

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 19 June 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.

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

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:

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

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 MICHAEL SUEN MING-YEUNG, G.B.S., J.P.
SECRETARY FOR CONSTITUTIONAL AFFAIRS

MISS DENISE YUE CHUNG-YEE, G.B.S., J.P.
SECRETARY FOR THE TREASURY

MR LAM WOON-KWONG, G.B.S., J.P.
SECRETARY FOR HOME AFFAIRS

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

MR FRANCIS HO SUEN-WAI, J.P.
SECRETARY FOR COMMERCE AND INDUSTRY

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

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>
Designation of Public Funeral Hall (Repeal) Order 2002	101/2002
Hong Kong Court of Final Appeal (Amendment) Ordinance 2002 (11 of 2002) (Commencement) Notice 2002.....	102/2002

Other Papers

- No. 85 — Report of changes to the approved Estimates of Expenditure approved during the fourth quarter of 2001-02 (Public Finance Ordinance : Section 8)
- No. 86 — Audited Statement of Accounts of the Director of Social Welfare Incorporated together with the Director of Audit's Report for the year ended 31 March 2001

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Business Activities of Hong Kong Productivity Council

1. **MR MA FUNG-KWOK** (in Cantonese): *Madam President, regarding the business activities of the Hong Kong Productivity Council (HKPC), will the Government inform this Council of:*

- (a) *the details of the projects undertaken solely by the HKPC or jointly with other organizations with subsidies from funds established with public money, including the description, nature and subsidized amount of each project, as well as the role of the HKPC in the projects;*
- (b) *the descriptions and beneficial results of other projects undertaken solely by the HKPC or jointly with other organizations, together with a breakdown by the nature of such projects; whether the authorities have assessed if the HKPC's embarking on such projects has constituted a scramble for profits with the private sector and if this is in line with the objectives for establishing the HKPC; if an assessment has been made, of the conclusions drawn; if not, the reasons for that; and*
- (c) *the number of complaints received about the business activities of HKPC, and list the subject matters of these complaints, how they were handled and the outcome of the complaints,*

in the past three years?

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

- (a) In the past three financial years, the HKPC embarked on 71 projects under various government funding schemes. These projects undertaken by itself or in collaboration with other organizations involved the Innovation and Technology Fund, the Film Development Fund, the Quality Education Fund, the Environment and Conservation Fund and the Language Fund on Workplace English Campaign, with the approved amount totalling \$171.04 million. The number of projects supported by each funding scheme and their respective funding amount are listed as follows:

<i>Funding Scheme</i>	<i>Number of Projects Supported</i>	<i>Approved Funding (\$ million)</i>
Innovation and Technology Fund	62	166.37
Film Development Fund	3	2.34
Quality Education Fund	3	1.27
Environment and Conservation Fund	2	0.73
Language Fund on Workplace English Campaign	1	0.33

Details on the description, nature and funding amount of each project and the respective roles of the HKPC are set out in Annex 1 for Members' reference.

- (b) In the past three financial years, the HKPC also undertook another 9 462 projects solely by itself or jointly with other organizations. These were mainly projects of consultancy service, training, technical support and industrial support programmes. Details of the nature and breakdowns of the projects are at Annex 2. Since the number of projects involved approaches 10 000, individual descriptions have not been listed out in Annex 2. If Members wish to know more of any particular project, I would be delighted to follow up.

The Government is very concerned about the benefits and results brought forth by the HKPC in fulfilling its public mission. The expeditious economic restructuring of Hong Kong in recent years, together with the rapid development of the Pearl River Delta Region and its increasing economic integration with Hong Kong, have posed unprecedented challenges to the HKPC in terms of its role and mission. The Government sees the need to review the role,

mission, management and operation of the HKPC, with a view to ensuring that the HKPC will keep abreast of the times. To this end, the Government asked the HKPC to commission a comprehensive consultancy study last year. The study was completed early this year, and the Innovation and Technology Commission briefed Members of the Legislative Council Panel on Commerce and Industry on its findings and recommendations at the Panel meeting on 8 April 2002.

The Consultants recommended that the HKPC should focus its future service on integrated support to innovative and growth oriented Hong Kong firms across the economic value chain, in particular the small and medium enterprises (SMEs). The sectoral focus should be placed on manufacturing firms, particularly those in Hong Kong's foundation industries and related service activities. The geographical focus should be Hong Kong and the Pearl River Delta.

In order to focus on the above areas, the HKPC should devote more resources in these areas and reduce or stop providing services in others. To this end, the Consultants recommended that the HKPC might consider the formation of spin out businesses, particularly those which were more mature and subject to private sector competition. The Consultants also recommended a change in the funding regime, with a greater proportion of government funding in the form of programme- and project-based support, and a lower proportion in the form of generic subvention. This will facilitate a clearer relationship between government expectations of the HKPC and the funding it provides, and should also help reduce concerns about unfair competition.

The Government is following up with the HKPC on the recommendations put forward by the Consultants, and has asked the HKPC to define its future service areas and clientele along the role and delivery focuses suggested in the consultancy report in order to avoid competing with the private sector.

- (c) The Government has received seven complaints against the HKPC's business activities since 1999. Of the cases, four alleged that the

HKPC's service constituted a cause of unfair competition with private service providers. One complained of overcharging by the HKPC and the remaining two against the HKPC's failure to meet contractual obligations and infringement of patent rights. The particulars, way of handling and outcome of these complaint cases are listed in Annex 3.

Annex 1

List of HKPC Projects Supported by Government Funding Scheme (1999-2000-2001-02)
(by Funding Schemes, Year of Approval and Approved Funding)

I. Innovation and Technology Fund

<i>Year</i>	<i>Project Title</i>	<i>Nature</i>	<i>Approved Funding (\$)</i>	<i>Role of HKPC (Note)</i>
1. 1999-2000	Asian IT Business Solutions Centre	To establish the Centre as a "solution community" of IT talents and resources aiming to develop high quality commercial software for selected industries ranging from financial services, telecommunications, trading to manufacturing.	11,900,000	Recipient Organization
2. 1999-2000	Development of Diffusion Bonding Technology for Advanced Tool Making Applications	To develop the diffusion bonding technology with a view to enhancing the competitiveness of the mould and die industry in Hong Kong, and to provide diffusion bonding technology services to local industries.	6,411,000	Recipient Organization
3. 1999-2000	Development of Fully Electric Plastic Injection Moulding Technology and Machinery for Exploring New Business Opportunities	To develop the fully electric plastic injection moulding technology and machinery with a view to assisting local plastic product and machinery manufacturing industry in exploring new business opportunities.	5,510,000	Implementing Organization (The subject applicant is Hong Kong Plastic Machinery Association)
4. 1999-2000	Development of Mobile Computing and	To develop the mobile computing and connectivity technologies with a view to	4,981,000	Recipient Organization

<i>Year</i>	<i>Project Title</i>	<i>Nature</i>	<i>Approved Funding (\$)</i>	<i>Role of HKPC (Note)</i>
	Connectivity Technologies	applying them in the medical sector, the education sector, the car industry, and other sectors.		
5. 1999-2000	Development of Digital Audio and Visual Electronics Products	To develop prototypes for four digital AV products and to provide training for the industries concerned.	4,836,000	Recipient Organization
6. 1999-2000	Development and Dissemination of Workmanship Standards, Reliability Measurement and Assembly Know-how of the Build-up PCB	To transfer the workmanship standards, reliability measurement and assembly know-how of build-up PCB to the local electronic industry.	4,018,000	Recipient Organization
7. 1999-2000	Pilot Programme to Assist Plastic Industry to Diversify into Medical and Healthcare Product Manufacturing	To assist local plastic manufacturers in diversifying into medical and healthcare product manufacturing by studying market development trend, regulations of different countries and exploring relevant technologies.	3,988,000	Recipient Organization
8. 1999-2000	Development of Polymer Filtration Technology for Electroplating Industry	To develop the polymer filtration technology in electroplating with a view to lowering production cost and enhancing competitiveness of the electroplating industry.	3,350,000	Implementing Organization (The subject applicant is Hong Kong and Kowloon Electroplating Trade Merchants Association)
9. 1999-2000	Development of Precious Metal Surface Texturing and Enamel Coating Technology for Jewellery Industry	To develop the precious metal surface texturing and enamel coating technology, and to disseminate the know-how to the jewellery industry through provision of training and consultancy services.	3,080,000	Implementing Organization (The subject applicant is Hong Kong Jewellery Manufacturers' Association)
10. 1999-2000	Development of Benchmarking	To establish benchmarking models for the electrical	2,850,000	Recipient Organization

