, that is, helping those in need to solve their housing problems. The policy of the Government has been consistent and our measures are in line with the times. Therefore, we have made no mistakes in our policy.

As regards part (c) of the main question on the 70% home ownership rate, I think that we should not quibble over the wordings as to whether the policy still exists or not. In the main reply, I have also mentioned that it would be the personal wishes of the people to acquire homes of their own, and the Government of course hopes that more people can acquire their homes. Our policy is consistent, that is, helping those qualified to acquire their homes and encouraging others to do so. The Government hopes that the objective of having 70% of the families acquire their own homes can be achieved, but whether or not they do so is their own choice.

PRESIDENT (in Cantonese): Mr Albert HO, please raise your supplementary question.

MR ALBERT HO (in Cantonese): *Madam President, this is my supplementary question. Madam President, what the people criticized most about the Government's housing policy is that while on one hand it is indecisive, coming up with inconsistencies in its policy, it is on the other hand acting on its own, making decisions without deliberations. The Secretary for Housing has recently made some comments which caused much concern, let me quote him as follows: "the Government is gradually withdrawing from the property market. To be honest, this is withdrawal. Two or three years ago, the Government cut on the number of Home Ownership Scheme (HOS) flats built and extended housing loans because the latter is more cost effective This is just obvious. For*

those who fail to realize the Government's withdrawal, I think that they are not too 'sharp'." Madam President, many Members are not very "sharp", they are surely on no par with the developers. Can the Government inform this Council what consultation procedures have the policy changes as mentioned above gone through, and whether the authority has made any formal announcement on that or not?

SECRETARY FOR HOUSING (in Cantonese): Madam President, Mr HO said just now that the Government was indecisive but I think that there is a misunderstanding here. The Government has not acted on its own, we are always looking at the housing policy with the Legislative Council and members of the public, and have conducted public consultations on important issues. Just as what I said just now, the Government's housing policy has always been distinct, clear and practical. If there is a change in the environment, such as property prices have dropped over 50% from 1997 to now, we should review if there is any overlapping between the private housing market and the public housing market. This is what the Secretary for Housing meant when he said the Government hoped to withdraw gradually from the property market. What he wanted to say was that if the private market could provide flats at a certain price level, then the Government should no longer provide flats at that price level, as that would be an overlapping in the work done. That was what he meant.

MR ALBERT HO (in Cantonese): *Madam President, the Secretary has not said in her reply just now what consultation procedures had those policy changes gone through, and whether any formal announcements had been made. Can the Secretary explain clearly?*

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

SECRETARY FOR HOUSING (in Cantonese): Madam President, we have always discussed with the Legislative Council matters on the housing policy. Being the Chairman of the Housing Panel of the Legislative Council, Mr HO should have known that we have discussed with the Council many times on three important subject matters announced by the Chief Secretary for Administration on 3 September last year. With regard to matters such as rent, we intend to

conduct a public consultation this year. As for the other issues, we will take account of what is required and consult the relevant organizations and people.

PRESIDENT (in Cantonese): Members, as there are still 11 Members waiting to ask questions, so please be concise with your supplementary questions.

MR CHAN KAM-LAM (in Cantonese): *Madam President, the Secretary mentioned in part (a) of the main reply that the financial crisis in 1998 and subsequent downturn in the economy have led to a significant fall in property values. Consequently, many people have become owners of negative-equity properties. Earlier on, a lot of people expressed that it was the Government's "85 000" policy which had led to a depreciation of property values. Can the Secretary inform this Council whether the Government's "85 000" policy has anything to do with negative-equity properties and the depreciation of property values?*

SECRETARY FOR HOUSING (in Cantonese): Madam President, I have in fact mentioned in the main reply that property prices had reached a historic high in 1997 which we felt was not a sustainable level. At that time, the atmosphere of property speculation was extremely intense; out of four cases of property transactions, one transfer would take place within 24 months. Judging from these figures, we can see how intense the speculation atmosphere was. In 1998, we experienced the economic downturn and property prices fell correspondingly. Government officials have all along reminded the people that they have to consider their financial viabilities and aspirations when acquiring properties. Negative-equity properties resulted from a lot of factors, including external factors. I believe that people will not put the blame on the housing policy and the "85 000" objective of the Hong Kong Government for causing properties to become negative-equity properties.

DR PHILIP WONG (in Cantonese): *Madam President, although the Secretary said that the Government was not indecisive in its housing policy, the Government however did say at one time that the "85 000" policy was to be implemented and at another time that the "85 000" policy no longer existed; at one time, it said it would put out for sale HOS flats, but at another time, it said it would not sell HOS flats. Is this indecisive behaviour?*

SECRETARY FOR HOUSING (in Cantonese): Madam President, the housing policy of the Government has always been distinct, clear and practical; the basic rationale has remained unchanged, that is, we will do our best to help those families in need to obtain suitable and affordable accommodation. This is something which has not changed. As regards measures and objectives, the Government will definitely spare no responsibility in responding to changes, balancing the interests of all parties and carrying out changes in response to external environment, economic and social changes and the wishes of the people.

MR FREDERICK FUNG (in Cantonese): *Madam President, in his strongly-worded statement issued on 3 September, the Chief Secretary for Administration Mr Donald TSANG pointed out "three sins" of HOS flats, namely, overlapping with the private property market, bringing impact on the private market and mismatching of resources. He therefore asked for a halt in the sale of HOS flats and the construction of no more than 9 000 flats each year. The Hong Kong Housing Authority (HA) then acted in complete accordance with the words of the Secretary. As a result, we now have around 10 000 vacant HOS flats unable to be rented or sold. Is it that the HA has made a mistake in its past HOS policy, rendering it necessary for the HA to apologize to the people, or that the Secretary has made a mistake in his directive, resulting in the Government having around 10 000 HOS flats not being able to be rented or sold? Which party has in fact made a mistake, and is it necessary for the official concerned to apologize to the people for the problem thus caused?*

SECRETARY FOR HOUSING (in Cantonese): Madam President, I think Mr FUNG recalls that when the SAR Government was established, property prices surged high. In the 1997 policy address, the Government drew up a construction target, which included the number of HOS flats to be built. This target was based on the then long-term housing need and market conditions. When this policy was announced, all Members of the Legislative Council had in fact extended their support. Afterwards, just as what I said, the situation changed. As property prices dropped and interest rates kept falling, the Government noticed an overlapping between the public and private market. Therefore, it responded by amending the policy on the sale of HOS flats, and the Chief Secretary for Administration announced the new measures on 3 September last year.

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

MR FREDERICK FUNG (in Cantonese): *Madam President, the Secretary has not answered whether it was the fault of HA or not.*

SECRETARY FOR HOUSING (in Cantonese): Madam President, no one has in fact made any mistakes, only that the external environment has changed. Both the Government and HA noted this and responded by amending the policy concerned.

MISS CYD HO (in Cantonese): *Madam President, the Secretary expressed in the third paragraph of part (a) of the main reply that the SAR Government would review its position and respond flexibly by adopting suitable measures in the public interest. In the past few years, we saw that the Government responded extremely rapidly when developers asked the Government to stop land sale and sale of HOS flats. However, ever since the financial crisis, people have kept on asking the Government to lower public housing rent, but so far, the Government has delayed in making any concrete response. I would like to ask what actions can the Government take to prove that its housing policy is in the interests of the people at large, so that instead of benefitting only a small part of the people, everyone will be able to benefit?*

SECRETARY FOR HOUSING (in Cantonese): Madam President, I wish to thank Miss HO for asking this question. I have in fact said many times but maybe I should repeat once again, and that is, the Hong Kong Government for sure has not acted in response to the demands of the developers. With regard to private buildings, the Hong Kong Government pursues the principles of free economy, but of course, we do not want to see an overlapping between the private housing market and the public housing market. We hope that the market can be more effective.

Miss HO asked why the Government has not yet responded to the people's demand for rent reduction. In fact, last week, the Legislative Council and the

Government held an in-depth discussion on the rent issue. Upon knowing the result of the Council motion, we and the HA have started to consider whether Members' suggestions on rent concession could be implemented. However, I have expressed clearly in the main reply that we still have to study clearly the relevant ideas and data. It is only when we think that the suggestions are feasible then we will put them in practice. Thus, the Government will not respond too quickly. Nevertheless, we will again discuss the matter with Members in the Housing Panel of the Legislative Council.

DR YEUNG SUM (in Cantonese): *Madam President, please decide which Secretary is to answer my supplementary question. It is said that we can learn from past experience, and Mr TUNG Chee-hwa has taken the lead to express regret in making wrong predictions on the property market; but strangely enough, leaders of the SAR and officials, including the Chief Secretary for Administration Mr Donald TSANG, Mr LEUNG Chun-ying, Mr Dominic WONG, Mr POPE and so on are still making irresponsible remarks over and over again, misleading the public. The most unfortunate thing is that their predictions are smashed one by one. Has the Government reviewed the mistakes made in the remarks, and will it consider formulating guidelines so as to avoid officials concerned making misleading remarks on the property market again?*

SECRETARY FOR HOUSING (in Cantonese): Madam President, I have mentioned in the main reply that comments by each official or individual on the property market are in fact based on analysis made in accordance with the latest and most objective facts. However, they have never insisted that people should acquire properties, nor have they instigated people into doing so. I have gone through the remarks they made in this respect from 1996 to now; they have all pointed out clearly that people should assess their need and affordability when acquiring properties.

DR YEUNG SUM (in Cantonese): *Madam President, I asked would the authorities concerned consider formulating guidelines.*

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

SECRETARY FOR HOUSING (in Cantonese): Madam President, for the time being, I do not think that there is this need, but I can remind our colleagues again that they have to be more cautious when making their remarks.

DR DAVID CHU (in Cantonese): *Madam President, according to my understanding, the "85 000" policy should have no longer existed, but having heard Dr Philip WONG's supplementary question just now on the Government being indecisive in its policy, I am not sure whether that policy still exists or not. My supplementary question is, if the "85 000" policy no longer exists, is that policy a faulty one?*

SECRETARY FOR HOUSING (in Cantonese): Madam President, just as what I said earlier, the SAR Government was responding to the situation then when it introduced the "85 000" policy as it came into being. At that time, property prices had surged to a historic high, many people, including Members of the Legislative Council, asked the Government to increase the supply of public housing in order to provide more flats for those in need. Thus, it was very appropriate for the Government to announce this target in 1997. If Members have gone through the relevant Record of Proceedings, you will know that all Members of the Legislative Council then strongly supported this policy. Afterwards, in 1998, Hong Kong was hit by the Asian financial turmoil, resulting in substantial economic changes. The SAR Government therefore responded to the latest situation, amended the policy and announced in 1998 that the "85 000" construction target no longer existed. This however did not mean that the objective announced in 1997 was wrong.

PRESIDENT (in Cantonese): The Council has spent over 21 minutes on this question. I now

MR ERIC LI (in Cantonese): *Madam President, a point of order. Can I ask the government official to clarify on her reply just made? The Secretary said just now that at that time, all Members of the Legislative Council supported this policy of the Government, but according to what I understand, Dr Philip WONG and I alone have made much criticisms on this policy. I would like to know the basis for the Secretary in saying this.*

PRESIDENT (in Cantonese): Members, if it is a request for clarification or the raising of follow-up questions, it should come from the Member asking the supplementary question; if certain parts of his question are not yet answered by the Secretary, I will ask the Secretary to give further information. If a Member is only asking the official to clarify because he and the official hold different views to a certain issue, I will not allow him to do so during Question Time. I believe Members can follow up the matter through other channels. Members should only ask questions during Question Time.

Dr Raymond HO, do you have a point of order?

DR RAYMOND HO (in Cantonese): *Madam President, I think it is not a matter of clarification, I just feel that the official is trying to "put words into one's mouth". I say so because upon the announcement of the policy in 1997, I have written to the authorities expressing my opposition but the Secretary is saying now that at that time, all Members expressed their support. I felt very much aggrieved. (Laughter)*

PRESIDENT (in Cantonese): I have noted the aggrieved feeling of Dr Raymond HO and the views of Mr Eric LI, but these are not part of the supplementary question.

Just now, I wanted to continue to say that this Council has already spent a lot of time on this question, so I will only allow one Member to raise the last supplementary question. This may disappoint other Members who are unable to raise supplementary questions on this question.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, the Secretary said in the third paragraph of part (a) of the main reply that the underlying housing policy objective of the Government has always been very clear, and that is to help families in need to acquire adequate and affordable housing. I would like to ask the Secretary, if a family receiving an income of \$10,000 pays over \$2,000 for rent, is this an affordable level for the family, and is this level of rent too high or appropriate? I hope that the Secretary can respond.*

PRESIDENT (in Cantonese): Secretary, this is the last supplementary question, do you want to respond?

SECRETARY FOR HOUSING (in Cantonese): Madam President, can I first make a bit of clarification on the questions raised by Mr Eric LI and Dr Raymond HO?

PRESIDENT (in Cantonese): Secretary, you can decide how to answer.
(Laughter)

SECRETARY FOR HOUSING (in Cantonese): Madam President, just now, I was in fact referring to the speeches of Members of the Provisional Legislative Council made on 22 and 23 October 1997 on their stances to the "85 000" policy. Last night, I went through the relevant Record of Proceedings and came to know that at that time, all Members were in support of this policy. To avoid embarrassment, I am not going to mention the names of the Members. If Members now hold different views, we can discuss it after the meeting.

As regards the supplementary question of Miss CHAN Yuen-han, we have made many studies on the issue of rent level and the HA has a set of clear and long-standing guidelines on calculating the income ceiling, using the actual expenditure on housing and non-housing items as the basis. Referring to the example of a tenant with a monthly income of \$10,000, we will have to see whether the party concerned is a single person or a family of two or three members before deciding whether they are qualified for applying public housing.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, I would like to raise a simple follow-up question. The Government expressed that it will help some families to acquire adequate and affordable housing, and what I mean is for a family with a monthly income of \$10,000, even if it has three or four family members, is it an appropriate rent level for it if it has to pay over \$2,000 for rent? What are the definitions for "adequate" and "affordable" as said by the Government?*

SECRETARY FOR HOUSING (in Cantonese): Madam President, regarding Miss CHAN Yuen-han's question, if a three or four-member family with a monthly income of \$10,000 feels that it cannot afford to pay \$2,000 for rent, there are in fact a lot of vacant units out of 580 000 public housing units for it to choose from. Just as what I said last week, the average monthly rent of public housing now is \$1,355, with the cheapest and the most expensive units costing \$241 and \$3,800 respectively. We have at any time over 10 000 vacant units, be they refurbished or newly constructed ones, for those in need to choose from. Going back to the example, the family concerned can approach a Housing Manager directly to solve its housing problem.

PRESIDENT (in Cantonese): Third question.

Pledges for the Elderly

3. **MR WONG SING-CHI** (in Cantonese): *Madam President, the Chief Executive pledged in the 1997 policy address to provide the elderly with "a sense of security, a sense of belonging and a feeling of health and worthiness". In this connection, will the Government inform this Council:*

- (a) *in view of a report that one in every four elderly persons in Hong Kong is living below the poverty line, whether the Administration has assessed the reasons for its failure to achieve the objective of making the elderly feel secure;*
- (b) *as it is known that there are currently over 10 000 elderly households on the Waiting List for public rental housing, and as housing units specially for elderly households have been poorly designed (for example, they are not self-contained) and are remotely located, whether the Administration has assessed the reasons for not meeting the special housing needs of the elderly, and how it may honour the pledge to provide the elderly with a sense of belonging; and*
- (c) *as the suicidal rates among the elderly from 1998 to 2000 were higher than those of other age groups, whether the Administration has assessed if it has not effectively promoted the concept that "old*

age is the golden age in life", and has therefore failed to achieve the objective of fostering a feeling of health and worthiness among the elderly?

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, in 1997, the Chief Executive has designated "Care for Elders" as one of the strategic policy objectives, with the aim of improving the quality of life of our elders and providing them with a sense of security, a sense of belonging, and a feeling of health and worthiness. In the past few years, the Government has substantially increased expenditure for the elderly and made significant progress towards achieving our policy objective. Recurrent expenditure on direct welfare services for elders has doubled from \$1.6 billion in 1997-98 to \$3.2 billion in 2001-02.

- (a) As regards part (a) of Mr WONG Sing-chi's question, for elders who suffer genuine financial hardship, they may apply for Comprehensive Social Security Assistance (CSSA) to meet their basic and essential needs. At present, about 15.5% of our elders aged 60 or above (about 160 000 persons) are receiving assistance under the CSSA, accounting for about 57% of the total CSSA caseload. We have increased the standard payment rate for elders by \$380 per month in 1998 representing an increase of 18.4%. Expenditure for CSSA elderly recipients amounts to about \$7.2 billion, which represents an increase of 53% from \$4.7 billion in 1997-98.

In addition, as at the end of December 2001, there were about 458 000 older persons receiving Old Age Allowance (OAA), representing about 60% of the population aged 65 or above.

Altogether over 600 000 older persons are receiving either CSSA or OAA, accounting for 61% of the population aged 60 or above, at an expenditure of about \$11 billion in 2001-02, compared to \$7.9 billion in 1997-98. For the population aged 65 or above, this accounts for 78% of the population.

The Government is committed to providing financial protection for our elders. In the context of the three-pillar approach as

recommended by the World Bank, we have implemented the Mandatory Provident Fund Scheme since December 2000 to provide a retirement protection system for Hong Kong's working population. Our target objective in the coming years is to develop a sustainable social safety net that better targets resources at those needy elders to meet their basic needs, and which takes account of local circumstances, especially our low and simple taxation system.

- (b) As regards part (b) of the question, the number of elderly households living in public rental housing (PRH) of the Housing Authority (HA) has increased by 23.7% from 63 700 in the third quarter of 1997 to 78 800 as at the third quarter of 2001. With a steady supply of PRH in recent years and priority in flat allocation for elderly households, the number of applications on the Waiting List has been significantly reduced from 16 000 in 1997 to the present 9 960. As promised by the HA last year, all elderly households which registered for PRH before end March last year will be allocated flats before end 2003.

To allow elders to continue to age in a familiar environment, we allow households with elderly members to opt for flats in urban districts. Moreover, in the coming four years, about 80% of the new small flats suitable for allocation to elderly households are located in urban or extended urban districts. In addition, the HA also introduced a pilot scheme in August 2001 to offer rent allowance to elderly applicants with waiting time of one year to enable them to rent private sector accommodation meeting their personal preferences.

As regards design, a mix of flats including hostel-type Housing for Senior Citizens featuring shared facilities and warden services and self-contained small flats are allocated to elderly applicants according to their preferences. With a view to implementing the concept of "aging in place" in public housing, the HA is exploring the use of "universal design" which caters for the specific needs of elderly residents and provision of integrated care services in rental estates with a high concentration of elderly residents.

In addition, we have invited the Housing Society to undertake a Senior Citizen Residence Scheme, on a pilot basis, under which flats will be leased for life to elderly people in the middle income group, to give them access to affordable, purpose-built accommodation with integrated care services. Some 560 flats at two sites at Jordan Valley and Tseung Kwan O are currently under construction and will be completed in 2003. We will also encourage the private sector to provide elderly housing, and are developing a pilot scheme in this regard.

- (c) As regards part (c) of the question, elderly suicide brings bereavement not only to the family, but also a loss to the society. It is indeed common around the world, including Hong Kong, that elderly suicide rates are higher than those of other age groups.

To address the problem of elderly suicides, we believe prevention is crucial. In this regard, over the past few years the Government has been implementing a number of measures to improve the quality of life of our elders in general and put in hand various support services and public education and publicity programmes specifically for the prevention of elderly suicides with multi-disciplinary approach and close collaboration among various government departments, medical and health as well as social welfare sectors. For details of the measures, please refer to Annex 1. We believe these measures have not only positively helped to address the elderly suicide problem, but will also contribute to foster a feeling of health and worthiness among our elders.

According to the findings of a study on elderly suicides commissioned by the Government¹, we have observed that elderly suicide rate in Hong Kong decreased in 1998 and 1999 and it remained stable in 2000. The gap between elderly suicide rates and overall suicide rates has also narrowed. (Please refer to Annex 2 for relevant statistics.)

¹ The Health and Welfare Bureau commissioned a research team from the University of Hong Kong and The Chinese University of Hong Kong to carry out "A Multi-disciplinary Study on Elderly Suicides in Hong Kong" in 1999. The study has recently been finished.

MEASURES TAKEN TO IMPROVE QUALITY OF LIFE OF ELDERS

- At an annual expenditure of \$3.2 billion (compared to \$1.6 billion in 1997-98), our elderly services programme provides a full range of residential, home and community care and support services.
- The Elderly Commission has launched a three-year campaign in 2000 to promote active and healthy ageing among the community, including elders.
- 18 elderly health centres and 18 visiting health teams are in place to cover all the administrative districts to provide preventive and promotive medical services to elders.
- 36 support teams have been set up to support volunteer programmes. Over 56 000 vulnerable elders have been identified for support services.
- We have been encouraging senior volunteerism and lifelong learning among elders so that elders can achieve a sense of worthiness as they age. 10 000 elders have been recruited as volunteers.
- The Social Welfare Department (SWD) has launched a four-year "Opportunities for the Elderly Project" in 1999 to finance community projects and sustain community participation in promoting healthy ageing and a sense of health and worthiness among elders. So far, a total of 869 programmes involving \$7.7 million have been provided, benefitting over 200 000 elders.
- The SWD, the Hong Kong Council of Social Service and the Hong Kong Psychogeriatric Association are co-organizing a three year "Joint Project on Prevention of Elderly Suicide" to provide hotline services, volunteer visits, casework counseling and consultation services with general practitioners for elders at risk.
- The HA will establish an "Elderly Suicide Prevention Programme" by late 2002 to provide multi-disciplinary services to elders with mental illness and suicidal tendency.

- 29 000 elders (about 60% increase compared to 1997-98) will be served by a range of home and community care services by March this year. To meet elders' preference to age at home, we will expand the new enhanced home and community care services and re-engineer existing services to benefit more frail elders.
- We will continue to develop a sustainable and quality residential care system with participation from non-governmental organizations and the private sector. By March this year, there will be 26 000 subsidized residential care beds (about 62% increase compared to 1997-98).
- All private care homes (over 500) have improved their quality to reach at least licensing standards since March last year, compared to about 3% in 1997-98.
- To help promote standards in private care homes, we have provided over 3 900 places under the Enhanced Bought Place Scheme (EBPS) and earmarked resources to upgrade all existing 1 200 Bought Place Scheme beds to EBPS standards by 2003.
- We will continue to strengthen support to family carers by involving more service units in delivering carer support services, including respite services.
- We are continuing with our efforts to strengthen manpower training. Initiatives include to expand multi-skilled training for care workers (to train 2 160 care workers from 2001-02 to 2005-06) and to enhance training for front-line workers and professional staff serving demented elders (to train 760 front-line workers and 680 professional staff from 2002-03 to 2005-06).
- The average waiting time of elderly singletons who wish to live by themselves in PRH will be reduced to two years by 2005. PRH will be allocated by 2003 to elderly households registered before March 2001 on the Waiting List.

Elderly Suicide vs Overall Suicide in Hong Kong

<i>Year</i>	<i>Elderly Suicide Death Rate¹</i>	<i>Overall Suicide Death Rate²</i>
1994	35.8	12.9
1995	31.6	12.9
1996	26.2	11.1
1997	29.5	12.0
1998	29.2	13.2
1999	26.3	13.1
2000	26.3	13.2

Note 1: Per 100 000 elderly population

Note 2: Per 100 000 population

Source: extracted from "A Multi-Disciplinary Study on Elderly Suicides in Hong Kong", which was produced by a research team from the University of Hong Kong and The Chinese University of Hong Kong, under the commission of the Health and Welfare Bureau.

MR WONG SING-CHI (in Cantonese): *Madam President, the Secretary in part (a) of the main reply only mentions the expenditure for the elderly, but he has not actually answered this part of my main question, that is, why is one in every four elderly persons in Hong Kong still living in abject poverty. In fact, as there is still one in every four elderly persons living in abject poverty, the objective of providing the elderly with a sense of security has obviously not been reached. For if this objective is reached, all elderly persons should have received proper care and attention. May I ask the Secretary in circumstances as these, does it mean that the policy which the Chief Executive proposed in 1997, that is, five years ago, is nothing but empty and exaggerated talks or that the failure of the policy is due to the incompetence of the departments which implement it?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, there are two points to my answer. First, the definition of "abject poverty" does not exist at all. So I do not know the source of the statistics which Mr WONG Sing-chi has found to conclude that one quarter of the elderly population in Hong Kong is living in abject poverty. Second, the reason for the SAR Government to formulate the policy was that the problem at that time was quite serious. We all know that elderly persons of this generation do not have much savings and that is why the SAR Government has decided to improve the quality of life for these elderly persons. In these five years we have allocated a lot more resources to provide direct services and financial security to the elderly.

MR JASPER TSANG (in Cantonese): *Madam President, the Secretary in part (a) of his main reply cites the number and percentage of elderly persons receiving OAA. But as the Secretary knows, the amount of OAA is only \$600 or \$700 per month and such an amount is not of much help to those elderly persons with genuine financial difficulties. On top of that, the OAA has not been increased for so many years and the DAB is very concerned about those elderly persons facing a dilemma, that is, they do not want to use their lifetime savings but on the other hand the savings disqualify them from receiving CSSA. Some years ago, the Government indicated that there were some plans especially targetted at the elderly and they would be offered some new assistance plans. Is this the sustainable social safety net which the Secretary has mentioned earlier? Why are only words heard while no actions taken for such a long time?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, I have mentioned in my main reply that the Government has substantially increased expenditure for the elderly and that the Government is committed to providing financial protection to the elderly. We hope that the elderly in need can be provided assistance. In this regard, we are considering some long-term and sustainable ways so that resources can be allocated more effectively to the elderly in need. As we have indicated in some of the debates in this Council, work in this area is quite complicated and we are studying into this issue.

MR IP KWOK-HIM (in Cantonese): *Madam President, part (b) of the main question is on the issue of public housing for the elderly. Now the public housing estates under the Housing Authority still have quite a number of partitioned units in which a lot of elderly persons are living. May I ask if the Government has any practicable ways to improve on the living conditions of the elderly housed in this kind of outdated accommodation so that the elderly can live under better conditions and have their difficulties relieved?*

PRESIDENT (in Cantonese): Which Secretary would like to answer this supplementary question? Secretary for Housing.

SECRETARY FOR HOUSING (in Cantonese): Madam President, I wish to thank Mr IP for his question. On the question of hostel-type housing for the elderly, we used to have the idea that there was a certain demand for this type of housing from the elderly. However, in recent years, since the HA has produced some self-contained flats for the elderly and with better choice available, elderly persons therefore prefer not to live in hostel-type housing units. The vacancy rate of such hostel-type housing units is about 8%. The HA has adopted measures to reduce this vacancy rate. First, for hostels which are under design or having the plans drafted, the units there will be changed into self-contained units and the occupants will not have to use shared lavatories. All the latest hostel units produced by the HA have their own lavatories, that is, they are en suite units. Second, for the newly completed hostels, we will consider whether they can be used for other purposes such as old age homes. That is to say, these hostels can be converted into old age homes. Third, the HA presently adopts the following measure, that is, in general, since these hostels are meant for occupation by the elderly, priority will be given to the elderly when the units are ready for allocation. However, if after a long period of time, no elderly persons would like to be allocated to these units, the HA will allot these units to non-elderly persons who are willing to move in these units. In so doing, the HA hopes that the vacancy rate will be lowered very soon.

MR FRED LI (in Cantonese): *Madam President, I would like to follow up on the supplementary question which Mr Jasper TSANG has raised earlier. The reply which the Secretary gives is that the matter is presently being studied. But more than one year has passed since Mr TUNG said that the matter would be explored. Now there are many elderly persons in Hong Kong who do not want to receive CSSA and they only depend on the OAA to get by. May I ask the Secretary whether he is aware of the actual number of these elderly persons? The Secretary said that the matter was being studied into and I would like to start from the basics, may I know how many of this type of elderly persons there are and how much does the Secretary know of their situation?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): *Madam President, I do not have this kind of data at hand, but I will give a reply to Mr LI in writing. (Annex III)*

The Government has made certain studies on elderly persons of this generation. We can have a rough idea as to information concerning their financial situation and their monthly expenses and so on. Our studies also take into account the present income and expenditure of those people who will become elderly persons in future and whether they would receive any pension upon retirement and what kind of retirement life they will lead and so on. We will examine these data and deal with them.

PRESIDENT (in Cantonese): *We have used more than 16 minutes on this question. Now the last supplementary question.*

MR LAW CHI-KWONG (in Cantonese): *Madam President, part (a) of the main question asks about the issue of the elderly living in poverty and Mr Jasper TSANG has raised a similar question earlier. I am very surprised by the Secretary who quoted that there are 450 000 people receiving OAA. Is the Government of the view that the OAA can solve the problem of old age poverty? If this is the case, does the Government think that it has already helped these 450 000 people to solve their poverty problem?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, I have explained in the main reply that we are tackling the issue in the context of the three-pillar approach as recommended by the World Bank. These three pillars are the Mandatory Provident Fund which has been launched, personal savings and a social safety net. We are designing a more effective safety net.

Under the present OAA scheme, persons aged 65 or above may receive an allowance of \$625 per month after they have declared their assets and income. Persons aged 70 or above do not have to declare their assets and income and they are eligible for a monthly allowance of \$705. The original design of this allowance was to help the elderly and we hoped that their families could also take care of them. According to findings of our study, the OAA is able to help some of the elderly persons because they rely partly on the OAA and partly on assistance from their families. They also have some savings. However, the OAA as it is cannot help those elderly persons in need in a very effective way. So we are making a full-scale study into the issue and we will devise some measures by taking into consideration the financial protection of the elderly persons after their retirement, the three-pillar approach recommended by the World Bank and the existing Mandatory Provident Fund Scheme, so that assistance can be provided to elderly persons in need more effectively.

PRESIDENT (in Cantonese): Fourth question.

Policy on Appointment of Doctors of Hospital Authority

4. **DR LO WING-LOK** (in Cantonese): *Madam President, at present, a registered medical practitioner who wishes to become a specialist has to complete the relevant recognized training programme. I have recently received complaints from doctors appointed on contract terms in public hospitals that their departmental Chiefs of Services have stated that they would only be appointed for six years at the most (that is, two three-year contract terms). Therefore, they have worries that they may not be able to complete the relevant specialty training programmes in time. In this connection, will the Government inform this council whether it knows:*

- (a) *if the Hospital Authority's (HA) policy on appointment of doctors is still that the appointment period should allow most medical practitioners receiving specialist training to complete their programme; if so, whether the appointment of such medical practitioners for only six years contravenes such policy; if not, the reasons for that;*
- (b) *given that some medical practitioners are deployed to perform duties which are not related to the recognized training programmes, whether the HA will extend their appointment period so as to allow them sufficient time to complete their specialist training programmes; if so, whether their appointment period can be up to 12 years; and*
- (c) *the number of HA medical practitioners receiving specialist training at present and, among them, the respective numbers of those who are studying family medicine and other specialties, as well as breakdowns by their years of service so far; and, according to the HA's estimation and in respect of each specialty, the number and percentage of the medical practitioners among those receiving the relevant specialist training who can complete their training programmes within six years of service?*

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

(a) and (b)

As the single largest provider of public hospital services, the HA has to ensure that there is a sufficient supply of specialists for the HA to deliver its services. The HA also plays an important role in training specialists to meet the demand of the community. To this end, the HA provides structured training to doctors to enable them to be accredited as specialists.

Residents are employed on contract terms. Such an arrangement can ensure a healthy turnover and a sufficient supply of resident

positions within the HA for continuous training of doctors to become specialists. It can also provide a steady supply of specialists for the community. Except for family medicine trainees whose duration of contract will be for two years, the duration of contract for residents of other specialties will normally be three years. The HA would flexibly administer the duration of the contract and its renewal, taking into consideration the requirements set by the specialty colleges concerned and that reasonable time should be afforded to residents to enable them to acquire specialist qualifications in a specialty.

It is not the HA's policy to limit the number of contracts to be offered to residents to acquire specialist qualifications to two contracts. In renewing contracts of residents, the HA will take into account a number of factors, including the specific requirements of various specialty colleges, the professional competence of the residents in their respective clinical specialties, the residents' performance, contribution to patient care and potential for further training. In this connection, residents deployed to perform duties not related to a recognized training programme will be offered contract extension to enable them to attain specialist accreditation. To illustrate, the HA normally provides two two-year contracts for suitable family medicine trainees to enable them to acquire the required supervised hospital-based and clinic-based training. According to the HA's records, the contracts of nine family medicine trainees have been extended beyond the four-year period.

- (c) As at 30 November 2001, there were 1 214 contract residents under training, 233 of which were family medicine trainees. The breakdown of contract residents under training by speciality and number of contract years is at Annex. As the recruitment of junior doctors on contract terms to provide structured specialist training only started in 1997, it will be 2003 at the earliest for the first group of contract residents to acquire specialist qualifications. Prior to 1997, the HA's information system did not capture information on the number of years for medical officers to complete their specialist training.

Annex

Hospital Authority Residents under Specialty Training
(Position as at 30 November 2001)

<i>Specialty</i>	<i>Number of Trainees</i>	<i>Number of Contract Years</i>				
		<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>
Accident and Emergency	116	16	25	20	34	21
Anaesthesia	89	17	22	19	21	10
Clinical Oncology	18	8	3	3	2	2
Diagnostic Radiology	17	4	8	2	3	0
Ear, Nose and Throat	14	3	3	4	1	3
Medicine (including geriatrics)	279	56	51	58	75	39
Obstetrics and Gynaecology	37	12	11	4	5	5
Orthopaedics and Traumatology	72	15	20	15	16	6
Ophthalmology	43	8	9	14	7	5
Paediatrics	56	17	10	9	15	5
Pathology	35	12	13	6	3	1
Psychiatry	65	19	11	19	12	4
Surgery (including neurosurgery)	140	38	36	26	29	11
Family Medicine	233	63	75	63	23	9
Grand Total	1 214	288	297	262	246	121

DR LO WING-LOK (in Cantonese): *Madam President, the Secretary mentioned in parts (a) and (b) of the main reply that reasonable time would be given to residents to enable them to complete specialist training and the contract period of residents would be administered flexibly. If residents are not offered permanent appointment by the HA after acquiring specialist qualifications for such reasons as there are no openings, will it be possible for them to continue their service on shorter terms; if so, what criteria will be adopted by the HA in considering renewing their contracts?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): *Madam President, training opportunities will be provided to junior doctors by the HA. As stated by me in the main reply, the renewal of contracts will generally depend*

on whether it is appropriate to renew contracts with the doctors in question to enable them to further their specialist training and the requirements of their respective specialist college, and renewal of their contracts will be dealt with flexibly. It will depend on whether there are openings before doctors having acquired specialist qualifications can be recruited as specialists.

DR LO WING-LOK (in Cantonese): *Madam President, my supplementary question is: Will doctors who have completed training be employed on short-term contracts if there are no permanent posts?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, no similar incidents have occurred so far because the new policy has been implemented only since 1997. It will depend on whether the HA needs to employ so many specialists to deliver its service in future. Furthermore, we expect some specialists to serve the public in private practice. Therefore, we will not absorb all specialists into the public-sector framework.

MR NG LEUNG-SING (in Cantonese): *Madam President, it was mentioned in the main reply that the HA's arrangement could ensure a healthy turnover. Yet I can see from the table setting out the number of Hospital Authority Residents under Specialty Training that only a few doctors are receiving training in certain specialties. For instance, there were only 14 trainees in the Ear, Nose and Throat specialty. Will the Government inform this Council whether there is a sufficient supply of specialists in Hong Kong at the moment and whether the number of specialists is excessive or inadequate? Will it be possible for us to ascertain whether the number of specialists is sufficient from some of the manpower resources planning data provided?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, in anticipating the number of specialists needed, the HA and the Department of Health will discuss with the Hong Kong Academy of Medicine to estimate the number of specialists required by each specialty in future. The HA will work in co-ordination thereafter and, depending on the number of specialists required by each specialty, design the specialist training places needed. Each specialty is bound to have different requirements. The Ear, Nose and Throat

specialty is a relatively small specialty. The number of patients in this specialty is generally small too. As a result, it tends to have fewer specialists and trainees. The HA's current practice is to design the posts needed depending on the requirements of each specialty.

It is our long-term policy that all doctors can become specialists. At present, a general medical practitioner can become a family doctor only. Therefore, the Hong Kong Academy of Medicine has already stopped training general practitioners. We hope approximately half the doctors can deliver primary health care services to the community in future and most of them should be family doctors too. Therefore, there will be a substantial increase in training places for family doctors. We also hope all locally graduated doctors can be given an opportunity to receive specialist training. Half of these doctors will then become primary doctors, and most of them are going to be family doctors too.

DR TANG SIU-TONG (in Cantonese): *Madam President, can the Secretary tell from past experiences the percentage or number of doctors who will be offered permanent appointment by the HA after acquiring specialist qualifications? What is the reasonable expectation in the Secretary's view?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, specialists used to be appointed on a permanent basis. The current policy was launched only in 1997. Therefore, we do not have the relevant information and experiences to tell how many doctors currently appointed on contract terms will be offered permanent appointment in future.

DR RAYMOND HO (in Cantonese): *Madam President, it does not sound logically reasonable for doctors who have successfully acquired specialist qualifications to possibly leave the HA and for those who have failed to do so to be employed continuously by the HA. This measure might lead to the so-called anomalous incentives too. What will the Secretary do to handle this problem?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, the HA does have some permanent posts. Depending on the availability of permanent posts, doctors who have completed training and

acquired specialist qualifications may apply for permanent appointment. As for doctors who have failed to acquire specialist qualifications, their supervisor will assess and evaluate whether they are capable of further undergoing specialist training. We will consider a number of factors in renewing their contracts. We will not refuse to renew contracts simply because the doctors in question have failed in their examination. Instead, we will consider their work performance and potentials.

MR LAW CHI-KWONG (in Cantonese): *Madam President, I do not quite understand the flexible handling of the length of contracts and the Government's responsibility behind the entire training programme. The Secretary indicated in the main reply that the Government was responsible for ensuring a sufficient supply of trained specialists. However, some specialists might be unable to serve in public hospitals after completing their training. Is it an effective means of using public money? What does this policy actually aim to achieve? Has the Government evaluated ratio of specialists and non-specialists required in the future in its basic planning before determining the number of specialist training places that should be offered?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, as I stated in the main reply earlier, we think that the public medical framework is duty-bound to provide training. However, we should not merely aim at catering to the demands for public medical services; we should cater to the overall demands for specialists as well. Our target of training medical practitioners is to have half of them serving the community in private practice, rather than keeping them in the public-sector medical framework.

As I mentioned in my reply to Dr the Honourable TANG Siu-tong's supplementary question just now, we hope to offer opportunities to all doctors in the territory to undergo training to become specialists. The specialists we are now referring to are not the same as those we mentioned in the past. At present, some specialists are responsible for delivering primary medical care as family doctors. There are others who follow a different course, like the primary doctors receiving specialist training provided by the Hong Kong Academy of Medicine. It is generally considered by the medical sector that most of the graduated doctors who have completed internship should be given an opportunity to further their training.

DR LO WING-LOK (in Cantonese): *Madam President, the contract system was introduced because limited resources have made it impossible for doctors to be employed on a permanent basis. We can see that the Government is facing serious deficits and resource constraints. If the Government is unable to provide sufficient resources to enable medical practitioners to complete their specialist training, will it consider asking the HA to review its training objectives to enable medical practitioners to complete a relatively comprehensive training programme in a shorter period of time to tie in with their future need in delivering primary medical service? In Britain, for instance, the training period for "trained general practitioners" is three years. Will the Government consider asking the HA to revise its training objectives?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): *Madam President, the training period for specialists is determined by the Hong Kong Academy of Medicine, not the HA. Each specialty college may determine the training period required by each specialty. Therefore, this matter should be handed to the medical sector, not the HA, for discussion, since the decision-making power does not rest with the HA.*

The new policy was implemented because of our need to train more medical practitioners, not because of insufficient resources. If all doctors are permanently employed, there will be no wastage at all. Neither will specialists go into private practice. The introduction of the contract system is a reasonable arrangement if we want all doctors to have an opportunity to practise because this will give more doctors an opportunity to receive specialist training. Upon the completion of training, these doctors may turn to private practice, and their standard will thus be upgraded. This will be helpful and useful to the community. Therefore, it is entirely unrelated to resources.

PRESIDENT (in Cantonese): *This Council has spent more than 16 minutes on this question. We will now proceed to the fifth question.*

Infrastructural Projects under Planning and Design

5. **DR RAYMOND HO** (in Cantonese): *Madam President, regarding the 400 infrastructural projects currently under planning and design, will the Government inform this Council of the following:*

- (a) *a breakdown of these projects by category;*
- (b) *the job opportunities expected to be created; and*
- (c) *the annual project estimates for the coming three years?*

SECRETARY FOR WORKS (in Cantonese): Madam President,

- (a) First of all, the Government's Capital Works Programme as a whole consists of some 1 600 projects. Among them, about 1 200 are projects underway, that is, these are projects already in Category A. The outstanding investment in these Category A projects is roughly \$100 billion. In addition, there are some 440 projects under planning and design. The outstanding investment in these projects under planning and design is about \$300 billion. Altogether, the Capital Works Programme has an outstanding investment value of roughly \$400 billion.

Our public works projects provide a wide range of public services, including transport, land development, environmental improvements, schools, hospitals, clinics, police stations and other public and government facilities such as parks, leisure and cultural facilities, community and welfare facilities, and so on. According to the nature of projects, we may broadly classify our projects as either engineering projects or building projects. Roughly speaking, among the 440 projects under planning and design, about 250 are engineering projects and 190 are building projects.

- (b) We are pushing ahead all the projects with full steam as far as possible so that we can provide our facilities at an earlier time to meet community needs. At the same time, the commencement of new projects will generate new jobs to help boost up employment in Hong Kong. For that purpose, we have planned to upgrade a total of 139 projects under planning and design, in whole or in part, to Category A through the Finance Committee within the 2001-02 Legislative Session. The total estimated value of these 139 projects is about \$110 billion.

In addition, we are actively implementing some of the new projects using a very fast-tracked programme. Examples are the Shenzhen Western Corridor, the Deep Bay Link, the Final Phase of the School Improvement Programme and 64 new projects for providing leisure and cultural facilities.

In the coming years, we estimate that the ensuing works contracts and consultancy agreements will generate a lot of job opportunities for construction and related sectors. To further enhance employment, we have pledged to increase the expenditure on minor works by about \$2 billion per year in the next two years to improve our existing facilities.

Furthermore, in 2001, we have reviewed our public works procedures and streamlined most of them thus shortening the lead-time for taking a project from inception to works construction. Under the streamlined procedures, the lead-time for commencing a typical engineering works project has been shortened from six years to less than four years. For a typical building project, the lead-time for commencing construction has been shortened to about two years.

Overall speaking, we anticipate that with implementation of the planned projects under the Capital Works Programme, the increase in minor works and the acceleration of project implementation, we shall provide some 48 000 to 50 000 job opportunities on average in the coming five years. Among these, about 44 000 are jobs for labourers and the rest for professional and technical personnel.

- (c) Due to the various initiatives of more public works projects and acceleration of projects, we estimate that the expenditure on capital works will hover around \$25 billion and \$30 billion per annum in the coming few years. However, I need to stress that this figure is very rough and is only indicative. The actual expenditure will depend on many factors, such as detailed design of the projects after public consultation, the timing of commencing construction, the tender rates and the progress of construction, and so on.

DR RAYMOND HO (in Cantonese): *Over the past 30 years, we have spent several hundred billion dollars on many different infrastructure projects. But after such a long time, many of these infrastructure items are already ageing, and ageing fast too, be they buildings, electrical and mechanical facilities, drainage systems, water pipes, bridges, roads or slopes. If we still do not make active attempts to repair and maintain them, we will inevitably have to spend even more resources on restoration and reconstruction. We, the "seven political parties and one group", put forward seven proposals on 9 October; one of these proposals, which involves the allocation of \$6 billion to step up the maintenance and repairs of more infrastructure facilities, is precisely what I have been repeatedly advocating. All these works can be launched very quickly, and they can also create many job opportunities. Will the Secretary consider this proposal?*

SECRETARY FOR WORKS (in Cantonese): Madam President, I agree with Ir Dr the Honourable Raymond HO that all the infrastructure facilities concerned must require proper repairs and maintenance. In fact all works departments will regularly inspect and maintain infrastructure facilities such as roads, drainage systems, water pipes, and so on. In case huge capitals have to be spent on the maintenance of any ageing water pipes, drains, slopes, and so on, we will treat their maintenance as new and separate infrastructure projects. We have heard the voices and views of society and many Members, which is why beginning in next year, we will spend an additional \$2 billion per year on minor works projects in the next two years.

MR LAU KONG-WAH (in Cantonese): *Madam President, it is mentioned by the Secretary in part (b) of the main reply that the Government has reviewed public works procedures and shortened the lead-time between project inception and works construction from six years to four years. May I ask the Secretary whether this lead-time also covers the time required to complete the statutory procedures under the relevant ordinances? If not, will these statutory procedures also be reviewed to further streamline public works procedures?*

SECRETARY FOR WORKS (in Cantonese): Madam President, the lead-time of less than four years referred to already covers the time required to complete statutory procedures such as gazettal and consultation, and these statutory

procedures actually take quite a long time. Besides, we will also continue with our review on whether it is possible to further streamline public works procedures. Once we have completed our discussions with the relevant government departments, we will conduct further studies on the possibility or otherwise of further shortening the lead-time of four years.

MISS EMILY LAU (in Cantonese): *Madam President, it is mentioned by the Secretary in the main reply that the Capital Works Programme has an outstanding investment value of roughly \$400 billion. I am sure the President also knows that this amount is even larger than that of our fiscal reserves. Although we think that the fiscal reserves should be used for relieving the people's plight, we also think that at this time of economic difficulties, the fiscal reserves should only be used for justifiable purposes. In the meeting this morning, the controversial \$22 billion Route 10 project was discussed; this project has led to very heated arguments both in this Council and in the community, and we do not know whether some Secretaries are at all sure that our economic and commercial and industrial activities in the future can really develop at the same pace. May I ask the Secretaries whether, under the current economic conditions, they have reviewed the \$400 billion Capital Works Programme to make sure that each and every item is absolutely necessary?*

SECRETARY FOR WORKS (in Cantonese): Madam President, it will take about eight to 10 years before all the works projects under the \$400 billion Capital Works Programme can be completed. As a matter of fact, all public works projects must meet three basic conditions. First, there must be a need for the relevant project. Second, when the relevant project is launched, we must ensure value for money for the projects put on tender. Third, the quality of the relevant project must attain a required standard. Besides, all works projects are of course subject to funding approval by the Legislative Council. To sum up, we will decide whether there is a need to launch a project only after completing the consultation and approval procedures required.

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

MISS EMILY LAU (in Cantonese): *Madam President, no. My supplementary question is: Under the relatively poor economic conditions now, has the Secretary ever reviewed these works projects, especially the large-scale ones, to examine whether there is a need to proceed with them, or whether they can be deferred?*

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

SECRETARY FOR WORKS (in Cantonese): Madam President, let me perhaps repeat my point here. I have mentioned the basic principles involved just now, and one of them says precisely that we will launch a works project only after ascertaining the need for it.

MR ABRAHAM SHEK (in Cantonese): *Madam President, I wonder if the Secretary is aware that some 30 000 construction workers are now unemployed. But then, the Government has deferred the invitations of tenders for these works projects; this has driven many companies to the verge of closure, and many workers have thus failed to find any jobs. Since the Government itself does not have the ability to launch these projects, will the Secretary consider the introduction of a new approach — allowing private investors to undertake public works projects? This can expedite the implementation of works projects on the one hand and create more job opportunities on the other.*

SECRETARY FOR WORKS (in Cantonese): Madam President, many views have been expressed about how public works should be expedited to help create job opportunities. From my main reply, Members can notice, first, that we will streamline public works procedures, and, second, we will also increase our overall investment in capital works. As far as private-sector participation is concerned, this is already found in many public works projects, both in the financial and construction aspects. We are always prepared to adopt this approach as long as it is suitable for a project.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, it is mentioned by the Secretary in the main reply that all capital works projects will bring about*

roughly 48 000 to 50 000 jobs in the coming five years. Has the Secretary made any computation as to how many jobs will be created every year on average over these coming five years? It is mentioned in the Chief Executive's policy address that 20 000 jobs will be created in the coming one year. In that case, does it mean that only 30 000 jobs, or even less, will be created in the remaining four years? Is it correct to say that since the Secretary does not expect to see any unemployment in the future, he thus sees no need for the creation of more jobs? Would the Secretary please clarify whether it is really true that all the jobs will be created at the early stage at the expense of problems at the later stage?

SECRETARY FOR WORKS (in Cantonese): Madam President, I mentioned in the main reply that all public works projects as a whole would create roughly 48 000 to 50 000 jobs in the coming five years; this is a total figure. As Members are aware, some works projects will be completed within two to three years, and after the completion of these projects, new ones will be launched. Our public works projects will provide roughly 30 000 jobs a year on average. When the figure mentioned by the Chief Executive in the policy address is included, the overall number of jobs to be created will reach 33 000 to 35 000. This is the increased figure.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, I actually hope that the Secretary can tell us the average number of jobs that can be provided yearly. But the Secretary seemed to have failed to say clearly how many jobs can be provided yearly over the coming five years.*

SECRETARY FOR WORKS (in Cantonese): Madam President, perhaps I did not make myself quite clear just now. I referred to the figure of some 30 000 jobs a year; actually, the figure for each year will be roughly the same. But if more works projects can be expedited, the figure will rise correspondingly.

MR ERIC LI (in Cantonese): *Madam President, it is mentioned by the Secretary in part (a) of the main reply that of all the 1 600 projects, only 440 ones are new, and the remaining 1 200 ones are underway. The total estimated expenditure for all these 440 new projects is rather high, amounting to \$300 billion and representing a major proportion of the outstanding investment of the Capital*

Works Programme. On average, each project will require some \$700 million. Since these are all new projects each requiring more than \$700 million, the planning time involved will presumably be very long. We can of course notice that some of these projects include schools and hospitals. Can the Secretary provide us with the timetables and procedures of these large-scale projects as early as possible? I am worried that given our existing financial position, if each of these projects is going to require \$700 million, \$1 billion and even several billion dollars, heated disputes may easily arise, as pointed out by the Honourable Emily LAU, because I am sure all Members are concerned about whether all these projects are value for money.

SECRETARY FOR WORKS (in Cantonese): Madam President, the \$300 billion referred to just now is the total sum for all projects. Although one can always divide this \$300 billion by 440 projects and get the average cost, we should realize that all these projects actually vary greatly in scale, with some of them being ones of a very large scale. If Members are interested, I am prepared to provide Members with a timetable which sets out the projects concerned and their intended time of submission to the Legislative Council.

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

MR HOWARD YOUNG (in Cantonese): *Madam President, I also wish to follow up on the number of jobs referred to in part (b) of the main reply. As we all know, we are not concerned so much about whether a project can last two calendar years. Rather, most importantly, we are concerned about how many working years there will be. This may be a clearer way of explaining the situation. The Secretary talked about 30 000 people just now. If that is converted to working years, then, to put it simply, can we just multiply 30 000 by five and say that 150 000 jobs in terms of working years will be created? Can we make things simple by saying so?*

SECRETARY FOR WORKS (in Cantonese): Madam President, the Honourable Member may well say so.

PRESIDENT (in Cantonese): Sixth question.

Road Safety at Road Tunnels

6. **MR LAU KONG-WAH** (in Cantonese): *Madam President, on 30 December last year, a worker of the Lion Rock Tunnel management company who was crossing the vehicular lane between toll booths at the tolling plaza was injured by a van that did not stop in front of an ordinary toll booth, reportedly because its driver had mistaken the toll booth for an autotoll one. Regarding road safety at road tunnels, will the Government inform this Council:*

- (a) *of the respective numbers of traffic accidents which took place within the tolling plazas of the various road tunnels, as well as the respective numbers of the resultant casualties, in the past three years;*
- (b) *whether it knows if the various tunnel management companies have issued guidelines to their employees on how they should place traffic cones and cross the vehicular lane between toll booths safely; and of the safety measures or facilities now in place to ensure the safety of their employees; and*
- (c) *whether it will request all tunnel management companies to review and improve the arrangements of traffic lanes leading to the tolling plazas, and to erect more directional signs on approach roads to the tunnels so that drivers can select their lanes early according to the ways they pay the tolls, in order to avoid the occurrence of similar accidents?*

SECRETARY FOR TRANSPORT (in Cantonese): *Madam President, in the past three years, a total of 2 845 traffic accidents happened at the toll plazas of the 10 toll tunnels in the territory, of which 131 involved personal injuries, resulting in 202 casualties (174 slight injuries, 26 serious injuries and two fatalities). Of the total 202 casualties, six were tunnel staff. A breakdown of the accident statistics by tunnels is set out in the table below:*

<i>Tunnel</i>	<i>Total No. of Accidents</i>	<i>Accidents without Injuries</i>	<i>Accidents Involving Injuries</i>	<i>Casualties</i>			<i>Total</i>
				<i>Slight Injuries</i>	<i>Serious Injuries</i>	<i>Fatal</i>	
Lion Rock Tunnel	636	593	43	40 (1)	6 (1)	1 (1)	47 (3)
Shing Mun Tunnels	160	149	11	14	3 (1)	0	17 (1)
Aberdeen Tunnel	224	207	17	21	11 (1)	0	32 (1)
Tseung Kwan O Tunnel	149	131	18	40	3	1	44
Cross-Harbour Tunnel	978	965	13	18 (1)	1	0	19 (1)
Western Harbour Crossing	106	100	6	8	0	0	8
Eastern Harbour Crossing	238	231	7	14	0	0	14
Tate's Cairn Tunnel	226	214	12	12	2	0	14
Tai Lam Tunnel	128	124	4	7	0	0	7
Discovery Bay Tunnel	0	0	0	0	0	0	0
Total	2 845	2 714	131	174 (2)	26 (3)	2 (1)	202 (6)

* Injuries to tunnel staff shown in brackets.

All tunnel companies have issued guidelines to their staff on how to perform their duties in a safe and efficient manner, including the proper procedures to be observed when they place traffic cones and move around at the

toll plaza. Depending on their duties, tunnel staff are provided with reflective vests, white sleeves, flashing torches, vehicles, and so on, to ensure their safety whilst on duty. Prior to each shift, staff will also be given briefings by their supervisors on matters they need to attend to, including a reminder on strict observance of the established safety rules and procedures at the toll plaza.

We have from time to time reminded the tunnel companies to review and improve the arrangements of traffic lanes leading to the toll plazas, and to provide appropriate directional signs on approach roads to the tunnels so that drivers can select their lanes earlier according to the way they pay their tolls. Whilst the provision of traffic aids at each tunnel is considered adequate in general, an ongoing review is being conducted by the Government on possible enhancements that may be introduced to further improve safety for tunnel staff and other road users. The enhancements include the provision of yellow traverse line road markings to remind motorists to reduce speed when approaching the toll booths, and the provision of crossing facilities for tunnel staff where site condition permits.

MR LAU KONG-WAH (in Cantonese): *Madam President, from the figures provided by the Government, we can clearly see that the older the tunnels, the higher will be the accident occurrence rate. That is why the number of accidents is the highest at the Lion Rock Tunnel and the Cross-Harbour Tunnel. In particular, the number of casualties (including injuries to tunnel staff) is also the highest at the Lion Rock Tunnel. Some of the facilities of these older tunnels may most probably be obsolete. As the reply given by the Secretary just now appears to be not clear enough, may I ask the Secretary what can be done to genuinely improve the crossing facilities and the arrangements in respect of the autotoll system, with a view to minimizing the casualties resulting from accidents at such older tunnels?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, even though the number of traffic accidents at the two tunnels referred to by the Honourable LAU Kong-wah just now is on the high side, the fact that these two tunnels are rather old is not the cause of the accidents. Rather, the higher number of accident is mainly attributable to the fact that these two tunnels are more heavily used than other tunnels. Actually, the accident to traffic flow ratios of these two tunnels are more or less the same as that of other tunnels.

Nevertheless, it is an undeniable fact that older tunnels like the Lion Rock Tunnel, which is over 30 years old, do not have the many facilities the present new tunnels are equipped with. Let me cite a very simple example with the Tunnel's Administration Building. The Administration Building of the Lion Rock Tunnel is located between the approach roads to the two tunnel tubes and there is no segregated walkway linking the Administration Building and the toll booths. Certainly, such kind of arrangement is no longer used in the designs of today's new tunnels. But due to geographical limitations, we cannot provide a segregated walkway linking the Administration Building of the Lion Rock Tunnel and the toll booths. However, we are currently conducting relevant feasibility studies to find out whether an overhead walking link can be constructed to enable tunnel staff to commute between the Administration Building and the toll booths at the toll plaza. The particulars and details are still under consideration.

MR LAU CHIN-SHEK (in Cantonese): *Madam President, the reply given by the Secretary just now seems to say that some of the tunnels do not have any crossing facilities to enable tunnel staff from the Administration Building to reach the toll booths directly. Frankly, could the Secretary provide this Council with a more specific reply as to how the problem in question would be resolved to enable tunnel staff to reach the toll booths from the Administration Building safely? Further still, could the Secretary also inform this Council whether he would provide Members with any specific timetable in this respect?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, actually, our ultimate target is only those few tunnels the facilities of which do not meet the standard or facility requirements of today's new tunnels. We have already implemented some measures for those tunnels with obsolete or inadequate facilities. Firstly, railings have been provided along sidewalks; and secondly, taking the Lion Rock Tunnel as an example, since the accident last year, the Tunnel management company has arranged free shuttle bus service to carry staff from outside the tunnel area to working areas of the Tunnel directly. This is one way to prevent the occurrence of accidents similar to the one last year, which took place when an employee tried to dash across the toll plaza upon getting off the bus.

The enhancement measures already in place include the reduce speed sign mentioned by me in the main reply, which is provided to remind motorists that

there are toll booths ahead, and that they should select their lanes earlier according to the way they pay their tolls. Apart from that we have also commenced a long-term measure recently. I believe Honourable Members can still recall that in June last year, the Finance Committee of the Council approved an application for funds to replace the traffic control and surveillance system of the Lion Rock Tunnel. The replacement project has commenced but will not be completed until several years later. When the replacement project is completed, we will design a series of pre-programmed traffic control solutions using the new system and install them in a new traffic control computer. In the event that traffic accident happens and the lanes leading to the Tunnel ahead have to be re-routed, the relevant traffic control computer programmes will be activated to take control in the place of the present practice of placing traffic cones manually. This will to a certain extent reduce tunnel staff's exposure to accident.

Further still, as I mentioned earlier, despite the geographical limitations, the Government is currently studying the feasibility of separating the staff walkway linking the Lion Rock Tunnel Administration Building and the toll booths from the approaching vehicles. This is by no means an easy task, but we will actively look into the possibilities.

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

MR LAU CHIN-SHEK (in Cantonese): *Madam President, the Secretary has not answered the part of my supplementary asking about the timetable. As the Secretary mentioned that feasibility studies were in progress, may I ask him when the studies will complete?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, we are dealing with the issues requiring actions, including providing road markings, and so on. As regards the proposal to separate the staff walkway from approaching vehicles, the relevant studies have just commenced. I am afraid I cannot provide the Honourable Member with a specific timetable at this stage. Nevertheless, we do hope to come up with a conclusion as soon as possible.

MISS LI FUNG-YING (in Cantonese): *Madam President, with regard to the Secretary's main reply, the Tunnel management company seems to have, on the surface, done something to remind both its employees and the motorists. But then, the number of accident taking place there still remains on the high side. In this connection, may I ask the Secretary whether further investigations will be conducted to look into the real causes of the accidents? Besides, could the Secretary also inform this Council whether enhancement measures would be introduced to tackle such causes of accidents?*

SECRETARY FOR TRANSPORT (in Cantonese): *Madam President, actually, the accident occurrence rate at toll plazas of tunnels is far lower than road accident rates. Taking 2000 as an example, the accident occurrence rate at tunnel toll plazas was 0.045 case per million vehicle-kilometre, compared to the 1.28 cases per million vehicle-kilometre recorded at highways. From this we can see that the accident occurrence rate of the former is comparatively lower. Certainly, a comparatively lower figure does not necessarily represent a satisfactory situation, and that is why we hope to further reduce the number of accidents as far as possible.*

As regards the causes of accidents, one of the major factors is that drivers and other users of toll plazas are not careful enough; but then, there is of course other factors like mechanical failure, and so on. Generally speaking, the causes are similar to those of minor traffic accidents, and we will improve the environment accordingly.

MR ANDREW CHENG (in Cantonese): *Madam President, the driver involved in the accident in question today had mistaken the toll booth for an autotoll one. According to my observation, many drivers have in fact switched to using the autotoll facilities over the past six months. One good example is the Cross-Harbour Tunnel at Hung Hom, as vehicles are queuing in front of autotoll booths while the lanes leading to the manually handled toll booths are rather free. Could the Secretary inform this Council whether the Transport Bureau would, for the sake of safety or efficiency, review the tunnel toll collection methods and consider providing more autotoll booths if more and more motorists should be using the autotoll service? Taking a longer view, should the Government also consider requiring all vehicles to use the autotoll facilities like buses so as to resolve the safety and efficiency problems?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, this is the long-term objective we are striving to achieve. As a matter of fact, the Government does not wait until something has happened to take actions. Let me explain that with the Cross-Harbour Tunnel at Hung Hom as an example. Perhaps some Members are also aware that we have recently provided one more autotoll booth for the Kowloon-bound traffic. In the meantime, we are actively studying the feasibility of providing one more autotoll booth for the Hong Kong-bound traffic. So, we are in fact making changes to the toll booths in the light of the changes in and demand of motorists' toll-paying methods.

MR MICHAEL MAK (in Cantonese): *Madam President, the normal speed of vehicles inside tunnels is 70 km/h, particularly during the day. As the Honourable Andrew CHENG said before, I believe vehicles using the autotoll booths basically pass or even dash through the booths at 70 km/h. Now that an accident has taken place, could the Secretary inform this Council whether the Government would consider reducing the speed limit on vehicles, and particularly reducing the speed limit to, say, 50 km/h for the part of the vehicle lane approaching toll booths?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, as at present, the vehicle speed limit at the majority of tunnel toll plazas is either 50 km/h or 70 km/h, with the latter being the dominant case because the general speed limit inside tunnels is 70 km/h. We are aware that — and Members have also reminded us about that — we should never require vehicles coming out of tunnel tubes to suddenly reduce speed within a short distance as this may give rise to many problems due to geographical reasons and technical constraints. As regards the Cross-Harbour Tunnel at Hung Hom, however, we have reduced the speed limit of the vehicle lanes leading to the toll plaza to 50 km/h because the heavy traffic flow there just makes it impossible for vehicles to travel at 70 km/h. Where possible, we will also reduce the speed limit to a more practical level in the light of the situation at other tunnels.

MR LEUNG FU-WAH (in Cantonese): *Madam President, according to the last paragraph of the Secretary's main reply, an ongoing review is being conducted by the Government on possible enhancements that may be introduced to further*

improve safety for tunnel staff. But then, as reflected by trade unions, some tunnels used to have training officers in the past, only that the posts were abolished by the relevant tunnel management companies upon obtaining the management contracts from the Transport Department. As a result, the standard of the safety and skills training provided for tunnel staff has dropped. May I ask the Secretary whether the Government would consider reinstating the posts of training officers when awarding the tunnel management contracts to companies in the private sector?

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, regardless of whether there are training officers, we will still require the relevant tunnel management companies to pay attention to their staff's safety awareness and to urge them observe the safety rules. In my view, the problems may not necessarily be attributable to the abolition of the posts of training officers. I believe the most important point is that we must frequently remind tunnel management companies to attach great importance to the safety of their staff at the toll plazas.

PRESIDENT (in Cantonese): This Council has spent more than 15 minutes on this question. This shall be the last supplementary question.

MR IP KWOK-HIM (in Cantonese): *Madam President, the Secretary has repeatedly mentioned conducting reviews and improving the toll collection and vehicle lanes arrangements of tunnels in his main reply. In fact, like many Honourable colleagues who are experienced drivers, I have noted that the autotoll booths of different tunnels are located very differently: some are on the far left, others on the far right, and some others are in the middle of the toll plaza. I think Mr LAU Kong-wah has pointed out the thrust of the problem, which lies in the fact that having mistaken an ordinary toll booth as an autotoll one some motorists would accelerate to pass through the booth and thus give rise to traffic accidents. As such, may I ask the Secretary whether he has considered making a minor change by adopting a more consistent arrangement, so that motorists coming out from tunnels will know that the autotoll booths are at the two far ends, rather than in the middle, of the toll plaza? Could the Secretary inform this Council whether reviews would be conducted in this respect?*

SECRETARY FOR TRANSPORT (in Cantonese): Madam President, generally speaking, there is actually a common pattern: Autotoll booths are mainly located at the far left or far right vehicle lanes in each traffic flow direction. Yet due to geographical constraints some tunnels may not be able to adhere to this pattern. Moreover, as pointed out by some Members earlier, we have to provide an additional autotoll booth for certain tunnels because more road users have switched to the autotoll facilities, but since there are already autotoll booths on the two sides, we could only provide the additional one in the middle of the toll plaza. Perhaps this exceptional case is the reason why problems have arisen. Otherwise, autotoll booths are generally located on the two sides of the toll plaza.

PRESIDENT (in Cantonese): Question time now ends here.

WRITTEN ANSWERS TO QUESTIONS

Admission of Mainland Professionals Scheme

7. **MR HENRY WU** (in Chinese): *Madam President, regarding the Admission of Mainland Professionals Scheme (the Scheme) which came into operation on 1 June 2001, will the Government inform this Council:*

- (a) *of the following details of the entry applications for employment received so far, broken down according to the result and trade of these applications:*
 - (i) *the highest, lowest and average monthly salaries offered to the applicants by local employers; and*
 - (ii) *the types of posts to be taken up by the applicants and the number of applications for each type of posts;*
- (b) *of the achievements of the Scheme so far, and how it compares with its expected achievements when the Scheme was launched; and when the Scheme will attain the expected achievements; and*
- (c) *in view of the current deteriorating unemployment situation among securities practitioners, whether it will advance the review to examine the suitability of the Scheme in particular trades?*

SECRETARY FOR SECURITY (in Chinese): Madam President,

- (a) Between 1 June 2001 and 31 December 2001, a total of 268 entry applications for employment were received under the Scheme, of which 168 were from the information technology (IT) sector and 96 were from the financial services sector. There were four applications outside the designated sectors. In the same period, 114 applications were approved, of which 71 were from the IT sector and 43 from the financial services sector. 128 applications were refused or withdrawn, and 26 applications were under processing.
- (i) For the IT sector, the highest monthly remuneration was \$96,207 whereas the lowest remuneration was \$17,000. The average monthly remuneration was \$27,175. For the financial services sector, the highest monthly remuneration was \$135,000 whilst the lowest figure was \$21,667. The average monthly remuneration was \$54,623.
- (ii) A breakdown of the approved cases by job category is set out below.

<i>Sector</i>	<i>Job category</i>		<i>No. of approved cases</i>	
IT	IT Management/Consultancy		21	
	Application Systems Development		40	
	E-business/Internet services		6	
	Hardware support/operation support services		2	
	IT research/product development/IT education and training		2	
Financial Services	Banking	Managerial	3	14
		analyst/research	3	
		investment services	8	
	Securities	managerial	8	19
		analyst/research	7	
		investment services	3	
		others	1	
	Accounting/Auditing/financial management		6	
Others		4		
Total			114	

Since the Immigration Department does not compile any detailed statistical breakdowns for applications refused or withdrawn, we are unable to provide such figures.

- (b) The objective of the Scheme is to attract qualified mainland professionals to work in Hong Kong, in order to meet local manpower needs and to enhance Hong Kong's competitiveness in the globalized market. The mainland professionals must possess skills and knowledge not readily available or in shortage locally. Admitted professionals must be able to contribute to the operation of the firms and sectors concerned with a view to facilitating economic development in Hong Kong. We have not set a target on the number of mainland professionals to be brought in. The actual number will be determined by market demand. In the light of the recent economic downturn, we believe that the number of admissions under the Scheme has reflected the demand for mainland professionals in the prevailing economic situation.
- (c) An overall review of the Scheme will be conducted 12 months after its implementation. At present, an effective monitoring mechanism is in place to prevent abuse of the Scheme and to ensure that only those applicants who are genuinely needed locally will be admitted. The Government will adhere to the well-established principle that only those who possess skills and expertise not readily available locally and employed on remuneration broadly comparable to the local market level will be approved for entry. Mainland professionals will not be admitted if those conditions are not met.

Places for Female Students in Primary Social Development Schools

8. **MR FREDERICK FUNG** (in Chinese): *Madam President, it has been reported that several hundred female maladjusted primary students have not yet been re-allocated to social development schools set up for such children. In this connection, will the Government inform this Council:*

- (a) *of the supply and demand of places for female students in primary social development schools; and*
- (b) *whether such places will be increased; if so, of the timetable; if not, the reasons for that?*

SECRETARY FOR EDUCATION AND MANPOWER (in Chinese): Madam President, schools for social development (SSD) are set up to provide education for students with moderate to severe behavioural and emotional problems. Apart from the formal curriculum, these schools also provide counselling service to help the students overcome their behavioural and emotional problems so that they can integrate into mainstream schools as soon as possible.

The Central Co-ordinating Referral Mechanism (CCRM) jointly set up by the Education Department (ED) and the Social Welfare Department assesses the needs of the students for placement in SSD and makes referral where appropriate. The CCRM consists of the relevant professionals, including social workers, educational counsellors and educational psychologists, and so on.

The latest figures indicate that five female primary students have been assessed by the CCRM as suitable for placement in SSD. As there are two SSD providing a total of 25 school places for female primary students, the number of such school places is therefore adequate. The ED, however, will review the provision each year and adjust the supply of school places to meet demand.

Regarding the report that several hundred female maladjusted primary students have not yet been re-allocated to these schools, it is understood that the information is drawn from a questionnaire survey conducted by an SSD among teachers. The children who are considered to have a need for placement in SSD have not been assessed by the professionals of the CCRM. In fact, schools coming across these children should, with the consent of the parents, put up their cases to the ED. The referrals of these children will then be vetted by the CCRM.

Payment of Contract Gratuities to Government Employees Appointed on Non-civil Service Contract Terms

9. **MR NG LEUNG-SING** (in Chinese): *Madam President, regarding the payment of contract gratuities to government employees appointed on non-civil service contract terms, will the Government inform this Council:*

- (a) *whether, in drawing up the employment contracts for such employees, reference has been made to the practice of the private sector in determining whether contract gratuity should be included*

in the remuneration package and the formula for calculating the gratuity payable; if so, of the details, together with illustrations by examples;

- (b) of the criteria adopted for determining whether individual employees should be paid the contract gratuity as provided for in their employment contracts; and whether it has assessed how the criteria are applied; if so, of the details;*
- (c) of the total amount of contract gratuities paid to such employees in each of the past three financial years; and*
- (d) of the number of such employees who were not paid the gratuity as provided for in their contracts upon the completion of the contracts and the total amount involved, in each of the past three financial years, and the reasons for not paying them the gratuity?*

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

- (a) The Non-Civil Service Contract (NCSC) Scheme was introduced in January 1999 to allow flexibility to Heads of Departments (HoD) to engage staff outside the civil service establishment to meet service needs which are short-term or fluctuating in demand. The HoD may offer end-of-contract gratuity to NCSC staff having regard to the recruitment situation and the need to help retain staff for the whole contract. As a general guideline, where the HoD consider it necessary to offer end-of-contract gratuity, the gratuity, when added to the Government's Mandatory Provident Fund contributions, will equal to not more than 10% or 15% of the total basic salary for the NCSC staff concerned, depending on whether the staff are engaged in non-skilled jobs or skilled jobs (that is, requiring skills in managerial, professional, technical, or other specialized fields).

This general guideline is broadly in line with the arrangement in the private sector. According to the 2001 Fringe Benefit Survey conducted by the Pay Survey and Research Unit of the Standing

Commission on Civil Service Salaries and Conditions of Service, about half of the surveyed companies, which provided end-of-contract gratuity to their employees, fixed the gratuity at a percentage of the employee's gross salary received during the contract period. The rate ranged from 5% to 25% and was commonly set at 10% and 15%. As regards the other half of the companies which provided contract gratuity, they fixed gratuity with reference to the employee's monthly salaries. The most common rate applied was one month's salary. Examples on gratuity offered by private companies as found in the above survey are illustrated below:

<i>Category of work</i>	<i>Gratuity rate/amount equivalent to</i>
Clerical	8% to 15% of gross salary or one month's salary
Information Technology	15% of gross salary or one month's salary
Technical	15% of gross salary or one month's salary
Engineering	15% of gross salary or one month's salary

- (b) For NCSC staff whose contracts include the granting of end-of-contract gratuity, their contracts will also specify that gratuity would be payable only upon their satisfactory performance and conduct during the contract period. The management will make reference to the records of performance and conduct of individual NCSC staff when deciding whether gratuity should be granted.
- (c) The NCSC Scheme was introduced in January 1999 and contract gratuity will only be provided to staff upon satisfactory completion of their contracts. Against this background, the expenditures on contract gratuity for NCSC staff were \$766,000, \$16,237,000 and \$45,230,600 in 1999, 2000 and 2001 respectively. The expenditure in 1999 and 2000 was low when compared with the figure in 2001 due to the smaller number of completed NCSC contracts during the period.
- (d) In 1999 and 2001, only two NCSC staff were not granted gratuity because of unsatisfactory conduct and performance. The sum involved were \$8,000 and \$2,000 respectively.

Staffing Arrangement of Nursing Grade in Public Hospitals

10. **MR MICHAEL MAK** (in Chinese): *Madam President, regarding the staffing arrangement of the nursing grade in public hospitals, will the Government inform this Council:*

- (a) *whether it knows:*
 - (i) *the public hospitals' departments which are now suffering from the most severe shortage of nursing grade staff, and how the Hospital Authority (HA) relieves the pressure of work on the nursing grade staff in these departments;*
 - (ii) *the respective current actual and target numbers of nursing grade staff at various ranks in public hospitals; whether the HA plans to recruit additional staff to achieve the manpower targets; if not, of the reasons for that; and*
 - (iii) *the breakdown by ranks and duties of the 500 additional posts for qualified nurses who will be recruited this year, and the estimated number of staff reporting for duty each month; and*
- (b) *whether it plans to introduce legislation to stipulate the methods for calculating the manpower targets for nursing grade staff in public hospitals; if not, of the reasons for that?*

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

- (a) (i) The acute medical wards of the public hospitals are the most hard-pressed areas in terms of workload of front-line nursing staff. The HA has been monitoring the workload of nurses on an ongoing basis. Apart from increasing the number of qualified nurses from 16 644 in March 1999 to 19 166 in December 2001, the HA has also introduced a number of measures to alleviate the workload of nurses. These include:

- (1) introduction of the health care assistant scheme in 1993 to strengthen nursing support to patients and relieve nurses of simple care duties. Over the years, the HA has strengthened the manpower of health care assistants. In the recent three years, the HA has further enhanced the support by further increasing the health care assistant manpower from 3 825 in March 1999 to 4 508 in December 2001;
 - (2) recruiting care assistants to strengthen personal care and supporting services in hospital wards. The HA has recruited about 1 900 care assistants in 2001. Another 1 000 care assistants will be recruited in 2002-03 to strengthen extended care services in public hospitals;
 - (3) setting up central nurse pools in various hospitals to facilitate redeployment of nursing staff to cope with the surges in workload in various departments within a hospital. In addition, the HA Head Office has a central pool of nurses for deployment to hospitals on a need basis to cope with fluctuations in the workload in different hospitals;
 - (4) streamlining work processes and administrative procedures in hospital wards; and
 - (5) relieving nurses from performing non-clinical duties such as handling supplies in hospital wards and the central sterile supplies department.
- (ii) As at end December 2001, the HA has a total of 33 nursing managers, 19 166 qualified nurses and 508 nurse trainees. The HA plans to recruit an additional 500 qualified nurses in 2002-03. The provision of health care services is a complex task with its demand and delivery mode varying from time to time according to changes in patient load, disease pattern and advancement in medical technology. The HA management will adopt appropriate and flexible manpower and other

management strategies to cope with the changing service demand and care pattern, instead of setting rigid manpower targets for different types of health care professionals. The HA will constantly monitor the nursing manpower situation and explore further measures and opportunities that can help alleviate the workload of nurses and enhance effective utilization of nursing manpower.

- (iii) The 500 additional nursing staff the HA plans to recruit in 2002-03 are front-line registered nurses. Most of these nurses are new graduates who will be available for employment in the latter half of 2002. As such, the HA plans to start the recruitment exercise in June/July this year. The actual timing of individual nurses reporting duty will depend on the availability of the staff concerned and the time required for the graduates to register with the Nursing Council of Hong Kong, which normally takes less than two months to complete. The majority of the recruits will be assigned to departments to alleviate the workload of existing staff, particularly acute medical wards.
- (b) As explained in a(ii) above, manpower planning is a management function of the HA which has to be reviewed from time to time having regard to its changing operational needs. As such, we have no plans to introduce legislation to stipulate the method for calculating the manpower targets for nursing grade staff in public hospitals.

Judgement on Right of Abode in Hong Kong Made by CFA

11. **MR JAMES TO** (in Chinese): *Madam President, the Court of Final Appeal (CFA) made a judgement on 20 July 2001 that a Chinese national born in Hong Kong had the right of abode (ROA) in Hong Kong, although neither of his parents had been settled or had the ROA in Hong Kong at the time of his birth or at any later time. In this connection, will the Government inform this Council:*

- (a) *of the current number of people who have been affirmed the ROA in Hong Kong in accordance with this judgement; and of the formalities they need to go through for confirmation of their ROA; and*

- (b) *whether it has assessed if the existing provisions in the Immigration Ordinance (Cap. 115) (including the schedules) are consistent with the judgement made by the CFA; if the assessment concludes that is the case, of the justifications for that; if the assessment concludes otherwise, of the provisions that should be amended, how they should be amended, and the timetable for such legislative amendments?*

SECRETARY FOR SECURITY (in Chinese): Madam President,

- (a) On 20 July 2001 the CFA decided in the CHONG Fung-yuen case that according to Article 24 para 2(1) of the Basic Law, a Chinese citizen born in Hong Kong before or after 1 July 1997 is a Hong Kong permanent resident, regardless of the residential status of his or her parents.

According to the Immigration Department (ImmD)'s record, during the period from the resumption of sovereignty to 19 July 2001, a total of 6 762 persons were eligible for the ROA in Hong Kong in accordance with the CFA's ruling. This figure does not include persons who had their births registered before the resumption of sovereignty and who can benefit from the judgement of the CHONG Fung-yuen case. The ImmD has not compiled statistics on these cases. In the light of the judgement, the ImmD has made arrangements to verify or amend, by appointment with these 6 762 persons or their representatives, the "permanent resident status" column as recorded in their birth registration entries. No fee will be charged for the amendment and replacement of their birth certificates (except those who have lost their birth certificates). This process is near completion.

For other persons who are Chinese nationals and claim to be born in Hong Kong and entitled to the ROA, they may submit an application to the ImmD if they possess specific supporting documents (such as a birth certificate issued in Hong Kong). For those who are currently residing outside Hong Kong, they can make an application for entry to the ImmD by post. The application should be submitted with particulars of a contact person in Hong Kong.

Upon receipt of the application, the ImmD will notify the contact person to attend an interview and furnish the relevant supporting documents and information on behalf of the applicant, so that the ImmD can consider whether the applicant has the ROA in Hong Kong.

- (b) The relevant provision in the Laws of Hong Kong is paragraph 2(a) of Schedule 1 to the Immigration Ordinance which provides that:

"(a) A Chinese citizen born in Hong Kong -

(i) before 1 July 1987; or

(ii) on or after 1 July 1987 if his father or mother was settled or had the right of abode in Hong Kong at the time of his birth or at any later time"

is a permanent resident of the Hong Kong Special Administrative Region.

Legislative amendment to paragraph 2(a) of Schedule 1 is necessary to bring the provision in line with the CFA's judgement. According to section 59A of the Immigration Ordinance, the Legislative Council may by resolution amend Schedule 1. The Government intends to introduce a resolution into the Council early this year. Pending completion of the legislative procedures, the ImmD has been processing the relevant cases in accordance with the CFA's judgment.

Promoting Establishment of Free Trade Area in Asia

12. **MR ERIC LI** (in Chinese): *Madam President, will the Government inform this Council whether:*

- (a) *it has taken part in promoting the establishment of the China - Association of South-East Asian Nations (ASEAN) Free Trade Area (FTA); and*

- (b) *it has studied the positive and negative impacts of the establishment of the FTA on Hong Kong's economic development?*

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

- (a) The Hong Kong Special Administrative Region (SAR) Government has not taken part in promoting the establishment of the China-ASEAN FTA.

Under the principle of "one country, two systems", China and Hong Kong, China, being two separate customs territories, are separate Members of the World Trade Organization. China and Hong Kong, China each formulates its own external trade policies according to its own interests. As the establishment of the China-ASEAN FTA is a matter concerning the external trade policy of the Central People's Government, of course the SAR Government has not played any part in it.

- (b) The SAR Government has not studied the impact of the establishment of the China-ASEAN FTA on Hong Kong's economic development.

All that the leaders of China and ASEAN have announced is that a FTA would be established within 10 years and that they have asked their relevant officials to start negotiations. As the two sides have not announced the substantive content of the FTA proposal, the SAR Government is not at present in a position to conduct any study.

Regulation of Lard Production Plants

13. **DR TANG SIU-TONG** (in Chinese): *Madam President, regarding the regulation of lard production plants, will the Government inform this Council:*

- (a) *of the current daily weight of organic wastes suitable for lard production in the territory and their disposal methods at present, together with the percentage by weight of such wastes which are used for the production of lard;*

- (b) *of the number of lard production plants which currently possess licences for offensive trades and the total number of employees they have, as well as the number of plants which are required to apply for a licence issued under the Air Pollution Control Ordinance (Cap. 311) for conducting specified processes;*
- (c) *of the total number of air pollution abatement notices issued to operators of lard production plants in the past three years, the respective numbers of operators prosecuted and convicted for failing to make the required improvements stated in the notices, as well as the penalties imposed by the Court on the convicted persons;*
- (d) *whether it plans to designate certain areas for use as sites for lard production plants and require that such plants may only operate on these sites, so as to facilitate the operation of the trade and regulation by the authorities; if so, of the details; if not, the reasons for that; and*
- (e) *of the measures in place to eliminate unauthorized operation of lard production plants?*

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

- (a) The Administration does not have data on the weight of organic waste available daily in Hong Kong for lard production or data on how much of such waste is used for lard production.

According to information provided by the trade, lard production plants licensed to perform offensive trades collect about 30 tonnes of organic materials such as fat, skin and viscera of pigs every day from local fresh provision shops and market stalls. These organic materials are mainly used for lard production. Such organic materials that are not collected by these plants are taken to landfill sites for disposal in the same way as other general waste.

- (b) All lard production plants are required under the Public Health and Municipal Services Ordinance (Cap. 132) to obtain from the Food

and Environmental Hygiene Department (FEHD) an Offensive Trade Licence. Lard production plants that have a capacity to process more than 250 kg of materials per hour are also required under the Air Pollution Control Ordinance (Cap. 311) to obtain from the Environmental Protection Department (EPD) a specified process licence.

According to the records of the FEHD, four lard production plants have been issued with an Offensive Trade Licence. They employ a total of about 35 workers.

According to the records of the EPD, no lard production plant has been issued with a specified process licence under the Air Pollution Control Ordinance. However, the EPD is currently processing an application for such a licence.

- (c) Over the past three years (between 1999 and 2001), the EPD issued three air pollution abatement notices to three lard production plants respectively requesting the operators concerned to take action to abate air pollution. As all the operators complied with the requirements in the notices, the EPD did not initiate any prosecution.
- (d) In considering an application for Offensive Trade Licence, the FEHD will consult all the relevant departments to check that the location of the proposed operation is acceptable from different regulatory perspectives. The arrangement offers the trade greater flexibility as they can pick a location of operation of their choice and apply to the FEHD for approval. We therefore do not consider that there is a need to designate an area for lard production and require all lard production plants to be set up in that area.
- (e) The FEHD attaches great attention to environmental hygiene problems caused by unlicensed food premises and offensive trade workplaces (including lard production plants). It has set up a task force since October 2000 to investigate, collect intelligence and step up raids against unlicensed food premises and offensive trade workplaces. Between October 2000 and December 2001, it brought a total of 19 prosecutions against three illegal lard

production plants. For 11 of these, the defendants were convicted and penalized. The other seven cases are awaiting trial.

Moreover, the EPD had brought four prosecutions against two lard production plants for conducting specified processes without a licence during the past year. For all these four cases, the defendants were convicted and penalized.

The FEHD and the EPD will continue to take rigorous enforcement actions against unlicensed lard production plants to safeguard public health and protect the environment.

Inviting Non-Hong Kong Deputies to NPC to Visit Hong Kong

14. **MR YEUNG YIU-CHUNG** (in Chinese): *Madam President, will the Government inform this Council:*

- (a) *whether it has invited delegations comprising non-Hong Kong deputies to the National People's Congress to visit Hong Kong over the past five years; if so, of the respective numbers of delegations and deputies who visited Hong Kong each year, broken down by the contents of the visits; if not, the reasons for that; and*
- (b) *of the measures to enhance the deputies' understanding of the Hong Kong Special Administrative Region (SAR) and the SAR Government's communication with them?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Chinese): Madam President, since reunification, the SAR Government has invited the then Chairman of the Standing Committee of the National People's Congress, Mr QIAO Shi, to visit Hong Kong in February 1998. In addition, the community has from time to time invited non-Hong Kong deputies to the National People's Congress to visit Hong Kong. The SAR Government has taken the opportunity to receive a number of deputies at the rank of the Vice Chairmen of the Standing Committee on 32 occasions. Figures are as follows:

Reception by SAR Government for non-Hong Kong deputies to the National People's Congress who are Vice Chairmen of the Standing Committee or above

<i>Year</i>	<i>No. of receptions</i>
1997 (July to December)	2
1998	7*
1999	6
2000	9
2001	9
Total	33

* This includes the visit by the Chairman of the Standing Committee of the National People's Congress, Mr QIAO Shi.

The SAR Government has maintained contact with the Hong Kong deputies and non-Hong Kong deputies to the National People's Congress through various channels and on different occasions to enhance mutual understanding.

Economic Benefits Brought by Overseas Companies

15. **MR ABRAHAM SHEK:** *Madam President, regarding economic benefits brought by companies which are incorporated outside Hong Kong and have established either regional headquarters or offices in Hong Kong, will the Government inform this Council of:*

- (a) the total amount of local investment made by these companies in the past 12 months; and*
- (b) the total number of local employees engaged as well as the respective areas of office space and staff quarters rented by these companies in Hong Kong as at 31 December 2000, and also those as at 31 December 2001?*

SECRETARY FOR COMMERCE AND INDUSTRY: Madam President,

- (a) As at 1 June 2001, the numbers of companies incorporated outside Hong Kong and which had established regional headquarters and regional offices in Hong Kong were 944 and 2 293 respectively. The total number of 3 237 is the highest since 1990, when such statistics were first compiled. It also represents an increase of 8% over the number in 2000.

The total inflow of direct investment to Hong Kong was HK\$482 billion in 2000. We have not compiled statistics separately on the local investment made by those companies that have established regional headquarters or regional offices in Hong Kong.

- (b) The following table shows the number of persons¹ engaged by companies incorporated outside Hong Kong and which have established regional headquarters or regional offices in Hong Kong:

	<i>As at 1 June 2000</i>	<i>As at 1 June 2001</i>
Number of persons ² engaged by companies with regional headquarters in Hong Kong	73 523	92 795
Number of persons ³ engaged by companies with regional offices in Hong Kong	59 964	80 157
Total	133 487	172 952

We have not compiled statistics on the areas of office space or staff quarters rented by those companies in Hong Kong.

¹ We have not compiled statistics separately for local and expatriate employees.

² The figures do not take into account persons engaged by those regional headquarters that did not provide such information in their response to our survey. There were 32 and 43 of such regional headquarters in 2000 and 2001 respectively.

³ The figures do not take into account persons engaged by those regional offices that did not provide such information in their response to our survey. There were 166 and 168 of such regional offices in 2000 and 2001 respectively.

Environmentally-friendly Lunch Boxes

16. **MISS CHOY SO-YUK** (in Chinese): *Madam President, regarding environmentally-friendly lunch boxes, will the Government inform this Council:*

- (a) *whether it has adopted measures to encourage caterers for primary and secondary schools to switch to the use of environmentally-friendly lunch boxes;*
- (b) *as the test report released last November by the Consumer Council on disposable environmentally-friendly lunch boxes has revealed that the rates of degradation of most samples were slower than the required standards specified in the Testing Guideline on the Degradability and Food Safety of Containers and Bags made by the Environmental Protection Department (EPD), whether it will review the required degradability standards stipulated in the Guideline; if so, of the review timetable; if not, the reasons for that; and*
- (c) *whether it plans to penalize suppliers who falsely claim that the lunch boxes sold by them comply with environmental standards, so as to protect the interests of consumers?*

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

- (a) Since it is our objective to reduce waste, we do not encourage the use of disposable products, including those made of degradable materials. Hence, the EPD has been encouraging primary and secondary schools and food caterers, through publicity and education, to use reusable food containers and tableware.
- (b) When formulating the "Testing Guideline on the Degradability and Food Safety of Containers and Bags", the EPD has made reference to degradability standards in other countries, and has also conducted pilot tests to ensure that the Guideline is practicable. We will closely monitor the development of degradable materials and degradability tests, in order to determine if the testing standards in the Guideline need to be reviewed.

- (c) As degradable food containers have just been introduced in the local market, we hope to encourage suppliers to carry out the degradability test on a voluntary basis. Hence, at the present moment, we have no plans to devise any related penalty provisions. However, the EPD will upload information of products that have passed the tests on its website for reference by caterers and consumers.

Enhancing Transparency of Bank Charges

17. **MR FRED LI** (in Chinese): *Madam President, it has been reported that credit card issuing companies and banks calculate, at a conversion rate higher than the market exchange rate, the amount payable in Hong Kong dollars by their customers for overseas or Internet credit card transactions effected in foreign currencies, thereby imposing an additional charge equivalent to the conversion differential in these transactions, and credit card customers have never been informed of such a charging arrangement. In this connection, will the Government inform this Council:*

- (a) *whether it has assessed if the banks have breached the relevant requirements stipulated in the Code of Banking Practice by failing to disclose such arrangements to their customers; if they have, of the follow-up actions taken by the Hong Kong Monetary Authority (HKMA); and*
- (b) *of the measures HKMA will take to enhance the transparency of bank charges and prevent banks from charging their customers for unstated fees?*

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

- (a) The HKMA understands that in respect of credit card transactions conducted in foreign currencies, authorized institutions (AIs) will determine the exchange rate for individual transactions with reference to the rate charged by the credit card network operators, such as Visa or Mastercard. AIs will normally add a margin taking into account their operating costs for handling such overseas

transactions, which are more costly than local transactions. Adding a margin in determining exchange rates is not a breach of the Code of Banking Practice as long as customers know the rates used. In the case of credit card transactions, consumers will know the rates used from their monthly statements. This is because the applicable exchange rates in respect of credit card transactions would not be known until the date of settlement of the transaction and it would not be possible for credit card companies to provide reference rates beforehand.

The current Code of Banking Practice requires card issuers to make readily available to cardholders general descriptive information on the use of cards. Such information includes the method of applying exchange rates to transactions in foreign currencies on the date of settlement and hence the fact that the exchange rates will not be known at the time of the transaction. Generally, banks would cover this in their cardholder agreement and would explain this to customers upon enquiry on individual transactions. This is in line with the requirement set out in the Code of Banking Practice.

From 1 April 1999 to 31 December 2001, the HKMA received only two complaint cases related to such transactions. The HKMA also understands from AIs that they have received very few complaints on this subject.