<i>Year</i>	<i>Project Title</i>	<i>Nature</i>	<i>Approved Funding (\$)</i>	<i>Role of HKPC (Note)</i>
	Models and Skills Enhancement Programme for Electrical Appliances Industry and Toys Industry	appliances industry and the toys industry so as to help them understand their operation and make improvements.		
11. 1999-2000	Development of CNC Multi-axis Simultaneous Manufacturing Technologies for High Precision Components, such as Cam Tube to Improve the Critical Component Design and Manufacturing Capability of Metals and Light Engineering Industries	To upgrade the CNC multi-axis simultaneous manufacturing technologies for precision critical components with a view to applying the technologies in the production of cameras, car lights and lenses for office equipment.	2,830,000	Recipient Organization
12. 1999-2000	Automating the Operation Flow of SMEs by Using Internet Technology	To study the use of IT in SMEs with a view to helping them make use of Internet technology to improve operation flow.	2,783,000	Implementing Organization (The subject applicant is Hong Kong Chinese Importers' and Exporters' Association)
13. 1999-2000	Development of an Advanced Parametric and Feature Based Design and Data System for Fashionable Watch Design and Manufacturing	To develop a special CAD/CAID 3D-watch design system with a view to assisting watch manufacturers in upgrading their product design.	1,880,000	Implementing Organization (The subject applicant is Hong Kong Watch Manufacturers Association)
14. 1999-2000	Enhancing Industrial Supply Chain's Value-added Capacity through Cleaner Production	To enhance the Industrial supply chain's value-added capacity by encouraging SMEs to adopt cleaner production standard.	1,821,000	Implementing Organization (The subject applicant is Hong Kong General Chamber of Commerce)

<i>Year</i>	<i>Project Title</i>	<i>Nature</i>	<i>Approved Funding (\$)</i>	<i>Role of HKPC (Note)</i>
15. 1999-2000	Information Network for Hong Kong's Critical Component Industries (HKCCMA-NET)	To establish an information network for Hong Kong's critical component industries with a view to providing them with the latest information on market development and new technology and assisting them in exploring new business opportunities.	1,811,000	Implementing Organization (The subject applicant is Hong Kong Critical Components Manufacturers Association)
16. 1999-2000	A Support Programme on Environmental Friendly Packaging Design for the local Packaging Industry	To assist Hong Kong's packaging industry in changing from conventional designs to environmental friendly designs.	1,505,000	Recipient Organization
17. 1999-2000	Textile Handbook	To produce a handbook in printed copies and CD-ROM with technical and practical information for the textile industry.	1,231,950	Implementing Organization (The subject applicant is Hong Kong Cotton Spinners Association)
18. 1999-2000	Organization of "Hong Kong footwear Design Competition 2000"	To organize the "Hong Kong footwear Design Competition 2000" with a view to promoting footwear design in Hong Kong and enhancing the industry's international competitiveness.	997,000	Implementing Organization (The subject applicant is Hong Kong Leather Shoe and Shoe Material Merchants Association)
19. 1999-2000	Information Handbook for Hong Kong Leather Industry	To produce a handbook with technical and practical information for the leather industry in Hong Kong.	763,000	Implementing Organization (The subject applicant is Hong Kong Hide and Leather Traders' Association)
20. 1999-2000	Symposium and Display Centre on Automotive Electronics Technology: The Cars of 21st Century	To organize a symposium on automotive electronic technology to discuss the latest technology development in car production in 21st century.	490,000	Implementing Organization (The subject applicant is Hong Kong Electronic Industries Association)

<i>Year</i>	<i>Project Title</i>	<i>Nature</i>	<i>Approved Funding (\$)</i>	<i>Role of HKPC (Note)</i>
21. 1999-2000	Asian Knowledge-Based Organization (KBO) Conference for Metal and Light Engineering Industries	To organize a symposium and a workshop on a combined topic of product innovation and knowledge-based management.	450,000	Recipient Organization
22. 2000-01	Establishment of a Computer Security Co-ordination Centre	To set up a Computer Security Co-ordination Centre to co-ordinate security-related computer emergencies, and to enhance public awareness of precautionary measures on computer security through seminars and training courses.	10,744,000	Recipient Organization
23. 2000-01	Patent Application Grant	To provide funding incentive to encourage local companies and individuals to protect and capitalize on their innovative inventions by applying for patents.	7,000,000	Implementing Organization (The subject applicant is Innovation and Technology Commission)
24. 2000-01	Introduction of Magneto-Rheological Finishing (MRF) Technology to Develop Ultra Precision Engineering Capability in Hong Kong	To develop the application of MRF technology on polishing hard materials, such as the limited production of non-spherical ultra precision lenses in photographic, optics and other related industries.	4,850,000	Recipient Organization
25. 2000-01	Development of Chip on Flex (COF) Technology Process for the Hong Kong Electronics Industry	To develop the COF technology and transfer it to the local electronics industry through a COF production line, study reports, training courses and seminars.	4,044,000	Recipient Organization
26. 2000-01	Introduction of 3-D Keltool for Rapid Tool	To transfer the 3-D Keltool rapid tool making technology to local plastics	3,918,000	Implementing Organization (The subject applicant is

<i>Year</i>	<i>Project Title</i>	<i>Nature</i>	<i>Approved Funding (\$)</i>	<i>Role of HKPC (Note)</i>
	Making in the Fast Moving Plastic Industries	industry through seminars and consultancy services.		Federation of Hong Kong Industries)
27. 2000-01	Development of a Chinese Linux Operating System for Embedded Systems	To develop a Chinese Linux operating system for embedded systems, establish an application model and provide hands-on demonstration.	3,448,000	Recipient Organization
28. 2000-01	Development of a 3D Semantic and Parametric Feature Based Spectacle Component Database and an Application Specific Advanced 5-Axis NC Programming and Machining Technology for Eyewear Manufacturing	To help eyewear manufacturers in Hong Kong to develop innovative spectacle designs and shorten the production process by developing a 3D semantic and parametric feature based spectacle component database.	2,280,000	Recipient Organization
29. 2000-01	Feasibility Study on the Establishment of a Hong Kong Design and Fashion Centre	To conduct a feasibility study of establishing a Hong Kong Design and Fashion Centre, focusing on site selection, industry responses and the success factors of other fashion centres.	2,000,000	Implementing Organization (The subject applicant is Textile Council of Hong Kong)
30. 2000-01	Development of a True AnaDigit Watch, driven by One MCU and One Battery	To develop the technology of a true anadigit watch driven by one MCU and one battery to achieve synchronization and accuracy.	1,958,000	Implementing Organization (The subject applicant is Hong Kong Watch Manufacturers Association)
31. 2000-01	Improvement of the Model of Knitwear Finishing	To improve the model of knitwear finishing and implement the improvement recommendations in a pilot scheme.	1,884,000	Implementing Organization (The subject applicant is Hong Kong Knitwear Exporters and Manufacturers Association)

<i>Year</i>	<i>Project Title</i>	<i>Nature</i>	<i>Approved Funding (\$)</i>	<i>Role of HKPC (Note)</i>
32. 2000-01	Development of Advanced Surface Finishing Technologies for Magnesium Diecasting Products	To organize a series of technical seminars to introduce the advanced surface finishing technologies for magnesium diecasting products, and to establish pilot production lines in the factories.	1,776,000	Implementing Organization (The subject applicant is Hong Kong Diecasting Association)
33. 2000-01	International Invention and Innovation Exposition 2000	To organize the International Invention and Innovation Expo 2000 to promote and enhance product innovation, product design and technological co-operation in local industries and the community.	1,750,000	Recipient Organization
34. 2000-01	Enhancement of the Competitiveness of Telecommunications Manufacturers and the Associated Industries through the TL 9000 Quality System	To study the new requirements of the TL 9000 Quality System, and to organize briefing sessions, training, discussion groups and experience-sharing seminars and report presentation sessions.	1,488,000	Recipient Organization
35. 2000-01	Development of Safety Design Guidelines and Testing Methodologies for Local Made Plastic Processing Auxiliary Machinery	To develop safety design guidelines and testing methodologies for local made plastic processing auxiliary machinery, and to assist manufacturers to identify and improve weaknesses in design and the existing production process.	1,450,000	Implementing Organization (The subject applicant is Hong Kong Plastic Machinery Association)
36. 2000-01	Development of an In-house Safety Testing Kit for Spectacle Frame Manufacturers	To develop a series of in-house safety testing procedures to ensure compliance with stringent international standards and requirements by spectacle frame manufacturers in Hong Kong.	1,450,000	Implementing Organization (The subject applicant is Hong Kong Optical Manufacturers Association)

<i>Year</i>	<i>Project Title</i>	<i>Nature</i>	<i>Approved Funding (\$)</i>	<i>Role of HKPC (Note)</i>
37. 2000-01	Development of Transparent Hard Coatings for Decorative Applications	To organize a series of technical seminars to introduce the technology of transparent hard coatings for decorative applications, and to establish pilot production lines in factories.	1,450,000	Implementing Organization (The subject applicant is Hong Kong Metal Finishing Society)
38. 2000-01	Development of a Middle Management-driven Kaizen Launching Methodology for Plastics and Foundation Industries for Effective Promotion of Kaizen Implementation	To promote the implementation of Kaizen by developing a middle management-driven Kaizen launching methodology, and to invite interested SMEs to participate in the pilot scheme.	1,350,000	Implementing Organization (The subject applicant is Hong Kong Plastics Manufacturers Association)
39. 2000-01	Global e-ID Campaign for the Promotion of International Products	To introduce the benefits of Global Digital Identification (ID) to local enterprises.	1,290,000	Implementing Organization (The subject applicant is Hong Kong Article Numbering Association)
40. 2000-01	Information Security Support Programme for SMEs in Hong Kong	To provide information security support to SMEs, including technical support, training, studies and seminars.	1,272,000	Recipient Organization
41. 2000-01	Enhancement of Gas-assisted Injection Moulding Technology for Advanced Application	To develop an advanced gas-assisted injection moulding system by using Airmould Contour technology, and to introduce the technology to plastic manufacturers through case studies, seminars and exhibitions.	1,219,000	Recipient Organization
42. 2000-01	Development of an Enhanced Oil and Grease Removal Device to Assist	To assist local restaurants to comply with environmental legislation by developing an enhanced oil and grease removal system, to organize	1,100,000	Recipient Organization

<i>Year</i>	<i>Project Title</i>	<i>Nature</i>	<i>Approved Funding (\$)</i>	<i>Role of HKPC (Note)</i>
	Restaurants to Comply with Environmental Legislation	four training courses and to compile a report with consolidated findings.		
43. 2000-01	HK Software Industry Survey 2000	To conduct a survey with a report on the local software industry, including the nature and scope of business, service areas, business opportunities, considerations and market indicators.	850,000	Recipient Organization
44. 2000-01	Hong Kong Textile Print Design Competition 2001	To organize the Hong Kong Textile Print Design Competition 2001 to promote the standard of textile print design in Hong Kong.	630,000	Recipient Organization
45. 2000-01	China Hi-Tech Fair	To promote technological collaboration between Hong Kong and China through participation in the China Hi-Tech Fair.	597,100	Recipient Organization
46. 2000-01	Information Handbook on Gloves Manufacturing and Trading	To develop an information handbook on gloves manufacturing and trading for the practitioners' handy reference.	562,000	Implementing Organization (The subject applicant is Association of Hong Kong Glove Traders)
47. 2000-01	The Tenth World Wide Web Conference (WWW10)	To consolidate Hong Kong's position as a WWW hub in Asia and promote Hong Kong's image as an international IT city by organizing the WWW10 Conference.	490,000	Recipient Organization
48. 2001-02	Establishment of a Multi-institutional Advanced Surface Technology Development Centre	To establish an advanced surface technology development centre to promote advanced surface technologies, to facilitate collaboration between the industry and tertiary institutions, and to promote commercial research and development in Hong Kong.	8,500,000	Recipient Organization

<i>Year</i>	<i>Project Title</i>	<i>Nature</i>	<i>Approved Funding (\$)</i>	<i>Role of HKPC (Note)</i>
49. 2001-02	Transfer of Lead-free Soldering for PCBA as well as Halogen-free PCB Technologies	To transfer lead-free soldering for PCBA as well as halogen-free PCB technologies to the electronics industry in Hong Kong.	5,242,000	Recipient Organization
50. 2001-02	Development of Validation Protocols for Sterilization of Medical Devices and Supplies	To develop a set of validation protocols for sterilization of medical devices and supplies, and to provide consultancy service and technical support on sterilization of medical devices and supplies to the local industry.	3,400,000	Recipient Organization
51. 2001-02	Development of an Integrated 3D Computer Numeric Control (CNC) Laser Deposit Welding and Machining System to Enhance the Quality and Efficiency of Machining of Mold Inserts and Cavities for the Local Industry	To develop an integrated 3D CNC laser deposit welding and machining system to enhance the technology and competitiveness of the local mould making industry.	2,550,000	Recipient Organization
52. 2001-02	Development of a Knowledge-based Engineering Product Design Expert System for Manufacturers of Plastic Products and Household Electrical Appliances	To enhance the competitiveness of plastic and household electrical appliances industries through integrating product design and development, for example, design blueprint, engineering technologies and production, and to promote automation in the design process.	2,500,000	Implementing Organization (The subject applicant is Hong Kong Electrical Appliances Manufacturers Association)
53. 2001-02	Development of Applications of Virtual Product and Packaging Mechanical	To develop a comprehensive computer modelling and virtual testing method and procedures based on major international testing	2,200,000	Recipient Organization

<i>Year</i>	<i>Project Title</i>	<i>Nature</i>	<i>Approved Funding (\$)</i>	<i>Role of HKPC (Note)</i>
	Testing Using CAE Technologies for Pre-compliance Safety Testing on Export Products to Enhance the Efficiency of New Product Design and Development	standards, and to develop real case studies to demonstrate technological application.		
54. 2001-02	Transfer and Development of Environmental-friendly Microcellular Foam Injection Moulding Technology (MuCell)	To develop and transfer environmental-friendly microcellular foam injection moulding technology, to conduct case studies, to demonstrate technological skills and applications, and to develop a technology handbook.	1,950,000	Recipient Organization
55. 2001-02	Structural Design and Business Model Development of the Hong Kong Fashion and Design Centre	To study the structural design and business model development of the Hong Kong Fashion and Design Centre, including interior design, operational model and promotion strategies.	1,885,000	Implementing Organization (The subject applicant is Textile Council of Hong Kong)
56. 2001-02	Development of Anti-tarnishing and Hardened Silver Coating for Decorative Applications	To organize seminars to promote anti-tarnishing and hardened silver coating for decorative applications, to establish pilot production lines in the factories, and to provide consultancy service for the surface finishing industry in Hong Kong.	1,830,000	Implementing Organization (The subject applicant is Hong Kong Metal Finishing Society)
57. 2001-02	The 12th World Productivity Congress	To introduce up-to-date knowledge and technology to establish Hong Kong's status as a global productivity innovation hub by organizing the 12th World Productivity Congress.	1,800,000	Recipient Organization

<i>Year</i>	<i>Project Title</i>	<i>Nature</i>	<i>Approved Funding (\$)</i>	<i>Role of HKPC (Note)</i>
58. 2001-02	Development of Electrolytic Dye Reduction Technology for the Textile Industry	To develop the electrolytic dye reduction technology for the textile industry in order to reduce the use of dye and water.	1,700,000	Recipient Organization
59. 2001-02	Study on the Worldwide Trends and Applications of Phthalates-free PVC and PVC Substitutes	To identify phthalates-free PVC and PVC substitutes, and to study the feasibility of technology transfer.	1,700,000	Recipient Organization
60. 2001-02	Development of an Oxidative Vacuum Filtration System Based on Existing Air Depolarizing Technology	To develop an oxidative vacuum filtration system with a view to establishing a more cost-effective dyeing method.	1,400,000	Recipient Organization
61. 2001-02	Promotion of the PCB Industry in Hong Kong	To promote the image of the local PCB industry by organizing a series of seminars.	900,000	Implementing Organization (The subject applicant is Hong Kong Printed Circuit Association)
62. 2001-02	Hong Kong Gem-related Jewellery Technology Conference 2001	To promote the gem-related jewellery technology and enhance the marketing and technological knowledge of the industry by organizing the Hong Kong Gem-related Jewellery Technology Conference 2001.	480,000	Implementing Organization (The subject applicant is Gemmological Association of Hong Kong)
			166,373,050	

Note:

Recipient Organization - HKPC is the subject applicant and is responsible for implementing the project.
 Implementing Organization - HKPC only assists the subject applicant in implementing the project.

II. Film Development Fund

	<i>Year</i>	<i>Project Title</i>	<i>Nature</i>	<i>Approved Funding (\$)</i>	<i>Role of HKPC</i>
1.	2000-01	Richard Williams' Animation Masterclass and Experience-sharing Seminar	To invite Mr Richard Williams, three-time Oscar winner, to give a lecture on animation to the local industry and organize an experience-sharing seminar on animation.	799,580	Recipient Organization
2.	2001-02	Training Programme on Special Effects and Animation in Digital Films for Young Talents	To identify and train new blood for the digital film industry in Hong Kong.	979,460	Recipient Organization
3.	2001-02	Overseas Summer Experience-sharing Study Programme on Computer Animation and Special Visual Effects	To subsidize eight tertiary students to a summer programme on computer animation in United States.	560,630	Recipient Organization
				2,339,670	

Note:

Recipient Organization - HKPC is the subject applicant and is responsible for implementing the project.
 Implementing Organization - HKPC only assists the subject applicant in implementing the project.