- (b) Despite the limited number of complaints received, the HKMA has referred the matter to the Code of Banking Practice Committee (CBPC) of the banking industry, which is responsible for interpreting, reviewing and further developing the Code, with a view to enhancing the transparency of the mechanism through which such exchange rates are determined. We hope that this will result in a recommendation from the CBPC on the best practice for AIs.

The HKMA whose representatives are also members of the CPBC will ensure that the review process is thorough and reasonable; and will ensure the banks' compliance with the recommendations of the CBPC. To improve the effectiveness of the monitoring mechanism, the HKMA has introduced a self-assessment framework for the purpose of monitoring AIs' compliance with the Code of Banking

Practice as a whole. The first such assessment will take place in September 2002. Focused on-site examinations will also be conducted for any identified problem areas.

Lack of Toilets at Bus-bus Interchange Next to Tolling Plaza of Tai Lam Tunnel

18. **MR ALBERT CHAN** (in Chinese): *Madam President, the bus-bus interchange (BBI) next to the tolling plaza of Tai Lam Tunnel is not provided with a toilet, thus causing inconvenience to the large number of passengers waiting there. In this connection, will the Government inform this Council:*

- (a) *whether it had reserved space for a toilet when it designed the interchange; if it had, of the details; if not, the reasons for that;*
- (b) *of the specific measures and time to address the problem of the lack of toilets at the interchange; and*
- (c) *whether it will consider providing mobile toilets or constructing toilets at various BBIs?*

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

- (a) When the Government designed the Tai Lam Tunnel BBI, the principal objective was to meet passengers' transport needs so as to enable them to interchange with other bus routes quickly to reach their destinations. Due to topographical constraints, the space available for constructing the BBI was very limited. Besides, taking into account the design and operational experience of other schemes of transport interchanges, the Transport Department (TD) expected that passengers would not have to stay at the interchange location for a long time. Having regard to the above considerations, the Government did not reserve any space for toilet facilities when designing the BBI.

- (b) The BBI is situated in the Tai Lam Tunnel area managed by the Route 3 (Country Park Section) Company Limited. The Food and Environmental Hygiene Department and the TD will discuss with the Company to consider the need for and explore the feasibility of providing toilet facilities at the BBI or in its vicinity. In examining the matter, the departments concerned will take into account the main function and the future development of the BBI, as well as the availability of suitable alternative sites for the provision of toilet facilities.
- (c) The Government will consider providing toilet facilities according to the actual needs of individual BBIs.

Extension of Service of Principal Officials Not Announced

19. **MISS EMILY LAU** (in Chinese): *Madam President, it has been reported that the service of several principal officials who have reached the retirement age or whose employment contracts will soon expire have recently been extended. However, the Administration has not, immediately after making such decisions, announced its decisions to extend their service. In this connection, will the executive authorities inform this Council:*

- (a) *of the principal officials whose service was extended in the past 12 months without immediate announcement by the Administration, as well as the original departure date and period of extension of each of these officials;*
- (b) *whether principal officials are subject to the same open procedures before their service can be extended; if so, of the details of such procedures and whether the executive authorities have followed such procedures in extending the service of the officials mentioned above; if they have, of the details; if they have not, the reasons for that; and*
- (c) *whether they have assessed if the Administration's failure to immediately announce its decisions to extend the service of principal officials has contradicted the principle of enhancing the transparency of its governance?*

SECRETARY FOR THE CIVIL SERVICE (in Chinese): Madam President, Article 48(5) of the Basic Law provides that the Chief Executive nominates and reports to the Central People's Government (CPG) for appointment of principal officials, and recommends to the CPG the removal of principal officials. As soon as these procedures are completed, the Administration will announce appointments and removals of principal officials through the Government Gazette and press releases. This arrangement is consistent with the Administration's standing policy to issue press releases on posting changes at the Heads of Department level and above.

The extension of service of individual civil servants is an employment arrangement distinct from appointment to a particular office. At present, all principal officials are employed on the same terms and conditions as applicable to civil servants. Their employment arrangements including extension of service beyond retirement age are handled in accordance with the Civil Service Regulations (CSR), which set out the policies and procedures on the civil service management. As a matter of policy, we do not normally publicize the employment details of individual civil servants as they are internal and personnel matters.

Against the above background, my replies to the specific questions are as follows:

- (a) In the past 12 months, the Administration has extended the service of two civil servants holding principal officials posts beyond normal retirement age following established policies and arrangements. In accordance with the Administration's practice not to announce the employment details of individual civil servants, we do not arrange for public announcement on the extension of these two officers' service.
- (b) Re-employment of a civil servant upon reaching the normal retirement age is processed in accordance with policies and procedures under the CSR. Officers at various levels have been delegated the power to approve these cases having regard to the overall requirement of the service need and subject to the advice of the Public Service Commission where the extension is for a period longer than 90 days. Extension of service of civil servants holding the posts of principal officials are handled in accordance with the same service-wide arrangements.

- (c) It is the policy of the Government that changes in appointments and removal of principal officials are announced as soon as the procedures under Basic Law 48(5) are completed. As we have explained, we do not normally announce extension of service of individual civil servants, particularly where it does not involve any change in postings.

According Admission Priority to Children with Elder Siblings Studying or Parents Working in the Schools Concerned

20. **DR RAYMOND HO** (in Chinese): *Madam President, under the current Primary One Admission System, the applications for admission from children with elder siblings studying or parents working in the schools concerned must all be accepted at the discretionary admission stage. Regarding the practice of according priority to admitting children in this category, will the Government inform this Council:*

- (a) *whether, before adopting such a practice, reference had been made to the methods for allocating primary one school places adopted by overseas countries; if so, of the countries which adopt the same practice as Hong Kong's;*
- (b) *of the total number of complaints the Education Department (ED) has received about the practice since its implementation, and how the ED has handled these complaints; and*
- (c) *whether it plans to review the practice?*

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

- (a) The current Primary One Admission mechanism was formulated on the basis of the recommendation of the Education Commission (EC) in its report "Reform Proposals for the Education System in Hong Kong" submitted to the Government in September 2000. The new

mechanism adapted the old one in accordance with the direction of the education reform. There are two stages in the admission system; namely the Discretionary Places Allocation Stage and the Central Allocation Stage. Under the Discretionary Places Admission Stage of the old mechanism, admission was determined on the basis of a Points System stipulated by the ED. Among the categories given the highest points were applicants with siblings studying or parents working in the schools applied for. To facilitate parents to take care of their children and escort them to and from schools, the EC recommended that such applicants should constitute a must-admit category.

In the course of conducting the review, the EC did collect information on the education systems of other places for reference. As the ability difference of children below the age of six is insignificant, most advanced countries and regions have adopted the principle of vicinity in Primary One admission. The EC shares the view that the principle of vicinity should be adopted as far as possible and supplemented by other relatively uncontroversial criteria for priority admission, such as applicants with siblings studying or parents working in the schools applied for.

The public had been widely consulted on the reform proposal made by the EC. The majority of views received supported the above proposal.

- (b) The Discretionary Places Admission Stage of the current Primary One Admission cycle was completed in mid-December 2001. Hitherto, the ED has not received any complaints from parents against the admission of applicants with siblings studying or parents working in the schools applied for.
- (c) The reform of the Primary One Admission system as recommended by the EC is being progressively implemented in two stages. The short-term mechanism applies from the 2002-03 to 2004-05 school years, whereas the long-term mechanism will be implemented from the 2005-06 school year onwards. The Points System will be reviewed before the implementation of the long-term mechanism.

BILLS**First Reading of Bill**

PRESIDENT (in Cantonese) Bill: First Reading.

PREVENTION OF CHILD PORNOGRAPHY BILL

CLERK (in Cantonese): Prevention of Child Pornography Bill.

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

Second Reading of Bills

PRESIDENT (in Cantonese) Bills: Second Reading.

PREVENTION OF CHILD PORNOGRAPHY BILL

SECRETARY FOR SECURITY (in Cantonese): Madam President, I move that the Prevention of Child Pornography Bill be read the Second time. This Bill provides for better protection to children against sexual exploitation by creating various offences in relation to child pornography, pornographic performance by children and child sex tourism.

Under Article 34 of the United Nations Convention on the Rights of the Child (the Convention), which applies to Hong Kong, children should be protected from all forms of sexual exploitation and sexual abuse. Enacting legislation that prohibits child pornography and child sex tourism will be a positive step to implement the Convention.

This Bill combines the Prevention of Child Pornography Bill with the Crimes (Amendment) Bill 1999 introduced into the Legislative Council on 7 July 1999 because they share the common objective of child protection. The combination of the two Bills into one should facilitate the Legislative Council's consideration of the overall proposals.

After combination and amendment, the Bill mainly proposes the following:

First, creating offences of making, producing, publishing, importing, exporting, distributing, advertising and possessing pornography that depicts children under 16 years of age or who look like under 16 years of age; second, criminalizing the use, procurement or offer of children under the age of 18 for making pornography or for pornographic performances; and third, extending the application of certain sexual offence provisions to acts committed against children outside Hong Kong and prohibiting the making of any arrangement relating to commission of those acts and advertisements for such arrangements.

To increase the deterrent effect of the legislation and reflect the seriousness of the relevant offences, we propose stipulating heavier penalties for such offences. After conviction upon indictment, the maximum penalty for making, producing, publishing or advertising child pornography shall be eight years' imprisonment and a fine of \$2 million. The maximum penalty for possessing child pornography shall be five years' imprisonment and a fine of \$1 million. Besides, the maximum penalty for the procurement of a child for the production of pornography or for pornographic performances, or making any arrangement and advertisements for child sex tourism shall be 10 years' imprisonment and a fine of \$3 million. Furthermore, the maximum penalty for the procurement of a person aged between 16 and 18 for the production of pornography or for pornographic performances shall be five years' imprisonment and a fine of \$1 million.

While the Bill was under preparation, we had referred to the relevant legislation and precedents of some countries in order to strike a suitable balance between the two major principles of the child protection and human rights protection. On the one hand, we should provide children with adequate protection lest they would be used to conduct pornographic activities, on the other, we should try our best to avoid infringing upon the right to privacy and freedom of expression of individuals.

According to the proposed legislation, "child pornography" by broad definition means a photograph, film, computer-generated image or other visual depiction that depicts a person who is aged under 16 or who looks like under 16 years of age pornographically, whether it is made or generated by electronic or any other means, whether or not it is a depiction of a real person and whether or not it has been modified.

As to the definition of "pornographic depiction", it means:

first, a visual depiction that depicts a person who is or appears to be engaged in explicit sexual conduct; or

second, a visual depiction that depicts in a sexual manner or context the genitals or anal region of a person or the breast of a female person.

But a depiction for a genuine family purpose, that does not have a sex-related element, would not be deemed as child pornography merely because it depicts the genitals or anal region of a person or the breast of a female person.

Concerning the definition of "child pornography", we have referred to the relevant legislation of Britain, Australia, the United States and Canada. Their relevant definitions comprise such concepts and wordings as "look like", "depicted as" or "computer-generated", and the "possession of child pornography" is also made an offence. These are worthy reference. The Bill has suitably incorporated the above to avoid creating a loophole in law or denying children adequate protection.

Despite the explicit and tight definition of "child pornography" above, we consider it necessary to provide for certain defence clauses for the defence by people with reasonable defence and prevent innocent people who come across child pornography inadvertently from being caught by the Bill.

We propose to provide a statutory defence to a charge under the offences of making, publishing, advertising or possessing pornography. The defendant can establish that the alleged child pornography has been classified as Class I (neither obscene nor indecent) or Class II (indecent or has artistic merit) under the Obscene and Indecent Articles Ordinance, or his act in relation to child pornography is for a genuine educational, scientific or medical purpose or that the act otherwise served only the public good.

We also propose that a person charged with certain child pornography offences may deploy another defence if he did not know or did not have any reasonable cause to suspect the relevant material to be child pornography, or he had not asked for any child pornography and after it had come into his possession, he did endeavour to destroy it within a reasonable time.

Furthermore, a defendant's belief that the person pornographically depicted is of the age of 16 or above and is depicted as such will be a defence only if he can establish that he had taken all reasonable steps to ascertain the person's age and ensure that the person was not depicted as a child.

The Bill also comprises some proposals for compliance with the provisions of the International Labour Convention No. 182 (ILC 182). The ILC 182 is an important and widely ratified international labour convention. Member States that have ratified the ILC 182 shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour. We think that the ILC 182 should be applied to the Hong Kong Special Administrative Region to give better protection to our children. The Bill proposes to prohibit the use, procurement or offer of a person under the age of 18 for making pornography or for live pornographic performances. If the pornography or pornographic performance comprises a visual depiction of a person who is under 18 and who is or appears to be engaged in explicit sexual conduct, it will be a procurement offence.

Moreover, as children under the age of 16 are considered more vulnerable for they may not be able to make independent decisions and give informed consent. We therefore consider that the level of protection for children under 16 should be higher than that for those aged from 16 to 18. To differentiate between the protection for these two age groups, we propose that the use, procurement or offer of a person aged from 16 to 18 is an offence if the subject pornography or pornographic performance is a pornographic depiction depicting in a sexual manner or context the genitals or anal region of a person or the breast of a female person. If children under the age of 16 are depicted, even if the depiction only depicts in a sexual manner or context the relevant body parts, it is an offence.

The Bill also proposes to prohibit child sex tourism. In overseas places, sexual abuse of children, especially the child prostitute problem has become a problem to be solved by making joint international efforts. For example, if a Hong Kong resident sexually abuses a child in a foreign country but he is not sued there, even after his return to Hong Kong, the police cannot take any action against him; thus, he will be at large. Even though the victim may not be a child in Hong Kong, we have the international obligation to protect children from other countries. Similarly, we should offer similar protection to children in Hong Kong. So, if they are sexually abused in foreign countries, Hong Kong courts should have jurisdiction over the relevant cases. We therefore propose

to provide extra territorial effect to certain sexual offences under Article 24 of the Crimes Ordinance. Hence, the maximum penalties for acts of sexual abuse of children under the age of 16 committed outside Hong Kong will be identical with those for such offences committed in Hong Kong. We also propose that the extra territorial effect should also be applicable to cases where the perpetrator or the victim has a nexus with Hong Kong.

We also propose making it an offence to make any arrangement and advertisements for child sex tourism. If the Bill is passed and comes into effect, Hong Kong courts would try the cases of child sexual abuse cited above.

To provide a safe and healthy environment for the growth of children, the basic condition is to protect children from being used to conduct pornographic activities and prevent them from being sexually abused or harmed. Therefore, I hope that Honourable Members would support this Bill.

Madam President, I beg to move.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Prevention of Child Pornography Bill be read the Second time.

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

Resumption of Second Reading Debate on Bill

PRESIDENT (in Cantonese): We will resume the Second Reading debate on the Public Health and Municipal Services (Amendment) Bill 2001.

PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) BILL 2001

Resumption of debate on Second Reading which was moved on 28 February 2001

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

MR FRED LI (in Cantonese): Madam President, I now speak in my capacity as Chairman of the Bills Committee on Public Health and Municipal Services (Amendment) Bill 2001. As the Bills Committee has already given a detailed account of its deliberations in the report, I just wish to highlight a few points here.

Members of the Bills Committee generally supports the policy objective of the Bill, that is, tightening control over unlicensed food establishments and also premises which pose an immediate health hazard in order to protect public health.

On the control over unlicensed food establishments, the Bills Committee generally agrees with the addition of section 128B as proposed by the Government, which empowers the Director of Food and Environmental Hygiene (the Director) to make a direct application to the Court for a closure order. It means that the application of a closure order will no longer rely on evidence of breaches of a Prohibition Order by unlicensed operators. Under this new arrangement, the time required to apply for a closure order can be significantly reduced from nine months to one and a half months.

The Bills Committee considers that the Administration should simplify the restaurant licensing procedures as far as possible, so that some food establishments will not be forced to operate without a licence because it takes too long to apply for one. In this regard, the Bills Committee has noted that the Administration has introduced a number of improvement measures to shorten the process for restaurant licensing. A consultancy study has also been commissioned with the purpose of further simplifying the licensing procedures for other types of food establishments.

The Bills Committee has also pointed out that according to the original drafting of the proposed section 128B(1), the new section 128B(1) may catch some licensed food establishments if they sell restricted food, such as sushi, without the necessary permit or permission. To remove any ambiguity in this respect, the Administration has agreed to introduce Committee stage amendments to provide that the new section 128B(1) will not apply to licensed food premises if certain activities which require permission are carried out on these premises without permission.

On the new section 128C which empowers the Director to make a closure order immediately against premises which pose an immediate health hazard without having to go through court procedures, some members have expressed reservations about this proposal. They consider that the hygiene conditions of licensed catering establishments are already subject to regular inspection and surveillance by the Food and Environmental Hygiene Department (FEHD), and the existing legislation and licensing conditions should be adequate in ensuring the hygiene and safety standards of licensed food establishments. Some members are also concerned about possible abuse of the power conferred on the Director by new section 128C. The Government has stated that it is necessary to empower the Director to make closure orders against those premises which pose an immediate health hazard to protect public health, and section 128C covers licensed premises and premises operating without a licence. The Administration has assured members that the Director will personally exercise the power conferred on him or her under section 128C with due care, and decisions on closure orders will be made having regard to the advice of a medical officer as well as results of laboratory tests or circumstantial evidence.

Regarding the definition of "immediate health hazard" and the term "reasonable cause" in the Bill, the Bills Committee has suggested that the Administration should include in the Bill specific and objective criteria and conditions. In this connection, the Government has explained that it is impossible to provide in the Bill all possible scenarios that may constitute a "reasonable cause", or those that may pose an "immediate health hazard". However, the four categories under new section 128A(3) already include the most common circumstances. To address members' concern, the Government has provided to the Bills Committee different examples of circumstances that may give rise to a "reasonable cause". The Government agreed with the Bills Committee's suggestion to amend section 128A(3) in relation to "contamination of water" to the effect that the Director is required to base on inspection or research findings or laboratory evidence in determining whether the water used at a certain food premise is contaminated.

In respect of the enforcement of closure orders, the Bills Committee considers that as a closure order will not operate to prevent human habitation on the premises, watchmen or caretakers who use the premises as their only residence should be allowed to stay on the premises, so that they will not be rendered homeless. The Government has accepted this view of the Bills Committee and will move an amendment to this effect.

The Bills Committee strongly feels that the Administration should provide a fast, simple mechanism that can be activated easily to hear appeals against closure orders made by the Director on grounds of immediate health hazard. Although the Bills Committee has noted that the aggrieved party can appeal to the Court against such orders under new section 128C(20) as proposed in the Bill, some members are worried that it may take a long time for the Court to arrange a hearing because of its heavy workload.

With regard to the appeal mechanism, the Bills Committee has discussed a number of proposals in detail with the Administration. For instance, making the Licensing Appeals Board responsible for handling such appeals, or providing in the Bill that the closure order made by the Director under section 128C is a temporary order which requires confirmation by the Court within a few days, so as to enable the affected parties to state their cases before the Court.

The Administration, however, considers both proposals impracticable. It has explained that it is inappropriate for the Licensing Appeals Board to be made responsible for handling appeals from food premises, because the closure order made by the Director on grounds of immediate health hazard is not directly related to licensing matters. Besides, such closure orders are also applicable to unlicensed food premises, and at present, offences of operation of unlicensed food businesses and offences relating to unhygienic food are dealt with by the Magistrate Court. The Administration has also stated that it may take as long as 45 days for the Licensing Appeals Board to arrange a hearing due to statutory time limits in relation to the serving of meeting notices and lodging of documents. On the proposal of "temporary closure order", the Administration is of the view that a temporary order does not differ much from the proposal in section 128C, since a "temporary closure order" will still be executed immediately pending the court hearing and it will not absolve the operator concerned from eliminating the "immediate health hazard". The Administration also considers it inappropriate to stipulate in law a specified period within which the Court must arrange a hearing to confirm the "temporary closure order" made by the Director.

Nevertheless, as the Bills Committee has strongly expressed the view that an independent and efficient channel should be provided for the aggrieved to appeal against closure orders made by the Director under new section 128C, the Administration has proposed that a statutory Appeal Board be established to hear such appeals. The Administration has to this end proposed that a new section

128D be added to the Bill to set out the composition, jurisdiction and operation of the Appeal Board.

After detailed discussions, the Bills Committee has suggested some amendments to the proposed section 128D with regard to the various arrangements in relation to the Appeal Board. For instance, there should be a sufficiently large pool of panel members, say, 18 members, to ensure that a hearing can be arranged as soon as possible without being held up by the absence of some panel members. The Bills Committee has also suggested that there should be a stand-by or roster system for the two Deputy Chairmen, to obviate the need for the Chief Executive to appoint a Deputy Chairman to act as the Chairman if the latter is ill or absent from Hong Kong. Moreover, as the Deputy Chairmen may stand in as the Chairman, they should also be required to hold the same legal qualifications as the Chairman. A time limit should also be set for the Appeal Board to notify the parties concerned the reasons of its decision, so as to give the appellant sufficient time to further appeal to the Court if he so wishes. The Administration has accepted members' suggestions and will move amendments accordingly.

As the Administration will propose amendments to address most of the concerns raised by members, the Bills Committee has not proposed any amendment to the Bill. The Bills Committee generally supports the Bill and the Committee stage amendments proposed by the Administration.

I wish to take this opportunity to thank all members of the Bills Committee for scrutinizing the Bill seriously and for their many constructive suggestions.

Madam President, now I wish to speak in another capacity to express some views on the Bill in respect of food safety on behalf of the Democratic Party. The Democratic Party supports the Bill and the Committee stage amendments of the Government. In fact, some years ago in 1997 when I was a member of the Urban Council, we proposed that the then Urban Council should empower the Director of Urban Services to make immediate closure orders to facilitate the effective enforcement of the Public Health and Municipal Services Ordinance, so as to tackle the proliferation of unlicensed food establishments.

However, the then Urban Services Department (USD) had taken a very hesitant attitude towards the proposal and given various reasons in the papers submitted to the Urban Council to state that the Public Health and Municipal

Services Ordinance, Fire Services Ordinance and Buildings Ordinance already contained provisions governing or requiring closure of unhygienic food premises. Therefore, the then USD came to the view that the legal framework then already provided adequate powers to deal with unlicensed food establishments. The USD considered at the time that giving the Director of Urban Services additional power by administrative means to enable him to immediately close unlicensed and unhygienic food premises will not have any additional merit. Although members of the Urban Council then, including us, had strongly proposed the making of legislation by the USD, our proposal finally came to no avail after it had been repeatedly locked in a seesaw struggle and when there came the scrapping of the Municipal Councils.

Just when we thought that this proposal would simply die away following the disappearance of the Municipal Councils, the new Environment and Food Bureau has nevertheless reinstated the proposal on its own initiative. The concerns and reservations expressed by the then USD have all been straightened out suddenly. Although I have personally encountered the capricious attitude of the Government, the Government has finally agreed to take on board this constructive proposal of the then Urban Council anyhow. The Democratic Party and I will support this initiative of the Government.

In the course of the scrutiny of the Bill by the Bills Committee, members were concerned that some food establishments were forced to operate without a licence because it took a long time to apply for one. Although there is now the provisional licence system, it still takes nearly three months to obtain a provisional licence on average. In a place where land is scarce, and where every single second is money and rent is exorbitant, if it still takes almost 90 days for government departments to issue a provisional licence, the efficiency is still unsatisfactory. Therefore, we hold that the Government should expeditiously come up with proposals to simplify the existing licensing procedures. Earlier on, there were reports that the Government was looking into a multi-purpose food business licence. We consider this a viable direction. From my experience, it is often because the co-ordination of many departments is required that the application process is so time-consuming; particularly, it may take a very long time for a licence to be issued for applications involving changes to the layout of food premises.

To reduce overlapping of departments and red tape, the Democratic Party has all along proposed the setting up of a central licensing department by the

Government to expedite the processing of applications in the interest of the catering industry and to the benefit of citizens. Like the proposal to empower the Director to close unlicensed food establishments, this proposal had been documented in detail in the days of the Urban Council.

We hope that after the passage of this Bill, the number of unlicensed food establishments can be substantially reduced, thereby achieving the policy objective of protecting food safety and public health.

Madam President, I so submit.

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

MR TOMMY CHEUNG (in Cantonese): Madam President, the Public Health and Municipal Services (Amendment) Bill 2001 has aroused strong repercussions in the catering industry. Members of this Council have spent 10 months to deliberate over the Bill because of the many highly controversial contents of the Bill and its far-reaching effects.

To protect public health, lift the standard of local catering services and protect the interests of law-abiding members of the catering industry, we and the Government have adopted section 128B of the Bill, to authorize the Director of the Food and Environmental Hygiene Department (FEHD), to apply to the Court for a closure order to close all premises before the Prohibition Order has been breached. We do not have any divergent views on this point.

In the Bills Committee, government officials promised and assured Members time and again that the legislation would only be applicable to the "incurable" cases in the industry, that is, some **unlicensable** food establishments, those which were not fit to be licensed and the black sheep who have no intention of applying for a formal licence. The legislation will not pinpoint at food premises that have applied for a licence but still fail to be licensed as a result of the complicated licensing procedures and the bureaucratic structure of the Government, and yet, that will be licensed ultimately. I solemnly remind the Government to bear its promise in mind.

According to the current practice, the whole process to close unlicensed food establishments takes 10 to 12 months. We would only know if the amendments made to the legislation would substantially shorten the time needed as expected by the Government after the legislation has come into force.

A major deficiency of the Bill is that the Director still has the supreme power to close a food establishment on grounds of immediate health hazard by putting up a notice in the food establishment. The problem is that the Government is not only trying to have a hand in everything, but it also has unlimited powers that can be exercised at any time. Are food establishments really so hazardous that they must be supervised so strictly? If the Director has wrongly enforced the law, who would be responsible for compensating the food establishments for their losses? While the Government upholds the legislative spirit of "rather killing them wrongly than letting them off" and "rather wronging them than winking at them", it must be the operators who will bear the brunt.

In presenting his policy address last year, the Chief Executive kept saying that the Administration should endeavour to reduce unnecessary legislation and improve the business environment in Hong Kong. However, this Bill is a typical draconian law that deals a blow at the survival of the local catering industry. In the Government as a whole, I wonder if I should say that while the Chief Executive decrees his policies the officials under him will devise their own countermeasures. I really doubt if food establishments are really so hazardous that the Director must and should be given such an enormous power. Will food safety be greatly improved after the Director has been given this power? In fact, we cannot quantify the elements of food safety.

Let us consider this. Under section 128C of the Bill, the Director can for "reasonable cause" and on the ground of "posing an immediate health hazard" issue an immediate closure order to licensed food establishments. First of all, I must say that food establishments will be licensed only if they meet certain requirements in respect of hygiene condition. However, the Bill proposes that the Director can grind the axe at food establishments suspected to have hygiene problems. The extensive power of the Director cannot be taken lightly indeed, and it makes people worry about possible abuse of power.

Having fought for it time and again, and with the support of the Honourable Audrey EU and the Honourable Andrew CHENG, the Government finally agreed to define "posing an immediate health hazard" in clause 128A(3)

of the Bill and narrow down the scope of the power of immediate closure. In other words, the Director can only issue a closure order when food establishments are contaminated with either pathogens or chemical substances, and infestation of vermin to the extent that food is contaminated or tainted.

However, the definition has a loophole that, for instance, water source pollution may comply with the part of section 128A(3)(b) on "an immediate health hazard" when the definition of "the source of pollution by other substances" upon inspection may constitute one of the reasons for the authorities to order the closure of food establishments. With water source pollution, food establishments and operators of food workshops are basically at their wit's end. The Water Supplies Department should be responsible for unclean water from Dongjiang and it should not pass the buck onto food establishments.

We have made many proposals, including "partial closure" and a grace period to substitute the issue of immediate closure order by the Director, but only to no avail.

"Partial closure" is a more flexible practice. If the source of the problem were limited to fish tanks, closing the fish tanks would be enough. If problems are found in sushi and sashimi, the sale of sushi can be prohibited. Why is it necessary to close the whole food establishment and prohibit it from carrying on limited operation? On this point, the Government said that there would be difficulties in enforcement, and the public would be confused. So according to the Government, once there are hygiene problems, be they serious or not, the whole food establishment has to be closed. The Government often wastes public money and human resources by using a sledge hammer to crack nuts. What else is it if it is not abuse of power?

I have requested for the creation of temporary closure orders and provisional orders. If the operators explicitly state that they would eliminate the hazards to health within one to two days, the Government should grant them a grace period ranging from half a day to two days. If the operators made improvements, the closure order should be rescinded.

I have also proposed the issue of an "unless order" by the Court to specify by means of a warning that the premises should take remedial measures within the time limit, and the closure order would only come into effect when the operators fail to act according to the order of the Court. Yet, it is most puzzling

that the Government opposed it on the ground of its worry that the "unless order" would not be treated seriously. If the Secretary is the operator of the food establishment or food premise, and has to choose between two alternatives, namely, closure of the food establishment and making improvements at once, otherwise, the premise will be closed; will she treat the order seriously?

And if the authority concerned fails to make arrangement for a hearing within the specified time limit, the FEHD should consider rescinding the closure order and allow the food establishment to resume business, in order to minimize the loss of the industry. Yet, the proposal was also not adopted by the Administration. Has the Government tried to put itself in the position of the industry and think in terms of their difficulties?

An immediate closure order is so destructive that the operators would be shattered, and their reputation will be injured at any time, causing them damages. The closure orders issued to the catering industry by the Director from 1997 to 1998 have shown how serious the damages can be. Nevertheless, the sources of pathogen in food establishments might not be subsequently located.

Yet, once the Director of Health has issued a closure order, shops have to stop operating for a few days to one week, and they will lose tens of thousands of dollars. They will suffer heavier losses during festivals and Sundays. Of course, it will irremediably damage the reputation of the operators. After a certain period of time, there is no more news value for nobody will report the case, so even if the Government has proven that the incident is unrelated to the food establishment, the reputation of the food establishment will be ruined and it can hardly stay in business.

I wish to stress that, on the one hand, the FEHD grasps tightly and declines to let off the supreme power, yet on the other, it assures Members that the power will be exercised very carefully and it very seldom issues closure orders. If the Government does not intend or wish to exercise the power, or does not need to exercise the power, it might as well not legislate to confer on the Director such power, to avoid giving the public and the world a wrong impression that the food establishments in Hong Kong have serious problems.

I implore the Director not to exercise the power of immediate closure; otherwise, she should provide the industry with an affordable, expeditious and

just channel of appeal. Our initial proposal is that, in the light of the urgency of the cases, the Magistracy should handle appeal cases but the Administration said that it would not work because of inadequate manpower.

Finally, the Bills Committee agreed (the industry had no alternative but to accept the mechanism of the Appeal Board) to add section 128D to the Bill, to allow the affected operators to file appeals after the FEHD has confirmed the closure order, and declined to rescind or suspend the closure order.

Yet, the Government has turned down the proposal on suspending the closure order when the operators have filed appeals. This decision has far-reaching effects. Assuming that the operators feel aggrieved with being issued an immediate closure order and immediately apply for an appeal, as estimated by the officials, the process from the receipt of the application by the Board to the decision to formally accept the appeal still takes 10 working days, that is, more than two weeks, which is already very fast. Yet, it may take a couple of more days to wait for the appeal hearing, and we cannot say for sure how long the hearing itself will take, but it will take a few days' more at least. Therefore, the appeal procedures and the judgement may take two to three weeks, to say the least.

If the Appeal Board unfortunately turns down the appeal, the operator has to apply for another appeal with the Court of First Instance within 14 days. Making listing arrangements and the hearing formalities will inevitably take several weeks. Besides, the closure order will very likely remain effective for an indefinite period in the course of the appeal, so even if the food establishments and premises can stay in business in the meantime, the operators will lose tens of thousands or millions of dollars. In the end, even if the operator's appeal is substantiated, he will have only made a good showing only and he will have suffered irrevocable damages anyhow.

I am sorry that the Bill has stipulated that the Court of First Instance and higher courts cannot amend the decision made by the Appeal Board and cannot make a better judgement. In other words, the Court of First Instance can only maintain or overrule the judgement of the Appeal Board and it does not have the right to make a compromising judgement. Nor is it free to partially amend the judgement of the Appeal Board, for instance, to only close the problematic parts of food establishments.

I understand that the Administration has to protect human rights and public health, but the legislation also has to protect the interests of the catering industry. If the Appeal Board or the Court rejects the immediate closure order of the FEHD, from whom should food establishments claim compensation for the losses incurred as a result of the faulty enforcement by the FEHD?

Concerning compensation, the Government has only said that, according to the common law and sections 59(5) and 78 in Chapter 132 of the Laws of Hong Kong, in the event of claims of compensation for losses, it shall pay by way of compensation such sum of money, not exceeding the market value of food or carcass but not for the damages to goodwill as a result of the closure orders.

Under the legislation on tort, food establishments cannot make claims for estimated pure economic losses, such as the loss of customers or damaged goodwill. Operators can only make claims through civil proceedings for such actual losses as shop rental, wages, water and electricity charges during the effective period of the closure orders. But I can assert that the compensation claimed cannot cover the losses incurred as a result of the closure orders. Even if food establishments are willing to initiate civil proceedings, the plaintiffs have to meet expensive expenses, spend time and make a lot of efforts. Lots of fast food shops and cafeteria have little capital and are manned by the whole family in turn or by couples. They have invested all their savings but their survival is threatened nowadays, needless to say making profits. Even large consortia have to think twice before initiating proceedings against the Government. Yet, the Government has said that if food establishments find it unfair, they can file appeals through lawyers. Is it that easy? Civil proceedings are costly and time-consuming, why can the Government not give the operators of food establishments and workshops a way out at this stage?

The Government has not accepted the proposal on separate appeal mechanisms for licensed and unlicensed food establishments. It is unfair to law-abiding licensed food establishments and premises that are often inspected by the authorities, for they have to make listing arrangements for the appeal together with unlicensed premises.

Just like other industries, the catering industry has been endeavouring to improve the quality of service. 490 000 inspections on the catering industry are carried out each year and the figures almost scared the life out of foreign government officials and they did not understand why so many inspections were

carried out in Hong Kong. Now, the Government still wishes to amend the legislation to step up the supervision of food establishments. It would not do any good in assisting the industry to tide over difficulties or enhance people's confidence in the hygiene conditions of food establishments.

Tiers of control will only make people think that it is difficult for the catering industry to operate in Hong Kong. It would scare investors and the catering industry and distort our business environment. People would be induced to think that food establishments in Hong Kong are hazardous and unclean, thus further damaging our business environment ultimately.

Lastly, I am grateful to the Honourable Fred LI, Chairman of the Bills Committee, for allowing me to ask many questions, and repeatedly so. Why did I ask so many questions? The Government often took me "strolling around gardens", asked inappropriate questions and gave inappropriate answers. If the Government really wishes to tide over difficulties together with the industry, I wish that it would refrain from introducing such bills that would damage our business environment, or introducing too many bills like that. It should also give up such administrative concepts of rather wronging people than letting them off, arrogating all powers to it and intervening in everything. It should try harder to encourage investors for the good of the catering industry and Hong Kong.

I so submit. Thank you, Madam President.

DR LO WING-LOK (in Cantonese): Madam President, the Public Health and Municipal Services (Amendment) Bill empowers the Government to impose effective control on two types of conditions, and if these conditions are brought under proper control, public health will receive better protection.

The first type of conditions involve the operation of food establishments, food processing workshops (such as pig-roasting factories) and slaughter houses on premises for which a licence will never be issued.

The reasons why a licence will never be issued for these premises are many, some examples being shoddy or even risky structures, the absence of a safe source of water, a lack of accommodation for a kitchen of acceptable hygiene standards and unacceptable nuisances caused to neighbours or premises nearby.

Although these places may not pose any immediate hazards to the health of people, they may still pose potential dangers. If they are not banned in good time, a major public health disaster may result. That is why they must be banned.

Under the existing ordinance, the banning of these unlicensed food establishments has to follow a very lengthy procedure which often takes as long as nine months, and the effect is very limited, because after nine months, the operator of the unlicensed food establishment concerned may have already made enough profits and disappeared altogether. The spending of huge government resources on the enforcement of an ineffective law is a waste of public money; not only this, public health will not be protected in this way.

For this reason, I support the relevant amendment, so that the Government can close down the unlicensed food establishment concerned within one and a half months.

Some people have mixed the case of a food establishment that can never be licensed with that of one which can eventually obtain a licence but has to wait several months during its initial period of operation. I do not think that this is correct.

The reason is that what must be banned are food establishments that can never obtain a licence, rather than those which can eventually be licensed.

Everybody agrees that there is a need to raise the Government's efficiency of licensing food establishments, but the legislative amendment concerned seems to have nothing to do with that. Our discussions aim instead to urge the Government to work more efficiently in banning those food establishments that will never be licensed.

In the Bills Committee, we seemed to have spent far too much time on discussing matters not related to the Bill. We want the Government to raise its efficiency of issuing licences to food establishments, but I also think that the Legislative Council must at the same time review its efficiency of scrutinizing bills. I do not mean any disrespect for the Chairman and members of the Bills Committee; I just wish that we can review our own efficiency.

The Bill also empowers the Government to impose more effective control over another type of conditions, namely, those food establishments, food

processing workshops and slaughter houses that pose immediate hazards to public health.

Section 19 of the Prevention of Infectious Diseases Regulations empowers the Director of Health to close down premises where an infectious disease has occurred, and to order the owner concerned to disinfect and rid the premises of pests.

Section 24 of the same Regulations also empowers the Director of Health to issue an order, putting any premises under quarantine for the prevention of the spreading of infectious diseases.

I do not think that the Director of Health is given enough powers to sufficiently protect public health. My arguments are:

First, the powers of the Director of Health are limited to the handling of infectious diseases; the powers to handle immediate hazards posed by food establishments, such as chemical pollution, are not included in the Regulations.

Second, the above Regulations only cover infectious diseases, but a disease can be defined as infectious only after someone has been affected, infected. That is why under these Regulations, when the Director of Health exercises his powers, someone should have been affected, and the steps taken are all just remedial in nature. But if we wish to take an early step, that is, when the environment, structure and food of a food establishment are observed to be posing immediate hazards to public health, will the Director of Health have sufficient powers to take actions, even before anyone is affected? The legislative amendment today aims precisely to fill this vacuum, to empower the Government to take early actions. Prevention is always better than cure, and for this reason, I support the relevant amendment.

My third argument. Why do we give the powers to the Director of Food and Environmental Hygiene instead of the Director of Health? The reason is that following the establishment of the Food and Environmental Hygiene Department (FEHD), it has become the government agent responsible for ensuring food safety for the public; its work should cover the monitoring of the whole food chain, and it should also serve as the co-ordinator of the work concerned. Therefore, the monitoring of food safety before consumption and

before diseases occur should be the work of the FEHD. Therefore, I think it is proper to give the powers to the Director of Food and Environmental Hygiene.

Another point I wish to raise is about the appeal channels under section 128C for food establishments closed down by the Director of Food and Environmental Hygiene for reasons of immediate health hazards.

As Legislative Council Members, it is our duty to look after the vulnerable members of the community and help people who are aggrieved in any way. That is why I support the efforts of Members to strive for a fair, efficient, convenient and more economical complaint channel for the food establishments concerned; some Members have even proposed the express provision in law that the Court shall hear an appeal within a specified time limit.

But has it ever occurred to Members that priority treatment to some appellants would often mean the deprivation of the rights of others? For this reason, what I support even more is that we should not look in isolation at the fairness or otherwise of an ordinance to a minority of people. Instead, I think we should look at the fairness or otherwise of the ordinance to the community as a whole. Only this is in the best interest of Hong Kong.

I think the legislative amendment on establishing an Appeal Board can to a certain extent satisfy Members' wish to protect the interests of the vulnerable, and I also think that this can give people fairer treatment. Therefore, I support the relevant amendments.

Madam President, I so submit.

MR WONG YUNG-KAN (in Cantonese): Madam President, the hygiene conditions of food and drink premises has all along been a very important public health issue. Even though Hong Kong has been experiencing an economic downturn in recent years and the business turnover of food establishments is no longer as good as before, members of the public generally still keep their habit of patronizing restaurants. That is why the hygiene conditions of food and drink premises should never be overlooked. The objective of the Bill is to speed up the process for closing unlicensed food establishments and food manufacturing plants, and to empower the Director of Food and Environmental Hygiene (the Director) to make closure orders in respect of food and drink premises which

pose an immediate health hazard. These are issues worthy of Members' attention.

Banning unlicensed food establishments has all along been the common goal of both the catering industry and the general public. However, due to the protracted statutory process, more often than not it would take the executive authority some nine months' to a year's time to apply successfully for a court order to close the unlicensed food establishment concerned. And so it is commonplace for the operators of unlicensed food establishments which have not gone through hygiene inspections to take advantage of the protracted statutory process to reap profits and then wind up their business quickly. In addition to posing health hazards to consumers, these unlicensed food establishments are also competing unfairly with the law-abiding licensed food establishments. The Democratic Alliance for Betterment of Hong Kong (DAB) supports the Government's proposal to shorten the statutory process for closing unlicensed food establishments by empowering the Director to make a direct application to the Court for a closure order, with a view to plugging the existing loophole in the law and thereby curbing unlawful operations.

On the other hand, members of the catering industry are rather dissatisfied with the licensing system for food establishments, as it takes them a long time to apply for one and the application procedures are very complicated. To the industry, time is money; the earlier food establishments can apply successfully for a license, the earlier they can commence operation. Some food establishments may be forced to operate without a licence just because they cannot get it in time. This is not something the industry wishes to do, and we do not wish to see such things happen either. That is why the industry has always been urging the Government to improve the licensing system. In recent years, the Government has responded to the request made by the industry and implemented a number of measures to improve the licensing system with some effect. Nevertheless, the industry still holds that further improvements should still be made to the system. The DAB just hopes that the Government will expeditiously put forward proposals to further improve the licensing system.

Madam President, the second major point of the Bill is a rather controversial issue, since the amendment includes provisions which empower the Director to close any food establishments posing immediate health hazards, including licensed food establishments. All along, the industry has not been pleased with the inspection system of the Food and Environmental Hygiene

Department (FEHD). The industry is dissatisfied that while the inspection system of the FEHD is not objective enough, the standards of enforcement are also inconsistent. For these reasons, members of the industry are losing confidence in the FEHD. Although the power vested in the Director by the Bill will only be exercised under very exceptional conditions, it is still exercised at the discretion of the executive authority ultimately. So, it should be understandable that the industry has some reservations about this proposal. The DAB therefore agrees that an appeal mechanism should be established to review the power vested in the Director in order to strike a balance between the interests of the public and the industry. However, we hold that the most effective way to completely resolve the industry's dissatisfaction with the law enforcement agency is to expeditiously improve the existing inspection system, strengthen contacts with members of the industry and exchange views with them to enhance co-operation and to jointly perfect the hygiene management of the catering industry in Hong Kong.

With these remarks, Madam President, I support the Bill on behalf of the DAB.

DR TANG SIU-TONG (in Cantonese): Madam President, on behalf of the Hong Kong Progressive Alliance (HKPA), I speak in support of the passage of the Public Health and Municipal Services (Amendment) Bill 2001 and the amendments to be proposed by the Secretary for the Environment and Food at the Committee stage. The Bill seeks to empower the Director of Food and Environmental Hygiene (the Director) to make a direct application to the Court for a closure order to close unlicensed food establishments, in order to shorten the statutory time required to close unlicensed food establishments. The Bill also empowers the Director to make a closure order against food establishments which pose an immediate health hazard. The HKPA believes the Bill will help the authorities crack down on unlicensed food establishments more effectively and step up efforts to stamp out food establishments operating in appalling hygiene conditions and environments, thereby protecting public health.

Last year, the FEHD mounted many operations against unlicensed food factories and seized over 10 000 cabbages of meat. The hygiene conditions of unlicensed food factories revealed in these operations are too deplorable to look at indeed. Under new section 128B in the Bill, the targets are premises that are unlikely to be issued licences, such as those flimsy structures used for illegal

slaughtering and roasting activities. We are of the view that the Bill can further improve the standard of food safety in Hong Kong.

Madam President, no one will object to the general principle of protecting public health, but as the Bill empowers the Director to make a closure order against licensed food establishments which pose an immediate hazard, this will have great impact on the operators of food establishments. In this connection, the catering industry has expressed grave concern on the Bill. Those in the industry are worried that the power of the Director to close food premises is too wide. There are also views that the definition of "immediate health hazard" in the Bill is too general and will easily give rise to injustice. Some members of the Bills Committee suggested that the Bill should include the specific criteria and conditions for the making of closure orders by the Director. With regard to these views, the Government stated that the four categories under new section 128A(3) already include the most common circumstances that may pose an immediate health hazard.

Madam President, the Hong Kong economy is now in the doldrums. Business is very difficult for the catering industry and many restaurants are facing hardships in their operation. The HKPA hopes that in enforcing the relevant legislation, the authorities will exercise great care and clearly explain the provisions to the industry, in order not to create unnecessary nuisances to the industry. At the suggestion of members, the Government will propose amendments at the Committee stage to remove ambiguities concerning the provisions on contamination of sources of water. This, we very much welcome. We also support the setting up of a statutory Appeal Board by the Government in response to the views of the Bills Committee and the catering industry to conduct hearings of appeals from operators against closure orders issued by the Director.

Madam President, I so submit.

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

(No Member responded)

PRESIDENT (in Cantonese): Secretary for the Environment and Food, you may speak in reply.

SECRETARY FOR ENVIRONMENT AND FOOD (in Cantonese): Madam President, the main objective of this Bill is to simplify the procedures for the closure of unlicensed food establishments and to empower the Director of Food and Environmental Hygiene (the Director) to close with immediate effect food establishments of extremely poor hygiene conditions and which pose an immediate health hazard to the public.

I am very grateful to Mr Fred LI, Chairman of the Bills Committee, and other members for their hard work and co-operation. They have given a lot of valuable advice on the Bill and reached a consensus to support the resumption of the Second Reading of the Bill.

Under the existing legislation, the process for application for a closure order against unlicensed food establishments is very protracted. The Food and Environmental Hygiene Department (FEHD) has first to prosecute the operator of an unlicensed food establishment by summons and secure a conviction before applying to the Court for a Prohibition Order. Only when the operator has breached the Prohibition Order and has been convicted can the FEHD apply to the Court for a closure order. The entire process may take as long as nine months. Unscrupulous operators may take advantage of the interim to continue with their operation. Even if the authorities take action to crack down on these unlicensed food establishments, since the premises are not closed, the operators may still look for opportunities to resume operation. Besides, some unscrupulous operators also take advantage of the loopholes in the existing legislation to operate small-scale food businesses. When the closure order is finally served, they will simply wind up their business and operate elsewhere.