III. Quality Education Fund

	<i>Year</i>	<i>Project Title</i>	<i>Nature</i>	<i>Approved Funding (\$)</i>	<i>Role of HKPC</i>
1.	1999-2000	Learning on Demand Model (Phase 1)	To assist a local primary school in producing a CD-ROM on the General Studies subject for Primary five and six students.	420,000	Implementing Organization (The subject applicant is a local primary school)
2.	2001-02	Environmental Industry-related Extra-curricular Activities for Secondary Schools	To organize talks on the environmental industry, visits to related facilities, debates, and trial work schemes on environmental protection.	500,000	Implementing Organization (The subject applicant is Hong Kong Environmental Industry Association)
3.	2001-02	Get to know Hong Kong's Industries for Secondary School Students and Teachers	To encourage local secondary school teachers and students to have a better understanding of the importance and significance of Hong Kong's industries in the local economy by organizing a series of activities and developing an	347,700	Recipient Organization

<i>Year</i>	<i>Project Title</i>	<i>Nature</i>	<i>Approved Funding (\$)</i>	<i>Role of HKPC</i>
		education handbook, activities including familiarization workshops, visits and experience sharing sessions.	1,267,700	

Note:

Recipient Organization - HKPC is the subject applicant and is responsible for implementing the project.
 Implementing Organization - HKPC only assists the subject applicant in implementing the project.

IV. *Environment and Conservation Fund*

<i>Year</i>	<i>Project Title</i>	<i>Nature</i>	<i>Approved Funding (\$)</i>	<i>Role of HKPC</i>
1. 2000-01	Research on Vehicle (LPG, Petrol and Diesel) Maintenance Garages and Mechanics	To conduct a survey on trade practitioners' views on the registration/licensing system for mechanics.	589,380	Recipient Organization
2. 2001-02	Use of Shredders to Promote Cost-effective Waste Plastic Bottle Recycling Activities	To develop a machine for effective volume reduction of waste plastic bottles, and to utilize the technology to promote cost-effective recycling activities.	140,000	Recipient Organization
			729,380	

Note:

Recipient Organization - HKPC is the subject applicant and is responsible for implementing the project.
 Implementing Organization - HKPC only assists the subject applicant in implementing the project.

V. *Language Fund on Workplace English Campaign*

<i>Year</i>	<i>Project Title</i>	<i>Nature</i>	<i>Approved Funding (\$)</i>	<i>Role of HKPC</i>
1. 2001-02	"e-English in Your Workplace"	To develop a web-based English training programme comprising three modules on writing, listening and oral techniques.	330,500	Recipient Organization
			330,500	

Note:

Recipient Organization - HKPC is the subject applicant and is responsible for implementing the project.
 Implementing Organization - HKPC only assists the subject applicant in implementing the project.

Projects undertaken solely by HKPC or jointly with other organizations - 1999-2000

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34		
<i>Project Nature</i>	Textiles and Apparel	Electronics and Electrical	Watches/Clocks/Jewellery	Plastics and Toys	Metal and Electronic Parts and Components	Machinery and Tooling	Telecom and Office Automation Equipment	Linkage Industries	Optical Products	Petrochemical and Chemical	Printing, Packaging and Publishing	Food Manufacturing (Engineering and Management)	Biomedical/Healthcare Hardware	Biotechnology/Traditional Chinese Medicine	Multi-media/Digital Entertainment	IT and Software	Construction (Engineering and Project Management)	Import/Export Trade	Wholesale Trade	Logistics	Transport and Storage	Retail	Public Services	Engineering Services	Environmental Engineering	Facility Management	Hospitality/Tourism	Advertising/Promotion/Marketing	Professional Services (for example, Legal/Accounting/Finance)	Public Utility Services	Banking and Insurance	Medical/Health care/Hospital	Schools/Educational Institutes	Media Services	<i>Total</i>	
		<i>Foundation Industries</i>							<i>Other Manufacturing Industries</i>						<i>Manufacturing-Related Service Industries</i>						<i>Other Service Industries</i>															
Consultancy Services ¹		1 092	(37.6%)									224	(7.7%)									265	(9.1%)												150	(5.2%)
Training		601	(20.7%)									274	(9.4%)									69	(2.4%)												19	(0.7%)
Technical Services ²		69	(2.4%)									18	(0.6%)									6	(0.2%)												1	(0.0%)
Industry Support ³		84	(2.9%)									19	(0.7%)									5	(0.2%)												5	(0.2%)
Total no. of Projects		1 846	(63.6%)									535	(18.4%)									345	(11.9%)												175	(6.1%)
																																			2 901	(100.0%)

Projects undertaken solely by HKPC or jointly with other organizations - 2000-01

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	
<i>Project Nature</i>	Textiles and Apparel	Electronics and Electrical	Watches/Clocks/Jewellery	Plastics and Toys	Metal and Electronic Parts and Components	Machinery and Tooling	Telecom and Office Automation Equipment	Linkage Industries	Optical Products	Petrochemical and Chemical	Printing, Packaging and Publishing	Food Manufacturing (Engineering and Management)	Biomedical/Healthcare Hardware	Biotechnology/Traditional Chinese Medicine	Multi-media/Digital Entertainment	IT and Software	Construction (Engineering and Project Management)	Import/Export Trade	Wholesale Trade	Logistics	Transport and Storage	Retail	Public Services	Engineering Services	Environmental Engineering	Facility Management	Hospitality/Tourism	Advertising/Promotion/Marketing	Professional Services (for example, Legal/Accounting/Finance)	Public Utility Services	Banking and Insurance	Medical/Health care/Hospital	Schools/Educational Institutes	Media Services	<i>Total</i>
	<i>Foundation Industries</i>						<i>Other Manufacturing Industries</i>						<i>Manufacturing-Related Service Industries</i>						<i>Other Service Industries</i>																
Consultancy Services ¹			1 127	(35.9%)								259	(8.2%)										295	(9.4%)							191	(6.1%)			
Training			684	(21.8%)								260	(8.3%)										53	(1.7%)							16	(0.5%)			
Technical Services ²			104	(3.3%)								17	(0.5%)										16	(0.5%)							1	(0.0%)			
Industry Support ³			78	(2.5%)								25	(0.8%)										11	(0.4%)							4	(0.1%)			
Total no. of Projects			1 993	(63.5%)								561	(17.8%)										375	(12%)						212	(6.7%)			3 141	(100.0%)

Projects undertaken solely by HKPC or jointly with other organizations - 2001-02

Project Nature	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34		
	Textiles and Apparel	Electronics and Electrical	Watches/Clocks/Jewellery	Plastics and Toys	Metal and Electronic Parts and Components	Machinery and Tooling	Telecom and Office Automation Equipment	Linkage Industries	Optical Products	Petrochemical and Chemical	Printing, Packaging and Publishing	Food Manufacturing (Engineering and Management)	Biomedical/Healthcare Hardware	Biotechnology/Traditional Chinese Medicine	Multi-media/Digital Entertainment	IT and Software	Construction (Engineering and Project Management)	Import/Export Trade	Wholesale Trade	Logistics	Transport and Storage	Retail	Public Services	Engineering Services	Environmental Engineering	Facility Management	Hospitality/Tourism	Advertising/Promotion/Marketing	Professional Services (for example, Legal/Accounting/Finance)	Public Utility Services	Banking and Insurance	Medical/Health care/Hospital	Schools/Educational Institutes	Media Services	Total	
		<i>Foundation Industries</i>						<i>Other Manufacturing Industries</i>						<i>Manufacturing-Related Service Industries</i>						<i>Other Service Industries</i>																
Consultancy Services ¹		1 040										247										306													161	
		(30.4%)										(7.2%)										(8.9%)												(4.7%)		
Training		812										323										99												46		
		(23.8%)										(9.4%)										(3.0%)												(1.4%)		
Technical Services ²		181										19										35												21		
		(5.3%)										(0.6%)										(1.0%)												(0.6%)		
Industry Support ³		97										17										11												5		
		(2.8%)										(0.5%)										(0.3%)												(0.1%)		
Total no. of Projects		2 130										606										451											233		3 420	
		(62.3%)										(17.7%)										(13.2%)											(6.8%)		(100.0%)	

- Note: (1) Consultancy Services include technology development and transfer, information research, system development and applications, and provision of professional advice in improving human resources management and manufacturing processes, and so on.
- (2) Technical Services include laboratory service, testing service, calibration and machine-related service.
- (3) Industry Support include study missions, publications, exhibitions, seminars and conferences.

Annex 3

Complaints concerning business activities of the HKPC since 1999

<i>Case</i>	<i>Particulars</i>	<i>Way of Handling</i>	<i>Outcome</i>
Case 1	- A jewellery technology company submitted a written complaint to the then Industry Department in January 1999, alleging that the Hong Kong Jewellery Industry Technology Centre (HKJITC) of HKPC had developed new products and technology with the aid of the Industry Support Fund (ISF), which were in direct competition with the company.	<p>- The then Industry Department conducted an investigation into the complaint and revealed the following:</p> <p>(a) The two ISF projects in question were initiated by the Hong Kong Jewellery Manufacturers' Association (HKJMA) and the HKJITC of HKPC was commissioned as the implementation agent only.</p> <p>(b) HKJMA claimed in its project proposals that similar product and technology were not available in Hong Kong.</p> <p>(c) Throughout the projects, the ISF only provided the initial funding for HKPC to develop, transfer or acquire the relevant technologies. The eventual services to be offered by HKPC to individual companies had to be charged on a full cost-recovery basis.</p> <p>- The then Director-General of Industry interviewed the complainant and explained to the latter the principles of the ISF — The Government would not approve projects that were similar in nature to services already provided by the private sector, except for special reasons</p>	No follow-up by the complainant.