To tackle the above problem more effectively, clause 3 of the Bill proposes to empower the Director to make a direct application to the Court for a closure order, on basis of the fact that the premises are operating without a licence. Under the new procedure, the direct application for a closure order will no longer have to rely on evidence of breach of a Prohibition Order. This will significantly reduce the time required to close an unlicensed food establishment from nine months to one and a half months, and effectively crack down on unlicensed food establishments operating through the loopholes in law.

Another proposal of the Bill is to empower the Director to close food establishments posing an immediate health hazard. The Prevention of Infectious Diseases Regulations already contain provisions empowering the

Director of Health to isolate and disinfect any premises (including food establishments) to prevent the spread of infectious diseases. However, the provisions are usually invoked to deal with food poisoning incidents caused by factors related to infectious diseases.

The Director of Health is not empowered to close food establishments which may pose an immediate health hazard to the public, for example, those premises for unlicensed roasting and food manufacturing with extremely poor hygiene conditions, those flimsy structures used for illegal slaughtering and those food establishments with extremely poor hygiene conditions, serious rodent infestation and may cause the outbreak of some fatal diseases.

New section 128C empowers the Director to order an immediate closure of food premises where the hygiene conditions are so bad as to pose a serious hazard to public health. The proposed provision should be able to inhibit the continued operation of such food establishments in unhygienic conditions. The closure will enable the authorities to conduct all necessary investigations and carry out various cleansing, disinfestation, deratting, disinfection and other rectification measures.

After listening to the valuable advice tendered by members of the Bills Committee on various proposals, we will move Committee stage amendments in respect of the following: to clarify the definition of "water coming from contaminated sources"; to provide for the power which the Director may exercise under section 128B to close food premises without the requisite licences or permissions, but not the closure of those licensed food establishments which have not obtained the permission to sell restricted food such as sushi; to provide under section 128B for the authorities to affix a copy of a notice of intention to apply for closure order at a conspicuous place on the premises and to send a copy of the order to the owner or landlord of the premises; to stipulate that the closure order shall not operate to prevent human habitation on the premises; to set up an expeditious appeal mechanism whereby a person aggrieved by the decision made by the Director to serve a closure order under section 128C can make an appeal; and to make some technical amendments to make the relevant provisions clearer and easier to understand.

I shall explain the amendments in detail to Honourable Members at the the Committee stage. Now I would like to respond to some of the issues raised by Honourable Members in the Bills Committee and in the debate earlier.

Some Honourable Members suggested in the meetings of the Bills Committee that the process for food business licensing should be shortened in order to prevent some operators of food establishments from being forced to operate without a licence because of the unreasonably long time required to apply for one. I would like to point out here that a number of improvement measures as recommended by the consultants have been introduced by the FEHD since June 2000 to streamline the food establishments licensing system. These include simplifying the licensing procedures, appointing a case manager to handle each case, setting up a resource centre and an office to issue provisional licences and expediting the procedures for demanding building plans. After the measures have come into force, if the applicant has made all the preparations to comply with all the licensing requirements when applying for a licence, a provisional licence can now be issued in 21 working days. As regards the time required for issue of a full licence, that can be shortened to 35 working days. Having said that, however, the actual time required for issue of a licence will depend on compliance with all the licensing requirements, for example, to undertake the necessary modification works to comply with the requirements prescribed by the Fire Services Department and the Buildings Department.

I am fully aware of the concern of Honourable Members about the time required to obtain a food business licence. The FEHD will study into how the licensing procedures can be further simplified and how better co-ordination can be achieved among the various departments in order that the vetting and approval of licensing applications can be expedited. As for other types of food premises such as barbecued food shops and other food factories, the FEHD has set up an inter-departmental group since November 2001 to explore ways to simplify as much as possible the relevant procedures and shorten the time required for processing applications. After consulting with the industry, we will brief this Council on the relevant matters later this year.

Some Honourable Members have said earlier that it is unfair to prosecute operators of food establishments who have submitted applications for licences but not yet been issued the same. I would like to stress that irrespective of whether the operator has submitted an application for a licence, operating an unlicensed food premises is in itself a contravention of the law. Compared to unhygienic food establishments, a food premise which has not been issued a licence is not the main target of enforcement of the FEHD. However, by virtue of the relevant law, the Administration has the powers to prosecute and close these premises.

It has been proposed by a Member in the Bills Committee meetings that a "temporary closure order" or an "unless order" be used to replace section 128C which empowers the Director to serve a closure order on grounds of immediate health hazard. After examining the proposal carefully, we have come to the view that this is impracticable. The proposal requires the Director to issue an "unless order" first to allow the operator to rectify the undesirable hygiene conditions and remove the health hazard within a specified period of time. If the operator fails to do so within the specified time, the closure order will come into force. I would like to point out that the power of the Director to issue a closure order is directed against food establishments posing an immediate hazard to the public and if the closure order is not enforced immediately, public health cannot be effectively protected.

It has also been suggested that the closure order issued by the Director should be changed into a "temporary closure order" requiring express confirmation by the Court within a few days, in order to give the operator an opportunity of audience before the Court. As Mr Fred LI has said earlier, the Bill does not differ too much from the original proposal insofar as enforcement is concerned, since a "temporary closure order" will remain in force in the interim pending the court hearing. In addition, it is not appropriate to stipulate in the Bill a time limit for the Court to arrange for a hearing, for the matter should be left to the discretion of the Court.

As provided in section 128C(6) of the Bill, after the necessary cleansing, disinfection, deratting, disinfestation, repairs, and so on, have been undertaken, and when the immediate hazard to public health is removed, the Director will issue a notice to rescind the closure order with immediate effect. We believe operators in general will proactively make rectification efforts in order to resume their business as soon as possible. However, if the operators know that the closure order will automatically be rescinded within a short period of time, some of the unscrupulous operators may not be proactive or complete the rectification work required on time, that may lead to repeated issues of closure orders and so the legislation may not be able to achieve its desired effect.

I would like to stress here that the Director will exercise his powers only when he has ascertained that the food premises concerned will pose an immediate hazard to public health. The Director will exercise his powers with great care, and in dealing with the issue of food premises posing immediate health hazard, time is a crucial factor. In order to protect public health, we must eliminate health hazards within a very short time.

Some members also suggested a partial closure of food premises, that is, those parts of the food premises suspected to have been contaminated, on the grounds that this would reduce the impact on the operators. In fact, the proposed Bill already permits the Director to issue a closure order against part of the premises. The Director will also deal with the closure arrangements in the light of individual circumstances. When the FEHD enforces the relevant provisions in law, if it is found that the problem is only related to food from a certain place of origin, then the Director will not order the closure of the premises in question but will ask the operators to stop purchasing the food in question before the source of contamination is confirmed.

As to the time limit of a closure order, insofar as unlicensed food premises are concerned, if the premises in question has been issued the requisite licence, or if the premises will be used for purposes other than those related to a food establishment, then the closure order can be rescinded with immediate effect. As for food premises closed on the grounds of immediate health hazard, if the required cleansing, disinfection, disinfestation, deratting and repairs have been undertaken, then the closure order will be rescinded with immediate effect. The operators in question can then apply to the FEHD for permission to enter the premises to carry out the renovation and modification works required in order to comply with the licensing conditions.

Some Honourable Members pointed out earlier there are inadequacies in the inspection system of the FEHD. Health inspectors tasked to inspect food establishments have all received professional training. They are able to maintain suitable inspection criteria and standards. The FEHD also organizes refresher courses for them frequently to enhance their knowledge in this respect. Their superiors will also make random checks to monitor the enforcement standards of health inspectors.

In order to give the industry and law enforcement officers a clearer idea as to the various hygiene standards, the FEHD is now drafting a detailed code of practice on food safety and hygiene to be used by the Department and the industry for reference. During the course of drafting this code of practice, every effort will be made to hear the views from the industry.

With respect to the power of the Director to close food premises posing immediate health hazard to the public, the FEHD will formulate guidelines to

help staff assess cases where there is an immediate hazard to health and to decide whether or not there are sufficient grounds to recommend the issue of a closure order by the Director.

I would like to thank once again the hard work and co-operation of the Bills Committee which have made possible the smooth progress of deliberations on the Public Health and Municipal Services (Amendment) Bill 2001. After the passage of the Bill, we will commence our preparations for the setting up of the Closure Order (Immediate Hazard) Appeal Board and to make the related subsidiary legislation to facilitate the implementation of the new legislation.

The Bill will greatly enhance the capability of the Government to combat unlicensed food establishments and prevent food incidents, thereby further protecting public health. I also trust that most food premises can meet the statutory hygiene standards. If food premises continue to pay attention to sanitation, they will not be affected by the legislation as it comes into force. In the long run, the measures will boost public confidence in the catering industry in Hong Kong and bring more opportunities of development to the industry. I hope Honourable Members will support the passage of this Bill and the amendments which I will propose later. Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Public Health and Municipal Services (Amendment) Bill 2001 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Public Health and Municipal Services (Amendment) Bill 2001.

Council went into Committee.

Committee Stage

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

PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) BILL 2001

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Public Health and Municipal Services (Amendment) Bill 2001.

CLERK (in Cantonese): Clauses 5, 7 and 8.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 1 to 4 and 6.

SECRETARY FOR THE ENVIRONMENT AND FOOD (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 proposals in the amendments were scrutinized and supported by the Bills Committee. I would now briefly introduce the contents of the amendments. First, clarifying the criteria for defining "water from a polluted source". The Bills Committee was concerned that the definition of "immediate health hazards" in section 128A(3)(b) of the original Bill has not clearly defined the criteria for defining "water from a polluted source". Accordingly, we have proposed item (f)(ii) under the proposed amendment to clause 3 of the Bill, specifying in detail the objective standards for defining "water from polluted source", for instance, the data obtained by epidemiological research and information and data on contamination with either pathogens or chemical substances.

Second, clarifying the power of the Director of the Food and Environmental Hygiene Department (FEHD) to close food establishments. Some members were concerned that section 128B(1) proposed in the Bill might allow the Director to close some licensed food establishments operating under good hygiene conditions that sell certain restricted food without obtaining the requisite licences. In fact, the objective of section 128B(1) is to pinpoint at unlicensed food establishments. As to the concern expressed by some members of the Bills Committee, the FEHD will only take enforcement actions in accordance with the existing provisions of the Public Health and Municipal Services Ordinance against breach of the licensing conditions by the food establishments. To dispel members' worries, we have proposed item (i) under the proposed amendment to clause 3 to add new section 128B(1A) to state clearly that section 128B(1) does not apply on licensed food establishments selling restricted food without the requisite licences or permissions.

Third, notice on the intent to apply for a closure order. Under sections 128B and 128C proposed in the Bill, the closure orders issued by the Court according to the relevant provisions come into effect after being affixed on the premises concerned. Members think that the owners of the premises should have to right to know that their properties will be or are subject to the closure orders. We agreed to this point and have proposed items (j) and (q) under the proposed amendment to clause 3 to amend sections 128B(2)(a) and 128C(3), specifying that the authorities should also issue notices to the owners of the properties concerned.

Fourth, concerning whether the premises subject to closure orders can still be inhabited, according to sections 128B(4) and 128C(2) proposed in the Bill, with the exception of employees, guards and caretakers, the closure orders should not stop people who have been living there from continuing to live there. The original intention of prohibiting the three types of people above from living in the premises is to prevent individuals from passing off as guards or caretakers and continuing operation on the premises. Yet, some members thought that it was not very likely for the above situation to arise. So, when the authorities apply for or issue closure orders, it should allow guards or caretakers using the premises as their only residence to stay there. We accepted the proposal of members and agreed to amend the relevant provisions. We have proposed items (k)(ii) and (p)(ii) under the proposed amendment to clause 3 to allow people living on the premises on the date of issuance of the closure order by the authorities to continue to live there.

Fifth, a new appeal mechanism. At meetings of the Bills Committee, members remarked that the Court might have to take a long time to handle an appeal case related to a closure order issued by the Director on the grounds of immediate health hazard. Members asked us to consider establishing an expeditious and simple mechanism to handle these appeal cases. We understood members' concern and agreed to set up a statutory Appeal Board to hear such appeals. We have proposed item (ze) under the proposed amendment to clause 3 to add new section 128D to specify the composition of the Appeal Board, and its terms of reference and operation.

I wish to briefly explain the organization and operation of the proposed Appeal Board.

Firstly, the Board will comprise a Chairman, two Deputy Chairmen and a panel of not less than 18 persons appointed by the Chief Executive. We propose that suitable members should be chosen from among people of different background and trades, including those from the catering industry, the medical sector, professional and academic bodies as well as the representatives of district organizations. The Chairman and Deputy Chairmen should be qualified for appointment as District Judges.

Secondly, to facilitate the expeditious conduct of hearings, the quorum of a meeting of the Appeal Board will comprise the Chairman, a Deputy Chairman and two members. The Chairman, a Deputy Chairman and members shall be selected in rotation to perform the functions. As initially estimated, a hearing

can be held within 10 days after the clerk of the Appeal Board has received a notice of appeal.

Thirdly, after consultation with the Secretary, the Chairman will make rules and work out the procedures regulating the Appeal Board. The rules so made are subsidiary legislation.

Fourthly, if the appellant is dissatisfied with the decision of the Appeal Board, he can file an appeal with the Court of First Instance again and the decision of the Court of First Instance will be final.

After adding a new provision for the establishment of an Appeal Board, appropriate technical amendments have to be made to other clauses of the Bill. For example, item (c) under the proposed amendment to clause 1 adds a provision on the authority to appoint the date on which the legislation shall come into operation. Hence, we will have time to identify and appoint members of the Appeal Board. Amendments are also necessary to the original section 128C and Table 1 related to appeal.

The remaining amendments are mainly technical amendments and refinements of wordings to make the provisions more consistent and explicit. The relevant amendments have been set out in the paper circularized to members. The above amendments were scrutinized and supported by the Bills Committee.

Thank you, Madam Chairman.

Proposed amendments

Clause 1 (see Annex IV)

Clause 2 (see Annex IV)

Clause 3 (see Annex IV)

Clause 4 (see Annex IV)

Clause 6 (see Annex IV)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 1 to 4 and 6 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bill

PRESIDENT (in Cantonese): Bill: Third Reading.

PUBLIC HEALTH AND MUNICIPAL SERVICES (AMENDMENT) BILL 2001

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

Public Health and Municipal Services (Amendment) Bill 2001

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 Public Health and Municipal Services (Amendment) Bill 2001 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Public Health and Municipal Services (Amendment) Bill 2001.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Two motions with no legislative effect. I have accepted the recommendations of the House Committee as to the time limits on speeches for the motion debates. Since Members are already very familiar with the relevant time limits, I shall not repeat them here. I only wish to remind Members that I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: Scheme of Control Agreement.

SCHEME OF CONTROL AGREEMENT

MR FRED LI (in Cantonese): Madam President, with effect from 1 January this year, the Hongkong Electric Company Limited (HEC) raised its power tariff by an average rate of 5.3%. The company has been reaping huge profits over the past years. The records show that for 22 years, that is, since 1979, the company has been able to earn the maximum rate of return of 13.5% as provided in the Scheme of Control Agreement (SCA).

As for the CLP Power Hong Kong Limited (CLP Power), despite its giving of a one-off rebate of \$220 this year to its customers from the tariff it has charged, and that it has revised downwards the fuel clause charge by 0.3 cent, the CLP Power also earns the maximum rate of return under the SCA. The rebate is given to customers only because the company has over-charged the power tariff in the past.

The exorbitant power tariffs in Hong Kong has always a subject of criticism. As far as I know, one of the major reasons for the recent withdrawal of most of the production lines of the second largest semiconductor manufacturer in the world, Motorola, from Hong Kong and causing 800 workers to become jobless, is the company's view that the power tariff in Hong Kong is too expensive. Mr TAM Chung-ding, the Managing Director of the Asia-Pacific Region of Motorola, said that the electricity supply market in Hong Kong has been monopolized and the tariff increasing all the time, and so the cost for the

company has been increasing. He is not optimistic about the Government's attempt to encourage foreign investors to come to Hong Kong to make investments. He is of the opinion that the exorbitant power tariff in Hong Kong makes it difficult to attract foreign investments.

As the power tariff in Hong Kong is so expensive and as the two power companies are making such huge profits, then why do these two power companies not reduce their tariffs? The HEC always says that it is not making enough profits and tries to raise the tariff. Some days ago, the Government let out some news and some informed sources said that over the next few years the HEC would continue to increase its tariff. Is this a reasonable move to take?

The Government stresses that in accordance with the principles laid down in the SCA, the Government is unable to change the level of return at will. However, I would like to remind the Government here that the permitted rate of 13.5% as provided in the SCA is the upper limit. That does not mean that the two power companies are guaranteed an annual return of 13.5% of its net fixed assets.

As to the reasons for the making of the SCA, we can see that it is because in the 1950s the public was not satisfied with the service of the two power companies and the tariff rates, and so the Government proposed that power supply be regulated. An independent commission of inquiry appointed by the Government suggested that the Government should acquire the two power companies. At that time, the Chairman of the then China Light and Power Company Limited, Mr KADOORIE, made a counter-proposal to the Government that a profit control scheme should be adopted to replace the recommendation made by the independent commission of inquiry. Mr KADOORIE stated at that time that the aim of the scheme was to ensure that the shareholders of the power companies would be given a fair rate of return and at the same time the interest of the public at large would also be given the maximum protection. The level of profit permitted under the scheme is not a guarantee of profit. The above information is cited from the annual report of the then China Light and Power Company Limited in 1964.

However, the stand of the Government all along is that, under the SCA, if the two power companies seek to earn the maximum rate of permitted return, there is nothing the Government can do. Moreover, the Government stresses that the development fund of the HEC has dropped to a very low level, therefore the HEC cannot rely on the fund to mitigate the pressure for increases in tariff.

However, as I have pointed out earlier, the permitted level of return has never meant a guarantee of profit. Thus, the Government has the right to require the two power companies to adjust and reduce their power tariffs in accordance with the economic conditions and the profits recorded. There were precedents in which the Government rejected the application made by a bus company to raise the fares or reduced the rate of fare increase proposed so that the company cannot reach the cap of its permitted rate of return. Despite the fact that bus companies are subject to this kind of regulation, the power companies are not.

At present, the CLP Power's development fund has more than \$2 billion and it is perfectly capable of lowering its tariff, instead of just giving a one-off rebate of \$220. A reduction in tariff will give long-term concession to the users and it will benefit those users which consume a large amount of electricity such as the small and medium enterprises and the catering industry.

As regards the HEC, it has all along been reaping huge profits but it has raised the tariffs as something taken for granted. The Government should be held responsible for this.

In 2000, sales of electricity by the HEC were 9 992 million kWh, and that is 36.5% of the sales of electricity by the CLP Power in the same year. However, the net fixed assets of the HEC was \$41.6 billion, or 71% of the net fixed assets of the CLP Power.

Honourable Members are aware that the greater the net fixed assets, the greater will be the permitted returns. The permitted return of the HEC in 2000 was \$5.846 billion, whereas that of the CLP Power in the same year was \$8.384 billion.

Why is the cost of sales of electricity by the HEC much higher than that of the CLP Power? What has gone wrong in the Government's supervision?

The Scheme of Control was introduced in 1964 and has been in use ever since. The permitted rate of return of 13.5% has remained unchanged throughout the years. More than 30 years ago, the Government in a bid to encourage investment, made the amount of investment as the basis to determine tariffs; that is understandable. However, times have changed and is that arrangement still compatible with the times? In fact, the net fixed assets of the two power companies have been expanding continuously all the time, so have

been their returns and the tariffs charged. The permitted return of 13.5% at this time of low interest rates has served to push up the profits of the two power companies and that is not reasonable. Some newspapers report that over the past five years, the prices of clothing, meals and accommodation have fallen, but the prices for such utilities services as water and power and fuels have not gone down.

Electricity is a basic necessity of the public, but there is inadequate supervision on the part of the Government. So the public has to pay expensive tariffs to the syndicates year after year. With regard to another basic necessity of the public, that is, water, the Government has also made a mess of the whole thing. A lot of precious potable water has been drained to the sea. Incompetence is shown in both the Government's handling of water and electricity supply and unfortunately, the public will have to bear the consequences.

The Democratic Party is moving the motion in the hope that the Government can endeavour to strive for public interest and when an interim review is conducted in respect of the two power companies next year, a more reasonable rate of return can be determined.

In the meantime, I hope that the Government can release the findings of its study on power interconnection as soon as possible and to expeditiously effect interconnection. The Electrical and Mechanical Services Department did some calculations in 1997 and came up with the result that only an investment of \$468 million to build more transmission cables would enable the two power companies to transmit electricity to each other on a regular basis. However, the Government has been stressing the difficulties of interconnection, showing no determination to go ahead with it. In fact, the proportion of reserves in power generation takes up a large share of the capacity of the two power companies, and if there is interconnection between the two companies and co-operation can be forged between them, the cost of power generation can be lowered. That will be beneficial to the public and all trades and industries. But the Government has been dragging its feet on that issue and it has even given approval to the HEC to build a power generation plant on Lamma Island. The result is that the users of the HEC will have to face possible hikes in tariff. We are disappointed with this state of affairs.

The two power companies have in fact made some kind of power interconnection at present, but that is only confined to power supply for

emergency and back-up purposes. We believe that technical difficulties regarding an increase in transmission between the two power companies can be overcome. The key lies in a decision by the Government. The Democratic Party thinks that an increase in the transmission capacity of the two power companies may make the HEC defer the Lamma Power Station extension project, thereby reducing the financial burden on HEC users.

There are still more than six years to 2008 and we hope that the Government can make more preparations for the opening up of the electricity market when the Scheme of Control expires in 2008. We hope the Government can understand that with suitable competition, both the public and all trades and industries can benefit. Mr TAM Chung-ding, the Managing Director of the Asia-Pacific Region of Motorola, pointed out from the perspective of an investor that the electricity supply market in Hong Kong was monopolized and the tariff has been increasing all the time. I hope the Government can face this issue squarely and make preparations properly. For if not, the pretext of technical problems may be used again and the issue will drag on.

Madam President, doing business has always involved risk. It is an exception that in Hong Kong, no risk is involved in the sale of electricity. On the contrary, power companies may be assured of profits and the return is not just a matter of a few percentage points, but as much as 13.5% to 15%. Is this fair or reasonable?

In 1998, that is, about three years ago, I moved a similar motion to ask the Government to fully implement a policy of opening up the electricity supply market, to expand the interconnection between the two power companies, to ensure a reasonable return and protect consumer interest. The motion was passed at that time, but more than two years have lapsed and now unfortunately I have to move this motion again today. It is because the power tariff paid by the public has not gone down. The problem is still there. I hope that the Government can listen to the opinions expressed by Members of this Council again.

Later Dr the Honourable YEUNG Sum will talk about the problems related to the HEC and he will air the grievances of customers on Hong Kong Island. The Honourable Andrew CHENG will make a report on the Scheme of Control and a survey conducted by us.

Madam President, I beg to move.

Mr Fred LI moved the following motion: (Translation)

"That, regardless of the sustained economic recession in Hong Kong, the two power companies have been reaping, year after year, huge profits equivalent to the maximum permissible returns under the Scheme of Control Agreement, and fail to share the public's hardship, this Council urges the Government to strive for a more reasonable rate of return when it conducts the interim review in 2003, expeditiously announce the findings of the study on power interconnection, and to prepare, as early as possible, for the opening up of the electricity supply market in the future."

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

PRESIDENT (in Cantonese): Mr James TIEN will move an amendment to this motion. Mr LAU Chin-shek will move an amendment to Mr James TIEN's amendment. The two amendments have been printed on the Agenda. The motion, the amendment, and the amendment to the amendment will be debated together in a joint debate.

PRESIDENT (in Cantonese): I will call upon Mr James TIEN to speak and move his amendment to the motion. Then, I will call upon Mr LAU Chin-shek to move his amendment to Mr James TIEN's amendment. Members may then debate the motion and the amendments. After Members have spoken, I will first put Mr LAU Chin-shek's amendment to Mr James TIEN's amendment to the vote. Then, depending on the result of the vote, I will put Mr James TIEN's amendment, either in the original form or in the amended form, to the vote.

I now call upon Mr James TIEN to speak and move his amendment.

MR JAMES TIEN (in Cantonese): Madam President, I move that Mr Fred LI's motion be amended, as printed on the Agenda.

Madam President, as Mr Fred LI has said earlier, the CLP Power and the HEC have signed a Scheme of Control Agreement (SCA) respectively in 1964

and 1979. I agree with what Mr Fred LI has said, that the original intent was to set a profit ceiling. But as a matter of fact, after all these years, the profit ceiling of the two power companies has become a profit guarantee. That is a result of the contract which the two companies have entered into. The most important point behind the amendment proposed by the Liberal Party to the original motion is to uphold the spirit of contract. How can a contract be interpreted? The two power companies are of the view that the profit ceiling should be taken to mean the profits they can earn and that have now become a guarantee of profit. If the Government also shares this view, the Liberal Party thinks then that there is not much we or the Government can do in the next few years. It is because we think that upholding the spirit of contract is very important. Hong Kong is an international city, and given that we hope both foreign and local investors will invest in Hong Kong, then the message that contracts signed by the Government are upheld must be sent home clearly to overseas investors.

Looking at the profits earned by the two power companies, one may think that the 13.5% return is very impressive. But as we look back more than a decade ago, that is, in the 1980s, most of the buyers of the shares of these two power companies were the retirement funds. Most other investors would think that the companies were too conservative, especially the profits they made could not match with the real estate shares at that time which could make a profit of two dollars out of a share price of one. However, the times have changed, and the real estate and hi-tech shares are no longer making profits. Or one may say that since these companies are not making any profits so their shares are unable to make any profits. Therefore, it seems that the utilities shares are making a lot of profits. We should bear in mind that many of the retired people invest in the utilities stocks because the utilities are conservative and that they can earn a certain amount of profit. That is why these investors think that they can sustain their living by getting some regular income from the bonus shares paid out every year. I think that is a point we have to note.

As for the issue of power interconnection raised by Mr Fred LI, that is something which the Liberal Party agrees with. For many years we have suggested to the Government to encourage the two power companies to do so. We understand that there are great technical difficulties involved. However, the greatest reason for this is that the respective rate of return of the two power companies is determined by their net fixed assets. If the terms and conditions remain unchanged, then the power companies are well justified to increase their assets as much as possible in order to reap a greater return. That is to say, to

reach the so-called profit ceiling. The two power companies do not have any special grounds to proceed with interconnection. The reason advanced for interconnection is roughly because one power company is producing excessive power and the other is not producing enough of it. It sounds that the better-off company is helping the worse-off company. Madam President, what I mean by better-off and worse-off is in terms of the management and the estimated power consumption of the companies. For so many years, why is the power generated by the CLP Power so much in excess? The main reason is that there was a great mistake in the estimations made by the CLP Power in the 1990s on the sales of electricity to industrial users, especially in the power consumption in Kowloon and the New Territories. Due to a number of reasons, it is no longer feasible to set up industries in Kowloon and so the demand for electricity there has greatly reduced. But the CLP Power has been making investments and increasing its fixed assets. That has led to an excess in power generation. On the other hand, due to less industrial developments on Hong Kong Island, the HEC has not made such projections. So in contrast, the amount of power generated by the HEC is less. Under the present circumstances, the HEC may think that power interconnection is unfair. As Mr Fred LI has pointed out, power interconnection may just need a capital outlay of about \$400 million. But the Government does not proceed with the idea, for the HEC is not enthusiastic about it.

Madam President, another amendment I wish to make is, apart from the idea of "a more reasonable rate of return" mentioned by Mr Fred LI, I have added the words "and other terms". I think the full-scale review to be conducted should not just centre around the issue of whether the Scheme of Control should be allowed to exist after 2003 or that the rate of return should be maintained. I think other terms are also important. I hope the Government can give more thoughts to that. It is because looking at overseas experience in reforming the electricity supply market, the introduction of so much competition have in most cases only served to break down power supply into four different segments, that is, power generation, system transmission, distribution and reception. It remains, of course, that these examples are not necessarily applicable to Hong Kong. But can we consider breaking up the business into four segments before studies are made on how to introduce competition? Admittedly, there are some inherent difficulties for Hong Kong to develop the power supply business, such as we do not have enough land, the problem of environmental protection, and so on. Even if power transmission is separated from the operation of the entire system, where can a power generation plant be

built? After the generation plant is built, there comes the problem of whether it complies with environmental protection requirements or not. All these are open to question. If the power generation plant is to be built outside the territory, for example, in Shenzhen, the problems would be more complicated. Would the project work? Is anyone willing to make the investment? What will the Government do when the new company asks for scheme of control protection?

In any case, I would like to give a little explanation on what we expect from the concept of a reasonable level of return or a fair and reasonable return when the interim review is conducted in 2003. We have no idea of what the global investment conditions in the years before 2008 will be. The present conditions are extremely bad. If we use the US dollar as the currency we use to make investments, it would be impossible to get a guaranteed return of 13.5% in any place in the world. The United States economy is bad, that of Europe is only so-so. And in Hong Kong, the economy is likewise disappointing. With the interest rate for bank deposits approaching zero, a rate of return as high as 13.5% is an impossibility. The so-called "more reasonable rate of return" is something which belongs to the distant future, for we cannot say in 2002 that a rate of return of 13.5% will be too great by then. Then would a 10% rate of return be considered reasonable, or an 8% or a 9% rate of return? I think the question can only be dealt with when we are close to the year 2008.

Our preliminary position on that is that a profit guarantee of such a long period as 15 years cannot be made at this stage. If such a profit guarantee scheme is to continue, then can a review be made every few years? Does the Government have any better suggestions? For example, can reference be made to the case of the telephone or telecommunications companies a few years ago to change the Scheme of Control model to that of using the CPI and deduce a certain percentage from it? It is because such a model is widely accepted in different economies over the world. We can also present our views when reviews are conducted after 2003. I think most of the Honourable Members here will still be in office after 2003. We will follow up this issue, and we will conduct the review together with the Government to see whether future power supply should continue to come under the Scheme of Control, if so, what the ceiling will be; and if not, what other approaches can be taken.

Madam President, as for the amendment proposed by the Honourable LAU Chin-shek, I am afraid the Liberal Party is unable to lend its support. Mr

LAU gave me an explanation earlier, but maybe I am not able to get his points. It appears he wants to uphold the spirit of contract and protect consumer interest, while also ensuring users are free from shouldering and guaranteeing absolutely the high profits of the power companies. Madam President, I think the present rate of return of 13.5% is quite high, but that is provided in the contract. If we want to uphold the spirit of contract while asking the two power companies not to earn huge profits, I think the Government will find it very hard to meet such demands. Therefore, the Liberal Party does not support this amendment proposed by Mr LAU. I hope other Honourable colleagues will support my amendment, for Mr Fred LI said earlier on that he could support my amendment. Thank you, Madam President.

Mr James TIEN moved the following amendment: (Translation)

"To delete "regardless of the sustained economic recession in Hong Kong, the two power companies have been reaping, year after year, huge profits equivalent to the maximum permissible returns under the Scheme of Control Agreement, and fail to share the public's hardship," and substitute with "in order to improve Hong Kong's business environment and alleviate people's burden,"; to add ", subject to the principle of upholding the spirit of contract," after "the Government to strive"; to delete "a" before "more reasonable" and substitute with "fairer and"; to delete "rate" and substitute with "rates"; to add "and other terms" after "of return"; to add "in 2003" after "when it conducts"; to add "on the Scheme of Control Agreements signed with the two power companies," after "the interim review"; and to delete "in 2003," before "expeditiously announce"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr James TIEN to Mr Fred LI's motion, be passed.

PRESIDENT (in Cantonese): I now call upon Mr LAU Chin-shek to speak and move his amendment to Mr James TIEN's amendment.

MR LAU CHIN-SHEK (in Cantonese): Madam President, I move that the Honourable James TIEN's amendment be amended, as printed on the Agenda. I seek to amend Mr TIEN's amendment because while upholding the spirit of

contract, emphasis should be laid on the importance of protecting consumer interest. In a word, if Mr TIEN does not support my amendment, then we will have to continue to pay expensive electricity tariffs.

Madam President, feelings swelled in my mind as I consider the motion topic today. I recall more than a decade ago, I moved my first motion in this Chamber and it was related to the Scheme of Control. It is because at that time the Government was negotiating with the two power companies on extending the Scheme of Control Agreement (SCA). I therefore moved a motion to urge the Government to consult the then Legislative Council and the public while negotiating an extension of the SCA with the utilities companies. However, on the day before the debate was held, the then Executive Council passed a decision to extend the SCA for 15 years with the then China Light and Power Company Limited. Then the Government also decided to extend the SCA for 15 years with the Hongkong Electric Company Limited (HEC) on similar terms and conditions. That made the users of the two power companies face the adverse impact of the Scheme of Control even to this day.

Earlier, the eight parties of the Legislative Council reached a consensus to urge the Government and the utility companies to reduce their tariffs or to offer concessions at this time of an economic downturn. Many public utilities have made positive responses, with the only exception of the HEC. Not only has it refused to offer concessions, but that it has gone against the trend and public opinion and proposed to raise the tariffs. I take great regrets to note this.

The root of the problem is that the Scheme of Control has become a *de facto* profit guarantee and as long as the two power companies continue to increase their assets, they will be able to reap huge profits. The pockets of the public will become cash dispensing machines for these companies. Despite the service quality of the two power companies has been subject to constant criticisms, despite development plans have gone wrong and caused assets to inflate unreasonably, despite the power companies have done nothing to reasonably control costs, despite the economy has gone from bad to worse and the people are finding it hard to get by, users have to shoulder and guarantee absolutely the high profits of the power companies year in and year out. May I ask if this supervision system is fair and sensible?

Many people think that the permitted return of the power companies is 13.5% of net fixed assets. But apart from that, the permitted return also includes about 1.5% of the average net fixed assets acquired from shareholders'

investment. So the rate of return is almost equal to 15% of the net fixed assets. If the return of the power companies is calculated on basis of the amount of shareholders' investment, then the return of the HEC is close to 18% and that of the CLP Power is even more than 20%. Under the present economic circumstances, I am sure no company can make profits close to 20% annually, subject to an absolute guarantee. It can thus be seen that the rate of return under the Scheme of Control is apparently and unreasonably high.

Over the past two years or so, the HEC has either directly or indirectly raised its tariffs three times. That has not only made HEC customers pay more in tariff, in the region of about 12%, but it has also widened the gap between the tariffs charged by the two power companies. People living on the south of the Victoria Harbour have to pay close to 20% more electricity tariff than those living on the north. This is extremely unfair to the customers of the HEC. On the question of electricity tariffs, in the wake of the Asian financial turmoil in 1997, the tariffs charged by the two power companies in Hong Kong are among the more expensive ones in the Asia, and they are more expensive than the other three little dragons, that is, Singapore, South Korea and Taiwan, among the Four Little Dragons of Asia. Moreover, as the currencies of the other Asian countries and places have devaluated in recent years, the electricity tariff in Hong Kong has become more expensive than the other Asian countries and places. At present, the exorbitant electricity tariff in Hong Kong has not only added to the financial burden of the commercial and industrial enterprises, but also undermined the competitiveness of Hong Kong in the region. This shows that the level of electricity tariff in Hong Kong is extremely unreasonable.

The HEC always points out that electricity tariffs only take up a very small proportion of household expenses. But one must bear in mind that while the public can choose other products, but not in power consumption. If the power companies neglect the rights of the consumers, then the consumers can only find themselves at the mercy of the power companies.

As to the tariffs of the power companies, I think the fundamental solution lies in interconnection. In the year 2003, the task to be done is to strive for a reasonable rate of return. I therefore ask the Government to lower the guaranteed profits down to say, 5% or 6%. Then the actual permitted returns for the CLP Power and the HEC can be adjusted every year by taking into

account factors like the prevailing economic conditions, the affordability of the users, and the quality of service provided by the power companies, such as whether power failures have occurred, and so on. If the power companies have performed well, they can even be given some kind of reward. In a word, the users must not be made to shoulder and guarantee absolutely the high profits of the power companies. In addition, owing to the economic slowdown and the reduction in power consumption, the Government should make a review of HEC's plan to construct new power generation units on Lamma Island and even postpone it. The expenses thus saved as a result of the absence of any immediate need to carry out reclamation and invest in power plants should be deducted from the fixed assets used for the purpose of calculating profits. Full-scale power interconnection should be carried out to reduce the pressure for a tariff raise by the HEC and wastage in power resources.

I understand that any variation of the SCA before 2008 requires mutual consent between the Government and the power company concerned. If the power companies continue to disregard the interest of consumers and add to their burden at a time of financial hardship by raising the tariffs, I do not think the public will support such a move. The public will not allow the extension of any form of profit guarantee which the Government will work out with the power companies, nor will the public support the approval of any new development plans of the power companies by the Government.

With these remarks, Madam President, I move my amendment. Thank you.

Mr LAU Chin-shek moved the following amendment to Mr James TIEN's amendment: (Translation)

"To delete "principle" and substitute with "principles"; and to add "protecting consumers' interests, ensuring that users are free from shouldering and guaranteeing absolutely the high profits of the power companies, and keeping the public informed of the timetable for the opening up of the electricity supply market," after "upholding the spirit of contract,"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr LAU Chin-shek to Mr James TIEN's amendment, be passed.

MR NG LEUNG-SING: Madam President, Hong Kong people suffer a lot from the current economic downturn, and so does the business community. Many companies are faced with profit decline and have to reduce the size of business in order to survive in this tough period. Yet despite the prolonged economic contraction and deflation, it is disturbing to see that the costs in doing business here continue to stand high, and one of them comes from our electricity bills. Under the Government's Scheme of Control Agreements (SCAs), the local power companies enjoy a much more stable return of investment, which in effect loads a stable and heavy burden upon ordinary people as well as businessmen. In the long run, if the local electricity market cannot operate with more competition and cost-effectiveness, the future development of the Hong Kong economy as a whole will seriously be affected. It is, therefore, quite understandable that the issue has long dominated this Council's concern.

It should, however, be fully recognized that, whatever we wish, the market of electricity supply here in Hong Kong is currently still governed by the SCAs, which are legally enforceable and which provide for the power companies' permitted returns. Notwithstanding the two interim reviews, no variation to the terms of the SCAs can be made without the consent of the power companies. The Honourable LAU Chin-shek's amendment to the Honourable James TIEN'S amendment asks the Government to ensure that users are free from shouldering and guaranteeing absolutely the high profits of the power companies. If what is meant by this amendment is to ensure that the terms relating to the permitted returns are altered in a way that is more favourable to the public, then it is clearly inappropriate and unrealistic. In a society that fully respects the spirit of contract, what the Government can do is to use its best endeavour to strive for a good bargain, but it can never ensure anything like this.

In the last review, the Government has conducted constructive negotiations with the two power companies and the outcome was encouraging. One of the achievements in that review was that the parties agreed to alter the formula for permitted returns. Part of the machinery investment would not be included for calculation if it brings about excess capacity. In the coming review, this Council and Hong Kong people will expect the Government to continue with its effort, and the power companies to be more considerate in their response, thereby paving the way for possible consensus on a more reasonable rate of return. But no one should be surprised if it turns out that the variation to the terms in the SCAs, if any, is minor in nature and generally within the framework of the current Scheme of Control.

By contrast, it is more important to tackle the issue of market liberalization after 2008 when the current SCAs come to an end. Many views have been expressed, such as to enhance the power interconnection, introduce power supply from the Mainland, and so on. All these are valid considerations for future energy policies. Meanwhile, we must not forget the importance of ensuring sufficient and stable power supply that is able to meet the demand of future economic development. It is also vital that the market should open up in a balanced manner so as to provide room for small-sized participants and encourage healthy market competition. In determining the way forward, we must take full caution and should not jump to any conclusion just based upon factors relating to short-term economic cycling.

Madam President, I so submit.

MR KENNETH TING (in Cantonese): Madam President, I would like to say a few words on the industrial sector's opinions on this motion. We must constantly enhance Hong Kong's competitiveness in order to alleviate its economic difficulties. The efficiency of public facilities plays a key role in terms of our overall competitive edge. The commercial and industrial sectors, and even the entire population, must pay electricity tariffs. Excessively high tariffs will obviously undermine the competitiveness of the territory.

In Hong Kong, more than 70% of the electricity is consumed by the commercial and industrial sectors. The Federation of Hong Kong Industries is therefore very much concerned about the levels of tariffs. In particular, even though Hong Kong economy continues to remain in the doldrums, the monthly tariffs of certain high users, such as machinery manufactories, chemical plants, and so on, may account for more than 20% of their operating costs. The tariffs payable by several spinning mills are as high as 30% of their costs. The ratio between electricity tariffs and costs will certainly rise subsequent to the introduction of more automated machinery. A number of factory owners have already relocated their factories to the Mainland because electricity tariffs are cheaper there.

Some small and medium enterprises with low electricity consumption are also suffering badly from high tariffs. Even though their income continues to drop because of the economic downturn, their electricity tariffs continue to rise year after year. Insofar as operating costs are concerned, while other costs may

possibly be cut, there is basically no room for further savings in electricity tariffs. It can therefore be said that "while the road ahead is blocked, someone is chasing behind".

More importantly, in times of economic downturn and deflation, many companies must spare no efforts to cut costs, downsize, reduce prices and scramble for customers. There will only be less and less room for price reductions in the industrial and commercial sectors if the costs of tariffs remain at such a high level. Eventually, the companies might be forced to make sacrifices in order to survive.

The competitiveness of our neighbouring regions have become increasingly strong after lowering their exchange rates in the wake of the financial turmoil. However, its peg with US dollar has made it impossible for Hong Kong to alter its exchange rate. The resultant high costs have thus greatly undermined the competitiveness of Hong Kong products. If we calculate on the basis of the tariffs charged in January 1998, the then China Light and Power Company Limited charged high users at a rate of 65 cents per kWh (the present rate is even much higher), which was higher than our major rivals including South Korea, Taiwan and Singapore, and much higher than Indonesia, Thailand and the Philippines. The tariffs levied on comparable users by the HEC, amounting to 83 cents per kWh, was even higher than electricity tariffs levied in Japan.

Despite the fact that the tariff levels of the HEC were already higher than those of the CLP Power, the HEC has since 2000 raised its tariffs for three consecutive years. According to informed sources, there will possibly be another tariff rise next year. While there might be plenty of reasons to raise tariffs, a further rise in tariffs will undoubtedly aggravate the burden on the business sector and the public, particularly when Hong Kong economy has been performing terribly bad in the past few years.

In the final analysis, exorbitant electricity tariffs in Hong Kong can be attributed to the inflexible provisions of the SCA. Moreover, the Government has failed to monitor the issue of excessive power reserves of the two power companies and delayed completing the study on power interconnection. As a result, electricity tariffs continue to rise. The burden of the commercial and industrial sectors will only become increasingly serious since the Government is apparently at its wits end at the moment.

Actually, it is essential for the power companies to submit their financial plans to the Government on a regular basis and for the Government to guard its gate seriously. Under the prerequisite of upholding the spirit of contract, I hope the Government can strive for better terms to benefit the commercial and industrial sectors and the public when conducting the interim review on the SCA with the two power companies.

Madam President, I so submit.

MR ABRAHAM SHEK: Madam President, under the two separate Scheme of Control Agreements (SCAs), the CLP Power Hong Kong Limited (CLP Power) and the Hongkong Electric Company Limited (HEC) have done an excellent job in the past few decades. Together, they provide Hong Kong with a reliable and efficient supply of electricity at an affordable price and must remain at such a level.

The two companies' success relies on their ability to operate under commercial principles with local and international financing. Independence of operation is also guaranteed by the SCAs, which provide a stable framework to encourage investment while ensuring stable electricity supply.

Some politicians have repeatedly urged for an early abolition of the SCAs and to open up the electricity supply market. I agree that deregulation and introduction of competition are a global trend. But opening up the electricity market abruptly will bring more harm than good to consumers. The existing SCAs ensure reliable power supply in Hong Kong. The Government should not modify or scrap the SCAs under political or public pressure.

Reliability of electricity supply is vital to Hong Kong's interests and its growth. Any major changes to the present transmission system, regulatory scheme or market structure may affect the maintenance of stable power supply. As we are still not sure about the possible impact of increased competition and opening up of market on power supply stability, the Government should give the matter serious consideration before taking any drastic actions.

Madam President, the SCAs are legal contracts. Investors of the two power companies are watching carefully if the Government of the Hong Kong

Special Administrative Region will continue to honour these contracts. If the Government chooses not to fulfill its obligations, the consequences would be fatal. It would convey a negative signal to the international community that the Government is prepared to succumb to political pressure and interfere in the market. Investors' confidence would be shattered. If our Government does not respect contracts, how could we attract investors in the future?

It is important that Hong Kong maintains its competitiveness for foreign investment which is shrinking in size in the current economic downturn. While our competitors in Singapore and even in China are competing to offer incentives to investors, we should never go the other way by weakening our competitive power and driving our investors away. In this regard, I urge the Government to abide by the agreements that it has reached with the two power companies. Any proposed changes to the agreements should be discussed with and agreed by the two companies.

The two power companies enjoy a rate of permitted returns at 13.5% of their average net fixed assets. In the prevailing economic climate, some members in our community regard the permitted returns as a too generous package. But we must not forget that power supply business is an investment with long-term payback periods. The permitted returns arrangement attracts further investment and encourages the utilities to invest in new equipment. The requirement under the SCAs to seek prior consent from the Government before making any investment prevents the two power companies from seeking excessive expansion. In my view, the agreements are successful in striking a balance between the utilities' interests as independently managed units and the public interests.

The idea of interconnection is new to Hong Kong. It will create a major change to the existing transmission system and may affect maintenance of power supply stability. A consultancy study commissioned by the Government already points out that there are some logistical and timing constraints. The economic benefits for Hong Kong would be limited. It also takes time for the three parties — the Government and the two power companies — to devise and agree on a co-ordinating mechanism and permitted reserve capacity that each power company should have as a reliability safeguard against transmission problems. Before the Government can address these constraints, interconnection should not be introduced in a rush.