<i>Case</i>	<i>Particulars</i>	<i>Way of Handling</i>	<i>Outcome</i>
		such as the available services could not meet the needs of the end-users.	
Case 2	- An information technology company made a written complaint to the Innovation and Technology Commission (ITC) in August 2000, alleging that the HKPC, as a government-subsvented organization, competed unfairly with private companies in the provision of information technology services. The complainant cited in particular a tendered project involving a public organization.	- After investigation, the ITC gave the complainant a written reply, explaining that subvention provided to the HKPC was used to support the introduction of new technologies for productivity enhancement as well as to provide supporting services to SMEs and particular under-served markets. It would not be used for competition with other service providers. Therefore, strict guidelines had been laid down in the HKPC's pricing policy. For a mature market where there were alternative providers and when large companies or organizations were involved, charges had to be made on a cost plus basis along commercial lines. The bid of the said contract put up by the public organization was also made according to the above principle.	No follow-up by the complainant.
Case 3	- A plastic product company submitted a written complaint to the Chief Executive in July 2001, alleging that the colour testing service provided by the HKPC was expensive and the equipment used inadequate.	- After investigation, the ITC gave the complainant a written reply, explaining that the Hong Kong Plastics Technology Centre originally belonged to the Hong Kong Polytechnic University. The HKPC took over the Centre and the services previously provided by it in May 2001. The service charges were determined on a cost-recovery basis, and the fees concerned were no higher than those previously set by the Hong Kong Plastics Technology Centre.	No follow-up by the complainant.

<i>Case</i>	<i>Particulars</i>	<i>Way of Handling</i>	<i>Outcome</i>
Case 4	<p>- A professional association filed a written complaint to the Commerce and Industry Bureau and ITC in August 2001, alleging that:</p> <p>(a) The Intellectual Property Services Centre (IPSC) of HKPC operated in direct competition with local solicitor firms and patent and trade mark agents, which was unfair in view that the HKPC was a government-subvented organization.</p> <p>(b) The HKPC, being the implementation agent of the Government's Patent Application Grant (PAG), had preferential access to potential clients.</p> <p>(c) The IPSC, without legal advisors attached to it, should not give legal advice to its clients on intellectual property applications. Nor should it act as a legal practitioner and submit trade mark applications and other intellectual property applications to the Intellectual Property Department on behalf of its clients.</p> <p>(d) Contrary to the function of HKPC which was to serve the local business community, the IPSC had been actively soliciting work from overseas patent</p>	<p>- After investigation by the ITC, a written explanation was given to the complainant as follows:</p> <p>(a) The HKPC had laid down strict guidelines in its pricing policy. For a mature market where there were alternative providers and when clients of large companies or organizations were involved, charges had to be made on a cost plus basis along commercial lines. Services provided by IPSC were charged according to the above principle and did not involve any subvention from the Government.</p> <p>(b) Before the HKPC was appointed agent of PAG and before the IPSC came into operation, the HKPC had already been providing one-stop support services to the industry on intellectual property matters. The IPSC's clients were mostly past or present clients of the HKPC's technical consultancy services.</p> <p>(c) The IPSC did not serve its clients in the capacity of a legal adviser or legal practitioner. Its major duties included helping clients check their intellectual property applications, conducting patent search for them, and giving them advice on cost-</p>	<p>No follow-up by the complainant.</p>

<i>Case</i>	<i>Particulars</i>	<i>Way of Handling</i>	<i>Outcome</i>
Case 5	<p>firms and trade mark agents with a view to establishing its representation for overseas clients in Hong Kong and China.</p> <p>- A computer personnel lodged a verbal complaint to the ITC over the telephone in January 2002, alleging that the HKPC was taking advantage of its subvented organization capacity to compete unfairly with private service providers for computer system integration contracts.</p>	<p>effectiveness in the course of their applications. Where legal advice was needed, the IPSC would suggest its clients to engage legal practitioners at their own expense. As to submission of intellectual property applications, the IPSC only functioned as an agent for its clients. Under relevant Ordinances on intellectual property rights, there was no requirement for an agent to be a legal practitioner.</p> <p>(d) Under the Hong Kong Productivity Council Ordinance, HKPC was permitted to serve overseas clients on a cost recovery basis without prejudice to the performance of its statutory functions. To ensure that Hong Kong remained the service focus of HKPC, strict guidelines had been put in place to govern such activities.</p>	<p>No follow-up by the complainant.</p>

<i>Case</i>	<i>Particulars</i>	<i>Way of Handling</i>	<i>Outcome</i>
Case 6	<p data-bbox="336 510 735 696">- A computer software company submitted a written complaint to the Legislative Council Secretariat in May 2002, alleging that:</p> <p data-bbox="336 752 735 1055">(a) in respect of its joint venture with the HKPC in software marketing, it found in its audit check that the HKPC's account was not in order and there was a concealment of purchase orders.</p> <p data-bbox="336 1111 735 1290">(b) The HKPC produced its own software with functions similar to the complainant's for sale on the market.</p> <p data-bbox="336 1346 735 1458">(c) The HKPC poached two staff members from the complainant's company.</p>	<p data-bbox="799 309 1206 454">come up with recommendations on how to avoid unfair competition with the private sector.</p> <p data-bbox="799 510 1206 622">- The ITC responded to the Legislative Council Secretariat in a written reply, explaining that:</p> <p data-bbox="799 674 1206 1223">(a) since the case involved contractual disputes and the respective solicitors of HKPC and the complainant had been corresponding with each other, the ITC was not in a position to comment on matters of contractual obligations. As regards the two former staff of the complainant alleged to be poached by the HKPC, they were recruited through open recruitment.</p> <p data-bbox="799 1267 1206 2051">(b) The ITC was reviewing the role, mission, management and operation of HKPC. It worked in collaboration with the HKPC Council and the Administration of HKPC to implement the required improvement measures so that the HKPC could focus on areas where it had real depth of expertise, assist the upgrading of local companies and withdraw from services which were more mature and subject to private sector competition. The Implementation Steering Committee established under the HKPC</p>	Follow-up action is in progress.

<i>Case</i>	<i>Particulars</i>	<i>Way of Handling</i>	<i>Outcome</i>
Case 7	<p>- An environmental protection technology firm lodged a written complaint to the Legislative Council Secretariat in May 2002, claiming that the HKPC, whom it had commissioned to forward a patent application for its products under the PAG of ITC, manufactured products of similar design for sale. The complainant suspected the HKPC to have plagiarized its design.</p>	<p>Council to follow up the review had agreed in principle that the HKPC would no longer undertake equipment or system manufacturing and turnkey services, but would focus on technology transfer of its research and development outputs and technical know-how.</p> <p>- The ITC responded to the Legislative Council Secretariat in writing as follows:</p> <ul style="list-style-type: none"> (a) As the complaint involved infringement on patents, it was not suitable for the ITC to comment on the case. (b) Applications for PAG were processed by a special patents group under the HKPC. The group operated independently within the HKPC. Other divisions were not allowed access to information contained in such applications. In appointing the HKPC as an implementation agent of the funding scheme, the ITC had issued guidelines to the HKPC explaining in detail its role and the procedures to be followed in processing the applications. To prevent divulgement of the information provided by the applicants and avoid conflict of interests, the guidelines 	<p>The case is still being followed up.</p>

Case	Particulars	Way of Handling	Outcome
		<p>had clearly required that all completed application forms had to be treated in strictest confidence. Unless for appraisal purpose, all such information could not be disclosed to a third party without prior agreement from the applicant.</p>	
		<p>(c) The ITC was reviewing the role, mission, management and operation of HKPC. It worked in collaboration with the HKPC Council and the Administration of HKPC to implement the required improvement measures so that the HKPC could focus on areas where it had real depth of expertise, assist the upgrading of local companies and withdraw from services which were more mature and subject to private sector competition.</p>	

MR MA FUNG-KWOK (in Cantonese): *Madam President, I would like to follow up two issues. The first issue is, in part (a) of his main reply, the Secretary said the HKPC had embarked on 71 projects under various government funding schemes within three years with the approved amount totalling more than \$170 million. This is a very huge amount and it may account for about 20% of the HKPC's annual funding from the Government. May I ask the Government, when the HKPC conducted projects that constituted such a percentage of government funding, whether it first thought of a project and then actively collaborated with other organizations to submit the application for funding to conduct such projects, or embarked on certain projects because it thought they should be implemented? This is my first question. The second question is related to part (c) of the main reply on complaints.....*

PRESIDENT (in Cantonese): Members can only ask one question while asking supplementary questions. Mr MA, is your second question related to the first question?

MR MA FUNG-KWOK (in Cantonese): *My second question is based on the Secretary's main reply.*

PRESIDENT (in Cantonese): That means the two questions are not related. Mr MA, will you please wait for another turn to ask the second question.

MR MA FUNG-KWOK (in Cantonese): *Yes. Thank you, Madam President.*

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): Madam President, all decisions on applications by the HKPC for subsidies from the relevant funds were made in accordance with the allocation criteria of the relevant funds, therefore, it is totally irrelevant to the statutory nature of the HKPC. Of the funded projects of the HKPC, some were undertaken jointly with other organizations, such as universities and trade associations; and some were undertaken solely by the HKPC. However, no matter whether the projects are undertaken solely by the HKPC or jointly with other organizations, such as trade associations or universities, the projects must meet one requirement before they can receive funding from the Innovation and Technology Fund, and that is, in order to meet the allocation criteria, all projects must obtain a 10% sponsorship from the relevant company or trade.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, I would like to follow up the consultancy report because in the last paragraph of part (b) of his main reply, the Secretary said that the Government is following up with the HKPC on the recommendations made by the consultants. The Secretary said the authorities had already briefed Members of the Legislative Council Panel on Commerce and Industry on the findings and recommendations at the Panel meeting on 8 April 2002. Now, more than two months have passed and it seems that no progress has been made on the whole matter. I had asked the Government about the role of the HKPC on several occasions in the Legislative Council and were told at that time that: All right, the Government accepted the*

views of the trade and a consultant would be commissioned to look into the issue and the Legislative Council Panel on Commerce and Industry would be briefed after the study. Now, the study report was completed two months ago and so far, no concrete follow-up actions have been taken. For example, which recommendations have been accepted, which recommendations have not been accepted, whether a timetable has been set, that is, whether there is any timeframe for carrying out the recommendations of the report, or when such works are expected to complete? I would like to know the relevant timetable.

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): Madam President, firstly, in its coming meeting in July, we will report and account to the Legislative Council Panel on Commerce and Industry again on the issue of the HKPC. Secondly, as regards the follow-up of the consultant's recommendations and the timetable, I can assure Members that this would be on top of our priority list. However, as the issue in question is not an individual item or individual case but rather the role of the HKPC as a whole, its future mission, work and functions, more than two or three months will be required. In any case, we hope to resolve such fundamental issues by the end of this year. By then, as regards the future work schedule of the HKPC, we will have a very clear guideline on what kind of projects can be undertaken and what cannot be undertaken.

MR HOWARD YOUNG (in Cantonese): *Madam President, in part (a) of the main reply, the Secretary said that the HKPC had undertaken solely or jointly with other organizations projects under various government funding schemes. But, from the names of the organizations listed in Annex 2 of the main reply, I cannot determine the nature of the organizations involved. Is it true that such organizations must be non-profit-making organizations that are capable of running training courses? Or, do they include commercial schools, where qualified and properly run courses can also qualify for funding?*

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): Madam President, the nature of the organization that has applied for funding or the nature of the sponsoring organization itself is not a factor in our consideration for fund allocation. The most important factor is the outcome of the funded project or whether the relevant project will: firstly, extend the beneficiaries to cover members of the public; secondly, operate on a non-profit-making basis.

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

MR HOWARD YOUNG (in Cantonese): *Madam President, I just asked the Secretary whether both non-profit-making and profit-making organizations could obtain funding and he only answered that non-profit-making organizations could obtain funding. I would like to know whether any profit-making organizations could obtain funding.*

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): Madam President, if profit-making organizations and the HKPC apply for funding for co-operative projects under such funding schemes, it is allowed under the fund allocation criteria, provided that the courses or projects to be launched are non-profit-making in nature and benefit the public at large and not solely for the purpose of making profits for the company.

MISS CHOY SO-YUK (in Cantonese): *Madam President, in the fourth paragraph of part (b) of the main reply, the Secretary said the consultants believed that the HKPC should not own businesses that were more mature and subject to private sector competition. May I ask the Secretary, (in fact, it was also mentioned in part (c) of the main reply that the Government had received complaints in this respect) that as a patents right granting authority, should the HKPC be involved with products that are similar to or the same as products that have applied for patents rights? Should it also be developing and selling such products?*

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): Madam President, I believe that basically, this involves the issue of professional ethics. Since the HKPC itself has a role to play in development and is also responsible for patent funding projects, a mechanism is already in place to ensure that these two functions will not cause confusions and the situation where the two functions are performed at the same time and result in conflicts of interest will not occur. In dealing with patent funding projects, we will ensure that the HKPC will have an appropriate mechanism, so that no public misunderstanding will be caused in this aspect. After all, such circumstances are firstly, as I mentioned earlier, is a question of professional conduct and ethics and in this regard, I have great

confidence in the HKPC, both in terms of its mechanism and conduct. Secondly, if there are really acts of patents rights infringement, I believe that in Hong Kong, this could be resolved through avenues like legal actions.

MRS SOPHIE LEUNG (in Cantonese): *Madam President, I am very happy to learn that on the recommendations of the consultant, the Government has asked the HKPC to define its future service areas and clientele along the role and delivery focuses suggested in the consultancy report. Part (b) of the Secretary's main reply mentioned that the HKPC had commissioned a comprehensive consultancy study and the relevant issue was discussed at the Legislative Council Panel on Commerce and Industry. At that time, we reflected that many small and medium enterprises (SMEs) had indicated that the HKPC had totally ignored them and offered them no assistance. If the HKPC is prepared to change its role and direction and intends to carry out reforms in this area, and since one of its clientele has complained that the HKPC has not consulted it in the course of commissioning consultants, may I ask, at the present stage, whether any remedial actions can be taken to consult the views of SMEs on the role of the HKPC and the assistance that it can offer them?*

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): *Madam President, SMEs are the main clientele of HKPC and in fact, the consultant did consult many relevant organizations, including relevant trade associations in the course of its study. Basically, the structure of the Hong Kong industry is such that 98% are SMEs, therefore, it is very difficult to consult them individually, but I believe that in the course of its consultation exercise, the consultant has already consulted and communicated with the relevant trade associations.*

MR HUI CHEUNG-CHING (in Cantonese): *Madam President, in part (b) of his main reply, the Secretary mentioned that in the past three financial years, the HKPC had undertaken another 9 462 projects solely by itself or jointly with other organizations. May I ask the Secretary whether the HKPC has any guidelines on regulating its mode of co-operation with non-government organizations?*

SECRETARY FOR COMMERCE AND INDUSTRY (in Cantonese): *Madam President, we certainly have such guidelines. Our present job is to improve and*

rationalize such guidelines in accordance with the recommendations of the consultancy report.

PRESIDENT (in Cantonese): This Council has spent 17 minutes on this question. We shall now proceed to the second question.

Resource Allocation for Social Welfare Services

2. **MR WONG SING-CHI** (in Cantonese): *Madam President, it is learnt that, due to a substantial drop in the amount of donations received in recent years, the Community Chest of Hong Kong (the Chest) plans to cut back considerably in the next two financial years the funding for its member agencies which provide social welfare services, with the elderly services being most affected. Regarding the allocation of resources for social welfare services (in particular, services for the elderly), will the Government inform this Council:*

- (a) *whether it has assessed the impacts of the drastic reduction of funding by the Chest on the overall quality and level of social welfare services, and of the follow-up actions the Social Welfare Department (SWD) has taken to alleviate the impacts;*
- (b) *whether the SWD will allocate additional resources to the affected agencies so as to offset the reduction of funding by the Chest; if so, of the total amount of additional funding and the detailed arrangements; if not, the reasons for that; and*
- (c) *of the details of the current review of the resource allocation for services for the elderly?*

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

- (a) and (b)

Social centres (S/Es) and multi-service centres (M/Es) for the elderly run by non-governmental organizations (NGOs) are

subvented by the Government at about 80% of the standard cost. At present, over 120 S/Es, accounting for more than half of the existing S/Es, and 15 M/Es are meeting the remaining 20% of the cost themselves through fund-raising. The rest are member agencies of the Chest and receive funding from the Chest. The annual amount of the Chest's allocation to S/Es and M/Es is about \$27 million, covering 89 S/Es, 20 M/Es and one integrated service centre.

The present economic downturn has led to difficulties for the Chest in raising funds. We have been informed that the Chest plans to reduce its total annual allocations to member agencies from \$180 million to \$120 million over two years. Specifically, the Chest has indicated that it does not intend to continue to fund the \$27 million allocation to elderly services on the grounds that these are subvented services.

In provision of resources to S/Es and M/Es, we do not draw a distinction between Chest members and non-Chest members. Given the already substantial subventions provided by the Government and other priorities in elderly services, including expansion of enhanced home and community care services to enable frail elders to age at home, we do not intend to change the current levels of subvention to S/Es and M/Es. However we have reviewed and formulated a plan to re-engineer the existing community support services for elders, including S/Es and M/Es, which will help alleviate the impact of the reduction of funding by the Chest.

With the changes that have taken place in the welfare sector over the past two years, including the extensive implementation of the Lump Sum Grant, and given that a readiness for change in the welfare sector, we plan to take this opportunity to rationalize and re-engineer a wide spectrum of existing community support services to better meet the needs of the elderly, in the light of the outcome of the consultancy study on the provision of community care and support services for elders conducted in 2000. We plan to facilitate S/Es and M/Es to transform into neighbourhood elderly

centres (NECs) and district elderly community centres (DECCs) with expanded functions, including educational and developmental services, volunteer mobilization, outreaching and networking, health education and healthy lifestyle promotion, case management and carer support.