Madam President, with the CLP Power supplying electricity to 5 million inhabitants and the HEC serving over 500 000 business and residential accounts, reliability should be the prime concern in discussing any changes to the existing power supply policy. With these words, I support the original motion and the Honourable James TIEN's amendment.

Thank you, Madam President.

MR ANDREW CHENG (in Cantonese): Madam President, what if we ask this question: What sort of business in this world is risk-free and stands a good chance of making big money? The answer will definitely be: To be an electricity supplier in Hong Kong.

One merit of operating an electricity supply business in Hong Kong is that there is no risk because electricity supply in Hong Kong is almost a monopoly. People living in Kowloon and the New Territories must "patronize" the CLP Power and those on Hong Kong Island and Lamma Island must "patronize" the HEC. Besides being free of risks, the electricity business makes guaranteed returns as well. According to a 15-year SCA separately signed with the Government, the two power companies may reap a profit return equivalent to 13.5% of their fixed assets.

Free of risks and high returns can thus be said to be the special features of electricity supply in Hong Kong. The Government and the two power companies have always stressed the importance of the spirit of contract. Before the expiry of the SCA in 2008, consent must be sought from the two power companies before the rules of the game can be varied or else everything must remain as usual. While we agree even if the suppliers insist on raising tariffs at this time when electricity tariffs remain high, we cannot say that the rules have been violated. However, the proposed tariff increases are definitely not reasonable and inconsistent with the sentiment of the public.

The Democratic Party successfully interviewed 638 people between 14 January and 18 January this year. According to the findings of the interview, 59.7% of the respondents considered the current return level of 13.5% exceedingly high. Only 18.5% considered it reasonable or exceedingly low.

At the same time, the majority of the public are dissatisfied with the fact that the two power companies keep on making a profit equal to the maximum permitted return of 13.5% year after year. 76.3% of respondents feel that the two companies should lower their returns in the light of Hong Kong economy, whereas only 12.2% consider the returns reasonable.

Meanwhile, most HEC customers are dissatisfied with the fact that the HEC charges higher tariffs than the CLP Power. On the other hand, most CLP Power users find the actual usefulness of the one-off rebate of \$220 offered by the CLP Power and the reduction of fuel charges by 0.3 cent insignificant. What they hope for is a practical reduction in basic tariffs.

Madam President, although electricity tariffs are exorbitant in Hong Kong, the general public have no alternatives but to tolerate the high tariffs reluctantly. We have all along been criticizing the existing Scheme of Control for failing to effectively safeguard the interests of the users. As a result of the exceedingly high levels of permissible returns, the Scheme of Control has effectively turned into a profit guarantee scheme for the two power companies, enabling them to reap huge profits no matter how the economic situation is. Furthermore, under the existing Scheme of Control, the two power companies are allowed to reap maximum profit returns equal to 13.5% of their fixed assets. As a result, they have been able to keep on expanding their fixed assets to ensure substantial profits year after year. Over the past decade, their fixed assets have been inflating sharply, subject to no limitations.

We also doubt whether the reserve capacity of the two power companies is too high. In 2000, the installed capacity of the CLP Power was 8 263 MW, which was in excess of the maximum demand of 5 598 MW by more than 3 000 MW. The installed capacity of the HEC was 3 305 MW, as opposed to its maximum demand of 2 417 MW. This means that both power companies had an excessive reserve capacity of more than 25%, with the CLP Power exceeding the reserve capacity by 30%, which is relatively high compared to many places in the world. Given the fact that many hospitals, large utilities and institutions, such as the Hong Kong Monetary Authority, are already equipped with their own backup electricity-generating facilities, is it really necessary for the two power companies to ensure such a large supply of backup electricity, which has led to an increasing burden on consumers?

Madam President, although the Scheme of Control has been in place for more than three decades, is the arrangement of pegging the profits of the two power companies to their fixed assets still a measure appropriate to the times? At present, the profit control arrangement governing bus companies has already been abolished. In the short term, we hope that the Government can strive to repeal the unfavourable provisions of the SCA and lower the permitted rates of return to a reasonable level when conducting the mid-term review next year.

We hope power interconnection can be expanded in the long run. If the CLP Power, reportedly interconnected with Guangdong Province, expands its interconnection network to cover the HEC as well, power supply in Guangdong might be affected in the event of network failure of the CLP Power or the HEC. In spite of this, we still hope the Government can address this problem with a proactive attitude, rather than admitting defeat right at the very beginning. By way of interconnection, power suppliers can actually render support to the one experiencing failure by ensuring a continuous supply of electricity. We believe expanding power interconnection can help both places to reduce the costs of power generation and ultimately benefit the consumers.

Finally, we are extremely dissatisfied with the HEC's decision to raise tariffs despite its huge profits. We also feel that the Government has apparently failed to play its supervisory role effectively. If the Government does not want to be criticized for favouring large consortia and collaborating with businessmen, it must resolve the crisis expeditiously.

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

MR CHAN KAM-LAM (in Cantonese): Madam President, in order to give incentives to enterprises to build electricity facilities to engage in long-term investment and operation, and to ensure a high degree of stability in electricity supply, the Government signed the SCAs respectively with the two power companies to peg profits with fixed assets and set the levels of return. In our opinion, the decision made by the Government at that time is acceptable and understandable. We can certainly not break the relevant agreements simply because of the changes in the economic situation. Otherwise, the credibility of Hong Kong will be bankrupt. Subsequently, the international community will lose faith in Hong Kong, and investors will leave Hong Kong with their capitals.

Hong Kong economy has been caught in the doldrums since the outbreak of the Asian financial turmoil in 1997, with the overall enterprise profits falling dramatically. Even the two major public utilities corporations, namely the Kowloon-Canton Railway Corporation and the MTR Corporation Limited, have been able to record single-digit returns only. In contrary, the CLP Power was still able to record in the previous year a profit of \$9.77 billion, \$1.386 billion more than its permitted return of \$8.384 billion, for its regulated business. Similarly, the HEC was able to reap in the previous year a net earning of \$6.006 billion, \$160 million more than its permitted return of \$5.846 billion, even though it was regulated by the SCA. We can thus see from these facts that, under the umbrella of the SCA, both power companies are guaranteed a double-digit return of 13.5%. This is entirely out of keeping with the overall economy, and the irrationality of the SCA is completely exposed too. No wonder there are widespread voices of dissatisfaction in the community and demands for variations to the SCA.

In the opinion of the Democratic Alliance for Betterment of Hong Kong (DAB), it is most unreasonable point about the SCA lies in assuring the power companies of a return equal to 13.5% of their size of investment. In order to maximize profits, the power companies continue to make endless efforts to expand their investment. The former government actually made a grave administrative mistake in the renewal of the SCAs with the two power companies in 1993 by failing to introduce substantial revision to this unreasonable provision. To make the matter worse, the government had failed to deter the power companies from overestimating power demands. As a result, huge investments were unnecessarily made to build generation plants and users were forced to pay enormous tariffs for no reason.

Under the current harsh economic situation, enterprises in general are compelled to explore every possible means to survive, whereas the general public is under the constant pressure of pay cut, benefit reductions and retrenchment. Only the two power companies are still able to record sizable earnings. The net profit of the regulated business of the HEC has continued to rise progressively year after year, from \$4.02 billion in 1997 to \$5.054 billion last year. In other words, there was an average growth of nearly 8% per annum. It has been a century or so since the two power companies started investing in

Hong Kong. Growing up with Hong Kong, they have contributed to the prosperity of the territory and, at the same time, grown increasingly strong through reaping big profits every year. It is only right that they should share the people's worries. In spite of its sizable profits, the HEC has insisted on raising tariffs substantially this year in defiance of the economic recession and strong opposition from the public and the community. This act of aggravating the burden of enterprises and the public for the sake of safeguarding the interests of shareholders is really disappointing. The profiteering behaviour of the two power companies will definitely arouse resentment from the general public too. The SCA will soon expire in 2008. When carrying out the interim review in 2003, the Government will definitely be pressurized by the public to change the unreasonable provisions in the SCA.

One important step to make preparations for the liberalization of the electricity market is to implement power interconnection into effect. We believe power interconnection is a complicated issue, and agree that comprehensive studies must be made before drawing any conclusions. Yet we question if it is really that difficult to make a feasibility assessment of power interconnection. It has taken the Government seven years since 1995 to conduct studies and yet the findings are still preliminary and explorative in nature. The Government is still unclear about the way forward for the electricity market in Hong Kong. We are aware that liberalizing electricity markets has become a general trend in the international community. Such countries as Britain, Australia, New Zealand, the Netherlands and Taiwan have successively implemented policies of opening up their electricity markets. As an international metropolis, Hong Kong has been making great efforts in striving to achieve a world-class standard. However, it has been unable to make any decision despite numerous discussions held and has been dragging its feet on the issue of liberalizing its electricity market. We hope the relevant authorities can understand that late publication of the study report on power interconnection will only impede the prospects of the electricity market and tarnish the international image of Hong Kong.

THE PRESIDENT'S DEPUTY, MRS SELINA CHOW, took the chair.

Madam Deputy, the DAB will vote in support of Mr TIEN's amendment as well as Mr LAU's amendment. However, Mr LAU should not be thinking too naively. He warned us of the possibility of paying high tariffs if the Liberal Party decided not to support him. I am afraid we will still have to pay high tariffs even if we support his amendment.

Madam Deputy, I so submit.

MR HUI CHEUNG-CHING (in Cantonese): Madam Deputy, earlier on, a motion was passed in this Council to urge public utility operators to lower their charges in a bid to weather the difficult time together with the public. As news of enterprise layoffs and wage reductions continued to pour in over the past few weeks, the unemployment rate of the territory has kept on rising and now reached 6.1%, with more than 200 000 people being thrown out of work. The general public is facing tremendous pressure in making their living. Despite the hardship generally felt by the community, the power companies, which have been making huge profits, have proposed to raise tariffs, thereby aggravating the burden on enterprises and the public. There is really no ground to blame the community for voicing opposition. Unlike private commercial organizations, public utilities are closely related to the fundamental daily needs of the general public. As the saying goes, what has been taken from the community should be returned to the community. When the community is in difficulty, public utilities should take up this social responsibility. Let me cite the HEC as an example. Recording a profit of \$4.9 billion, \$5.2 billion and \$5.5 billion in 1998, 1999 and 2000 successively, its profit has continued to grow over the past few years. There is indeed a strong sense of disappointment among enterprises and the general public though the HEC is merely acting according to the contract in raising tariffs at this moment.

The most controversial point of the local power policy concerns the SCA. Of course, it is undeniable that, taking into account the relevant historical and social background, the SCA has indeed played an effective and useful role in a positive manner. Through a mutually accepted control scheme, the Government has been able to supervise the performance of the two power companies. Moreover, in the past when Hong Kong economy was not yet well developed, the SCA was effective in instilling confidence in public utilities to make long-term investments. A stable and reliable supply of electricity has played a very important role in promoting the economy and development of

Hong Kong. We have to understand that this is the co-called "commercial operation". The proposals of raising tariffs were made in accordance with the provisions of the contract. In Hong Kong, an international cosmopolis, contracts must be respected and honoured and here lies the cornerstone of Hong Kong's success. Under the rule of law practised in Hong Kong, we must abide by the law and everyone is equal. As the power companies are allowed under the profit-regulating SCA to raise tariffs, we must accept the tariff increase proposal albeit with enormous reluctance. We can only call on the power companies to reduce as far as possible the burden imposed by the tariff increases on the grassroots.

Under the SCA, the permitted cap on profits for the power companies is 13.5%. When the HEC raised its tariff increase proposal in December 2001, it indicated that it would be unable to maintain its annual profit at 13.5% of its net assets as stipulated in the SCA if no tariff increases were to be made. For many years, the HEC has reportedly been able to reap the maximum permissible returns.

What we need to discuss at the moment is how to improve the Government's energy policy and the SCA without violating the relevant contracts to prevent the SCA from turning into a profit guarantee agreement. If the Government is to effectively safeguard public interests through the SCA, it must monitor the investment activities of the power companies to prevent over-investment that will otherwise lead to the transfer of unnecessary costs onto consumers. When proposing to build a new generation plant, the HEC anticipated an annual increase of 5% in electricity demand. However, the actual increase in the past three years has been lower than the estimate. As a matter of fact, there were past incidences of overestimate of electricity demand by the CLP Power too. We can thus see that the Government must exercise extra care in vetting and approving the plans submitted by power companies to build new plants to prevent the power companies from overestimating electricity demand. On the other hand, the Government should review how improvement can be made to the composition of tariffs and their calculation methods. Although the HEC has only proposed a 5.3% increase, the increase actually amounts to 7% after taking into account the cessation of special allowance granted to HEC customers. It is essential for the Government to strengthen its supervision of the tariff structure to prevent users from paying extra tariffs unknowingly.

Madam Deputy, the Hong Kong Progressive Alliance considers that the Government must conduct a comprehensive review of the existing electricity policy from a longer-term angle to ensure that the power supply market remains fair, open and liberal. Only through doing so can the power supply market in Hong Kong attract more enterprise investments and safeguard the interests of consumers. At the same time, the cost-effectiveness of electricity tariffs, as one of the basic operating expenses, can be enhanced. From the angle of the overall cost-effectiveness of electricity supply, interconnection between the two power companies is a definite option for it can help reduce the total generating capacity required of the entire system and improve the system's operational flexibility. The Government has reportedly commissioned a consultancy to undertake a technical study on the feasibility of strengthening interconnection between the two power companies. We hope the findings of the study can be published expeditiously.

Madam Deputy, I so submit.

DR YEUNG SUM (in Cantonese): Madam Deputy, I would like to take this opportunity to air the grievances of customers of the HEC.

Starting from 1 January 2002, people living on Hong Kong Island and Lamma Island must tighten their belts again to cope with the increase in electricity tariffs.

Taking into account the tariff increase of 5.3% announced by the HEC at the end of December 2001 and the discontinuation of the special allowance granted to HEC clients, the average increase actually amounts to 7%. Although the HEC has indicated that domestic users with consumption not exceeding 500 kWh and non-domestic users with consumption exceeding 1 500 kWh will not be affected, general households and relatively large organizations, including government departments and this Council, will somehow be unable to escape the fate of paying higher tariffs.

After the tariff increase takes effect, the tariffs paid by HEC clients will be more than 10% higher than those paid by clients of the CLP Power. According to the calculations done by an economist, Prof P L LAM, there is a gap of up to 17% between the tariffs payable by customers of the two power companies.

The HEC is now carrying out a \$27 billion power station expansion project on Lamma Island. This investment will be accurately reflected in the HEC's fixed assets a few years later. So it worries us even more that the HEC will have to raise its tariffs substantially in the next few years. Is there really such an urgency to carry out the expansion project? According to Prof LAM, the current generating capacity of the HEC is 3 300 MW, and it is anticipated that the local electricity demand will merely reach 2 800 MW by the year 2004. This means that the current capacity is already capable of coping with the anticipated demand. I wonder if the Secretary can tell us whether the estimate made by Prof LAM is reasonable in her response. If it is reasonable, I would like to ask the Government to make arrangements to postpone the commission date of the extension of the Lamma Island Power Station. This is because if the extension project is completed as scheduled, the gap between the tariffs payable by residents of Hong Kong Island and those of Kowloon will be further widened and people living on Hong Kong Island will need to pay even higher tariffs.

The HEC stressed to Members of this Council during a meeting held by the Legislative Council Panel on Economic Services on 21 December 2001 that it had to raise its tariffs due to financial pressure or it would have to make provisions for \$1.2 billion. It was also stressed that the credit rating of the HEC would be affected should there not be a raise in tariffs. The senior management of the HEC also further emphasized that this tariff increase was absolutely in compliance with the SCA signed with the Government.

This tariff increase proposed by the HEC is no doubt still below the permitted rate of return ceiling of 13.5% and there is no contravention of the SCA. However, the Democratic Party is doubtful of the rationality of the tariff increase. Moreover, we must ask this question: Why are the tariffs payable by HEC clients much higher than those by clients of the CLP Power in such a tiny place as Hong Kong?

Just as Mr Fred LI questioned, the volume of sales of the HEC is much lower than that of the CLP Power and the number of HEC customers is far fewer than that of the CLP Power. However, the amount of fixed assets of the HEC represents 71% of that of the CLP Power, which is absolutely not proportional to the volume of sales of the HEC. Subsequent to the chain reaction of increased fixed assets, the HEC has been able to raise its permissible returns correspondingly. As a result, HEC users have to pay higher tariffs. No wonder the tariff levels of the HEC are higher than those of the CLP Power.

According to Prof LAM's analysis, the operating costs of the HEC are higher because it has chosen not to purchase electricity from the outside and instead generate electricity by itself. At the same time, Prof LAM is doubtful of the probability of passing the relevant costs and expenses onto users since the HEC has been incessantly carrying out relocation and reconstruction projects over the past decade or so. As a result, HEC users might eventually have to pay 10% more in electricity tariffs than CLP Power users.

May I ask the Government this question: In such a tiny city as Hong Kong, why is there such a big tariff gap just because there is the Victoria Harbour in the middle? Is the gap reasonable even though there are differences between the power companies and the *modus operandi*?

The Democratic Party has earlier on interviewed 150 or so HEC users on the telephone. More than 80% of the respondents considered it extremely unreasonable for them to pay 10% more in tariffs compared with CLP Power users. Some considered that even if a tariff gap is justified, it should be smaller.

The HEC has repeatedly emphasized that only a minority of users will be affected by the latest tariff increase since domestic users with consumption not exceeding 500 kWh and non-domestic users with consumption not exceeding 1 500 kWh will not be affected. This will mean that approximately 70% of its customers will remain unaffected. Moreover, concessions will be offered to the needy. The HEC is merely trying to be generous at the expense of others if it insists on making the maximum profits permitted under the SCA and doing charity at the same time. Eventually, some high users will be required to share the relevant expenses.

More than half of the revenue of the HEC is derived from post-tax net profit. With the net profit of the HEC exceeding \$5.8 billion in 2000, why are the major shareholders still not satisfied and insist on raising tariffs? Why is the Government so powerless in playing its supervisory role and why does it allow the HEC to raise tariffs again and again? Faced with this situation, residents on Hong Kong Island, and even business operators in this part of the territory, are left with no other alternatives but to submit themselves to the mercy of the HEC. I am really outraged by the injustice done to residents on Hong Kong Island. I am disappointed with the Hong Kong Government and feel sorry for Hong Kong.

Madam Deputy, I understand that the Government is not allowed to, under the spirit of contract, unilaterally amend the SCA signed with the two power companies. Neither will the Democratic Party attempt to ask the Government to do so. However, as pointed out by Mr Fred LI, 13.5% is meant to be a profit control ceiling, not a profit guarantee cap. We can see that the HEC has been trying to take full advantage of this cap over the past years, and the Government has been trying to safeguard the profits of big tycoons at the expense of public interests. This is most regrettable indeed.

Madam Deputy, the Democratic Party would like to urge the Government to introduce power interconnection expeditiously to give consumers on Hong Kong Island a right to choose. Interconnection will provide a freedom to choose and introduce competition, and subsequently relieve the tariff burden of users living on Hong Kong Island. Power supply will be more effective too. I hope the Government can, in keeping with the changed times, introduce interconnection expeditiously.

With these remarks, I support the motion.

MR FREDERICK FUNG (in Cantonese): Madam Deputy, protected by the SCA, the two existing power companies in Hong Kong have been able to enjoy permissible returns equivalent to 13.5% of their net fixed assets, or an annual profit in excess of \$10 billion. Frankly speaking, both the Hong Kong Association for Democracy and People's Livelihood (ADPL) and I understand the reasons why the former British Hong Kong Government accepted the proposal made by the China Light and Power Company Limited in 1964. Given the fact that the assets used for producing electricity are special assets, they might not be very useful and valuable to other industries. In addition, during the '50s and '60s, Hong Kong economy was still very uncertain. Unlike today, the number of electricity consumers at that time was far fewer. This explains why the Government hoped to induce private investments by way of guaranteeing returns. Judging from the situation at that time, the Government's decision was thus probably reasonable. Nevertheless, this well-intentioned arrangement has not been effectively adjusted in the light of the changing economic climate. This is probably why what started out to be a good move ends up being bad.

To start with, as the profits of the two power companies are pegged to their net fixed assets, they will tend to add new assets by such means as building

power stations or procuring new generating units, instead of making effective use of their existing assets or further examining the feasibility of power interconnection. Under the current system, the two power companies will not only tend to overestimate electricity demand, but also refrain from actively encouraging their clients to save electricity. Moreover, they will not formulate competitive strategies to encourage households to consume electricity during non-peak hours. In this monopolized electricity market, the one who eventually suffers is the man in the street.

On the other hand, the SCA entered between the Government and the two power companies is unlike the profit return control scheme imposed on the power market in the United States where power suppliers being supervised may apply for tariff revision in order to reap reasonable profits in the light of changes in their production and operational environment at any time. The entire profit guarantee system in Hong Kong is thus lack of flexibility. At the same time, this Council is powerless to scrutinize the tariff increase applications of the two power companies. Therefore, the Government is basically adopting an attitude of "satisfying all demands" in dealing with the tariff increase applications lodged by the two power companies. This is why I feel that the Government must eventually be held entirely responsible.

Members should be well aware of the impact of the current economic depression and high unemployment on the poor masses. Notwithstanding this, the HEC took an unusual move earlier to announce a 5.3% tariff increase in order to achieve its target profit of 13.5% to maintain its record of making the maximum returns permitted under the SCA for 23 consecutive years this time around. As a result, permitted returns have covertly become guaranteed returns. The CLP Power, on the other hand, has appeared to be more sympathetic with the public sentiment for choosing to offer rebates to its clients. Nevertheless, the offer of these sympathetic concessions is actually because the CLP Power, knowingly or unknowingly, wrongly estimated electricity demand and raised its tariffs substantially in early '90s. Therefore, the offer should indeed not be taken as a big concession.

In conclusion, we can see that the SCA, originally designed to attract investors and safeguard the interests of consumers, has actually turned into the two power companies' most invincible protective shield when making tariff

increase demands. Here also lies the crux of the local electricity supply problem. Therefore, both the ADPL and I find it impossible to render support to Mr James TIEN who has proposed to delete "the maximum permissible returns" in his amendment to the original motion because he might, to a certain extent, encourage this wrong investment system.

Lastly, the ADPL and I would like to urge the Government to take full account of the public sentiment and the economic performance when conducting the interim review of the SCA in 2003 so as to properly revise the contents of the agreement, and to make good preparations for the liberalization of the electricity market in future. In addition, I would like to suggest the Government to establish an "energy management board" similar to the Office of the Telecommunications Authority to rectify the confusions arising out of the fact that the existing power and energy policies are being dealt with by different government departments. It is hoped that, in doing so, we can help lay a healthy and effective foundation that can accommodate a power market where healthy competition is encouraged.

With these remarks, I support Mr LAU Chin-shek's amendment and the original motion.

MR LEUNG YIU-CHUNG (in Cantonese): Madam Deputy, is there any possibility that we can do away with exorbitant electricity tariffs? This is of course not a possibility that the passage of such a motion with no legislative effect in this Chamber today can ever realize. The crucial problem is that under the existing mechanism, our chance of being able to enjoy lower electricity tariffs will have to depend on the operators' scruples. Therefore, in other words, our wish is simply unattainable. Why? Because the SCA is unable to achieve its original intention of preventing the power companies, which operate under a state of natural monopoly, from making excessive profits and introducing indiscriminate tariff increases. The SCA aims to regulate (or attempts to regulate, to be precise) the profit levels of the power companies by setting the level of permitted profit at 13.5% of their respective fixed assets. The rationale behind this is to strike a balance of interests which can ensure a certain level of profit for the power companies on the one hand and an adequate supply of electricity to the people on the other.

However, Madam President, a rationale is after all just a rationale. In practice, it is all too easy for the power companies to abuse the SCA, turning a

balance into an imbalance. The power companies have been trying hard to take advantage of the grey areas of the SCA, one example being their attempts to earn higher and higher profits by increasing their investments in fixed assets. Once they find that with the existing levels of tariff, they cannot achieve their objectives, they can always increase their investments in fixed assets, and this will give them a justified excuse under the so-called "profit control" to make "guaranteed profit".

The recent acts of the HEC are a clear illustration of this. The HEC has been able to increase its tariff again and again. Why has it been able to do so? It is because it can invest in fixed assets, and as its investments grow, there will be greater room for it to increase tariffs. Therefore, Madam Deputy, under the existing situation, when we are faced with such an unscrupulous operator, it will be very hard to realize our hope of not having to pay exorbitant electricity tariffs. We can see in particular that even at this time of economic recession, the HEC can still ask for a further rise in tariff right after a recent increase; the main reason for this is that under the SCA, there is an absence of any effective means to prevent the company from resorting to this excuse, that is, the excuse of investing in fixed assets mentioned by me just now.

When it comes to the existing volume of electricity consumption, for example, as mentioned by many Members, we simply cannot see any need for constructing a new power plant. Many Members have pointed out that the volume of electricity consumption of the community does not warrant the construction of a new power plant, but the power company still goes ahead with it. What can we do about it? We simply do not have any ways to restrict its investment or stop it altogether. Therefore, it is certainly not incorrect to say, as Members have also pointed out, that "profit control" has actually been turned into "profit guarantee". In fact, such a tactic is used not only by the power companies but also by other utility operators subject to this type of profit control to achieve the aim of making huge profits year after year.

While we must criticize the HEC for resorting to this as a means of increasing its tariff, we must also say that the relevant government officials and Executive Council Members, who were responsible for vetting the HEC's financial plan for the proposed power plant last year, must also be blamed. The consultant commissioned by the Government no doubt endorsed the HEC's

proposal, but why did government officials and Executive Council Members not question the consultancy report? And, why did they instead accept the HEC's proposal so very easily and readily? The Government's detailed report on the interconnection between the power companies will not be completed until March or April this year. But why did it hasten as early as last year to make comments that almost ruled out the feasibility of interconnection? And, why did it approve the HEC's new power plant proposal so early, thus enabling it to invest continuously in its fixed assets and open up more room for tariff increases? Why did the Government do so? Was that because since the Government and Executive Council Members all thought that the people had the ability, they might as well "show more generosity at their expense"? I think the Government must give us a detailed explanation on this later on. Is the Government really so apathetic that it has not only failed to appreciate our plight nowadays but also decided to "show more generosity at our expense"?

Madam Deputy, the Legislative Council has recently conducted several similar debates, because it wishes to ask public utility operators to lower their fees and charges. But some have thus criticized Members for political intervention in the operation of the market, saying that this will upset the free economy of Hong Kong and thus do more harm than good in the end.

But I must point out that public organizations must never use free market economy principles as a shield against public criticisms. In fact, the SCA is in itself an example of government intervention; if there is no government intervention, how could there have been such a SCA in the first place? That is why one must not always use free market economy principles as an excuse. Very often, public utility operators may even argue that the scheme of control is precisely the means that has enabled them to operate normally. But I am of the view that such a scheme of control is not necessarily conducive to normal operation, because it may well lead to monopoly. Contrary to what these utility operators think, if they wish to achieve sound operation and deliver satisfactory services to Hong Kong consumers, they may have to accept market liberalization. That is why I think the Government should instead encourage more competition, because only this can change the existing monopolistic mode of operation. I am convinced that liberalization will bring us benefits. Some may of course argue that since the SCA executed between the Government and the HEC in respect of

profit control will not expire until 2008, we really cannot do anything in the interim. But I do not think that this should be the case in reality, because we can always put forward various demands, such as halting the construction of the power plant on Lamma Island. That way, the HEC's investment in fixed assets may be reduced. If we can do so, electricity tariff will not only stop going up but may well even go down instead.

In the long run, the Government must actively consider the idea of learning from the experience of other countries and bring competition into the electricity market. The experience of foreign countries has shown that with competition, electricity tariff may go down by as much as 20% to 30%. Some may of course argue that following the introduction of competition, it may become difficult to ensure a stable supply of electricity, and there may be a Hong Kong version of the blackout that occurred in California of the United States. However, I must also point out that such experience can show us precisely where the problems are, and when we really introduce competition, we can then make improvements accordingly. We must never "trim the toes to fit the shoes" when handling this problem.

Therefore, I hope that the Government can reconsider this matter very seriously. I so submit.

DR LUI MING-WAH (in Cantonese): Madam Deputy, Hong Kong has now been dragged into a state of structural deficit, and its unemployment rate has shot up to 6.1%. At this very time when the various trades and industries are all cutting prices in their struggle for survival, any attempt by the power companies to increase electricity tariffs will definitely prick the very sensitive nerves of the public and arouse strong outcries in society, even though they are "protected" by their respective SCA and new power plant construction projects.

However, for such a crucial utility service which involves investments to the tune of billions of dollars and affects everyone in society, we must, after understandably making all sorts of emotional judgements, also seek to study and analyse the issue rationally and holistically. In this connection, let me make an analysis from three perspectives.

First, service quality is of the utmost importance. The aim of government supervision is to ensure a high standard of utility services, and this is also the basic demand of the community. As far as this is concerned, the performance of the two power companies in Hong Kong is definitely satisfactory. Besides providing people with a sufficient and stable supply of electricity, they have also been actively investing in an adequate reserve capacity that can ensure that Hong Kong will not be caught in the risk of a blackout. Although these measures of theirs can enable them to make more profits and people thus have to pay higher tariffs, the blackout in California of the United States should make us realize the necessity of such a reserve capacity. The only problem is how the Government is going to monitor and deploy such a reserve. Obviously, the existing SCA and government policies are far too weak and rigid in this particular respect.

Second, electricity is a necessity for every family and enterprise, which means the demand for it is very inelastic. That is why every increase in tariff will produce a direct impact on household expenditure and production costs. That being the case, it will be very difficult for any tariff increase to get public acceptance, no matter how reasonable and mild it may be. On its part, however, a power company, as a listed company, has to adjust its charges on the basis of its financial conditions and commercial principles. All is just like the head and tail of a coin; one simply cannot have both after tossing the coin, nor can one, therefore, say simplistically who is right or who is wrong. As for how the gap between the two can be bridged, or how a balance can be struck between the respective interest of both, the existing profit control scheme is one possible means, and it used to work markedly well in the past. But since the economy of Hong Kong moved from sustained growth to a general recession, the existing mechanism has become somewhat outdated, with problems gradually emerging one after another. These weaknesses are mainly connected with the following three aspects:

- (1) Lack of flexibility. The existing SCAs were signed in 1993 and will not expire until 2008. There are two interim reviews in the run-up to expiration and the contents of the schemes of control may be amended, but the schedules of the reviews are fixed and any variations must be subject to the consent of both parties. As a result, the reviews have turned out to be no more than regular follow-up actions to introduce minor variations. This is unable to cope with the actual circumstances in Hong Kong following the economic downturn and the financial turmoil.

- (2) The profit ceiling of 13.5% was a powerful means of preventing the power companies from making excessive profits during the days of economic prosperity in Hong Kong. But it has now become a means through which the power companies earn huge profits. Fundamental changes have occurred to the market, and profit control can no longer achieve its original intent.
- (3) Under the profit control schemes, the permitted returns of the power companies are calculated on basis of the total value of their fixed assets, basically irrespective of whether the companies are making profits or incurring losses. Although this method of calculation can encourage the power companies to make active investments, the resultant increase in their equipment and facilities may well far outpace the growth of the community's demand for electricity. Electricity tariffs may become too high as result, out of touch with market demand and consumption. The gap will become increasingly wide especially in times of economic recession, arousing the discontent of the public.

Third, "fail to share the public's hardship" is an accusation related to social conscience, and in a market economy where emphasis is on profits and cost-effectiveness, enterprises showing social conscience should be commended. However, the Government must not thus use this as a reason for reviewing and altering any signed business agreement half way through its validity. For this reason, the most we can do is to encourage enterprises to respond, of their own accord, to the demands of society. Never should we adopt any administrative measures or employ other high-handed tactics. After all, political intervention in commercial operation, whatever noble motives and justifications there may be, will invariably do harm to the market economy and the rule of law, posing a serious threat to the image of Hong Kong as a city of international commerce.

We understand that the construction of a power plant is a long-term investment programme which requires an enormous capital outlay but yields very slow returns, so there must be a clear profit guarantee to facilitate financing and other long-term planning. But such a guarantee should not just be a simple mathematical formula, even less something that will remain unchanged for 15

years. The guarantee must be flexible enough, and it must make appropriate adjustments to accommodate changes in the objective circumstances. To achieve this aim, the authorities should alter the existing rigid requirement of conducting an interim review once every five years and a comprehensive review only after 15 years. The Government should be permitted to conduct an interim review or a comprehensive review whenever it is necessary in public interest. It is believed that the Government will not thus try to abuse the mechanism and interfere with the normal operation of the power companies.

As for the level of permissible profits, the existing link with capital investments as a basis of calculation should be altered. Instead, operating profits should be used as the basis, and the effects of the CPI should also be factored into it. Apart from providing a guarantee of investment returns, this can also raise the operating efficiency of the power companies and enable them to feel the pulses of the people and the economy as a whole.

As can be expected, the self-regulation of the power companies can hardly be expected to achieve this aim. The authorities must set down a specific request in the SCAs, or else given the emphasis on profits, similar tariff increases despite the poor economic conditions will still be inevitable.

In the long run, if Hong Kong wishes to have a stable supply of electricity at low prices, interconnection will be the only way out. Interconnection should cover the two local power companies and those in South China. Following interconnection, the various power companies can complement one another, thus saving resources and costs and making it easier to regulate electricity supply and prices. With the two local power companies, for example, the CLP Power is now having an excessive supply of electricity, but the case with the HEC is just the opposite and it thus has to construct a new power plant. If there is full-scale interconnection between the two power companies, it will be possible to fully utilize their resources. Interconnection does involve complex technical problems, but this is the most effective way of ensuring stable electricity prices and supply in Hong Kong. As long as all of us can reach a consensus, all technical problems can be solved over time.

Madam Deputy, I so submit.

MR LAU PING-CHEUNG (in Cantonese): Madam Deputy, Mr Fred LI has, under the current recession, moved a motion urging the Government to strive for a reasonable mechanism for calculating the rate of permissible returns in the interim review of the SCAs for the two power companies in 2003. I am sure that this is in line with the people's wish. Besides, interconnection between the two power companies is also in public interest. The Government should endeavour to materialize this. For all these reasons, the motion merits support.

In 1993-94, the Government reached an agreement respectively with the two power companies and set down the permitted rate of return at 13.5% of their fixed assets. This agreement was drawn up having regard to the social circumstances during the period of negotiation, that is, around 1991-92. I believe that the management of the two power companies might not have been able to foresee that five or six years later, Hong Kong would experience deflation three years in a row, and that their operating costs would go down because of drastic cuts in staff salaries and manpower. Therefore, it is reasonable for the Government to propose to the two power companies to adjust the permitted rate of returns in the next interim review.

From the perspectives of investors, especially those engaged in infrastructure projects with longer time-horizons, the prime concern should be a stable rate of returns. Since an unforeseen situation with lowering operating costs has occurred, making the investments of the two power companies much more secure, they, as a member of the community, should consider adjusting their charges to answer the aspirations of society.

The amendment of Mr James TIEN, which stresses respect for the spirit of contract, also merits our support. Hong Kong is an international financial centre; for international investors coming to Hong Kong for investments, the most important concern is assurance of strict adherence to contract. Any unilateral violation of contract or application of pressure to bring the other party into submission will run counter to the spirit of contract, and even the Government is no exception to this. That is why any adjustment of the mechanism for setting the permitted rate of returns must only be made in accordance with the SCA. The interim review in 2003 is precisely a part of the SCA, so I hope that the Government can make active use of this occasion to persuade the two power companies to lower their profits to a reasonable level, so as to create better conditions for their continued operation after 2008.

As to how the rate is to be set, I do not have any specific position. But there is still one point which is worth mentioning. In this metropolis of Hong Kong, electricity supply has long become an indispensable infrastructure facility. This means that frequent interruptions of supply or technical problems are unacceptable to us. For this reason, as required by the existing SCAs, the two power companies must also maintain a reserve capacity, apart from maintaining a stable supply of electricity to satisfy normal demand. And, it must be pointed out that even we ourselves would expect the operators to upgrade their facilities continuously, so as to ensure that there will be no interruption of electricity supply.

One incentive which can ensure that the power companies will make continuous efforts to upgrade their facilities is the security of profits and returns. As we know, the time-horizons of infrastructure facilities are longer than those of other types of investments. So, if the financial risks involved are substantial, the investors may have to pay very high interests to secure long-term loans, and the interests incurred will eventually be reflected in the level of tariffs. As can be noticed from the information submitted to this Council by the Government, the Government already put forward a similar demand in the last review, but it was refused by the two power companies. I am worried that if the mechanism for setting the permitted rate of returns is altered lightly, Hong Kong may follow the path of California in the United States and experience a blackout.

The amendment moved by Mr LAU Chin-shek to the amendment of Mr James TIEN confirms the need to respect the spirit of contract on the one hand, but asks to do away with any profit guarantee for the power companies on the other. The two viewpoints actually conflict with each other. Since the guarantee of profits is part of the contract, we must naturally respect it instead of unilaterally altering or violating the relevant contract terms. If not, lawsuits may follow, and more seriously still, international investors may be scared away from Hong Kong.

Madam Deputy, we must be very careful in trying to strike a balance between the protection of consumer interests and the regulation of public utilities, lest the pursuit of immediate benefits may lead to the risk of having disruptions in public utility services. I so submit.

DR DAVID CHU (in Cantonese): Madam Deputy, electricity tariffs are the basic and indispensable expenses of the people and enterprises. The economy of Hong Kong is now undergoing a period of recession, and the unemployment rate is high. So, to the people and the various enterprises, any decision of public utility operators to increase their fees and charges will definitely be like "rubbing salt into a bleeding wound", and such a decision will certainly lead to huge public outcries. Understandably, on the part of the power companies, they would think that they are doing no more than what is permitted under the agreement terms. And, because of "strictly commercial considerations", because the power companies have to be accountable to their shareholders and investors, it will only be natural for them to pursue the maximum profits permitted by the law. However, some in the community have pointed out that the requests of the power companies to increase their tariffs, though legal, are not actually justifiable in view of the current circumstances of Hong Kong. Hong Kong has experienced deflation for several years in a row, and salaries and price indices have gone down, but electricity tariffs have increased in spite of all this. This is not reasonable. Many in the community cannot help asking, "Why do companies each reaping an average annual profit in billions of dollars still wish to increase their fees and charges at this very time? Since many other companies are now making very meagre profits or are even incurring losses, why should the power companies still be offered a profit guarantee of 13.5%?" The Hong Kong Progressive Alliance (HKPA) is of the view that in the long run, the Scheme of Control must be reviewed for the protection of the people's interests.

Madam Deputy, the Government is going to conduct an interim review of the SCAs with the two power companies in 2003. The HKPA hopes that when that time comes, the Government can, on the basis of the spirit of contract, strive for a fairer and more reasonable permitted rate of returns for the general public and the various enterprises. In the meantime, the Government should step up its supervision in respect of the fixed assets of the power companies, so as to ensure that they will not factor any non-electricity-related businesses into their fixed assets. Besides, the Government must urge the power companies to effectively regulate their investments and operating costs, lest the financial consequences of investment failures (such as those resulting from an overestimation of electricity consumption) may be transferred onto consumers. We also think that power interconnection and the gradual liberalization of the power market are irresistible trends, and the Government should thus make

preparations for this. Lower electricity tariffs can reduce the operating costs of other businesses, much to the benefit of economic development and restructuring.

Madam Deputy, I so submit.

MR IP KWOK-HIM (in Cantonese): Madam Deputy, so far this Session, this Council has passed three motions on reducing various fees and charges: public transport fares, public utility charges and government fees and charges. Since the passage of these motions, the various public utility operators have responded differently. While freezing their fares, the three bus companies have introduced a Bus-Bus Interchange Scheme. Following their announcement that they will increase their fares, the Kowloon-Canton Railway Corporation and the MTR Corporation Limited have launched a "Ride 10 Get One Free" concession. And, the CLP Power has tentatively decided to freeze its charges and offered a cash rebate to all its customers. Under such an atmosphere, it is really very hard for us to figure out why the HEC still insists on increasing its tariffs, and has in fact already done so.

On the ground of enforcing the SCA, the HEC has sought to make a high level of profits guaranteed at 13.5%. With the SCA, the HEC is able to ignore the people's plight and shamelessly increase its tariffs, turning "profit control" into "profit guarantee". In fact, in the year 2000, the HEC already made a net profit of some \$5 billion, and in the first half of 2001, it also made a profit of \$2.88 billion, but it has still pushed ahead with a 5.3% increase in tariff. In comparison, the CLP Power made a net profit of \$ 6.9 billion in 2000. A simple analysis of these figures based on the fact that the HEC is serving 19.9% of our total population can show that the profit earned by the HEC from each resident is three times that of the CLP Power. Tariffs will go up with increases in consumption, so the target of the HEC is in fact the commercial and industrial sector. In the case of small shops each consuming 1 000 kWh of electricity monthly, for example, the difference in electricity tariffs between those on Hong Kong Island and in Kowloon, that is, on the two sides of the Victoria Harbour, is 12.2%. For those each consuming 2 000 kWh, the difference is even as high as 19%. This analysis can show that the profits reaped by the HEC are really much too excessive.

Since it was discovered in 1996 that the reserve capacity of the CLP Power was larger than the actual demand by 50%, far exceeding the internationally accepted level of 25%, the issue of electricity tariffs, which is related to the people's livelihood, has aroused widespread public concern. In 1992, the then Secretary for Economic Services made an erroneous estimation of electricity demand and gave approval to the then China Light and Power Company Limited to construction the No. 7 and No. 8 generator units at Black Point. Well, one may say this was already a mistake that occurred ages ago. But then, in 2000, the Government once again approved the financial plans of the two power companies, allowing them to make a total investment of \$57 billion in the run-up to 2004. It totally disregarded the error it made years back, allowing the power companies to go on investing blindly to expand their assets, to use the SCA originally meant for profit control for the opposite purpose, to take advantage of the loophole caused by the linking of investments to profits, and to make excessive profits. Over all these years, this Council has moved many motions requesting the Government to bring the permitted rate of return to below 13.5%, to exclude all investments not necessary for providing the maximum reserve capacity of 30% from the calculation of permissible returns, to enhance the power and transparency of the monitoring mechanism, and to step up interconnection between the two power companies. It is also requested that at the same time when steps are taken to reduce over-investment, measures should also be taken to pave the way for liberalizing the power market. Over the past five years since 1996, Legislative Council Members have been making repeated requests, but the Government has made no progress in handling the SCA on controlling the profits of the two power companies. Steps to deal with all these issues are still completely nowhere in sight, not even reaching the stage of "mere theoretical talks". Is it true that the relevant officials of the Economic Services Bureau all want to wait until 2008 when the SCA expires before they look at all these issues?

The interconnection between the two power companies is still a mere topic of discussions. The residents of Hong Kong Island have no choice at all and must succumb to the realities. The two sides of the Victoria Harbour are ever so close now, but the residents and enterprises of Hong Kong Island have to pay much higher electricity tariffs than those paid by their counterparts on the other side of the Harbour. The unreasonable profits reaped by the HEC under the Scheme of Control and its tariff increases in disregard of the people's plight are sufficient proof of the problems with the existing profit control mechanism. To put it simply, can there be any type of business which will have sure profits but

no losses, and which is even guaranteed a specified level of "reasonable" profits? How can the people of Hong Kong be convinced, when even the 13.5% profit rate is considered reasonable, is taken so much for granted by the power companies? In the past, when there was a lack of infrastructure facilities for the people, the SCA was perhaps able to encourage infrastructure investments to a certain extent. But in the highly modernized city of Hong Kong now, profit control will only give utility operators a chance to rely on the wealth accumulated in the old days, to fleece the people of Hong Kong, and to make excessive profits. The authorities concerned must conduct a comprehensive review of this faulty system, speed up the interconnection between the two power companies and allow the power market to move towards liberalization.

The amendment moved by Mr LAU Chin-shek further mentions the need of "ensuring that users are free from shouldering and guaranteeing absolutely the high profits of the power companies". The DAB is honestly a bit puzzled by that, because with a respect for the spirit of contract and without the co-operation of the power companies, attempts to achieve the aim of "ensuring" is likely to bring the people of Hong Kong back to the age of the kerosene lamp. This may sound a bit ridiculous, but like it or not, this is the reality. However, in any case, the DAB will still support Mr LAU's amendment from the perspective of safeguarding the interests of consumers. Thank you, Madam Deputy.

DR RAYMOND HO: Madam Deputy, when the Hong Kong economy was not so developed, the Scheme of Control Agreements (SCAs) signed by the Government with the two power companies served the purpose in ensuring a reliable and stable power supply with guaranteed returns on the latter's investments. But the terms of the agreements, particularly the permitted returns calculated on the basis of the value of their average net fixed assets, may not always be in line with the consumers' expectation of reasonable power prices. The incompatibility becomes more acute when the local economy is hitting another low.

It is fully understandable that the public reacts strongly to the tariff increases proposed recently by one of the power companies. However, a contract is a contract. The SCAs signed by the Government with the power companies are legally binding commercial contracts with validity up to the year 2008. Any attempt on the part of the Government to change these agreements

unilaterally before their expiry will constitute a breach of contract. The action will definitely send a very bad message to the business community and deliver a great blow to the confidence of foreign investors.

Bound by the SCAs, the Government has very few options at its disposal. But this should not deter the Government from talking the power companies into agreeing fairer rates of return and more reasonable terms when an interim review on the SCAs is due in 2003. As responsible corporations, the utility companies must take into account the general economic situation as well as the public opinions apart from their allowed profit levels.

On the other hand, it is time for the Government to undertake some serious studies on the future electricity supply market including the feasibility of opening up the market in the future. Meanwhile, the Government should share the findings of its study on power interconnection with the public when they are available. The information is essential for a meaningful discussion among the public.

Madam Deputy, a reliable and adequate supply of electricity at reasonable price levels is crucial for the future development of Hong Kong. In observing the spirit of contract, the Government will do no harm in negotiating with the power companies for fairer terms in the forthcoming interim review. At the same time, the Government should study the possible options for the electricity supply market after the expiry of the existing SCAs. I so submit. Thank you.

DR TANG SIU-TONG (in Cantonese): Madam Deputy, Motorola, the second largest semiconductor producer in the world, moved most of its production lines this month from Hong Kong to Tianjin and Kuala Lumpur and laid off more than 700 of its staff. The Company's Asia-Pacific director, when replying to a question from the media as to why the Company withdrew from Hong Kong, said that the cost of doing business in Hong Kong was too high and electricity tariffs in particular had not been revised downwards for so many years. In the past, we would only hear the business sector complain that land prices, rents and wages were too high. Now the utility charges can also scare off foreign investors and stifle industrial development here. Madam Deputy, the Motorola case has sounded an alarm, indicating that the exorbitant electricity tariffs here have threatened the recovery of our economy and its development.

Despite an accumulated deflation rate of close to 10% since the Asian financial turmoil, why can the HEC raise its tariffs every year since 1998? Why can the CLP Power carry out aggressive expansion of its generation facilities, achieve an aggregate increase of 54% in the tariffs over 10 years and roll its development fund to \$3 billion and use some of it to give a rebate to its customers as a publicity show? I am not trying to criticize the HEC and praise the CLP Power in asking these questions. I wish to point out that the SCAs which the Government has entered into with the power companies should be put more correctly as profit guarantee agreements. They are out of keeping with the times, fraught with loopholes and the cause to the fact that our electricity tariffs have been rising every year regardless of the economic conditions.

In fact, instead of accusing the power companies of being oblivious to the public's hardship and reaping huge profits, we had better condemn the authorities for not exerting enough control and supervision. As listed companies, the two power companies are justified to maximize profits within the parameters of the SCAs so as to be accountable to the shareholders. However, as the guardian of public interest, the Administration should be held responsible for failing to stop the CLP Power from making excessive investments to inflate its costs of power generation, and for failing to stop the HEC from adjusting its composition of tariffs so that the customers are made in a way to bear the huge debts of the HEC.

However, even as we are reluctant to admit it, the SCAs are binding contracts and the spirit of contract should be upheld. Therefore, I hope when the authorities conduct an interim review of the SCAs, they should strive for a fairer and more reasonable mechanism to work out the rate of return for these power companies while respecting the spirit of contract. We hope, of course, that these big companies will act according to their conscience and pay back some of the huge profits they have earned over the years to the community. However, any resort to political or administrative means to effect variations to the contract would deal a great blow to the future commercial development of Hong Kong and cause far-reaching consequences.

In addition, the authorities should make early preparations for the liberalization of the electricity supply market in future, for example, when

alternative power generation technologies like the use of incinerators and solar energy are ready for commercial application, new participants should be facilitated in supplying electricity to the existing customers of the two power companies. It is known that the use of incinerators to generate electricity is being tested in Hong Kong, so if this passes environmental protection requirements, testings can be completed before the SCAs expire. Then the authorities can consider the approach taken with the liberalization of the telecommunications market, that is, purchasing the franchise by entering into an agreement with the parties concerned and hence opening up the electricity supply market as soon as possible.

At last, I hope that the authorities can really discharge their duties and prudently evaluate the applications from the two power companies for making more investments and raising tariffs. That especially applies to projections on power consumption and the necessity for transmission facilities and distribution systems. Power consumption and actual demand for power facilities would involve a lot of variables and there are different projection standards, while deviations would involve a lot of professional expertise. Therefore, power companies may overestimate the consumption figures so as to raise their chances of getting approval when they apply for an increase in capital investment, and underestimate the consumption (or sales of electricity) figures so as to achieve a greater increase when they apply for an increase in tariff. In order to prevent this, the authorities, when playing the supervisory role, should resort to their expertise and seek the advice and support of experts from outside the Government as when necessary. That especially applies to those experts and scholars who specialize in the study of energy supply in Hong Kong. In this way, the supervisory efforts of the authorities will be enhanced.

Madam Deputy, I so submit.

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

(No Member responded)

DEPUTY PRESIDENT (in Cantonese): Mr Fred LI, you may now speak on the two amendments. You have five minutes.

MR FRED LI (in Cantonese): Madam Deputy, since the Democratic Party supports both the amendment and the amendment proposed to it, I do not wish to speak too much on the two amendments. I only wish to say a few words on the amendment moved by Mr LAU Chin-shek to Mr James TIEN's amendment. Mr LAU Chin-shek proposed to add three points to Mr James TIEN's amendment: firstly, protecting consumers' interests; secondly, ensuring that users are free from shouldering and guaranteeing absolutely the high profits of the power companies; and thirdly, keeping the public informed of the timetable for the opening up of the electricity supply market. I believe certain Honourable colleagues, particularly Members from the Liberal Party, may not quite understand the point on ensuring that users are free from shouldering and guaranteeing absolutely the high profits of the power companies. I guess they have been puzzled by this particular point.

I believe no Members will object to the point on protecting consumers' interests. Indeed, Members have done so many things and expressed so many views just because we want to protect consumers' interests, including that of businesses and industries, small and medium enterprises, as well as the general public. I think Mr LAU Chin-shek is a very good Member of the Council, and I believe Honourable colleagues understand very clearly that this good Member has actually felt very awkward raising the point about protecting consumers' interests. Just now some Honourable colleagues said Mr LAU had mentioned that whether we gave support to this motion or not, we would have to "pay exorbitant electricity tariffs". A painful fact is that we cannot prevent the HEC from raising its tariffs. At the meeting of the Panel on Economic Services held to discuss the application for tariff increase, despite the distress, sorrow and indignation we reflected, and the heartfelt understanding expressed by government officials, in the end we still had to give a green light to the proposal and approve the application for tariff increase.

THE PRESIDENT resumed the Chair.

I am very much concerned that the same situation will arise again next year. I have listened to the views expressed by Members and noted that they all opined that the spirit of contract should be upheld. My original motion does not have this point, but Mr James TIEN has included it in his amendment. Actually, how can we not uphold the spirit of contract? How can we request the

Government to abolish the SCA? If the SCA should be abolished, it would be inconceivable just how many tens of billion dollars the Government must pay in compensation. Mr TIEN's amendment also proposes to delete the first part of the original motion, which, in fact, states our stance on this issue. Certainly, I am not very happy about this deletion. I believe the two power companies have indeed reaped huge profits but failed to share the public's hardship, and should therefore be condemned. That is why I have to raise this point in my motion. Unfortunately, however, Mr TIEN considers it not very good to state our stance this way and suggests that we should be more forward-looking. Hence, he proposed to delete the first part of the original motion's wording. I did discuss this proposed deletion with Mr TIEN, but since I did not wish to see the motion end up achieving nothing or not being genuinely implemented, I eventually gave up and agreed to the proposed deletion. I just hope the latter part of the motion, which puts forward specific suggestions relating to power interconnection, the early opening up of the electricity supply market and the rate of return review, can have the support of Members. For the said reasons, we support both the amendment and the amendment proposed to it.

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Madam President, I am very grateful to Mr Fred LI for moving this motion on the regulation of electricity supply, and I also wish to thank Mr James TIEN and Mr LAU Chin-shek for moving their amendments, which respectively bring in the respect for the spirit of contract and the rule of law and the principle of safeguarding consumer interests. Besides, I am also grateful to Members for their speeches today. As Members know, the Economic Services Bureau is now actively exploring the feasibility of power interconnection. At the same time, my colleagues are also working hard on the scope of the interim review on the Scheme of Control Agreements (SCAs) scheduled in 2003, in an attempt to identify the relevant issues that require full preparation. Moreover, we are also exploring what path the local electricity supply market should follow upon the expiry of the SCAs in 2008. The discussions today are very timely and have given us a chance to listen to Members' views. I can assure Members that their concerns have also been one of the work directions of the Economic Services Bureau.

As rightly pointed out by Members, electricity tariffs are the indispensable expenses of families and businesses. Given the current economic conditions, I

fully appreciate the concern of Members and the public about the SCAs, particularly because I understand that they know that under the existing mechanism, the SCAs are the basis of an annual review of electricity tariffs.

As far as the SCAs are concerned, I must point out, as was also mentioned by Mr James TIEN, that we are talking about a legally binding contract drawn up with mutual consent. Whatever variations we wish to make, we are bound by the existing mechanism and the spirit of contract to obtain prior mutual consent. Let me take this opportunity to reiterate that since the inception of Hong Kong, its electricity has been supplied by two privately run power companies which do not enjoy a franchise. Very often, many people ask whether it is possible to liberalize the electricity supply market in the same way as the telecommunications market. But in fact these two markets are different in background.

Precisely because the two power companies are private enterprises, and also because the Government considers that our policy should serve a number of specific purposes, that is, the aims of ensuring reasonable prices for the community and an adequate — or, in the words of Members, a reliable, supply of electricity, the Government actually set down two objectives when the SCAs were signed years ago. The first objective was a stable and effective supply of electricity at reasonable prices. But we also noted that in order to ensure a stable and effective supply of electricity, we would need to build in an incentive in the SCAs, to let the shareholders of the power companies know, when making any large-scale and long-term investments, they were entitled to "permissible returns". This is the aim and background of the provisions on "permissible returns".

Many Members have raised the point that the SCAs were signed more than 10 years ago, but I must point out that besides the provisions on "permissible returns", the SCAs also contain other provisions, such as those on the circumstances under which government approval and regular supervision are required. The financial plans of the two power companies, including business development and investment, for example, will have to obtain government approval; and annual tariff adjustments will also have to be submitted beforehand to the Government for vetting. Moreover, we also require the two power companies to make projections, at the end of every year, on the electricity demand and business conditions in the coming year. I should perhaps explain here that the Economic Services Bureau will not assess the projections solely on

the basis of the data and statistics supplied by the two power companies. The Government Economist will make a statistical projection on basis of his own model. We will also commission a consultancy to make an independent projection. That is why the data we have do not come only from the power company concerned.

We know that the existing SCAs are valid for 15 years, with expiry scheduled at the end of 2008. In fact, as Members are aware, we have already conducted an interim review so far. During the last interim review, we did introduce some amendments to the provisions, such as — and let me respond to the views expressed by some Members just now — in fact during the last review, we already lowered the rate of returns for the shareholders of the power companies in connection with the fixed assets purchased with the growth of deposits from new customers in the future. In others words, we lowered the base of their rate of returns. Besides, we have also put in place a mechanism under which surplus generating capacity is defined, and the relevant portions of those fixed assets connected with it are excluded from the earning of any returns. To put it simply, surplus generating capacity and the relevant fixed assets will not earn any returns. At the same time, we also specify that the two power companies have to discharge their obligation in respect of implementing demand-side management. We have also lengthened the useful life and depreciation periods of some fixed assets. With all these amendments, we expect that before 2008, we will be able to save for the community a total of roughly \$1.1 billion.

The conditions of the local electricity supply market are the results of historical developments. As pointed out by some Members, the SCAs did manage to serve their purpose during the process. But we must also realize that there is now a need to make some appropriate arrangements in response to social changes and needs. But while we are doing so and making any new arrangements, we should not forget that Hong Kong actually ranks the highest in terms of the stability of electricity supply. Our stability rate is as high as 99.99%. I hope Members would agree that in such a densely populated place and a busy commercial and industrial centre like Hong Kong, the stability rate of electricity supply must never be lowered. Members may well express their views and conduct discussions on any adjustments they like, but I as the Secretary for Economic services will never allow any frequent or even occasional blackout. I am sure that society at large will not tolerate this too.

Members have enthusiastically expressed their views on what issues should be dealt with in the 2003 interim review. And, most Members also

expressed lots of grievances about the level of permitted returns. I can say here that we hold an open attitude towards the rate of returns to be considered in the 2003 interim review. That said, I must still say that we must respect the spirit of law, meaning that any variations must obtain mutual consent.

As Members know, the SCAs are contracts respected by both parties to it. In this connection, the Government, as pointed out by some Members, must not, must absolutely not, do anything to breach them. That is why I hope that when it comes to what variations should be made in 2003, Members can base their discussions on sensible perspectives and objectives. That is to say that sensible variations may have to be made to the SCAs in response to the needs of society.

In his amendment, Mr LAU Chin-shek mentions the idea of "keeping the public informed of the timetable for the opening up of the electricity supply market". I should perhaps offer an explanation here. The liberalization of the electricity supply market and power interconnection are two separate issues. But very often, people tend to mix them up.

Let me say a few words on power interconnection. I actually understand very well how Members wish to enhance the interconnection between the two power companies as much as possible. The Economic Services Bureau has been actively exploring the feasibility of this over the past year or so. We also hope that this study can enable us to gain an understanding of how far power interconnection can technically go. I do not intend to dwell on any technical issues here, and I believe I will have plenty of opportunities to brief Members on them in the Legislative Council. The in-depth technical studies we are conducting cover, among other things, 12 tasks, and these can be divided into five major categories. For the first major category, we have to conduct an assessment in connection with the most feasible interconnection capacity and the commissioning timetable required. This in turn involves three tasks. In brief, we must look into the effects of power interconnection on the electricity supply systems, and we must also conduct a sensitivity analysis. Besides, we also need to know how best we should install the new installations of interconnection step by step, and most importantly, we have to pay attention to the investments connected with the master project and the major infrastructure sub-projects. The second category concerns the feasibility and engineering studies related to the alignment of new interconnection, and this will involve cable alignments and corridors. The third category is about the changes to electricity supply capacity

following the installation of the new interconnection systems. This involves, as some Members pointed out, the Hongkong Electric Company Limited (HEC) and the CLP Power Hong Kong Limited (CLP Power), and even power interconnection with Guangdong, short-circuit levels, stability and circuit capacity; we must conduct in-depth studies on all these before we can reach any conclusion. In addition, we will study how the operational structure of the two power companies should be changed. The fourth major category concerns a study on widening the range of generating capacity specifications. Technically, in many cases, the different specifications of the two power companies have to be standardized or made compatible. For example, the electricity supply system of the CLP Power now adopts a specification of 400 kilovolts and 132 kilovolts, and those adopted by the HEC are 275 kilovolts and 132 kilovolts.

Our ultimate aim is to invite our professional colleagues responsible for this project to give Members a detailed account of the study report. But as far as I know, besides stability and solutions to technical problems, this study also has to deal with many other items, and there is still no conclusion for one of these. Interconnection will necessarily involve investments by the two power companies. When it comes to investments, everybody will become very sensitive, and I am no exception, which explains why I have not yet reached any decision. I will be happy to submit the findings of the study to Members for discussions after it is completed.

Following power interconnection, I wish to say a few words on the outlook of the local electricity supply market after 2008. In this connection, I must reiterate that the two power companies are private enterprises. Some Members wondered whether we could follow the example of the telecommunications market and purchase the operating rights of the two power companies with money. I am sure Members can remember that a franchise was involved in the telecommunications market years back, and what we did was to purchase the remaining franchise term. But the two power companies are wholly privately-owned. Such a background leads to another problem, one which is connected with the high degree of liberalization of foreign electricity supply markets frequently mentioned by Members. Very often, foreign power companies are public organizations or simply government bodies. That is why it is possible to introduce liberalization and modes of regulation through privatization. But what we have in Hong Kong are two private power companies, and on this, I really wish to hear the opinions of Members. When it comes to market

liberalization, since we have to deal with two private companies and must respect the contracts signed and our spirit of free enterprises, we must be even more open than any other countries in liberalizing the relevant market. I mean, if we are to adhere to our long-standing principles during the process, we will certainly encounter more difficulties than other countries. But this does not mean that we are going to do nothing. I also hope that in the near future, people with similar experience in market liberalization in foreign countries can join the Economic Services Bureau to assist us in studying this rather complex and difficult problem.

Anyway, we will definitely conduct the 2003 interim review with the most proactive attitude. But during the process, I hope that everybody, including the Legislative Council and members of the public, can approach the matter with a sensible attitude because this is the only way to ensure a stable electricity supply. And, I certainly hope that while achieving stability, we can satisfy the needs of society.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr LAU Chin-shek to Mr James TIEN's amendment, 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 James TIEN rose to claim a division.

PRESIDENT (in Cantonese): Mr James TIEN has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Miss Margaret NG, Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr Michael MAK, Mr LEUNG Fu-wah and Mr IP Kwok-him voted for the amendment.

Mr Kenneth TING, Mr James TIEN, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Tommy CHEUNG, Dr LO Wing-lok and Mr LAU Ping-cheung voted against the amendment.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Miss Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr WONG Sing-chi, Mr Frederick FUNG, Ms Audrey EU and Mr YEUNG Yiu-chung voted for the amendment.

Dr TANG Siu-tong, Mr NG Leung-sing, Mr Ambrose LAU and Mr MA Fung-
kwok voted against the amendment.

Mr TAM Yiu-chung abstained

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 26 were present, eight were in favour of the amendment and 18 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 26 were present, 20 were in favour of the amendment, four against it and one 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): I now put the question to you and that is: That the amendment, moved by Mr James TIEN to Mr Fred LI'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)

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

PRESIDENT (in Cantonese): Mr Fred LI, you may now give your reply. You have up to five minutes 12 seconds.

MR FRED LI (in Cantonese): Madam President, first of all, let me thank the 17 Honourable colleagues who have spoken on this motion today.

I note that Members basically share a common view. By that I mean regardless of whether they represent the interests of businesses, industries or the grassroots, Members all agree that there is room for electricity tariffs to be lowered, and that the competitiveness of Hong Kong would be adversely affected

if the present situation should be allowed to go on. Like I did, some Honourable colleagues also cited the case of Motorola, which indeed warrants serious consideration by the Government. Taking Motorola as an example, at present, the rental expenses of foreign-funded firms in Hong Kong are rather low as their manufacturing plants are set up in industrial estates. Even though rent is not a problem, these overseas investors are still withdrawing their plants from Hong Kong because of the exorbitant electricity tariffs. This is a situation which calls for deep thought. The Government should really think it over very carefully, for not only rent levels but also the various matching facilities would impact on the competitiveness of Hong Kong.

My reply is mainly to respond to the speech made by the Secretary just now. I am very glad to see that the Secretary has adopted an open attitude towards the interim review to be held next year. With regard to the Scheme of Control Agreements (SCAs), the interim review next year is also the last interim review. Rather than isolating the final review of those 15-year contracts and examining only the situation in the last few years of the validity period, I hope that this interim review can be linked with the review to be held in 2008. I believe the investment and development projects of the two power companies will not be confined to the next few years, as they also wish to have greater development. Given that the SCAs will expire in 2008, the interim review should be handled in conjunction with issues relating to the opening up of the power supply market.

As regards power interconnection, the Secretary has talked about this issue for quite a number of years. Indeed, we also discussed the issue with the previous Secretary, Mr Stephen IP, as well as his predecessor during their respective tenures of office. I hope the Secretary will not make technical difficulty her excuse anymore. In fact, the Electrical and Mechanical Services Department has said that the technical aspect should not be a problem, only that the Hongkong Electric Company Limited did not wish to effect interconnection. I think this is exactly where the crux of the problem lies. However, a contract is a contract, nobody can abolish the SCAs before their expiry in 2008. We fully understand this reality, and that is why we also support Mr James TIEN's amendment, which urges the Government to strive for fairer terms while observing the principle of upholding the spirit of contract.

Just now the Secretary also stressed that the previous interim review would help the public save \$1.1 billion in the coming few years. I just hope the

Secretary will announce to us next year that despite the SCAs, she has still striven successfully for the public further room for downward adjustment of electricity tariffs. I particularly hope to hear that the 13.5% maximum rate of return can be dealt with flexibly. I believe many Honourable colleagues will agree with me that the two power companies really should not have insisted on earning profits at the fixed rate of 13.5% over the past years. That way, the Scheme of Control has in effect become a scheme of guaranteed return. Moreover, many Honourable colleagues also hold that the rate of 13.5% should be the ceiling rather than the guaranteed rate of return. The rate of return of the two power companies can be 11%, 12%, 13% or 12.8%; they do not have to fix the rate of return at 13.5% and consider they have not made any profit if the rate of return is below 13.5%. This is the consensus shared by the majority of Members. For want of not delaying Members in making their speeches in Putonghua, (*laughter*), I sum up my remarks on this motion with this consensus.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Fred LI, as amended by Mr James TIEN, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Second motion: Promoting the use of Putonghua.

PROMOTING THE USE OF PUTONGHUA

MISS CHOY SO-YUK (*in Putonghua*): Madam President, I move that the motion, as printed on the Agenda, be passed.

Madam President, after over 20 years of reform and opening, China has achieved remarkable success in terms of its economic development. This together with the country's accession to the World Trade Organization will certainly cause trade and economic activities on the Mainland to increase by leaps and bounds. If the people of Hong Kong are to grasp the enormous business opportunities on the Mainland, or if they are to go northward to look for jobs, proficiency in Putonghua will be a prerequisite. As indicated in a telephone survey conducted by the Democratic Alliance for Betterment of Hong Kong (DAB) last week, 46% of the people interviewed said they must use Putonghua in their job, while almost 90% of the interviewees agreed that proficiency in Putonghua should be conducive to enhancing the competitiveness of Hong Kong. Regrettably, the former Government had never attached any importance to Putonghua, to say nothing of devoting substantial efforts to promoting the use of Putonghua. Putonghua was never included as a factor for consideration by the former Government when promoting civil servants, producing television and radio programmes, providing teacher training, formulating language policy for schools, and so on.

We are not asking every resident of Hong Kong to acquire a fluent Beijing accent in speaking Putonghua, but an inadequate proficiency in Putonghua will definitely undermine Hong Kong's competitiveness. According to a survey conducted by the Census and Statistics Department on foreign-funded firms, about one fifth of the foreign investors interviewed considered the Putonghua standard of the people of Hong Kong one of the factors affecting adversely the business environment in Hong Kong. The results of another survey also show that although the university graduates in Hong Kong are more proficient in Chinese than in English, poor Putonghua ability remains their Achilles' heel. In some cases, they just fail to meet the Putonghua proficiency requirement of certain employers. The survey conducted by the DAB also reflects that over half of the people interviewed speak very little or even do not speak Putonghua. From all these surveys, we can see that the Putonghua standard of the students and residents in Hong Kong still has much room for improvement.

On the other hand, if Hong Kong is to develop its tourism industry and to attract more tourists from overseas and the Mainland, measures must be taken immediately to improve the Putonghua proficiency of the workers of the service industry. The number of mainland visitors has been on the increase over the past few years, rising from 2.67 million visitor trips in 1998 to 3.6 million visitor trips during the first 10 months of last year. As for economic return, the average expenditure of mainland visitors has risen to over \$4,900 last year, which ranked third after visitors from the United States and Taiwan. Moreover, following the relaxation of the restrictions on Hong Kong tours by mainland authorities, the number of visitors from the Mainland will certainly increase tremendously.

In view of the unlimited business opportunities, the people of Hong Kong should actively make an effort to disprove the saying "fear not heaven or hell but only Cantonese people speaking Putonghua". They should stop mixing up the pronunciation of words and say "小姐，想請問你一下……" (Excuse me lady, may I ask you ……) like "小姐，想吻你一下……" (Excuse me lady, may I kiss you ……), or mistakenly call "姓葉的總經理" ("ye zongjingli", which means General Manager YE) as "孽種經理" ("niezhong jingli", which means the born-out-of-wedlock manager). Otherwise, even if the persons being addressed were not terribly angered by such rude words, they just could hardly have any good impression of Hong Kong.

As a measure to strengthen the on-the-job training for employees in the tourism sector, the DAB suggests the Government include under the Language Fund a vocational Putonghua training allowance scheme to provide subsidy for individuals taking relevant training courses and to provide subsidy for private enterprises organizing internal training courses. In addition, the Putonghua immersion camp should be expanded further by increasing more than 300 training places every year.

Further still, many enterprises and businesses in Hong Kong tend to use extensively in their advertisements slang phrases that only Cantonese or even only Hong Kong people can understand. For example, the slogan of a convenience store which goes, "梗有一間喺左近", really beats people who do not know Cantonese. So, where possible, business operators should consider using the written form of language as far as possible to achieve greater promotional effect.

Madam President, by now the Government of the Hong Kong Special Administrative Region (SAR) should have realized the importance of Putonghua to the long-term development of Hong Kong. And that is why measures have been taken in recent years in schools and other sectors of society to promote Putonghua learning. Nevertheless, the efforts made by the Government in this respect still leave much room for improvement. Here, I should like to put forward a number of specific suggestions for the SAR Government's serious consideration and adoption.

To begin with, the Government should expeditiously resolve the problem of shortage of Putonghua teachers for primary and secondary schools. In December 1997, as a measure to support the introduction of Putonghua lessons to primary and secondary schools, the Education Department formulated a plan to train up 2 800 Putonghua teachers for primary and secondary schools in three years and commissioned a number of tertiary institutions to organize such teacher training programmes. All such training programmes have by now been completed. Since 1998, Putonghua has been included as one of the core subjects taught in primary and secondary schools to enable students to systematically learn the language in school.

It appears, on the surface, that schools do have enough trained Putonghua teachers. However, the fact remains that even though some 95% of the incumbent 5 500-odd Putonghua teachers have received Putonghua training, many of them are not language teachers originally while others are not native Putonghua speakers. These teachers have to teach Putonghua in schools after taking short courses of 15 to 160 hours. It is true that they have to pass certain qualifying tests before taking up the duty, but such kind of "learners teaching students" arrangement will only add to the burden on teachers, rather than enhancing genuinely the standard of Putonghua teaching.

Actually, many Hong Kong residents are native Putonghua speakers who used to teach Putonghua in the Mainland. The reason for the shortage of Putonghua teachers in Hong Kong is not that we do not have such talents but that the Government does not recognize degrees awarded by mainland universities. As a result, the majority of native Putonghua speakers with degrees awarded by mainland universities cannot give play to their talent in Hong Kong. Yet at the same time, the SAR Government is deliberately offering huge salaries to attract native English speakers from overseas to teach English in Hong Kong. Here,

the Government is visibly applying double standards in its language teaching policy, favouring one more than another.

The quickest way to resolve the problem is for the Education Department to allow school principals a greater degree of autonomy and more flexibility in recruiting Putonghua teachers. In particular, schools should be provided with additional development grants to enable them to employ native Putonghua speakers with language study degrees as Putonghua teachers. That way, not only the teaching pressure on the incumbent Putonghua teachers can be alleviated significantly, the standard of Putonghua teaching in schools will also be enhanced at the same time.

Madam President, in addition to educational efforts, an appropriate social environment where the public can have extensive exposure to Putonghua in their daily lives is also indispensable if the Government is to enhance the Putonghua standard of the people of Hong Kong as a whole. Hence, the DAB's second suggestion is that the Government must improve the existing channels for broadcasting Putonghua programmes and the reception quality of such channels, with a view to increasing for the public chances to be exposed to Putonghua. At present, Hong Kong has only one radio channel broadcasting in Putonghua. But since this Putonghua channel is an amplitude modulation (AM) channel and many areas in Hong Kong cannot receive AM broadcast programmes, the audience size of the channel is indeed very limited. The Government should provide an additional frequency modulation broadcast Putonghua channel to enable the public to have enough choices on the one hand, and give proper promotion to the use of Putonghua on the other.

Apart from radio channels, the free television channels in Hong Kong also fail to provide enough Putonghua programmes for the enjoyment of both local audience and people visiting Hong Kong from other places. As the four free television channels in Hong Kong only offer programmes in Cantonese and English, visitors from the Mainland, Taiwan and Southeast Asian countries who do not speak Cantonese or English just can have no way to gain a better understanding of Hong Kong through the local television programmes. The Government should therefore provide an additional television channel broadcasting in Putonghua.

Further still, listen more and speak more is an indispensable step to make progress in language learning. According to a survey conducted by the DAB

last Wednesday, about 30% of the people interviewed simply do not have any chance to come into contact with Putonghua. Besides, about 30% of the people interviewed confessed that they did not speak or spoke very little Putonghua. For this reason, I suggest the Government open a Putonghua practice centre for use by students and the public. This centre should provide users with simulated daily-life scenes like shopping, doing business, and so on, so that people can practise speaking Putonghua in such situations. In addition, as a measure to stimulate the awareness of Putonghua learning among members of society, the Government may consider designating an area in certain parks or under bridges as Putonghua workshops where people visiting there at scheduled time slots can practise their Putonghua skills by talking with each other in Putonghua.

Madam President, promoting the use of Putonghua is a continuous process, and it takes hard work to achieve effects. Actually, the Mainland has already gone a step further in promoting the use of Putonghua. The State Council has designated the third Sunday of September as the annual "National Putonghua Day". But so far the Hong Kong Government has done nothing in this respect, except that the Putonghua Channel of Radio Television Hong Kong has staged a "Putonghua Day" on 13 September last year and organized a number of activities to promote the use of Putonghua, including "Putonghua shopping concession", inter-tertiary institution Putonghua debate competition, and so on. These are good initiatives worthy of support. I hold that the SAR Government should designate the third week of the year as an annual "Putonghua Week" and organize or co-organize with non-government bodies more Putonghua activities for the participation of all members of society to create a milieu that is conducive to Putonghua speaking and learning. In this connection, the Government may consider organizing in the 18 districts Putonghua recitation competitions, singing contests, dramas, as well as other forms of cultural, recreational and leisure activities.

Madam President, practical participation is the most important approach to promoting the use of Putonghua. For this reason, the DAB has decided to set an example by urging our members to communicate with each other in Putonghua as far as practicable on Saturdays. Here, the DAB should like to take this opportunity to urge Honourable colleagues to use more Putonghua when the situation allows. Let us all put in our efforts to help promote the use of Putonghua.

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

Miss CHOY So-yuk moved the following motion: (Translation)

"That, with China's accession to the World Trade Organization, coupled with the continued increase in the number of visitors from the Mainland, Taiwan and Southeast Asia, there is a need for Hong Kong's business sector and the community to be generally proficient in Putonghua so as to grasp business opportunities, enhance competitiveness and strengthen our communication power; to this end, this Council urges the Government to formulate effective measures to tackle the current shortage of Putonghua teachers, increase channels for broadcasting Putonghua programmes and improve the reception quality of Radio Television Hong Kong's Putonghua Channel so as to provide the public with more exposure to Putonghua, and encourage community organizations to organize more activities for promoting Putonghua with a view to creating a milieu that is conducive to Putonghua learning."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Miss CHOY So-yuk be passed.

MR SIN CHUNG-KAI (*in Putonghua*): Madam President, first of all, I beg your indulgence for my Putonghua is poor. Nevertheless, I support promoting the use of Putonghua. I only wish to supplement one point. There are many ways to learn Putonghua, and information technology can be of enormous help to people in learning Putonghua. The text of my speech, for example, has Chinese phonetic alphabets printed above each character so that people who are not quite fluent in Putonghua can still read it out. I did not write those alphabets on this text manually, I just used a computer software to automatically provide the Chinese phonetic alphabets above the characters to help me read out this speech.

Apart from computer software, there are many other technology products that can also help an average person learn Putonghua. For example, some electronic dictionaries can provide users with the Putonghua pronunciation of the Chinese characters input into them. There are also other companies which offer on-line Putonghua courses via the Internet. As regards materials free of charge, the HKeducationCITY.net has a databank where members of the public can download education television programmes produced by Radio Television Hong Kong (RTHK). Further still, there are even websites on the Internet which

teach people Putonghua pronunciation rules. With a computer and a telephone line, one can find lots of relevant information. What I wish to emphasize is that there are many ways to learn Putonghua and using information technology is one way.

As regards RTHK's Putonghua channel, since its programmes are currently broadcast via amplitude modulation, the reception is rather poor in certain areas. The Democratic Party supports very much the Honourable CHOY So-yuk's recommendation for increasing channels to broadcast Putonghua programmes. Actually, RTHK has already uploaded the majority of its radio programmes onto its homepage, so that members of the public can listen to those programmes at any time they wish. As at present, however, RTHK does not have any funding support from the Government to develop an on-line radio. In other words, this on-line service, which is of meaningful significance to efforts promoting the use of Putonghua, may one day be dropped due to insufficient resources. Here, I wish to urge the Government to take one step further and provide funding for RTHK to develop its on-line radio programmes. Thank you, Madam President.

MRS SELINA CHOW (*in Putonghua*): Madam President, first of all, let me thank Miss CHOY So-yuk for moving this motion, which has not only given me an opportunity to practise my Putonghua but will also induce some very entertaining moments for this meeting in the next hour or two.

From the saying "fear not heaven or hell but only Cantonese people speaking Mandarin (Putonghua)" we can see that speaking Putonghua can be a real challenge to the people of Hong Kong. Today, I should like to share with Honourable Members the importance of Putonghua to the development of the tourism and retail industries. I hope people engaged in these two industries will expeditiously make an effort to learn and master Putonghua.

According to the statistics on inbound visitors, about half of the tourists visiting Hong Kong are Putonghua-speaking. Take 2001 as an example, Hong Kong has, using Putonghua, served over 6.2 million visitors from the Mainland and Taiwan who brought more than \$27.78 billion earnings for the local tourism industry. And these figures have not yet included the Chinese-speaking visitors from Singapore. It should be noted that 10% or 620 000 of those tourists criticized that the people of Hong Kong could not communicate with them. In

what situations have these visitors found the people of Hong Kong unable to communicate with them, when they were doing shopping or when they were visiting restaurants? On deeper thought, perhaps Hong Kong has let some 620 000 chances to boost tourist consumption slip through our fingers. So, we have seen business opportunities slip through our fingers. Is there anything we can do to grasp such business opportunities firmly? The answer is very obvious.

Actually, we have also been visitors to other places before. When travelling overseas, the trip would of course be less enjoyable if we could not communicate with the locals there. What is more, we might even mistakenly consider that the people there are very unfriendly to us. We cannot rely solely on the attractiveness of the scenic spots to establish our good reputation as a tourist destination, for other kinds of matching "software" are also indispensable and communication ability is one of the very important factors. The focus of the Hong Kong Tourism Board is on how we can let visitors have a more interesting, more enjoyable and more unforgettable stay in Hong Kong. This is because we know that this is the only way to persuade visitors to recommend Hong Kong to their friends and relatives at home, thereby attracting more tourists and business opportunities to Hong Kong.

In recent years, we often hear people discussing how productivity can be enhanced. At the present time, I believe learning Putonghua is one of the better ways. To participants in the tourism and retail industries, Putonghua should be a compulsory subject they all have to learn. This is because the greater the number of visitors from the Mainland, the greater will be the chance we need to speak Putonghua. If anybody should still refuse to learn Putonghua at this stage, I am afraid they would just be lagging too far behind. Earlier on, when officiating at the Food Expo I came across an exhibition stall operated by Koreans and found to my surprise that the people working at the stall could all speak Putonghua. They told me, "We all learn Putonghua because we want to enter the market in China and do business with Chinese people." Their attitude to work is a worthy lesson for our employers and employees. Some friends engaging in the retail trades told me that their employers did not allow them to take Putonghua courses during working hours, and were concerned that they would switch to other jobs once they could master the language. I am sure the people of Hong Kong are very smart, having regard to the situation they are faced with, they should know what they ought to do in future.

Madam President, I believe there is much room for promoting the use of Putonghua in Hong Kong. In this connection, I suggest that Putonghua be made a compulsory subject for students taking Tourism and Hotel Studies, and that all modes of public transport should have announcements made in Putonghua as well. Further still, the hotel industry in Hong Kong may set up a staff exchange scheme with mainland hotels, so as to give Hong Kong hotel employees a chance to practise their Putonghua on-site on the one hand, and to enable local hotels to have front-line employees who can speak fluent Putonghua on the other.

Is Putonghua very difficult to learn? I cannot say it is very easy to learn to speak Putonghua. However, I do know that if we do not take hold of the opportunity available to us to make proper preparations, we would regret it very much when faced with new challenges in the future and life could be even harder then.

Madam President, I support the motion. I will also strive to further improve my Putonghua.

DR PHILIP WONG (*in Putonghua*): Madam President, the Basic Law specifies under Article 9, Chapter I that in addition to the Chinese language, English may also be used as an official language by the executive authorities, legislature and Judiciary of the Hong Kong Special Administrative Region (SAR). Hong Kong is a bilingual community where the East meets the West, and great importance should therefore be attached to both the Chinese language and the English language; hence, we have to enhance our English language proficiency as well as our proficiency in Putonghua. Promoting the use of Putonghua is actually the responsibility of the relevant departments in the SAR including the Legislative Council. In this context, there should not be any heated arguments over this motion today.

Nevertheless, I still appreciate this motion very much. As we all know, language is the instrument human beings use to communicate with each other. The language of a country is the symbol representing its economic and cultural development. Countries and regions in the world all have their respective official languages. Putonghua is the official language of China, and through continuous refining over the past few thousand years it has become one of the world's most lively and well-developed languages. In this connection, however, people would notice that among the Chinese people living in the greater China

economy, the Putonghua standard of the people of Hong Kong is most probably the lowest of all! Having been subject to British rule and its colonial education system for such a long time is indeed a historical reason why the Putonghua standard of the people of Hong Kong has remained low. But then, even though it has been almost five years since the reunification, the majority of the public still cannot speak Putonghua. This will certainly limit the ability of Hong Kong to communicate with Chinese people living on both sides of the Taiwan Straits as well as other places over the world, while the role of Hong Kong as an intermediary will inevitably be restricted as well. With the Mainland expediting its reform and opening, unlimited business opportunities are emerging and many people are rushing from Hong Kong to the Mainland for business, negotiation and employment purposes. At the same time, as a result of the rapid economic growth and the significant changes taken place in various cities and villages in the Mainland, millions of mainland residents are coming to Hong Kong for pleasure, shopping, and inspections. If Hong Kong and the Mainland should be grouped under one free trade zone in future, enhancing the Putonghua standard of the people of Hong Kong would be both a practical need and a symbol signifying the cultural reunification of Hong Kong with China.

I just hope Members will not decide on whether or not to support this motion in the light of their respective Putonghua standard. This is because the objective of this motion is to examine the ways in which the people of Hong Kong can grasp the golden opportunity available under the present new situation to improve their competitiveness and strive for a better future. As a long-term goal, I believe Members will endeavour together to create a social trend that is conducive to promoting the use of Putonghua. After all, as Chinese people, it is just natural and right for us to master our national tongue.

Putonghua is one of the most extensively used languages in the world and also one of the five official working languages of the United Nations Organization. Nevertheless, not many of the foreigners I met in the past could speak Putonghua. In recent years, as China's economic growth continues to outshine others, its international status has risen significantly and thereby led to a Putonghua learning trend. While Chinese language studies are offered in many universities in Europe and the United States, more and more foreigners are also coming over to China to study the Chinese language, to take the "Chinese TOFEL", to apply for jobs and to look for development opportunities. Many of the consuls I know in Hong Kong, including the Consuls from the United States,

Britain, Singapore, Japan, and so on, can all speak fluent Putonghua. Besides, many professionals and senior executives of multinational companies and listed companies are also making an effort to learn to speak Putonghua. Today, the consolidated power of our country is growing continuously, education and technology are developing in leaps and bounds while the traditional culture is being revived. According to the studies conducted by the World Bank and other leading research institutes in the West, it should not be a problem for China to develop into an economic giant provided it could have some 10 to 20 years of stable development. For this reason, countries all over the world are attaching great importance to China, striving to improve their relationships with China, with a view to enhancing their co-operation and exchange with China in such aspects as politics, economics, foreign affairs, military, finance, trade and commerce, culture, technology, and so on. This is the call of the times and also the basic cause of the Putonghua learning trend.

In my view, the SAR Government should adopt effective measures to promote the use of Putonghua, help students develop an interest in and a habit of speaking Putonghua, make arrangements for students to pay inspection visits to the Mainland and to attend courses and receive practical training there. In enhancing their Putonghua standard, students can at the same time learn to further appreciate the beautiful landscape and long history of our country and gain a better understanding of its future development, thereby boosting their national dignity and preparing them to rise to the challenges in the new century. Thank you.

MR TAM YIU-CHUNG (*in Putonghua*): Madam President, as the economies of Hong Kong and the Mainland continue to integrate and interact with each other, and the commercial and cultural exchanges between the two places become increasingly frequent, the people of Hong Kong have gradually come to realize the importance of Putonghua.

If we are to master Putonghua, a suitable social environment is indispensable in addition to painstaking efforts. Unfortunately, since the policy of the SAR Government on promoting the use of Putonghua does not have a clear positioning and there are not enough measures to implement the policy, so far a milieu that is conducive to Putonghua learning has yet to be created.

The Putonghua teacher of the Federation of Trade Unions has told me that the first step to master Putonghua is to learn the Chinese phonetic alphabets well, understand the pronunciation system of Putonghua, and to get familiarize with and master the accurate pronunciation of words. As regards the second step, a good foundation must be established. Starting from the basics to the more advanced levels, we should learn the simple daily use terms first as a first step and then gradually expand our vocabulary and learn to distinguish the difference between Cantonese and Putonghua. Without a sound foundation, we just cannot pronounce the words accurately and may make many jokes as a result, such as telling others "I live in kennel" when trying to say "I live in Kowloon", and telling others "the kids are missing" when in fact "the shoes are missing".

At present, although the majority of the primary and secondary schools have Putonghua lessons, the number of lessons is very limited, as primary to junior secondary school classes have only two to three Putonghua lessons in a week. As regards the Putonghua teachers, the general comment is that the standard of Putonghua teachers may vary rather dramatically. Moreover, the lack of planning has also resulted in a situation where the adequately trained teachers do not have any chance to teach Putonghua while the ones responsible for teaching the subject are not really very good at Putonghua. All these problems must be resolved through the education reform. In this connection, the Government should expeditiously improve its language policy for schools, strengthen the training of teachers, and to make use of the Quality Education Fund and the Language Fund to devote more resources to helping students to lay a sound Putonghua learning foundation.

Even though the words used in Putonghua and Cantonese do not differ very much from each other, a term pronounced in Putonghua may have a meaning very different from its Cantonese pronunciation. For example, with the Cantonese meaning of "得意" or interesting, the same term pronounced in Putonghua can mean complacency. If we should use this term wrongly, we might end up offending the person whom we intend to praise! Further still, many a time we often find ourselves at a loss as to what to say or write when we have to say or write down some dialectic terms in Putonghua. If we are to overcome such obstacles, we have to listen more to and speak more in Putonghua and tune in to the different media using Putonghua, including television programmes, radio programmes, movies, songs, and so on, with a view to training our Putonghua listening skill. Besides, we should also participate more in Putonghua activities and meet more Putonghua learning partners to help improve each other's Putonghua proficiency.

For this reason, I wish to read out the following doggerel in Putonghua:

you ge lao tou ben xing gu

(To the marketplace Old Gu is going on his way)

shang jie da cu dai mai bu

(Some vinegar and a cloth are what he needs for the day)

da le cu, mai le bu

(So he buys the vinegar and the cloth without delay)

tai tou ke jian ying diao tu

(On his way back he sees an eagle carrying a rabbit away)

fang xia cu, diu xia bu

(There Old Gu lays down the cloth and the vinegar)

shang qian qu zhui ying he tu

(Trying to chase the eagle and the rabbit together)

hui tou bu jian bu yu cu

(When he is back he can find neither the cloth nor the vinegar)

fei le ying, pao le tu

(The eagle and the rabbit are gone, though not together)

diu le bu, sa le cu

(But gone also are the cloth and the vinegar)

man du zi yuan qu mei chu su!

(And that is the worst day Old Gu has ever!)

I wonder whether Honourable Members understand what I read out just now. If they do not, it may perhaps be the fault of my poor Putonghua; or perhaps the Putonghua standard of Members is not good enough either. In any case, the most important point is we should not feel shy in speaking in Putonghua. With these remarks delivered in Putonghua, Madam President, I support the motion. Thank you.

DR RAYMOND HO (*in Putonghua*): Madam President, Chinese is our mother tongue and Putonghua is the official language of our country. Even though Hong Kong has been implementing mother tongue teaching since the reunification, the use of Putonghua in Hong Kong is still far from popular. Generally speaking, the Putonghua proficiency of the people of Hong Kong is barely acceptable. However, Hong Kong is an important city of China, just for what reason should we lag behind others in our Putonghua proficiency? In my view, the Hong Kong Government should put in greater efforts to promote the use of Putonghua, with a view to enhancing the people's Putonghua standard.

Following China's accession to the World Trade Organization and the implementation of the policy to develop western China, Putonghua has become increasingly important. At present, many overseas companies are casting a covetous eye on the market in mainland China and proactively making preparations for entering the China market. One of their strategies is to encourage the relevant staff members to learn Putonghua. I am convinced that learning Chinese and Putonghua will become a widespread trend among foreigners. As Chinese, how can we be so slack in our Putonghua learning? Will the people of Hong Kong not become a laughing stock if foreigners can speak Putonghua more fluently and correctly than we do?

The Hong Kong Government introduced Putonghua courses to schools about 10 years ago. I consider this a very good start. However, I hold that students can never speak fluent Putonghua just by attending Putonghua lessons in school. This is because Cantonese is the dialect they use in school and at home. Hence, if the Government really hopes that the new generation of the people of Hong Kong can speak fluent Putonghua, it must increase more channels for learning Putonghua, including broadcasting more radio and television programmes in Putonghua, promoting the idea of "Putonghua Day" among schools, and so on. In this connection, I participated in the "Putonghua Day" held by Radio Television Hong Kong towards the end of last year and found the event very meaningful. Apart from that, I believe the quality of Putonghua teachers is another very important factor and I just hope schools can all have enough Putonghua teachers.

It is an indisputable fact that Putonghua is gaining increased importance. In order to enhance Hong Kong's competitiveness and to rise up to the challenges to come, the Government should actively take actions to encourage the public

and students to learn Putonghua and to provide an environment and atmosphere conducive to Putonghua learning.

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

MISS CYD HO (*in Putonghua*): Madam President, I really respect Honourable Members for the painstaking efforts they made in preparation for this motion debate. I wonder if the President was aware that Members were all mumbling to themselves before they rose to speak. This is indeed a moving scene. Even though Members speak Putonghua with different accents, their accents have served to add colour to this motion debate and their efforts have also helped to set a good example. I think this is really commendable.

Language is a medium of communication, whilst the ability to speak the language is an important factor, equal importance should be attached to the ability of the people outside this Chamber to follow the debate. Therefore, my Putonghua speech shall end here, so as not to affect the efficiency of the Council.