We are prepared to allocate additional resources for community care and support services for elders, and these resources will also be deployed to facilitate the evolution process of S/Es and M/Es during the adjustment period. As stated above, the annual amount of the Chest's allocation to S/Es and M/Es of its member agencies is about \$27 million. However, the additional resources are unlikely to make up in full the current shortfall in subvention to these centres. This re-engineering process will enable service operators to redeploy resources to partly meet the shortfall. For those S/Es and M/Es relying on the Chest for funding, any remaining outstanding shortfall arising from the Chest's withdrawal of funding will have to be met by the agencies through fund-raising or other channels.

- (c) We have conducted a review on the provision of community support services for elders and formulated a plan to re-engineer a range of existing services, including all existing S/Es, M/Es, home help, home care and meal services. The aim is to move towards a more appropriate mix of care from institutions towards the community, and priority will be placed on upgrading of existing services to provide care for frail elders living in the community. We will allocate additional resources for community care and support services for elders, and resources will also be deployed to fund these re-engineering projects. The Elderly Commission discussed and supported the proposed plan at its meeting on 13 June 2002. We will also consult the Legislative Council Panel on Welfare Services on the proposed plan on 8 July 2002. Subject to the views of the Legislative Council Panel on Welfare Services, the SWD will hold briefings for the NGOs concerned and issue guiding principles and parameters for the re-engineering exercise in a couple of months. NGOs will be invited to submit proposals before the end of the year. The aim is to implement the new and expanded services by early 2003.

MR WONG SING-CHI (in Cantonese): *Madam President, the Secretary pointed out in the main answer earlier that the resources for elderly services will drop substantially given a reduction of funding by the Chest, and he also made it clear that the Government would not make up for the shortfall. The Government's re-engineering initiatives are nothing more than a reallocation of the existing resources from one area to another area and apparently, there is not any increase in resources. Will the Secretary tell us what specific measures or mechanism will be put in place after the redeployment of resources and service re-engineering to ensure that the service quality of these agencies will not deteriorate as a result of insufficient resources and that these agencies will not increase the fees payable by service users or cut the salary of their staff? Is there any mechanism or method to monitor the emergence of these situations?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): *Madam President, as I have explained earlier on, most of the S/Es and M/Es are not funded by the Chest, and 60% of the S/Es and 40% of the M/Es are making up for the shortfall themselves by fund-raising. The rest of the agencies that rely on subvention by the Chest can also raise funds by themselves.*

We intend to inject more resources for the re-engineering project, but we hope that a wider spectrum of services can be provided after re-engineering. In the re-engineering process, resources can be redeployed in many agencies. Obviously, this task will be rather complicated. We will first consult the relevant Legislative Council panel in due course. Moreover, we will also explain to NGOs our thoughts and invite them to submit proposals before a decision is taken as to how continued assistance will be provided for these agencies. We share the view of the Honourable WONG Sing-chi that the quality and level of the services should not be compromised.

MR LAW CHI-KWONG (in Cantonese): *Madam President, first of all, I have to declare an interest. I will assist in the re-engineering exercise in my capacity as a university staff member.*

In the main answer, the Secretary mentioned the re-engineering of services. But many small agencies only have one single service unit, for instance, one centre for the elderly. So, service re-engineering does not mean anything to them at all. Will the Government give special consideration to these unitary

elderly centres or discuss with the Chest, asking it not to reduce its funding for these centres by all means?

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, there are six agencies that are member agencies of the Chest. They are operating eight S/Es for the elderly and these agencies have been operating independently. We also realize that some difficulties are involved, just as the Honourable LAW Chi-kwong has said. The SWD has asked the Chest to sympathize with the situation of agencies of which the services or staff will be seriously affected by its funding withdrawal, and to exercise discretion in considering these cases. The SWD has made this suggestion to the Chest, and we will carefully handle the problem concerning these agencies as well.

MR HENRY WU (in Cantonese): *Madam President, my question is basically similar to the questions raised by the two Members earlier on. The Secretary mentioned earlier that those agencies might be asked to raise funds by themselves and that these agencies have also been doing this now. However, under the present economic environment, even agencies with fund-raising experience are faced with considerable difficulties. So, I believe those that have never raised funds before will stand to face even greater difficulties. Apart from discussing with the Chest about making certain adjustments, will the Government consider taking some special temporary measures to channel some resources to agencies that cannot raise any funds, so that they will not have to discontinue the provision of services in a broad-brush manner within a short span of time and will be provided with some resources to maintain the basic services?*

SECRETARY FOR HEALTH AND WELFARE (in Cantonese): Madam President, during this process, we will, in fact, provide as much assistance as possible for the agencies concerned. We believe service re-engineering is a way to help some agencies. It may not benefit some small agencies, but as I said earlier on, we will suggest to the Chest that their cases be handled in a flexible manner. We are aware that the Chest will do this and will not resort to a broad-brush approach. Rather, the reduction of its funding will depend on the financial capability of the agencies. Moreover, the Government has a myriad of funds, such as the Lotteries Fund, the General Chinese Charities Fund, Sir David Trench Fund for Recreation, and so on, that can provide assistance for these

agencies. These agencies may seek funding support from these funds during the transitional period where necessary.

PRESIDENT (in Cantonese): Third question.

Sales Plan for HOS Units

3. **MR FRED LI** (in Cantonese): *Madam President, on 5 June, the Chief Secretary announced the arrangement for Home Ownership Scheme (HOS) units upon the expiry of the nine-month moratorium on their sale. Although there are 7 000 completed HOS units which are left vacant and 30 000 being constructed, the number of HOS units which will be put up for sale this year is only 4 900, and the number of HOS units to be put up for sale after 2005-06 will not exceed 2 000 a year. In this connection, will the Government inform this Council of:*

- (a) *the numbers of completed HOS units which are still vacant and those being constructed, broken down by their end-use;*
- (b) *the numbers of HOS units planned for sale, broken down by the number of years they will have been left vacant before being sold; and*
- (c) *the maintenance cost and other expenses incurred, due to the delay in selling HOS units planned for sale and the estimated opportunity cost of these units during the periods in which they are left vacant?*

SECRETARY FOR HOUSING (in Cantonese): Madam President,

- (a) As at the end of 2001-02, the total number of completed flats categorized as HOS flats was about 8 000, of which 7 000 were Housing Authority (HA) flats and 1 000 were Housing Society (HS) flats.

The number of HOS flats under construction or of which the construction contracts have been let is about 30 000, consisting of around 28 000 HA flats and 2 000 HS flats. In accordance with the

plan to replace HOS flats by loans, the HA is now considering converting several sites, involving about 12 000 flats in total, to other uses such as public rental housing, schools, and so on. The aim of the Government is to do the utmost in order to "dispose of" all the flats in three to four years' time.

- (b) In drawing up the sales programme for each phase of HOS sales, we shall consider a number of factors, including the location of the sites, completion dates, whether there is any substantial impact on private sector housing market, and so on. After considering and balancing various factors, we shall put the selected completed flats up for sale as soon as possible.

In the coming 12 months, HOS flats will be put up for sale in two tranches. The first tranche of 2 400 flats will be sold this September, while the second tranche of 2 500 flats is anticipated to be sold in April next year, subject to the market situation. Of these flats, about 30% are estimated to have been vacant for less than one year before being sold, 50% to be vacant for one to one and a half years and the remaining 20% to be vacant for more than one and a half years before being sold.

The HOS sales programme between July 2003 and 2005-06 has yet to be decided. As the actual timing of sale of the relevant HOS projects is yet to be confirmed and options for conversion to other uses are under consideration, it is difficult for the Housing Department to accurately estimate at this stage how long these flats will be vacant before being sold.

- (c) In general, if the letting of management contract for a HOS estate can tie in with the target population intake schedule, that is, the contract is not let before population intake, it will not be necessary for the HA to bear the management and maintenance costs. However, under the circumstances that a management contract has been let and the target intake date is deferred, the management and maintenance costs incurred during the vacant period, which are estimated to average about \$500 per flat per month, will be borne by the HA. For HOS projects under construction, the letting of their management contracts will be kept in line with the intake schedule.

As for maintenance costs, building contractors of HOS projects are now normally required to offer a two-year defect liability period, effective from the date of building completion. Therefore, it is estimated that the HA's expenses in this respect will not be high.

The loss of interest and opportunity cost is hard to estimate.

The replacement of HOS flats by housing loans aims at a clearer role for both public and private sector housing markets and provides a more certain operating environment to the private property market. This policy is in keeping with the prevailing political, social and economic reality of Hong Kong and strikes a balance between the interests of the general public and people from various sectors. The community has generally expressed positive comments to the Government's announcement.