(The following was delivered in Cantonese)

I will now speak in Cantonese. Madam President, I fully support that efforts be made to enhance the language abilities of the public. Actually, we should learn more than just Putonghua. We should aim higher than just being biliterate and trilingual; we should learn a third, fourth or even fifth language. This is because we can gain a better understanding of the culture and way of thinking of different nationalities by studying their languages, meaning of words and sentence structure, all of which being conducive to developing Hong Kong's international outlook. After unifying ancient China, the Qin Dynasty standardized the writing system, measuring system, tread, as well as the width of the main roads of the country, thereby removing many transportation and communication obstacles for the country. Such contributions of the Qin Dynasty have very far-reaching influence on the development of Chinese history. Shortly after its establishment in 1949, the People's Republic of China made concerted efforts to standardize the country's language by promoting the use of Putonghua and simplified Chinese characters. While the use of simplified Chinese characters did help to remove illiteracy, it has nevertheless damaged the structure of Chinese characters to a certain extent. Whether there are more

pros than cons in the introduction of the simplified Chinese characters, judgement should be left to history. However, promoting the use of Putonghua is certainly meritorious because people speaking different Chinese dialects can have one common language to communicate with each other. Otherwise, how can people from Shanghai, Chaozhou and Guangdong communicate with each other today?

However, it is not enough if we have only the communication skills. The most important point is that we have the sincerity to communicate, without which all communication skills will become meaningless. For this reason, I hope that China will have not only Putonghua as our common basis of communication, but also the liberty to let different opinions, religious messages and political views flow freely on that basis. That way, all members of society can express their views freely and share a real common language.

As far as Hong Kong is concerned, I must emphasize that in addition to learning different languages, we should at the same time be mindful of preserving our local culture. Actually, Cantonese is a vibrant and lively dialect which, together with the pop culture in Hong Kong, can be very funny, naughty and witty.

With regard to the economic restructuring that Hong Kong is undergoing currently, we may in fact focus our attention on developing creative industries that have rich tints of local colour. According to the phonographic industry, of all the Hong Kong songs entering successfully into the mainland market, 92% are Cantonese songs, and only 8% are songs sung in Putonghua. This is because the mainlanders are very interested in the unique culture of Hong Kong. I therefore hope that we can also take care to preserve our local culture and share it with our compatriots on the Mainland.

Madam President, I support Miss CHOY So-yuk's motion. In order to reflect to the national leaders my views on upholding the rule of law in Hong Kong and the democratization of China, I will strive to brush up my Putonghua. Thank you, Madam President.

MR CHEUNG MAN-KWONG (*in Putonghua*): Madam President, I do not know what Miss CHOY So-yuk was saying earlier (*laughter*), for I was thinking what should I do when it came to my turn to speak in Putonghua later?

After 1997, the Putonghua programme has been launched in full scale in local schools. At present, Putonghua programme is provided at 99% of primary schools and 98% of secondary schools in Hong Kong. There are now some 5 500 Putonghua teachers who can basically meet the needs of Putonghua teaching, despite variations in their standard of Putonghua. An encouraging phenomenon is that Putonghua teachers are very willing to undergo training. Some have even taken up Putonghua training at a more advanced level at the Qinghua University in Beijing during their vacations, in an effort to upgrade their teaching ability. However, the language benchmark test in Putonghua introduced by the Government last year may dampen teachers' interests in choosing to teach Putonghua.

I have asked the views of some Putonghua teachers in primary and secondary schools and noticed a very special phenomenon. I found that Putonghua teachers in primary schools are happier than their counterparts in secondary schools. I do not know if this is a common phenomenon, but I think there must be some reasons for this. The positioning of Putonghua in primary schools is clear, for it is a compulsory subject. To ensure continuity in teaching, teachers will make an effort to complete their own programmes. But in secondary schools, while Putonghua is a compulsory subject at the junior secondary level, it is an elective at the senior secondary level offered in only 10% of the schools. So, Putonghua is often considered non-essential in secondary schools and lacks a clear positioning. If students are not going to sit in the Hong Kong Certificate of Education Examination (HKCEE), the motivation of teaching will be lowered. Therefore, the success of Putonghua teaching hinges on its positioning. If the positioning is unclear, the effectiveness of teaching will be undermined. If Putonghua remains at the stage of being a dispensable interest, we may still be able to maintain the *status quo*. But if we truly want to upgrade the standard of Putonghua for business and learning purposes, there ought to be fundamental changes to the current situation.

However, changes are never easy. The school curriculum in Hong Kong includes many subjects. The teaching periods of such principal subjects as Chinese, English and Mathematics are already inadequate now. It is, therefore, absolutely not easy for Putonghua to compete for teaching periods with other subjects. At present, in 30% of the primary schools and 42% of the secondary schools, only one teaching period is allocated for Putonghua every week. As Putonghua is considered the most trivial among all trivial subjects, the standard

of Putonghua is, of course, unsatisfactory. All that schools can do now is to organize extra-curricular Putonghua groups to enable students to speak Putonghua more often as a remedy. This is obviously inadequate. Besides, insofar as the HKCEE is concerned, the candidates for Putonghua is very small in number, with only about 2 000 candidates each year. This shows that Putonghua is not an academic subject to which students attach importance, and this is the greatest obstacle in the promotion of Putonghua.

An even greater obstacle to Putonghua learning is the lack of a Putonghua-speaking environment in Hong Kong. In the '60s, mandarin movies and mandarin songs were very popular in Hong Kong. Many Hong Kong people of the older generations actually learned Putonghua from movies and songs. But now, whether in movies, songs, or television and radio programmes, Cantonese just prevails. Even Putonghua programmes are dubbed into Cantonese. Moreover, the fact that students cannot practise their Putonghua locally has affected the standard of Putonghua of students and even teachers.

Many teachers have told me that the teaching of Putonghua will succeed only when students show an interest in it, and when they are willing to speak in Putonghua and dare to speak in Putonghua. This will be the first step towards success. Madam President, their situation is like mine today. Students are most afraid of Putonghua phonetics and examinations, and what they like most is singing or listening to stories. Language is part of life. Learning a language in everyday life is the most natural way of learning. Think about how we learned Putonghua in the past. So, unnecessary contents should be minimized for the learning of Putonghua. It will be good enough as long as students can understand and speak Putonghua, and communicate with Chinese people speaking it. We should not set standards at too high a level. We should not make learning too difficult. Biliterate and trilingual proficiency is our objective. But expecting students to attain too high a standard will make them become afraid of learning, which will in turn be counter-productive.

Madam President, the teaching of Putonghua in schools in Hong Kong still has room for development and lacks a clear positioning. But Putonghua is very important to Hong Kong because Hong Kong is a Special Administrative Region of China. Hong Kong people must be able to communicate with Chinese people, whether in daily life or for economic purposes, and to this end, the teaching of Putonghua must be enhanced. I notice that in schools where the teaching of

Putonghua is successful, their initiatives must have centred around some quality Putonghua teachers, who serve as a driving force to upgrade the teaching ability of the other teachers. I hope that the Government can provide subsidies for the Putonghua Panel Chairman of each school to take up Putonghua training in Beijing, so that they can take the lead in the teaching of Putonghua in their schools and gradually improve the standard of Putonghua in Hong Kong.

Madam President, I beg your pardon for my lousy Putonghua. I support the motion. Thank you.

MR HUI CHEUNG-CHING (*in Putonghua*): Madam President, Putonghua is our national language. A good proficiency in Putonghua can further Hong Kong people's understanding of the culture of our Motherland. From the angle of economic and social benefits, upgrading the standard of Putonghua in the Hong Kong community is an important means for Hong Kong to grasp business opportunities in the Mainland and to consolidate its competitiveness. On the one hand, it is now a trend for Hong Kong people to go northward for employment given the ample business opportunities in the Mainland, and proficiency in Putonghua is an essential condition for people going northward for development. On the other hand, the integration of the economies of Hong Kong and China will affect not only people going northward for employment, for local trades and industries also have to make adjustments accordingly. If Hong Kong does not endeavour to upgrade the standard of Putonghua, Hong Kong's status as an international financial, trade, shipping, tourism and information centre will be adversely affected. Singapore, a competitor of Hong Kong, has been making vigorous efforts recently to promote Putonghua among its nationals, with a view to developing business opportunities in China more effectively.

For historical reasons, it was only in the late 1990s that the Government included Putonghua in the core curriculum of primary and secondary schools and provided Putonghua education in a more comprehensive and systematic manner. In a nutshell, many adults did not receive sufficient Putonghua training during their school years. In fact, even for university graduates, their standard of Putonghua also warrants improvement. According to an employment survey conducted by the Hong Kong Chapter of an Australian accountants' association among some 300 students of the eight local universities, only 34% of

respondents consider that the Putonghua training they received at universities can equip them better for their future careers. According to a survey carried out by a consultancy commissioned by the Government about employers' views on the performance of university students, Putonghua proficiency remains an area in which university graduates show the poorest performance. A government survey among foreign companies also shows that 20% of the companies interviewed consider that the standard of Putonghua in Hong Kong is a factor unfavourable to the business environment of Hong Kong.

Madam President, from the above surveys, improvements have to be made indeed to the standard of Putonghua in the Hong Kong community. The Government should step up Putonghua education at all levels of the community. In the first place, one has to start building up a good foundation at young age in order to learn a language well. The Government must enhance the training of Putonghua teachers in primary and secondary schools and upgrade the quality of Putonghua teaching. Moreover, the Government should improve the proficiency of Putonghua of employees. The Government has launched the Workplace English Campaign to improve the standard of English in various trades. It should introduce a Workplace Putonghua Campaign modelled on the Workplace English Campaign to provide employees with more opportunities of learning Putonghua. Particularly as the economy is undergoing a transformation and the employment situation deteriorating, there is every reason for the Government to provide language courses for employees, especially those in the elementary level, in order to enhance their ability to communicate with the outside world. On the other hand, if the Government intends to develop tourism and attract more tourists from the Mainland, it is all the more necessary to improve the standard of Putonghua of employees in retail trades. The Hong Kong Progressive Alliance hopes that the Government can expeditiously discuss with the relevant organizations the provision of more systematic and practical Putonghua training for their employees. Finally, to learn a language, the key is to listen more and speak more. The Government must create an environment in which Putonghua is used more often, to provide more opportunities of exposure to Putonghua for the people. The Government can organize more activities in which all citizens can participate, such as the "Putonghua Day", and encourage the electronic media to broadcast more Putonghua programmes.

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

MR LEUNG FU-WAH (*in Putonghua*): Madam President, in order to throw weight behind Miss CHOY So-yuk's motion, I have plucked up the courage to speak in Putonghua today. I hope that my Putonghua will not set a negative example for Putonghua learners. I also hope that the Government of the Hong Kong Special Administrative Region (SAR) can give effect to the proposals in the motion in future and endeavour to promote Putonghua and upgrade Hong Kong people's proficiency in Putonghua, so that the standard of Hong Kong-styled Putonghua will no longer be just so-so in future.

Language is an important tool of communication for human beings. The vitality of a language is reflected by the frequency of its use and its pervasiveness. The population of China now accounts for one sixth of the total population of the world; discounting the number of overseas Chinese people. Judging from this, one in every six people in the world speaks Putonghua. The pervasiveness of a language is closely related to the international status and economic development of that country. In the '80s, a tide of "Japanese fervour" swept across Hong Kong. Learning Japanese became a fashion then, and schools teaching Japanese abounded. Apart from the role of the media and cultural factors, this was also due to active trade activities between Hong Kong and Japan at the time. But that is history now. Since the reform and opening up of our country, there have been increasingly more Hong Kong people going northward for investment and employment. Proficiency in Putonghua has become a skill for business and trade purposes. But at that time, the active usage of Putonghua was still confined to trading activities with the Mainland. As pointed out by Miss CHOY in her motion, with China's accession to the World Trade Organization and the further opening up of the mainland market, international trade and business activities are bound to increase. Being China's southern gateway to the world, Hong Kong must capitalize on its advantages and bring its bridge function into full play. Legal, accountancy and managerial talents in Hong Kong have become targets of active recruitment by mainland enterprises. At the last weekend, a recruitment exercise by well-known mainland enterprises was conducted in Hong Kong, and became the focus of attention in town. But as effective tools are prerequisites to success, the ability to communicate in Putonghua is therefore essential. I believe going northward for employment or engaging in jobs relating to the Mainland will be a future trend. From workers' viewpoint, we hope that the SAR Government will create a better learning environment to enable Hong Kong people to acquire an additional skill of living so as not to be eliminated by the market.

To promote biliteracy and trilingualism among students, the Government has introduced the Native-speaking English Teacher (NET) Scheme, under which funding is provided for schools to take on native-speaking English teachers. In last year's policy address, the Chief Executive undertook to further expand the NET Scheme to give schools a greater degree of autonomy. But on the other hand, we do not see that Putonghua education is given similar treatment. To many schools, Putonghua is just an interest class and an atmosphere for learning Putonghua is lacking. In society, students cannot easily find room for practising Putonghua either. I hope the Education Department can channel more resources for Putonghua education so that a Putonghua-speaking Teacher Scheme similar to the NET Scheme can be implemented at schools.

The Putonghua Channel of Radio Television Hong Kong is the only radio station broadcasting in Putonghua in Hong Kong. However, the actual number of Putonghua broadcasting hours is 14 hours a day only, which is far less than the broadcasting hours of general radio stations broadcasting in Cantonese. Last year, the Putonghua Channel, formed the Putonghua League with some 30 organizations to promote Putonghua campaigns, and 13 September last year was designated as the Putonghua Day. Unfortunately, it clashed with the "September 11 incident" and the event had failed to arouse attention in the community. Compared with the Community Chest's Dress Casual Day, publicity for the Putonghua Day was obviously inadequate. I hope the relevant parties can make improvements and create the milieu in society.

Insofar as the employment market is concerned, since the introduction of the Workplace English Campaign, English training courses have been provided for employees in designated trades to upgrade the quality of the local service industry. But as the number of mainland tourists increases, tourism will become the leading labour-intensive industry in Hong Kong. Apart from employees in the tourism sector who need to acquire a proficiency in Putonghua, those in peripheral trades also require the relevant training. I hope the authorities will actively consider introducing a Workplace Putonghua Campaign.

Having said that, and just as the Hong Kong Tourism Board has often said to the effect that (*the following line is said in Cantonese*) we all have a part to play in Hong Kong's tourism — (*the rest of the speech is in Putonghua again*) this Cantonese remark, I must say, is not standard Chinese — Hong Kong residents should also make an effort to upgrade our proficiency in Putonghua. I

just hope that our young people will not have to communicate with mainland visitors by body language!

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

MR MA FUNG-KWOK (*in Putonghua*): Madam President, promoting Putonghua is not something new in the first place. Nowadays, many commercial organizations have included proficiency in Putonghua as a requirement in recruitment exercises. Certainly, it is difficult to give a generalized definition to "proficiency". We often hear that the biliterate and trilingual proficiency of our students warrants enhancement, but regrettably, the focus is invariably put on English. Schools and parents are injecting as many resources as possible to upgrade students' standard of English. As for Putonghua, it is generally considered an extra-curricular interest or non-essential subject. This is the case because, other than historical reasons, people generally think that not being proficient in Putonghua will do no harm and that it is already good enough as long as one can understand it. Simply say "My Putonghua is not good" or "My Putonghua is so-so" and one can get away with it.

In fact, many friends of mine who can speak Putonghua feel somewhat puzzled that Hong Kong people are unable to speak Putonghua well. They think that as Hong Kong has reunited with China for years, the relation between Hong Kong and the Mainland is getting closer and closer, and as we have been saying all the time that we have the Mainland as our hinterland and so, the Hong Kong economy will be fine as long as the mainland economy is good, the standard of Putonghua of Hong Kong people should have been improved under such circumstances. But why does the Putonghua of Hong Kong people remains so clumsy and so poor, always making funny mistakes and being so embarrassing? At first, I was not convinced by such comments of my friends and I took exception to their views. Has the SAR Government not done a great deal of promotional work? It was only until recently when I listened to the recordings of an interview with a Taiwanese singer on radio that I suddenly realized the seriousness of the problem, for the interview which was conducted by the compere in horrible Putonghua that was unbearable to the ears could be broadcast unabridged. It is a big problem if we think that there is no problem at all. If we pander to this mentality, how can we learn Putonghua properly? How can we upgrade our standard of Putonghua?

Let us look at this in a broader perspective. As China further implements reforms and the open-up policy, and with the further development of its economy, our next generation will very likely have to frequently travel between the different cities of the Motherland, living and working in different places. Even in the international community, Putonghua (or Hanyu) will probably become a major language in international dealings so long as Chinese people are involved, whether for trade and business purposes, cultural and academic exchanges or diplomatic activities. In fact, more and more foreign people can now speak Putonghua very fluently. So, there is every need to promote Putonghua, in order to improve our communication power and to ensure that our next generation is fully prepared.

Today, in this Chamber, many colleagues are trying very hard to speak in Putonghua. We should not, nor should the media, focus on whether or not they speak standard and fluent Putonghua. Rather, we should be concerned about the efforts made by colleagues and the leading role that they are taking on. It does not matter if our pronunciation fails to meet the standard or if we are not fluent enough. As long as we have the determination and make an effort, some day we will be able to speak fluent Putonghua or even conduct debates in Putonghua!

Madam President, the promotion of Putonghua certainly should not target only at individuals. Instead, it really hinges on the overall social atmosphere. Given that Putonghua radio stations or television programmes are but few, promoting Putonghua on a full scale is set to encounter great difficulties. In this regard, improvements must be made by providing additional Putonghua channels and air time. Recently, the Chairman of the Standing Committee on Language Education and Research, Mr Michael TIEN, has proposed that Putonghua be adopted as the medium of instruction for half of the subjects in local schools within the next 10 year, and this has aroused immediate feedback. I agree that the promotion of Putonghua should focus on school education. The teaching of Putonghua should begin from an early age and Putonghua education should be regarded as a long-term objective.

However, the reality is that few schools in Hong Kong have adopted Putonghua as the medium of instruction. The conditions are not yet mature for promoting Putonghua education in all primary and secondary schools rapidly, since students will have problems in adapting to the changes and more importantly, teachers have yet to be able to master Putonghua. As both the teachers and students are not proficient in Putonghua and if it is adopted as the

medium of instruction, the consequences will be disastrous. At present, there are only about 150 teachers who have undergone professional training in Putonghua. It is already not easy to require teachers of Chinese language to be accurate in and conversant with the use of Putonghua in teaching, let alone extending Putonghua teaching to other subjects.

Therefore, to promote Putonghua, the first and foremost task is to speed up the training of Putonghua teachers both in terms of quality and quantity. The Education Department should draw up clear policies to encourage the teaching of Chinese language in Putonghua, and set out specific support measures. Only in this way can schools be attracted to gradually extend the Putonghua programme to the senior secondary level, thus opening up more opportunities for students to be exposed to and learn Putonghua. This will gradually remove the community's psychological obstacle to speaking Putonghua and reverse the misconception that Putonghua of a passable standard is still acceptable.

With these remarks, I support the motion moved by my colleague, So Yuk.

MS AUDREY EU (*in Putonghua*): Madam President, as Hong Kong is an inseparable part of China, it should be the responsibility of all nationals to be proficient in Putonghua. With China's accession to the World Trade Organization (WTO), there will be more frequent trade activities and business dealings between Hong Kong and the Mainland. The question of how to improve Hong Kong people's standard of Putonghua, therefore, has to be addressed as a matter of urgency.

To master a language, it is certainly best to start learning it from primary school. For this reason, the Government must enhance Putonghua teaching in primary and secondary education. Many academics and even leaders in the commercial sector have recently advocated that Putonghua should replace Cantonese as the medium of instruction in schools. I would support it as a long-term objective. But in the foreseeable future, the condition for this is lacking indeed.

Firstly, in respect of teachers' qualifications, according to the Centre for Research and Development of Putonghua Education of The Chinese University of Hong Kong, the number of Putonghua teachers who have received formal

professional training in Hong Kong is estimated to be under 150, and there will not be many teachers of other subjects capable of teaching in Putonghua.

Secondly, in respect of students, Putonghua teaching is adopted on a trial basis for Chinese Language at some primary and secondary schools now. A survey conducted earlier shows that after Putonghua is adopted as the medium of instruction, students' academic performance in Chinese Language has not shown significant improvement. More importantly, some students have behaved rather passively in classes, not daring to ask teachers questions, for they are afraid of speaking in Putonghua.

To students, it is certainly easier for them to understand what teachers say if teaching is conducted in Cantonese. Now, many students are even unable to speak Cantonese well. Before improvements are made to students' power of expression, how can we expect them to speak Putonghua well?

Putonghua teaching is not the only means to upgrade the standard of Putonghua of students. The Government should start by enhancing the existing Putonghua subject. To upgrade the qualifications of teachers, the Government can, apart from stepping up the training of local teachers, make reference to the Native-speaking Teacher Scheme and recruit qualified teachers from the Mainland to teach in Hong Kong. Apart from performing their teaching duties, these teachers can also share their valuable teaching experience with local teachers.

The Government should conduct a comprehensive review of the contents of the Putonghua syllabus. Putonghua teachers in secondary schools have complained in private that the current mode of teaching is monotonous, which only includes perpetual phonetics exercises and reading out textbooks, thus failing to arouse students' interests. In their view, a more lively teaching approach can be adopted, which can include conversation, drama, outdoor activities, and so on. Moreover, students newly arrived from the Mainland who are conversant with Putonghua can act as assistants to teachers, so as to facilitate their integration with classmates.

To learn Putonghua well, and other languages alike, it is most important to listen more and speak more. Schools should provide an ideal environment to allow students to speak Putonghua more often outside normal classes.

Furthermore, the Government can encourage publicly-run broadcasters to produce more Putonghua television and radio programmes in order to step up the promotion of Putonghua.

On adult education, the Government should not be too worried about this area. Hong Kong people have long been famous for being "realistic" and "utilitarian". They will understand that proficiency in Putonghua is helpful to their career or businesses. That is why Putonghua courses have been so well-received in recent years. Having said that, however, in view of the economic downturn, the Government can also make reference to the current Funding Scheme for Workplace English Training and provide appropriate subsidies for employees taking Putonghua training courses. This can alleviate their financial burden on the one hand and come as a form of encouragement on the other.

Madam President, to meet the challenges brought by the China's accession to the WTO, the globalization of the world economy, and so on, English, Putonghua and Cantonese are equally important to Hong Kong people in terms of proficiency. Acquiring biliterate and trilingual proficiency is already a consensus among Hong Kong people. I think that remarks suggesting deliberate negligence of any language for political reasons or stances are most unwarranted. I hope the Government will plough in more resources for language education to prevent the language proficiency of Hong Kong people from further deteriorating, for this would affect Hong Kong's status as an international financial centre.

With these remarks, I support the motion.

MR NG LEUNG-SING (in Cantonese): Madam President, as the economy is in the doldrums and the people are having a hard time now, the issues discussed in the Legislative Council are often rather disheartening. The motion of "Promoting the use of Putonghua" proposed by Miss CHOY today may perhaps inject some levity into the grim atmosphere, and the motion itself is also meaningful. There is a saying that "Nothing is more scary than Hong Kong people speaking in Putonghua", but since the issue before us now is promoting the use of Putonghua, I would not mind exposing my incompetence, and I will learn from colleagues. For the time being, I will put aside Cantonese to which Hong Kong people, and I myself too, are accustomed, and try to deliver my following speech in Putonghua.

(The following was delivered in Putonghua)

Madam President, Putonghua represents a common language used for communication by the 1.3 billion Chinese nationals of over 50 ethnic groups. Putonghua-based Chinese, that is, Chinese that bases on Putonghua as the standard oral language, is an official language and working language of the United Nations. Therefore, it can be said that Putonghua is the common language of Chinese people as well as an official language used internationally. Besides, as the overall strength of China grows, particularly in respect of economic development, and as continued efforts are being made to speed up the opening up of its market, people from all over the world are keen to learn Chinese and Putonghua, so as to facilitate their business dealings with China. So, there are good reasons to believe that this will facilitate the further development of Putonghua as an increasingly important international language.

Following its reunification in 1997, Hong Kong has become part of China. Being the nationals of a Special Administrative Region of China, Hong Kong people will have closer and closer contacts with people in other parts of the country. Under "one country, two systems", Hong Kong still has to exert itself to maintain the characteristics of our social, economic and legal systems, in order to reflect the differences and characteristics enshrined in "one country, two systems". However, when it comes to the use of Putonghua, more consideration should be given to "one country", whereas "two systems" should be given less weight. It is because the smaller the language divide between Hong Kong and the Mainland, the closer the tie between the two places. Mutual communication and understanding are bound to deepen and this will be more conducive to the smooth implementation of "one country, two systems".

From a more practical viewpoint, with China's accession to the World Trade Organization and the further liberalization of the mainland market, there is a need for Hong Kong to further improve its quality on various fronts before it can maintain the role as an intermediary between the Mainland and foreign investors. Hong Kong people must strive for new opportunities amidst difficulties by, among other things, going to the Mainland for development. For this reason, we must further strive for self-enrichment in all aspects. To this end, one very important point is to enhance our biliterate and trilingual proficiency, particularly the ability to use English and Putonghua. At present, residents of major cities on the Mainland, especially young people, are very active in learning foreign languages and they already have a good foundation in

Putonghua. If the standard of English of Hong Kong people remains barely passable, coupled with our mediocre Putonghua, we would be put in a more and more disadvantageous position in competition.

To promote the use of Putonghua, I think the SAR Government can further take more measures, including the provision of more resources for Putonghua education to create a better environment for learning and using Putonghua for the community. To achieve proficiency in a language, a milieu that allows exposure to and use of the language in daily life is extremely important, for learning through actual exposure and application is far efficient than learning from textbooks. Moreover, to learn Putonghua, and other languages alike, one must proactively and courageously practise it extensively. If we refuse to speak the language because we do not speak it well, we will never be able to speak it. Although some say that the most scary thing of all is Hong Kong people speaking Putonghua, Hong Kong people do not have to feel embarrassed for speaking non-standard "Hong Kong-styled" Putonghua. We do not have to rigidly adhere to such linguistic nuances as the four tones of pronunciation or retroflex consonants, and lose confidence. It is because people in different places speak Putonghua with their unique accents. People in the Northeastern part of China speak Putonghua with a northeastern accent; Sichuanese certainly speak Putonghua with a Sichuanese accent. Even not all leaders of the Central Authorities speak standard Putonghua. Why can Hong Kong people not speak Putonghua with a "Hong Kong accent"? The most important point is that we dare to speak it and that we manage to communicate effectively with the people whom we talk to.

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

MR CHAN KAM-LAM (*in Putonghua*): Madam President, today's debate is splendid indeed, not because Members have suggested original ideas for promoting Putonghua, but all Members are trying very hard to set examples themselves. Judging from Members' pronunciation, efforts should really be made to promote Putonghua.

I think that today's motion can obtain Members' support is inconceivable before the reunification of Hong Kong. Why? The reason is simple. The colonial government had attached importance only to English education, and could not be bothered to promote mother-tongue teaching, let alone Putonghua.

Under the century-long influence of Western education and thinking, the values of Hong Kong people are basically Western. The lifestyle has to be westernized; the social system has to be westernized; even the political system has to be westernized, as though the moon in the West is fuller. Where exactly is the problem? The answer is that we are rootless; we do not have the root of the Chinese nation; and we do not have the root of a brilliant nation. But now, our country is strong, and given its rising international status and significant economic achievements, Hong Kong people, long known to be utilitarian and highly individualistic, are then willing to look back on the culture of their own nation. Promoting Putonghua is just the beginning of a cultural introspection and the beginning of Hong Kong people getting to know the culture of the Chinese nation all over again.

The Chief Executive, Mr TUNG Chee-hwa, has time and again emphasized the need to vigorously promote biliteracy and trilingualism, which is far-sighted. Hong Kong is a cosmopolitan city. In liaising with the international community, we have to communicate with foreigners in English, which has the status of an international language. On the other hand, being Chinese, we must integrate into this big family in Putonghua.

After the reunification, the Education Department has included Putonghua in the core curriculum of primary and secondary schools since 1998. So far, Putonghua is basically taught in close to 100% of the primary schools, and over 90% of the secondary schools are teaching Putonghua in the junior secondary level. In spite of this, the standard of Putonghua of students still cannot be considered good. Occasionally when they are asked by mainland visitors on the street to show them the way, they can only speak haltingly without answering the visitors' questions.

I personally think that to achieve proficiency in Putonghua, school education is only a starting point. It is more important for a Putonghua-speaking environment to be created in society as a whole, so that everyone can find opportunities of practice. Last year, in response to the "National Putonghua Week" campaign in the Mainland, the Putonghua Channel of Radio Television Hong Kong launched the First Putonghua Day on 13 September. While the intention was good, the event only saw participation from only a small number of organizations engaging in the promotion of Putonghua and schools owing to inadequate publicity. Other members of the general public did not know about this event at all.

In recent years, given increasingly frequent contact with the Mainland, many private companies, in recruiting staff, have particularly stated that priority will be given to applicants who speak Putonghua, in order to strengthen their development in the Mainland. This shows that private companies have long been aware of the importance of Putonghua. But many job-seekers come to realize their inadequacy only when they seek employment. They, therefore, hastily take a few Putonghua classes in the hope that they can barely satisfy this job requirement.

However, the SAR Government still has not formulated a specific policy for promoting Putonghua. Proficiency in Putonghua is not made a requirement for the recruitment and promotion of civil servants. Although the Civil Service Bureau has stated that its long-term objective is to build up a biliterate and trilingual Civil Service, and that a subsidy of \$1,000 or equivalent to 75% of the course fees is provided for Executive Officers, Clerical Officers and Secretaries to encourage civil servants to pursue studies, including taking Putonghua courses, in accordance with their own needs and interests. Nevertheless, this subsidy scheme is similar to interest groups in nature and fails to reflect the importance attached to Putonghua by the Government.

Moreover, radio and television stations in Hong Kong, at present, seldom produce Putonghua programmes. The Putonghua Channel of Radio Television Hong Kong, the only Putonghua radio channel in the territory, broadcasts from 7.00 am to 2.00 am every day. I have also been invited to their programmes for interviews quite often. But as this channel is broadcast in amplitude modulation, many districts cannot receive its broadcast and so the audience size is naturally small. With regard to television stations, while the Star TV and Cable TV now provide some channels with Putonghua programmes, not every family can view these programmes for these are subscription-based.

Therefore, I think the Government should draw up an overall Putonghua policy, and give play to it in public entertainment programmes, promotion exercises of civil servants and education. On the education front, a long-term strategy should be devised for Putonghua to be adopted as the medium of instruction for Chinese Language, and a timetable for full-scale implementation should also be set out. Furthermore, the current Putonghua Channel should shift to frequency modulation, and radio and television stations should be encouraged to provide more Putonghua programmes and extend the broadcasting hours of such programmes.

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

MR HOWARD YOUNG (in Cantonese): Madam President, I welcome this motion today. But at the same time, I wish to remind Members that we must not neglect the fact that we should promote biliteracy and trilingualism at all levels.

(The following was delivered in Putonghua)

When a tourist visits a place to which he is a total stranger, he would wish to have a local people with whom he can communicate to be his guide or show him the way. If he can run into someone who speaks his language and who can introduce to him the scenic spots and characteristics of the place, the warmth and joy that the tourist feels will add colour to the entire journey and make the journey unforgettable.

(The following was delivered in English)

Historically speaking, as Hong Kong had been a British colony for over a century, English became a major language of communication apart from our mother-tongue, Cantonese.

(The following was delivered in Cantonese)

The principal language of communication of Hong Kong people throughout their education and in day-to-day business operation or even daily conversations with others is either Cantonese or English.

(The following was delivered in Putonghua)

Generally speaking, the exposure of Hong Kong people to Putonghua is small and naturally, their standard of Putonghua is poor. So, the criticisms recently made by the Mainland's *People's Daily* on-line about the poor Putonghua standard of Hong Kong people and our inadequacies in communication are indisputable facts.

Before the opening up of the Mainland, Taiwanese visitors already constituted one of the major markets of Hong Kong. But at first, there were not many of them, and the contact with them were not as extensive as today. Although some employees in the tourism industry and front-line workers in the service industries might take up Putonghua training courses after work to meet

the needs of their jobs, greater importance was attached to English or Japanese because tourism mainly targeted at European, American and Japanese visitors at that time. With the gradual opening of the Mainland and even after the reunification in 1997, the relevant authorities have continuously opened up and relaxed the number and policy of mainland residents coming to Hong Kong. This has given Hong Kong people more opportunities to come into contact with mainlanders and as a result, Putonghua has become more and more important.

In recent years, the numbers of in-bound visitors from the Mainland and Taiwan have been increasing, and a two-digit growth has been recorded for visitors coming from these two places. According to the information of the Hong Kong Tourism Board, mainland China is the largest source of tourists to Hong Kong, accounting for almost 30% of the total number of in-bound visitors. With the abolition of the quota system for "Hong Kong Group Tour", the relaxation of measures governing applications from mainland business visitors and the extension of the validity period of exit endorsements, it is expected that there will be an additional 300 000 visitors from the Mainland this year. In fact, the tourism potential of the mainland market should not be neglected. According to the estimation of the World Tourism Organization, 10 million Chinese people will be spending their vacation in Asia; and by 2020, China will export 100 million tourists each year. This giant market of mainland visitors has become a major competition ground for countries all over the world. Given that Hong Kong has geographical advantages and is a melting pot of the Eastern and Western cultures, more tourists from the Mainland will be attracted to Hong Kong if the policy on mainland visitors is relaxed gradually.

As for Taiwanese visitors, the second largest tourist group, they account for about 18% of the total number of in-bound visitors. When the iPermit designed for Taiwanese residents is officially introduced in April, it is believed more Taiwanese tourists can be attracted to Hong Kong for short stays.

The total number of visitors from mainland China and Taiwan already account for almost half of the number of in-bound visitors. In other words, half or even more than half of our future visitors speak Putonghua, and the number of Chinese-speaking Southeast Asian visitors is not even included.

To receive the increasing number of mainland and Taiwanese visitors, we must be well-prepared not only in terms of tourism hardware. Software cannot be neglected too. In fact, quality service is one of the most basic conditions for

the development of the tourism industry. To achieve quality service, we must understand the needs of customers through mutual communication. If we have difficulty even in communication, which is the most basic requirement, how can we pledge satisfactory services to our customers? If our taxi drivers are proficient in Putonghua, then they can act as guides and introduce to visitors the scenic spots of Hong Kong. This will not only leave a good impression on visitors, but also enable them to earn extra income. Since mainland and Taiwanese visitors are the pillars of our tourism industry, the Government should vigorously promote the use of Putonghua. To enhance our ability to communicate in Putonghua, not only those engaging in the tourism industry and front-line staff in the service industries, but also the general public should learn Putonghua, for we all have the responsibility to be a good host. Therefore, the learning of Putonghua should be extended to all citizens, so as to make an all-out effort to create an atmosphere in society, including this Council.

(The following was delivered in Cantonese)

Madam President, I so submit.

MR YEUNG YIU-CHUNG (*in Putonghua*): Madam President, Putonghua is not at all "putong" (meaning common) in Hong Kong. Many people still cannot speak Putonghua although they can understand it by listening to it, and many cannot understand it even by listening to it and cannot speak the language either. Among those who can speak Putonghua, many do not speak standard Putonghua or speak Putonghua only of a passable standard; and I am one of them. Many mainlanders have said that it gives them a hard time listening to Hong Kong people speaking Putonghua. During exchanges, university students from the Mainland can only communicate with their Hong Kong counterparts in English. Yet, we cannot simply draw a conclusion from this impression that Hong Kong people have a low ability in learning Putonghua. This is precisely a reflection of the current situation that Putonghua is not popular in Hong Kong. Before the reunification, the Hong Kong-British Government and civil servants seldom liaised or exchanged with the Mainland. Why would senior government officials need to speak fluent Putonghua then? It is only after the reunification that the importance of Putonghua becomes increasingly obvious, especially as the Hong Kong economy sees the need to expedite its integration with the economy of Southern China at all levels in the light of China's accession to the World Trade Organization. Whether for the purposes of receiving Chinese visitors

from the Mainland, Taiwan and overseas, or going northward for business start-up, employment, travel and living, the need for all citizens to be proficient in Putonghua is ever increasing.

To promote Putonghua in Hong Kong, the key is school education, whereas to ensure that school education plays its part, the key is to teach Chinese Language in Putonghua. After the reunification of Hong Kong, the SAR Government has done a lot of work in respect of Putonghua teaching. Since September 1998, Putonghua has been made a part of the core curriculum of primary and secondary schools, and Putonghua has since been taught in primary schools from Primary One and in secondary schools from Secondary One. In 2000, Putonghua began to be included in the Hong Kong Certificate of Education Examination (HKCEE). In 2001, the number of candidates for Putonghua in the HKCEE increased by 25% compared to the previous year. It is expected that more and more secondary schools will provide Putonghua classes at the HKCEE level.

Although Putonghua is generally taught in primary and secondary schools, only one Putonghua lesson per week can be arranged in primary schools and at the junior secondary level in general due to insufficient teaching periods. Coupled with the lack of a language environment, students rarely have the opportunity to be exposed to Putonghua after school. There are obsolete and wrong concepts in society that discriminate against Putonghua speakers who are often branded as new arrivals from the Mainland or called "ah-chaan", a racial epithet. For these reasons, students dare not practise Putonghua by speaking it more often and obviously, it is difficult for improvements to be made to students' proficiency in Putonghua.

Can more teaching periods be allocated to the Putonghua subject? This is quite unlikely given that the timetable is already fully packed. The best way is to combine Putonghua and Chinese Language into one subject and teach the Chinese Language subject in Putonghua, thereby assimilating the spoken language with the written language for students who can then write what they say. This can eliminate Hong Kong-styled Chinese and improve students' proficiency in Chinese, while at the same time providing more opportunities for them to practise Putonghua, which will in turn upgrade their proficiency in Putonghua. As this can kill two birds with one stone, why does the Government not consider this? The Department of Chinese of the Hong Kong Institute of Education had tracked the teaching of the Chinese Language subject in Putonghua in two

secondary schools and four primary schools for one year, and compared the results between classes at the same level in which the Chinese Language subject is taught in Cantonese and Putonghua respectively. It is found that of the 288 students interviewed, 61% of them welcomed the new practice and 86% considered the use of Putonghua to teach Chinese Language could improve their Chinese writing as well as their Putonghua listening and speaking ability. The six schools interviewed also found that classes using Putonghua to teach Chinese Language has not only made greater progress in the Putonghua subject. They also performed better than classes in which Chinese Language was taught in Cantonese. Moreover, over two thirds of the parents interviewed supported the use of Putonghua for teaching Chinese Language.

We can see that the separation of Putonghua and Chinese Language can only be a transitional arrangement. It is impossible for them to remain separated permanently, for this will be a waste of resources and results will not be effective. In its Report No. 6 published in 1996, the Education Commission already suggested the Government to "study further the relationship between Putonghua and the Chinese Language subject in the school syllabus to ascertain whether it would be more appropriate for Putonghua to be taught as a separate subject or as part of the Chinese curriculum". When can the Government take actions? After almost four years of transition, we consider that it is now time for the Government to set objectives in the medium term, expeditiously set out a timetable for teaching Chinese Language in Putonghua, encourage schools to expeditiously use Putonghua for teaching the Chinese Language subject with reference to their respective practical situations and conditions, and engage experts to develop quality teaching materials suitable for the teaching of Chinese Language in Putonghua. As for the adoption of Putonghua as the medium of instruction, this objective is too long-term, and it is premature to discuss it now. However, the teaching of the Chinese Language subject in Putonghua is an essential and practicable objective. The experience of Guangzhou is proof to this point.

Teaching Chinese Language in Putonghua aside, the Government and schools should also create the conditions to improve the language environment for Putonghua. For instance, Putonghua Days can be organized; schools can arrange one morning assembly conducted in Putonghua each week; requesting Putonghua movies and television programmes not to show subtitles, and so on, in order to upgrade the standard of Putonghua of the younger generation of Hong Kong in general.

Finally, I wish to end my speech with this: All Chinese people are under one roof and let us all speak Putonghua. Let us join hands and work for this pursuit. Thank you, Madam President.

MRS SOPHIE LEUNG (*in Putonghua*): Madam President, the motion debate today is a big test. My Putonghua is certainly not as good as that of other Members. In fact, I learnt Putonghua in the United States when I studied there. There were then overseas students from Taiwan and Hong Kong but not from China. Since I found it really embarrassing for two persons of the yellow skin to speak English not too fluently in front of foreigners, I requested to live with two classmates from Taiwan in order to learn Putonghua. That is how I acquired my Putonghua proficiency then.

A friend of mine is an American married to a Chinese wife from Hong Kong. He is Vice President of the Harvard University and he can read Chinese. During his recent stay in Hong Kong recently, he asked me after reading a lot of news on Hong Kong and Chinese newspapers, "Sophie, why has Hong Kong become so one-dimensional?" Then, I asked him, "What are you talking about?" He repeated, "one-dimensional", and I asked, "Why do you say so? What do you mean?" He said, "Why do Hong Kong people discuss very superficial matters? They talk a lot without gaining a deep understanding of the case."

Since I was really embarrassed, I have not discussed thoroughly with him why he thought that Hong Kong was one-dimensional yet. If I have the chance in future, I will certainly thoroughly discuss the matter with him.

I do not wish that others would say that the debate today is only one-dimensional. If I speak Putonghua, I would not be able to express what I think, so, I would switch back to Cantonese now.

(The following was delivered in Cantonese)

If we really take pains to understand Putonghua, we have a very good chance here and Hong Kong people should appreciate our efforts and follow suit. Under "one country, two systems", it is more important for us to stand firm and understand the national state of affairs. I would like to discuss my experience with other Members. My recent visit to Shanghai caused me to have some very deep thoughts. I was free for an hour or so and I visited a bookstore. I found

that it was not only a bookstore but also a six-storey book city. It was very crowded in that Saturday afternoon; there were many young people and older people, and many people aged more or less as mine. I pushed through the crowd to the third floor after 15 minutes and I found multi-dimensional information there. I was at a loss as to where to start, so I chose primary education and looked for books on this subject. Among a wide variety of books, I easily found eight to nine books on theories of primary education in 15 minutes. Having flipped through the pages, I found that the authors were mainland teachers from Beijing, Shanghai and Guangzhou, and even my hometown Chaozhou, and they were writing about their specific experiences. They discussed matters in an in-depth manner, for example, how to give guidance to Primary One students, how to give in-depth guidance to Primary Two students and what to do with Primary Three students. I bought these books as if they were treasures that I found and invited a retired teacher to read these books and shared with me his impression. After this teacher has told me his impression, I would certainly share it with other Members. It represents part of our national conditions and is worthy reference.

The second dimension is that the motion today states that, with China's accession to the World Trade Organization, coupled with the continued increase in the number of visitors from the Mainland and various parts of the world, there is a need for Hong Kong's business sector and the community to be generally proficient in Putonghua. I absolutely agree but it seems to literally mean that we have to learn Putonghua to gain access to the mainland market. In my view, we do so not only to gain access to the mainland market, for we should no longer consider matters in a one-dimensional manner. Back in the '60s, Hong Kong luckily gained access to the international market, and quite a few people were very astonished. In the industry I belong, there is still a textile quota system that is unique in the world, as a result of Britain finding that Hong Kong mass produced inexpensive and quality tablecloths. Today, if one visits pubs in Britain, he can still find these tablecloths in green and white or red and white checkers that are manufactured in Hong Kong; more can be found outside London. The WTO is still discussing this quota system established by them.

I advocate learning another language and learning more about our national conditions and even other cultures. When we discussed a motion related to English language teachers, the Honourable Mrs Selina CHOW said that, to learn the English language, we not only have to learn the written language but also how to apply the English language and slangs as well as how to appreciate

English jokes. In my view, besides learning Putonghua, we should understand our national conditions. At the same time, we should not forget that we are rooted in Hong Kong and we should have the whole world in view and pursue multi-cultural learning. Before a women affairs organization held a meeting in Washington recently, a caller asked what advice I could give to women in China. I said, all women have to pursue multi-cultural learning for it is the way to progress. Thank you, Madam President.

MR WONG YUNG-KAN (*in Putonghua*): Madam President, I have not drafted a speech today and I only wish to say a few words. Having listened to Members' remarks on Putonghua, I also wish to talk about the process in which I learnt Putonghua years ago.

A few years ago when I was actively running a fish fry business, I could not communicate with the Japanese and I did not understand the Japanese they spoke, so, I pondered over how I could do business with them. Later, they sent a person who spoke Putonghua with Beijing accent over here and I was really surprised. What should I do? He spoke very good Putonghua but I could not speak Putonghua at all. Thus, I told my partner that we ought to try our best to learn our own language, Putonghua, well.

A few years after that incident, I managed to communicate with that man and he even became a friend of mine. It illustrates that while the Government urges people to do business in the Mainland, it should teach them to at least learn how to communicate with the local people there. How can they do business if they cannot communicate with the local people? Therefore, in recent years, those who do business in the Mainland can speak some Putonghua. The Members of the DAB have earlier mentioned that a survey showed that more people have now acquired an average proficiency in Putonghua.

But I still wish to talk about another incident. A few years ago when we travelled elsewhere, we could not speak Putonghua at all but a tour member said he wanted to buy shoes. He could not speak Putonghua and the guide was not on hand. So, he lifted his leg and told the shopkeeper that "he wanted those", meaning, he wanted to buy shoes. I kept laughing on the coach afterwards but, after the laugh, I was also really embarrassed to find that I did not know how to express myself at that moment.

In recent years, our organization has been offering Putonghua training. At present, some staff could speak Putonghua and even play the role of a guide in mainland tours. This is good because we should learn and promote Putonghua. Although the Government recommends that Hong Kong people should do business and find employment in the Mainland, we should at least have the prerequisite business environment. In respect of training, the Government should strongly promote Putonghua in some industries and sectors to train the practitioners so that they would at least be able to communicate in Putonghua.

A friend has recently asked me why I have arranged for my children to study in the Mainland. Since I do not speak Putonghua good enough, I would do a disservice to the younger generation if I do not give them a chance to speak Putonghua well. Therefore, I have finally decided to arrange for them to study in the Mainland.

I fully support Miss CHOY So-yuk's motion. Thank you, Madam President.

MR LAU PING-CHEUNG (*in Putonghua*): Madam President, I speak in support of Miss CHOY So-yuk's motion.

With China's accession to the World Trade Organization, the market is gradually opening and there are a lot of business opportunities. The shrinkage of the European and American markets implied that Hong Kong and professionals in Hong Kong need to develop the mainland market. However, the first problem to be solved before gaining access to the mainland market is Putonghua learning, to facilitate communication with people from different provinces.

Miss CHOY So-yuk has proposed three specific measures to create a milieu that is conducive to Putonghua learning and I fully support them. Provided that Putonghua is commonly used in society, cultural exchanges between different regions within the Putonghua family, including China as a whole, Hong Kong, Singapore and Taiwan can be extensively conducted, and various activities including commercial activities would be conducted smoothly.

Perhaps Members would ask why there is a problem because Putonghua is commonly used in China, Hong Kong, Taiwan and Singapore. In fact, every society has its unique cultural background and language of expression. A punch line by Premier ZHU Rongji was on everybody's lips last year. He said that he found it difficult to understand the words of Mr CHEN Shuibien of Taiwan. Putting the political sense aside, even different societies speaking the same language would have communication problems. For example, there is "traffic congestion (塞車)" in Hong Kong, Taiwan and Singapore every day but there is "traffic congestion (堵車)" in Beijing. For instance, Hong Kong people commonly refer to "the hard disk (硬碟) of a computer" but mainland and Taiwanese people commonly refer to "the hard disk (硬盤) of a computer", or the Chinese transliteration "chidi (吃滴)" in Taiwan.

Madam President, with our experience as an international financial and trade centre, Hong Kong people can handle and communicate in typical British English, American English, Australian English or English with the Scottish accent. The more we are able to communicate and conduct exchanges with people from different regions, the stronger the international status of Hong Kong. For the same reason, to promote Putonghua in Hong Kong, we should first create a milieu that is conducive to Putonghua learning. Putonghua will only be popularized and commonly used if more people speak Putonghua.

I so submit.

MR JASPER TSANG (*in Putonghua*): Madam President, when the DAB was preparing for this debate, Miss CHOY So-yuk warned us that we ought to (in Cantonese) practise well lest we would be inarticulate and tongue-tied, which would be really shameful. (*Laughter*)

(The following was delivered in Putonghua)

After pondering over it, I still did not know how I should present the remark above in Putonghua for fear of losing the original flavour. Finally, I realized that I was not articulate enough in Putonghua. Since we are having a debate over the policy for promoting Putonghua rather than a Putonghua speech competition or examination, we should use the language that we use most commonly and are best at, I would switch back to Cantonese.

(The following was delivered in Cantonese)

I agree with the Honourable CHEUNG Man-kwong's remarks and I wish to say in passing that I discovered that when Mr CHEUNG Man-kwong spoke in Putonghua, he sounded gentler than when he speaks Cantonese and he makes gentler remarks. *(Laughter)* But this does not apply to the Honourable CHAN Kam-lam for whether he speaks in Putonghua or Cantonese, he similarly speaks with heat. *(Laughter)*

I agree with Mr CHEUNG Man-kwong that to promote Putonghua and lift the Putonghua standard of society, we should start with school education. As Mr CHEUNG Man-kwong has said, the positioning of Putonghua teaching in schools is very important. I believe the Secretary would later illustrate how much effort the Government has made for this in schools. But I think positioning Putonghua teaching is an important and interesting issue. Putonghua can be described as very special in Hong Kong. Firstly, Putonghua is definitely not the mother-tongue of most students. The so-called mother-tongue refers to the language that a person has always used at home since childhood. When many children, including my daughter, started going to school, they usually had to go through a process of expression involving the translation of Cantonese into written Modern Chinese. She asked me once, "Dad, how should I put 'I like to play ball games' (我鍾意打波) in writing?" Of course, she cannot express it in Putonghua that way. That is the problem. If schools implement Putonghua teaching, students would encounter certain difficulties arising from non-mother-tongue teaching. I would explain later why there would be certain difficulties.

First, we cannot regard Putonghua as the mother-tongue of most students. Putonghua is even not a commonly used language in the Hong Kong community today. Some families may speak Putonghua at home but most children in most families seldom use Putonghua as a tool for communication, whether they are at home, on social occasions or in public places and even classrooms. Will Putonghua become a commonly used language in Hong Kong in the future? Should Putonghua become a commonly used language in Hong Kong? These are controversial topics worth probing into, and there is no explicit answer.

For students in Hong Kong, Putonghua is definitely not a foreign language. Therefore, it is incorrect for some to learn Putonghua as a foreign language. In fact, many Hong Kong people do not have to attend formal Putonghua courses but they can speak Putonghua fairly well. I believe the Honourable LEUNG

Fu-wah is one example. I guess that he has not attended formal Putonghua courses but he still speaks Putonghua very fluently, though inaccurately, (*laughter*) anyway, people understand his Putonghua.

On one occasion, the Honourable Martin LEE and I attended a function. Facing a group of students from the Mainland, the host suddenly asked us to speak in Putonghua. I listened to Mr Martin LEE speaking in Putonghua for 15 minutes. He kept improving during the time. At the beginning, he spoke haltingly but he spoke fluently later. I believe that if Mr Martin LEE has a chance to travel to the Mainland more frequently, his Putonghua would certainly improve. (*Laughter*) He also debated with Mr LU Ping over the contents of the Basic Law in Putonghua in the past. So, when students in Hong Kong with Cantonese as their mother-tongue learn Putonghua, they should learn in a way that is completely different from that in which they learn foreign languages.

Can Putonghua teaching be regarded as non-mother-tongue teaching? Since this is incorrect, the positioning issue is worth examining. I have gone through some researches on Putonghua teaching and I do not think a very convincing conclusion has been reached. Under the policy for promoting Putonghua, how should schools in Hong Kong, including secondary and primary schools, position themselves? Some wonder if students can learn Putonghua well with two to three Putonghua sessions a week while some others query if it is really necessary for all students, from primary students to Secondary Five students, to learn Putonghua. Does a student with Cantonese as his mother-tongue really need to make 11 years' efforts to learn Putonghua?

Honourable Members have just demonstrated different accents of Putonghua. What standard should Putonghua teaching in primary schools aim at attaining? Should it aim at fluent and comprehensible, though inaccurate, Putonghua? Or should it aim at clear articulation and even typical Beijing accent? Which standard should be attained?

We must train announcers and Putonghua teachers in the future but if we only wish to attain the standard mentioned in the motion proposed by Miss CHOY So-yuk today, that is, to communicate with Chinese people in the Mainland and dispersed in overseas countries in a common dialect, why should we still stick to the criteria of being typical and pure? In other words, we would hear Putonghua with Hunan accent when we are in Hunan and we would hear Putonghua with Shanghaiese accent when we are in Shanghai. Hence, I think that this subject is worth probing into. Before we come up with a sound

positioning, should schools regard Putonghua as an academic subject or the medium of instruction for other academic subjects such as language subjects? I believe we had better not to jump to a conclusion. Thank you, Madam President.

MR MARTIN LEE: Madam President, you are quite right not to use Cantonese to conduct these proceedings, otherwise if you should call upon the names of some of our colleagues here to speak, and if you should use Mandarin, they might not even know that you are calling on them. Madam President, it is right to promote the use of Mandarin in Hong Kong, but in doing so, we must not ignore English, because Hong Kong will remain an international city. In fact I was one of the first to advocate, to allow the use of Mandarin in this Chamber. It was really a matter of necessity, because in 1985, I was elected by the Legal Functional Constituency to be their representative. And at the same time, there was another gentleman named 彭震海 (PANG Chun-hoi). He did not speak English, so he spoke in Cantonese, because that was the only dialect allowed in this Chamber in those days, and nobody could understand him. So we all had to switch over to the English channel, hoping, and it was quite a myth, that the interpreter will understand his Cantonese.

(The following was delivered in Putonghua)

Madam President, I learnt Putonghua when I was a member of the Basic Law Drafting Committee (BLDC). At the very beginning, BLDC members (certainly including me) spoke Cantonese, and we needed interpreter services. Later, Miss Maria TAM engaged a Putonghua teacher and I also started learning Putonghua. Miss Maria TAM started speaking in Putonghua one day and I, being a man, certainly had to do the same, so, I did that. I was very pleased that Mr LU Ping retorted right after I had spoken for he had certainly understood my Putonghua. Yet, Mr SZETO Wah told me later that it was not necessarily the case because Mr LU Ping understood Cantonese.

(The following was delivered in Cantonese)

First of all, Mr Jasper TSANG is right. If I could travel to the Mainland more often, my Putonghua would certainly be much better because I do not have any chance to practise Putonghua now. When I watch soccer tournaments, the narration is in either Cantonese or English. When I can speak Putonghua, Cantonese and English today, I wish to take a step forward and I wish to ask why

can I not speak the Shantou dialect or Shanghainese? A few years ago, the Shantou dialect could be described as a fairly important dialect in the Legislative Council because Mr CHIM Pui-chung spoke Cantonese at that time. Whenever he mentioned the SEHK (聯交所) in Cantonese, some of us would think that he was using foul language (*laughter*). Thus, I wish to take a step forward now. Why are Members of this Council not allowed to speak in other dialects? Of course, we must give the President at least 48 hours' advance notice for preparations to be made, so that suitable interpreters can be found to interpret for us.

However, I sincerely hope that we must not give up English or Cantonese while promoting Putonghua — this point is very important. It is because the Sino-British Joint Declaration has stated very clearly that our original lifestyle shall remain unchanged for 50 years. As Cantonese is one of the most basic elements of our lifestyle, I hope that we could continue to speak Cantonese.

(The following was delivered in Putonghua)

Madam President, I am fearless and I am even not afraid of speaking Putonghua — I am not afraid but other Members may be afraid (*laughter*). Yet, I fear most that if we Hong Kong people cannot speak Cantonese anymore, it would be the end of "one country, two systems". Thank you.

MR MICHAEL MAK (in Cantonese): Madam President, Honourable colleagues, I am afraid that I would disappoint you because I cannot speak Putonghua well and I would rather hide my shortcoming than making a fool of myself. Since I did make some jokes and was caught in embarrassing situations, so if I speak Putonghua today, I am sure all of you would be convulsed with laughter.

When I travelled with the Honourable MA Fung-kwok, the Honourable LAU Chin-shek and Dr the Honourable David CHU to Taiwan not long ago, we made quite a number of jokes. On one occasion, I wanted to buy a newspaper but the shopkeeper gave me a bun because I pronounced "baozhi (報紙)" as "baozhi (飽子)", yet, I should have said "xinwenzhi (新聞紙)" instead. On another occasion in Beijing, I wanted to have "boiled dumplings (水餃)" but the shopkeeper asked me to go back to my room if I was ready for a "sleep (睡覺)". Last month, I went to Korea for skiing and I was really embarrassed when the guide talked to me in Putonghua. He thought that I could speak Putonghua very

well but I actually could not speak Putonghua at all. As a Member of this Council and a member of the sector to which I belong, I actually have plenty of opportunities of exposure to Putonghua; yet, I have come across quite a few embarrassing incidents.

It has been many years since the reunification, but it seems that the use of Putonghua by Hong Kong people has not become more popular. Today, Cantonese is still the first language in Hong Kong. For people of my age in particular, in our childhood, very few schools and institutions taught Putonghua or organized tutorial classes. Unless a person learnt Putonghua intentionally, there were negligible opportunities for Putonghua learning.

Hong Kong has become an international city and there is an increasing demand for linguistic abilities. With China's accession to the World Trade Organization and the northward movement of business opportunities, the mastery of Putonghua has almost become a prerequisite for making a living today. I recall that Mr Mike ROWSE, Director-General of Investment Promotion, made a very practical remark during an interview last year about how Hong Kong people could remain competitive in the future. He said, "Unless you know English, you never join the game; unless you know Mandarin, you never win the game!" His remark precisely described the decisive position of Putonghua in our society where competition is keen.

Concerning the medical and health services sector, we have an increasingly close relationship with our mainland compatriots after the reunification. For instance, 150 one-way permit holders from the Mainland arrive in Hong Kong each day and there were 650 000 Hong Kong Tour travellers last year. Whether they are Hong Kong residents or not, they use our medical facilities. In the whole process, I am sure that they will come into contact with my fellow practitioners most.

The numbers of women arriving in Hong Kong for confinement each year have also increased. The data of the Hospital Authority show that the number of expectant two-way exit permit holders and expectant illegal immigrants arriving in Hong Kong for confinement increased from 5 955 in 1998 to 7 885 in 2000, an increase of over 30%. Since they mainly came to Hong Kong for confinement, they spent a longer time in hospitals. If the nursing staff could communicate better with them, it would have very good effects on their health and rehabilitation. Therefore, it is definitely essential to promote Putonghua in the sector, either for briefing patients on their conditions or giving patients encouragement.

At present, individual public hospitals have offered Putonghua courses to meet the demand. I have taken a preliminary Putonghua course but the result was very poor for I did not have any chance to practise. In my view, the nursing staff should receive on-the-job training to enable them to provide patients with better services. It is a pity that such Putonghua courses are taken on a voluntary rather than compulsory basis and the effects are therefore limited. So long as there is such a demand, I believe the Government must inject more resources and arrange for professionals to learn Putonghua in order that they would provide more comprehensive and sounder services.

Diversified services are provided in Hong Kong. The greater the number of people who are biliterate and trilingual, the more advantageous it is to the development of Hong Kong. However, to achieve better results, the promotion or learning of a language must start from childhood. The Government is actually duty-bound, and it must put in more resources, to promote Putonghua. For example, it should train more local Putonghua teachers, designate Putonghua as a compulsory subject in primary schools or designate more Putonghua Days. All these are ways to popularize Putonghua.

Hong Kong people always have the merits of being quick-witted and flexible, and people who speak fluent Putonghua have higher market values. In the face of challenges today, Hong Kong people must make unremitting efforts to improve themselves. Lifelong learning as constantly advocated by the Government is very meaningful indeed. Madam President, I hope that I would be able to master Putonghua as soon as possible so that I would become more confident in work and daily life.

Madam President, I so submit.

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

(No Member responded)

SECRETARY FOR EDUCATION AND MANPOWER (*in Putonghua*): Madam President, the objective of the language policy of the Government of the Hong Kong Special Administrative Region (SAR) is to nurture the ability of the

public to achieve biliteracy and trilingualism. I can therefore assure Mr Howard YOUNG and Mr Martin LEE that we attach equal importance to English, Putonghua and Cantonese. Exchanges between Hong Kong and the Mainland in the economics and trade, tourism, culture, and so on, have become increasingly frequent in recent years. It has also become increasingly popular for the people of Hong Kong to use Putonghua in their work, study and daily life. In order to grasp the business opportunities brought about by China's accession to the World Trade Organization, it has become more pressing for the people of Hong Kong to enhance their Putonghua proficiency. Therefore, I am very grateful to Miss CHOY So-yuk for leading this discussion today on promoting the use of Putonghua. I particularly appreciate that a number of Members have chosen to deliver their speeches in Putonghua today and spoken so fluently. I am also very pleased that I am given the opportunity to introduce to Honourable Members the work and plans of the Government in the three areas of training Putonghua teachers, promoting Putonghua broadcasting, and encouraging community organizations to take part in promoting Putonghua.

Putonghua has been introduced as a core subject for Primary One to Secondary Three students since 1998. It has also been made an elective in higher level examinations. Earlier on in the debate, Mr CHEUNG Man-kwong raised the question of whether Putonghua should be a compulsory subject in the senior secondary curriculum. It is indeed worthwhile for the education sector to conduct extensive discussions on this issue. As a matter of fact, a number of parents and students have on past occasions expressed similar views to me.

According to the findings of a statistical survey conducted on teachers in 2001, there are at present a total of 5 579 serving Putonghua teachers in Hong Kong, including 4 239 primary teachers and 1 340 secondary teachers. Of these teachers, 95% have received training or have Putonghua teaching experience. The rest of them are either native speakers of Putonghua or proficient in the language. According to the findings of a survey conducted by the Education Department (ED) in 1998, 13% of the serving Putonghua teachers in secondary schools and 8.5% of the Putonghua teachers in primary schools were native speakers of Putonghua. I believe the ratio should be even higher today. Earlier on in the debate, Miss CHOY suggested to the Government that schools should be allowed to make use of the Capacity Enhancement Grant to recruit teachers whose mother-tongue is Putonghua. Actually, schools are now given such flexibility. Although the Government has been able to secure a

sufficient number of teachers who have received Putonghua training to cope with the Putonghua curriculum in primary and secondary schools at present, it will continue providing resources and making use of various training programmes to provide more training opportunities for serving and newly-recruited teachers with a view to enhancing the quality and quantity of Putonghua teachers.

Insofar as pre-service training is concerned, students attending the language teacher training programmes organized by The Chinese University of Hong Kong (CUHK) and the University of Hong Kong (HKU) and who have chosen Chinese Language as their major are required to study Putonghua. The Hong Kong Institute of Education has even listed Putonghua as a major in its language teacher training programme. Furthermore, discussions are being held between the Government and various tertiary institutions in a bid to provide compulsory immersion courses for students of Putonghua teacher training programmes starting from the 2002-03 school year.

In order to encourage Putonghua teachers to upgrade their Putonghua standard, the Government published in September 2000 its requirements with respect to the language ability of Putonghua teachers. All Putonghua teachers (including serving and prospective ones) are required to meet the basic requirements by the end of the 2005-06 school year.

Starting from the year 2000, the Standing Committee on Language Education and Research (SCOLAR) sponsors Putonghua teachers to participate in a four-week immersion programme in prestigious universities in the Mainland. Over the past two years, a total of 194 teachers have benefitted from the programme. We will continue to provide financial assistance and encourage every school to send teachers to take part in these programmes. It should be noted that the SCOLAR has, through the Language Fund, subsidized two research projects on the use of Putonghua in the teaching of the Chinese Language subject, separately conducted by the office of the SCOLAR and the CUHK. The research conducted by the CUHK, lasting more than three years, seeks to study the effectiveness of using Putonghua to teach the Chinese Language subject in secondary schools. The one conducted by the office of the SCOLAR, on the other hand, seeks to compare the language ability differences between primary students studying the Chinese Language subject in Putonghua and those in Cantonese. It is hoped that the researches, both near completion, can provide the SCOLAR with practical information on teaching experiments, help it formulate Putonghua teaching strategies, and decide whether the use of Putonghua in teaching Chinese Language should be made a long-term goal.

Meanwhile, financial assistance has been given to the CUHK by the Quality Education Fund to launch an experimental project on the use of Putonghua to teach Chinese Language, which is scheduled for completion by the second half of 2002. A total of 14 secondary schools and 17 primary schools have been invited to take part in the project. According to preliminary data, it is more effective for students to start learning Putonghua in Primary One than in Secondary One. Problems arising from the use of Putonghua as a teaching language are primarily related to poor co-ordination in teacher quality, teaching methods and teaching resources. Actually, it is not difficult for children to learn Putonghua. They can do it so long as they are interested and willing to make an effort. Primary and secondary students are encouraged to make more frequent exchanges with mainland students or travel to the Mainland for sightseeing and learning in recent years. These activities will surely help upgrade their Putonghua proficiency and improve their dynamic drive in learning.

The ED has planned to host a series of subject talks on Putonghua teaching in collaboration with local tertiary institutions in the coming years and invite experts of the State Language Commission to conduct teaching seminars for Putonghua teachers in order to upgrade their teaching standard. The ED will also continue to develop curriculum resources such as teaching units and assessment for different assessments grades in primary and secondary schools. It is also considering to launch seed projects for Putonghua teaching and introduce innovative methods for the teaching of Putonghua.

For the purpose of promoting Putonghua broadcasting, Radio Television Hong Kong (RTHK) has been actively promoting Putonghua through television, radio and Internet programmes. It has also produced numerous popular Putonghua television programmes, such as "Chang-tan Putonghau" (唱談普通話), "Putonghua xi-zhong-xi" (普通話戲中戲) and "Putonghua Qinzi Juchang" (普通話親子劇場). Last year, RTHK produced a total of 18 educational television (ETV) programmes on Putonghua courses jointly with the ED for primary and secondary schools. Furthermore, RTHK launched "The League of Putonghua" through the Internet in September and October 2001 to provide coverage of "HKSAR's First Putonghua Day" and introduce Putonghua to Internet users in a lively and interesting manner. Internet users encountering learning difficulties may even put their questions relevant experts on the Internet.

In the area of radio broadcast, RTHK launched the Putonghua Channel in March 1997 and has since produced different types of programmes for the

promotion of Putonghua. These programmes include "Putonghua Yifenzhong" (普通話一分鐘), "Putonghua Ri-ri-xian" (普通話日日鮮) and "Yanzi Jiejie he ni shuo Putonghua" (燕子姐姐和你說普通話), a Putonghua programme specially designed for children. Large-scale promotional programmes, such as a debate competition among tertiary institutions named "Dazhuan Putonghua Bianlunsai" (大專普通話辯論賽), "Guangzhou-Hong Kong-Macau Putonghua Competition", a training class on the art of speaking named "Zhongxuesheng Shuohua Yishu Xunlianban" (中學生說話藝術訓練班), and so on, are organized on a regular basis as well.

The Putonghua channel of RTHK is now broadcast on AM621 KHz, which has territory-wide coverage. However, the quality of reception in some areas is comparatively poor owing to the terrain. In order to improve this situation, RTHK has been studying how reception can be improved with the Office of the Telecommunications Authority (OFTA) and has installed an additional transposer for the Putonghua channel in Happy Valley to enable audience to tune in to the channel through FM100.9 MHz. In addition, a transposer is being set up in Tseung Kwan O to enable the audience in the district to tune in to the Putonghua channel through FM103.3 MHz. The transposer is now being tested and is scheduled for commissioning in March 2002 if everything proceeds smoothly. Furthermore, RTHK launches "Easy Reception" services regularly and set up hotlines to answer audience's questions related to the reception of radio broadcasts. If necessary, RTHK will send out technicians to provide on-the-spot assistance. In the long run, RTHK will continue to collaborate with the OFTA to examine whether it is necessary to install additional transposers in areas with reception difficulties and whether it is feasible to do so.

The proposal raised by Miss CHOY So-yuk of setting up a Putonghua television station can hardly be implemented at the moment. Nevertheless, the two domestic free television programme licences will soon expire on 30 November 2003. A review of the renewal of the free-to-air television licences is now being conducted by the Broadcasting Authority (BA) and a consultant will be commissioned to carry out an audience survey on such matters as the audience's requirement with respect to the specified languages used by television programmes. A public hearing will be convened in the second quarter of 2002 with respect to the domestic free television programme service licences. In doing so, the Government will give detailed consideration to the ability of the service provided by the licensees in meeting social demand and the community's expectations for future services.

Insofar as commercial broadcasting programmes are concerned, domestic free television licensees have one after another broadcast more and more Putonghua programmes, including numerous "NICAM" programmes. To illustrate, between 17 December and 30 December 2001, seven programmes with Putonghua sound track were broadcast by the Jade Channel of Television Broadcasts Limited (TVB) and the Home Channel of Asia Television Limited (ATV) through the "NICAM" transmission technology, with three of the programmes, accounting for 22% of the total prime-time broadcasting hours, being broadcast during prime time. In addition, Putonghua programmes were broadcast on the English-speaking channels. Over the two weeks between 17 December and 30 December 2001, for instance, approximately 53 hours of news, entertainment and educational programmes were broadcast by TVB's Pearl Channel and ATV's World Channel, accounting for approximately 10% of the total broadcasting hours of the two channels.

In addition, Cable Television provides three round-the-clock Putonghua channels, namely Sun TV, China Central Television English Channel and MTV. At the same time, seven satellite channels received locally and transmitted by local licensees such as Phoenix Satellite Television, Channel V, Asia Plus, China Entertainment Television Broadcast Limited, and so on, are broadcast in Putonghua as well. As a result, public exposure to Putonghua has undoubtedly increased over recent years.

The Home Affairs Department (HAD) and 18 District Councils (DCs) have all along been encouraging community organizations in various districts to organize Putonghua promotional activities through the provision of financial assistance or subsidy, or the lending of community halls. This year, the HAD and the DCs have co-organized or subsidized a total of 34 Putonghua promotional activities, with the total amount of financial assistance amounting to \$1.72 million. The activities organized include competitions, workshops, training classes, fun days, exchange camps, and so on. Putonghua promotional activities in various forms are also organized by a number of schools through such means as using Putonghua during assemblies or campus broadcasts, and organizing Putonghua evening galas and residential camps, to enhance the students' interest in learning Putonghua. Various tertiary institutions, Putonghua associations, cultural groups and community organizations have also voluntarily organized different types of promotional activities to provide the public, Putonghua teachers and students with opportunities to learn and practise Putonghua.

Last year, under the initiative of the Putonghua Channel of RTHK, Putonghua promotional groups, community organizations and schools formed "The League of Putonghua" and staged "HKSAR's First Putonghua Day" on 13 September 2001. A total of 135 organizations, including the Official Language Agency and the Civil Service Training and Development Institute, responded and took part in the event. This year, The League of Putonghua will launch another "Putonghua Day" again. We hope more efforts can be made to publicize and promote this event.

In order to further encourage the business sector to take part in promoting Putonghua, the SCOLAR is, with reference to the "English in the Workplace" Campaign, making active preparations for the launching of a "Putonghua in the Workplace" Campaign to provide employees with financial assistance to receive Putonghua training. At the same time, the business sector and professional bodies will be encouraged to provide their employees with Putonghua training to cater to the needs of their respective trades. The SCOLAR is now carrying out a comprehensive review of the education policy of "biliteracy and trilingualism", which also covers such areas as the mechanism for assessing language standards, medium of instruction policy, teacher quality, teaching methods, management system for schools providing language education, students' dynamic drive in learning, parental support, social milieu, and so on. We hope to come up with some recommendations in the middle of the year.

The SAR Government is determined to take necessary measures to enhance the standard of Putonghua teaching and provide the public with a favourable environment to upgrade the Putonghua proficiency through the concerted efforts of various sectors. Honourable Members have provided us with a lot of valuable opinions on the promotion of Putonghua. I will surely convey the opinions to the relevant government departments. Nevertheless, the effectiveness of language learning is very much dependent upon the motive and attitude of the learners. According to the findings of a survey conducted by the Democratic Alliance for Betterment of Hong Kong, 46% of the respondents would use Putonghua at work. Frequent use of Putonghua will definitely help raise one's Putonghua level. The experience of learning Putonghua cited by the Honourable WONG Yung-kan earlier is a good example. I sincerely hope the people of Hong Kong can make good use of the resources provided by the Government, mass media, academic circle and community organizations, grasp the opportunities of learning and practising Putonghua, and actively upgrade their own Putonghua ability. I also hope Honourable Members can deliver their

speeches in Putonghua more often to set a good example in promoting Putonghua and help improve the debating atmosphere of this Council so that our debates can be conducted in a more gentle and polite manner. I greatly admire the "dare to speak" culture advocated by the Honourable TAM Yiu-chung because it can definitely help promote Putonghua.

Madam President, I so submit.

PRESIDENT (in Cantonese): Miss CHOY, you may now reply and you still have two minutes 33 seconds.

MISS CHOY SO-YUK (*in Putonghua*): Madam President, the debate this evening has been decorated with all sorts of colours — 21 Members have spoken Putonghua and languages in various forms and accents. We are very pleased that those who have spoken include Mr SIN Chung-kai whose Putonghua is "improving", Mr LEUNG Fu-wah whose Putonghua has developed from "improving" to "mature", Mr TAM Yiu-chung and Dr Raymond HO whose Putonghua is "mature" and Mr CHEUNG Man-kwong, Mr YEUNG Yiu-chung and Mr LAU Ping-cheung whose Putonghua has developed from "mature" to "five-star". Quite a few Members speak "five star" Putonghua, including Mrs Selina CHOW, Dr Philip WONG, Mr MA Fung-kwok, Ms Audrey EU, Mr NG Leung-sing and Mr CHAN Kam-lam. Mr HUI Cheung-ching and Mr WONG Yung-kan speak Putonghua better than Cantonese, and Miss Cyd HO, Mrs Sophie LEUNG and Mr Jasper TSANG have used both Cantonese and Putonghua. Moreover, Mr Howard YOUNG and Mr Martin LEE are biliterate and trilingual, and Mr Michael MAK has only spoken in Cantonese. Regardless of the manner in which all of us have spoken, the sincerity displayed by us is praiseworthy and Members should be commended for playing a leading role. We have also indicated resolutely that we must learn Putonghua well. Some Members have also put forward suggestions, expressed their views and introduced channels for Putonghua learning, as well as the advantages of learning Putonghua. They have also given useful advice on such areas as education, retail, tourism, information technology, broadcasting and training. I hope that the Government would not only pay attention to the Putonghua standard of Honourable colleagues because it is more important for it to heed their valuable advice sincerely.

Madam President, I was given an unexpected reward. I would like to thank the President for giving me a present for proposing this motion. I also wish to thank the Secretary for Education and Manpower for having spoken "five-star" Putonghua. I believe if we have another chance to debate in Putonghua, all Honourable colleagues would be able to speak "five-star" Putonghua. Thank you.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Miss CHOY So-yuk be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 30 January 2002.

Adjourned accordingly at twenty-three minutes past Ten o'clock.

Annexes I and II

WRITTEN ANSWER

Written answer by the Secretary for Education and Manpower to Mr LEUNG Fu-wah's supplementary question to Question 1

In response to the Honourable Member's inquiry, I undertook to provide information on the estimated number of casual employees who had worked less than four weeks on the present job at the time of the survey by industry and by occupation. I also undertook to provide information on the usual hours of work per week of casual employees. For the purpose of the survey, "casual employees" refer to employees aged 15 and over who were employed on a day-to-day basis or for a fixed period of less than 60 days at the time of enumeration.

The required information is in the tables attached for Members' reference.

Table 1 Casual employees who had worked less than four weeks in the present job at the time of the survey by industry

<i>Industry</i>	<i>No. of persons</i>	<i>%</i>
Manufacturing	5 000	5.9
Construction	52 300	61.5
Wholesales, retail and import/export trades, restaurant and hotels	13 200	15.5
Transport, storage and communications	7 800	9.2
Financing, insurance, real estate and business services	1 500	1.7
Community, social and personal services	5 000	5.8
Others	200	0.2
Total	84 900	100.0

WRITTEN ANSWER — *Continued*

Table 2 Casual employees who had worked less than four weeks in the present job at the time of the survey by occupation

<i>Industry</i>	<i>No. of persons</i>	<i>%</i>
Service workers and shop sales workers	9 700	11.4
Craft and related workers	37 700	44.3
Plant and machine operators and assemblers	6 300	7.4
Elementary occupations	29 300	34.5
Others	2 000	2.4
Total	84 900	100.0

Table 3 Casual employees by usual hours of work per week

<i>Usual hours of work per week</i>	<i>No. of persons</i>	<i>%</i>
< 18	7 200	7.6
18- < 30	15 100	16.1
30- < 40	18 700	19.9
≥ 40	52 900	56.4
Total	93 800	100.0

Source: Special topic inquiry on "Casual employment" (April - June 2001),
 Census and Statistics Department

Annex III**WRITTEN ANSWER****Written answer by the Secretary for Health and Welfare to Mr Fred LI's supplementary question to Question 3**

The Census and Statistics Department conducted an enquiry via the General Household Survey in 2000 to study, among other things, the economic profile of the elderly people and soon-to-be old people.

The survey showed that more than 80% of the elderly people live with family members. Regarding financial disposition of elderly people, 95.6% of all elderly people had to pay for their own monthly expenses on one or more expenditure items. The median monthly expenditure for those elderly persons was \$1,700. On the other hand, most (99.6%) of the elderly people had personal income from various sources. The median monthly personal income for those elderly people was \$2,600. For those elderly people who had monthly personal income, 89.0% had "interest from savings/fixed deposits or dividends from stocks", 58.4% had "financial support from children"; 51.6% had "Old Age Allowance"; 12.5% had "salary"; and 12.0% had "Comprehensive Social Security Assistance". The survey also showed that only 16.7% of all elderly people had retirement protection provided by their present and/or previous employers.

Regarding financial disposition of soon-to-be old people, nearly all (99.7%) of the soon-to-be old people had personal income from various sources. The median monthly personal income for those soon-to-be old people was \$7,000. As regards source of monthly personal income, 90.8% had "interest from savings/fixed deposits or dividends from stocks"; 63.7% had "salary"; 22.7% had "financial support from children"; and 12.9% had "financial support from other relatives". The survey also showed that 30.4% of all soon-to-be old people had retirement protection provided by their present and/or previous employers.

Annex IV**PUBLIC HEALTH AND MUNICIPAL SERVICES
(AMENDMENT) BILL 2001****COMMITTEE STAGE**Amendments to be moved by the Secretary for the Environment and Food

<u>Clause</u>	<u>Amendment Proposed</u>
1	<p>(a) In the heading, by adding "and commencement" after "title".</p> <p>(b) By renumbering the clause as clause 1(1).</p> <p>(c) By adding -</p> <p style="padding-left: 40px;">"(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for the Environment and Food."</p>
2	<p>(a) By adding -</p> <p style="padding-left: 40px;">"(ab) by repealing subsection (1A);".</p> <p>(b) In paragraph (b), by deleting the full stop at the end and substituting a semicolon.</p> <p>(c) By adding -</p> <p style="padding-left: 40px;">"(c) in subsection (10)(c), by repealing "撕去" and substituting "移去"."</p>
3	<p>(a) In the proposed section 128A, in the heading, by deleting "and 128C" and substituting ", 128C and 128D".</p>

ClauseAmendment Proposed

- (b) In the proposed section 128A(1), by deleting "and 128C" and substituting ", 128C and 128D".
- (c) By deleting the proposed section 128A(1)(b) and substituting -
- (b) any premises -
- (i) on or from which any restricted food specified in Schedule 2 to the Food Business Regulation (Cap. 132 sub. leg.) is sold or offered or exposed for sale; or
- (ii) on which any such food is possessed for sale or for use in the preparation of any article of food for sale;".
- (d) In the proposed section 128A(1)(d), by deleting "regulation" and substituting "section".
- (e) In the proposed section 128A(2) -
- (i) by deleting "and 128C" and substituting ", 128C and 128D";
- (ii) in the definition of "immediate health hazard", by deleting "from or handled or sold on" and substituting "on or from, or handled or possessed on,";
- (iii) by adding -
- ""Appeal Board" (上訴委員會) means the Appeal Board on Closure Orders (Immediate Health Hazard) established under section 128D;

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"Chairman" (主席) means the Chairman of the Appeal Board appointed under section 128D(3);

"Deputy Chairman" (副主席) means the First Deputy Chairman or the Second Deputy Chairman of the Appeal Board appointed under section 128D(3);

"use" (用、使用), in relation to any premises referred to in subsection (1)(c), includes occupy."

- (f) In the proposed section 128A(3) -
- (i) by deleting "from or handled or sold on" wherever it appears and substituting "on or from, or handled or possessed on,";
 - (ii) in paragraph (b), by deleting "a contaminated or unapproved source" and substituting "an unapproved source or from a source that, as shown from inspection findings, data from epidemiological investigation or other laboratory evidence, is contaminated with pathogens, biotoxins, chemicals or other substances".
- (g) In the proposed section 128A, by adding -
- "(4) In subsections (2) and (3) -
 - (a) a reference to food supplied on or from any premises includes food sold, or offered or exposed for sale, on or from the premises;

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- (b) a reference to food handled on any premises includes food manufactured on the premises; and
 - (c) a reference to food possessed on any premises means food possessed on the premises for sale or for use in the preparation of any article of food for sale."
- (h) In the proposed section 128B(1) -
- (i) in paragraph (a) -
 - (A) by deleting "將" and substituting "使用";
 - (B) by deleting "作某項用途";
 - (ii) in paragraph (b), by adding "進行" before "第";
 - (iii) by deleting "(as the case may be) on any premises" and substituting "on any premises (as the case may be)";
 - (iv) by deleting "subsection" and substituting "subsections (1A) and";
 - (v) by deleting "作如此用途、" and substituting "如此使用、";
 - (vi) by deleting "如此進行" and substituting "進行".
- (i) In the proposed section 128B, by adding -
- "(1A) Subsection (1) does not apply if -

ClauseAmendment Proposed

- (a) the use or the activity is required under section 30(1) of the Food Business Regulation (Cap. 132 sub. leg.) to be permitted;
 - (b) a food business within the meaning of that Regulation is carried on on or from the premises; and
 - (c) the food business is required under that Regulation to be licensed and is licensed under that Regulation."
- (j) By deleting the proposed section 128B(2)(a) and substituting -
 - "(a) at least 7 days before the date fixed for the hearing of the application, a copy of the notice of intention to apply for the closure order, in both English and Chinese -
 - (i) was affixed at a conspicuous place on the premises; and
 - (ii) was served on the owner of the premises by sending the copy by registered post addressed to that owner's last known place of business or residence;"
- (k) In the proposed section 128B(4) -
 - (i) by deleting "to" where it first appears;
 - (ii) by deleting paragraph (a) and substituting -

ClauseAmendment Proposed

- "(a) if, at the date of application for the order, the premises are used for human habitation, to prevent such habitation on the premises; or";
- (iii) in paragraph (b), by adding "to" before "affect".
- (l) In the proposed section 128B(7)(a), by deleting "the premises or the activity" and substituting ", or the activity to be conducted on, the premises".
- (m) In the proposed section 128B(8) -
- (i) by adding "或安排他人將" after "須將";
 - (ii) by deleting "或安排他人如此行事";
 - (iii) by adding "或安排他人將" after "可將";
 - (iv) by deleting "或安排將其截斷".
- (n) In the proposed section 128B(16), by deleting "掌控" and substituting "控制".
- (o) In the proposed section 128C(1), by deleting "to which this section applies" where it secondly appears.
- (p) In the proposed section 128C(2) -
- (i) by deleting "to" where it first appears;
 - (ii) by deleting paragraph (a) and substituting -
- "(a) if, at the date of making of the order, the premises are used for

ClauseAmendment Proposed

human habitation, to prevent such habitation on the premises; or";

(iii) in paragraph (b), by adding "to" before "affect".

(q) In the proposed section 128C(3), by deleting everything after "copy of it" and substituting -

"-

(a) is affixed at a conspicuous place on the premises in respect of which the order is made; and

(b) is served on the owner of those premises by sending the copy by registered post addressed to that owner's last known place of business or residence."

(r) In the proposed section 128C(6)(a) -

(i) by deleting "或活動";

(ii) by deleting "用途或擬" and substituting "使用或擬在該處所內".

(s) In the proposed section 128C(6)(b), by adding "內" before "進行".

(t) In the proposed section 128C(7) -

(i) by deleting "court" where it first appears and substituting "Chairman";

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- (ii) by deleting "court" where it secondly appears and substituting "Appeal Board".
- (u) By deleting the proposed section 128C(8).
- (v) In the proposed section 128C(9) -
 - (i) by deleting "lodging" and substituting "making";
 - (ii) by deleting "court" and substituting "Chairman".
- (w) By deleting the proposed section 128C(10).
- (x) In the proposed section 128C(11) -
 - (i) by adding "或安排他人將" after "須將";
 - (ii) by deleting "或安排他人如此行事";
 - (iii) by adding "或安排他人將" after "可將";
 - (iv) by deleting "或安排將其截斷".
- (y) In the proposed section 128C(14)(a), by deleting "(3)" and substituting "(3)(a)".
- (z) In the proposed section 128C(19), by deleting "掌控" and substituting "控制".
- (za) In the proposed section 128C(20) -
 - (i) by deleting "court" where it first appears and substituting "Chairman";

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- (ii) by deleting "court" where it secondly appears and substituting "Appeal Board".
- (zb) By deleting the proposed section 128C(21).
- (zc) In the proposed section 128C(22) -
 - (i) by deleting "lodging" and substituting "making";
 - (ii) by deleting "court" and substituting "Chairman".
- (zd) By deleting the proposed section 128C(23).
- (ze) By adding -

"128D. Appeals to Appeal Board on Closure Orders (Immediate Health Hazard)

(1) There is established an appeal board to be known as the Appeal Board on Closure Orders (Immediate Health Hazard).

(2) The functions of the Appeal Board are to hear and determine any appeal made to the Appeal Board under section 128C(7) or (20).

(3) The Chief Executive shall appoint from among persons who are qualified for appointment as District Judges under section 5 of the District Court Ordinance (Cap. 336) -

- (a) a Chairman of the Appeal Board;

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(b) a First Deputy Chairman of the Appeal Board; and

(c) a Second Deputy Chairman of the Appeal Board.

(4) The Chief Executive shall appoint a panel of not less than 18 persons, not being public officers, whom he considers suitable for appointment under subsection (8)(b) as members of the Appeal Board to hear an appeal.

(5) An appointment under subsection (3) or (4) shall be notified in the Gazette and shall be for a term of not more than 3 years. A person appointed under subsection (3) or (4) may be re-appointed, and may resign by notice in writing to the Chief Executive.

(6) The Secretary for the Environment and Food may appoint -

(a) a secretary to the Appeal Board; and

(b) such other staff to assist the secretary as the Secretary considers necessary.

(7) The parties to an appeal to the Appeal Board are the appellant and the Authority. A party to an appeal may be present at the hearing of the appeal and may -

(a) make representations in person; or

ClauseAmendment Proposed

- (b) be represented by counsel or solicitor or, with the approval of the Chairman, by any other person authorized by the party in writing.

The Authority may also be represented by a legal officer within the meaning of the Legal Officers Ordinance (Cap. 87).

(8) For the purposes of hearing an appeal, the members of the Appeal Board are -

- (a) the Chairman or a Deputy Chairman, who shall preside; and
- (b) 2 other persons, selected in rotation from the panel referred to in subsection (4), who are appointed by the Chairman to hear the appeal.

(9) If, for any period, the Chairman is precluded by illness, absence from Hong Kong or any other cause from performing his functions, the First Deputy Chairman of the Appeal Board shall act as Chairman and as such perform all the functions of the Chairman during that period.

(10) If, for any period, a Deputy Chairman is precluded by illness, absence from Hong Kong or any other cause from performing his functions, the other Deputy Chairman shall act in the place of the Deputy Chairman precluded from

ClauseAmendment Proposed

performing his functions and in so acting perform all the functions of that Deputy Chairman, including any functions that Deputy Chairman would have been required to perform under subsection (9), during that period.

(11) If, for any period, a person appointed under subsection (8)(b) or this subsection to hear an appeal is precluded by illness, absence from Hong Kong or any other cause from performing his functions, the Chairman may appoint another person, selected in rotation from the panel referred to in subsection (4), to act in the place of the person precluded from performing his functions and in so acting, to perform all the functions of that person during that period.

(12) The hearing of an appeal may, with the consent of the parties to the appeal, continue notwithstanding a change in the membership of the Appeal Board.

(13) For the purposes of an appeal, the Appeal Board -

(a) may receive and consider any material, whether by way of oral evidence, written statements, documents or otherwise, and whether or not it would be admissible in evidence in civil or criminal proceedings; and

(b) may -

ClauseAmendment Proposed

- (i) on an appeal under section 128C(7), confirm the Authority's decision or order the Authority to issue a notice under section 128C(6); or
- (ii) on an appeal under section 128C(20), confirm, suspend or disallow the closure order.

(14) The decision of the Appeal Board on an appeal shall be that of the majority of the members hearing the appeal.

(15) The Appeal Board shall give reasons in writing for its decisions. The secretary to the Appeal Board shall serve a copy of the Appeal Board's decision and of the reasons for the decision on the parties to an appeal.

(16) A person who appeals to the Appeal Board, if dissatisfied with the decision of the Appeal Board, may appeal to the Court of First Instance within 14 days after receiving a copy of the decision and the reasons for the decision. The Court of First Instance may confirm or reverse the decision appealed against. The decision of the Court of First Instance is final.

(17) The making of an appeal under subsection (16) does not operate as a stay of execution of a closure order unless the Court of First Instance otherwise orders.

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(18) Subject to this section and to rules made under subsection (20), the person presiding may determine the procedure at the hearing of an appeal made to the Appeal Board.

(19) The Chairman may, on application in writing by a person and if satisfied that there is good reason for doing so -

- (a) extend the time within which that person may appeal to the Appeal Board under section 128C(7) or (20); and
- (b) order a stay of execution of the closure order to which an appeal made by that person under section 128C(7) or (20) relates, pending the determination of the appeal.

(20) The Chairman may, in consultation with the Secretary for the Environment and Food, make rules -

- (a) regulating the making of appeals to the Appeal Board;
- (b) specifying the documents to be lodged or served in relation to appeals; and
- (c) providing for the hearing and determining of those

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appeals and the enforcement of the decisions of the Appeal Board.

The rules so made are subsidiary legislation."

- 4 By deleting everything after "adding -" and substituting -
- ""128B Director of Food and Environmental Hygiene
- 128C Director of Food and Environmental Hygiene
- 128D Director of Food and Environmental Hygiene".
- 6 (a) By deleting "by adding -" and substituting -
- "-
- (a) in Form F, in Note 3, by repealing "撕去" and substituting "移去";
- (b) in Form G, in Note 2, by repealing "撕去" and substituting "移去";
- (c) by adding "-.
- (b) In the proposed Form H -
- (i) by adding "or occupied" after "used";

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- (ii) by deleting "a notice" and substituting "a copy of the notice";
 - (iii) by adding "and served on the owner of the premises/vessel*" before "as required".
- (c) In the proposed Form I -
- (i) by adding "owner and" before "occupier";
 - (ii) by adding "owner and" before "master";
 - (iii) by deleting "NOW on proof to my satisfaction" and substituting "I now have reasonable cause to believe";
 - (iv) by deleting "the use of the premises/vessel/that part of the vessel/the activity*" and substituting "the use or occupation of/the activity to be conducted on or in* the premises/vessel/that part of the vessel*";
 - (v) by adding "or occupied" after "not be used";
 - (vi) by adding "/in the vessel/in that part of the vessel*" after "conducted on the premises";
 - (vii) by deleting "court may allow, appeal to the court to seek legal remedy" and substituting "Chairman of the Appeal Board on Closure Orders (Immediate Health Hazard) may allow, appeal to that Appeal Board against this order".
- (d) In the proposed Form J -
- (i) by adding "owner and" before "occupier";

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- (ii) by adding "owner and" before "master";
- (iii) by adding "or occupation" after "the use";
- (iv) by deleting "activity conducted on*" and substituting "the activity to be conducted on or in*";
- (v) by adding "or occupied" after "not be used";
- (vi) by adding "/in the vessel/in that part of the vessel*" after "conducted on the premises".