MR FRED LI (in Cantonese): *Madam President, the Secretary stated clearly in her main reply that in the first tranche of flats to be sold, more than 70% will have been left vacant for at least one year. Since they have been left vacant for such a long time, why is it not possible to estimate the opportunity cost? Madam President, the Secretary said in the main reply that it was difficult to estimate the opportunity cost, however, if the flats would be sold only a year later, then the Secretary should be able to calculate how much was the loss of interest within that year; if the flats would be let only a year later, the Secretary should also be able to estimate the opportunity cost. I hope the Secretary can give a reply to this again, because the Audit Commission is very good at calculating such figures. I very much hope that the Secretary can give us a reply. Is it really impossible to calculate the opportunity cost and interest expenditure of this batch of HOS flats withheld from sale?*

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

SECRETARY FOR HOUSING (in Cantonese): Madam President, certainly the HA and the Government are extremely unwilling to see any flats vacant. Even if the opportunity cost is to be calculated, we must also consider what benefits the existing policy will bring to society as a whole. If we really want to calculate such figures as the opportunity cost, a lot of time may be required, but I

think the most important thing is that the benefits brought about by the moratorium on the sale of HOS flats to society as a whole is far greater than these costs. At present, there are 700 000 private flat owners in Hong Kong and the total amount of bank loans amounts to \$55 billion. The Hong Kong Monetary Authority has also estimated that there are more than 60 000 negative equity asset owners in Hong Kong; and the property and construction sectors account for 23% of the Gross Domestic Product. If Mr Fred LI asks me to calculate these sort of figures, of course it can be done, but I think there may not be any point in doing so. Moreover, we have been given only very little time to prepare the reply, in addition, since we have been all very busy lately, it is difficult for us to collect and calculate the exact figures, such as the time the flats will be put on sale, the interest rates and costs for calculation, and so on. In particular, it will indeed be an exercise in imagination if the opportunity cost is to be calculated. Therefore, I think it would be difficult for us to make an accurate estimation of the opportunity cost.

MR FRED LI (in Cantonese): *Madam President, the Secretary has spoken a lot in reply but still has not answered my supplementary. Is it impossible to do the calculation, or is it difficult to do so, or is she going to provide the figures to us later? I hope the Secretary can reply clearly.*

SECRETARY FOR HOUSING (in Cantonese): Madam President, in fact it is difficult to make an estimation. If the Honourable Fred LI wants us to use a lot of assumptions as the basis, we can try to calculate. However, I think we have to discuss in detail and decide what assumptions to adopt before we can calculate the relevant figures for Members' reference.

DR DAVID CHU (in Cantonese): *Madam President, at present there are a large number of vacant HOS flats and the property market is also in the low ebbs. Does this mean that the former Secretary for Housing made mistakes in his administration?*

PRESIDENT (in Cantonese): Dr David CHU, your supplementary has exceeded the scope of this question on the HOS. (*Laughter*) What do you think is the relevance of your supplementary to the main question?

DR DAVID CHU (in Cantonese): *Madam President, this is because I am concerned about the situation in housing. I ask this supplementary concerning the former Secretary for Housing because the accountability system for principal officials will be introduced, (laughter) therefore, is it necessary for him to shoulder a certain amount of responsibility?*

PRESIDENT (in Cantonese): Dr CHU, I see your point, but I suggest that you follow this up through other channels.

DR YEUNG SUM (in Cantonese): *Madam President, at present, a lot of quality HOS flats have not been put on sale but converted by the Government for rental purposes instead. I believe that the Secretary is also aware of an ordinance stipulating that the rent should not exceed 10% of the median rent-to-income ratio of public housing residents. But the rent of these quality public housing flats will certainly be higher. Will this contravene the provision of the relevant ordinance? Will the Government consider lowering the rent of this type of flats?*

SECRETARY FOR HOUSING (in Cantonese): Madam President, in fact, Dr the Honourable YEUNG Sum should have asked this supplementary later because the sixth oral question to be asked by the Honourable LAU Kong-wah today has to do with the rent of public rental housing (PRH) units converted from the HOS. Does Dr YEUNG want me to reply now?

PRESIDENT (in Cantonese): Secretary, it is up to you.

SECRETARY FOR HOUSING (in Cantonese): Madam President, can I answer this supplementary later, when I answer the oral question on rent? This is because it should be part of that oral question.

MR FREDERICK FUNG (in Cantonese): *Madam President, it was actually on 3 September last year that the Chief Secretary for Administration announced the moratorium on the sale of HOS flats, and it has been almost nine months since. However, to date the HOS flats concerned cannot be disposed of. Although the*

Secretary for Housing is very busy, has consideration been given to allocating these vacant HOS flats for welfare purposes, such as providing facilities to the mentally disabled, the provision of homes for the elderly, and so on? This will surely be better than leaving the flats vacant.

SECRETARY FOR HOUSING (in Cantonese): Madam President, I would like to thank the Honourable Frederick FUNG for his supplementary. In fact, the Chief Secretary for Administration said in September last year that 43 500 HOS flats were under construction. Since then, the HA has decided to convert 12 400 HOS flats into PRH units. Therefore, there are at present about 30 000 HOS flats under construction. Although the relevant projects are still underway, we will carefully consider converting some of the sites to other uses, such as converting more flats into PRH units, building schools or putting them to other uses, including the welfare purposes suggested by Mr Frederick FUNG. Only the remaining flats will be sold as HOS flats. We will consider Mr Frederick FUNG's views.

MR ALBERT HO (in Cantonese): Madam President, at present there is a strange phenomenon in Hong Kong, in which some people have nowhere to live, and that includes people who live in substandard accommodation, and there are flats which are unoccupied. The Government has on the one hand constructed a large number of flats, yet it has not put them on sale or let them, and on the other, the Government is using billions of dollars to offer loans to the public to enable them to buy their own properties in the private market. The policy in this area is so contradictory. Is the Government's primary goal to meet the housing needs of the public, or to prop up the property market?

SECRETARY FOR HOUSING (in Cantonese): Madam President, I would like to thank the Honourable Albert HO for his supplementary. Actually, three aspects are involved in housing policy. First is the provision of PRH to low income families, and second, encouraging the public to buy their own properties, and the aim is of course to promote their sense of belonging. In order to encourage the public to buy their own properties, we have adopted two measures. One is to construct HOS flats and the other is to provide home purchase loans. I believe Members have also heard us say many times that be it to the applicant or to the Government, the cost-effectiveness — that is, the cost-effectiveness of

using public funds — of offering home purchase loans is greater than that of building HOS flats. Therefore, we are more inclined to offering more loans in the future to replace HOS flats. The third aspect of the housing policy is the private property market. In this connection, the Government hopes to provide sufficient land and allow the market to operate freely as far as possible. Therefore, there is no contradiction in all these three aspects.

Coming back to the issue of flats being left vacant, I know that Mr Albert HO is very concerned about why the authorities have left completed HOS flats vacant. The main reason is that the price of flats in the private sector market is now very affordable. It is now possible to purchase a flat in the private market comparable in size or price to an HOS flat at what an HOS flat used to cost. In view of this, it is of course necessary for the Government's housing policy to adapt to this change. In fact, the present interim arrangements have demonstrated the Government's flexibility in adapting to the external environment.

MR CHAN KAM-LAM (in Cantonese): *Madam President, the Secretary mentioned in part (a) of the main reply that the original use of tens of thousands of flats had to be changed. In addition, many flats will be left vacant for one to one and a half years. Since the supply is so abundant, will the Secretary still insist on adopting a mixed mode in the future redevelopment of the North Point Estate? If such a mode is really adopted in the future, the land value will be much lower and a lot of HOS flats will be produced, so that the situation of flats being left vacant or the oversupply of flats would recur. Could the Secretary answer this?*

SECRETARY FOR HOUSING (in Cantonese): Madam President, I would like to thank the Honourable CHAN Kam-lam for his supplementary. Concerning the plan to redevelop the North Point Estate, it is still at a preliminary stage and the HA has only just agreed to the development proposal. The date of the first tender exercise of the project is scheduled in mid-2004 and the completion date is in 2008 or thereabouts; by that I mean the first tranche of about 430 flats. As far as I remember, it seems the second tranche will be completed in 2011. Therefore, if we look at these figures together with the relevant announcement made by the Chief Secretary for Administration, we will notice that these flats

fall within the so-called safety level of 2 000 flats in the future, therefore there is no conflict.

PRESIDENT (in Cantonese): This Council has spent more than 15 minutes on this question. We will now proceed to the fourth question.

Legislation Against Acts of Racial Discrimination in Private Sector

4. **MISS EMILY LAU:** *Madam President, in August 2001, the United Nations Committee on the Elimination of Racial Discrimination reiterated its concern about the continued absence in the Hong Kong Special Administrative Region (SAR) of legal provisions protecting persons from acts of racial discrimination by private persons, groups or organizations, and requested this be addressed in the next report, due on 28 January 2003. Moreover, the United Nations Committee on Economic, Social and Cultural Rights requested in May 2001 that the SAR Government submit information by 30 June 2003 on the SAR's progress in implementing the Committee's recommendation of enacting anti-racial discrimination laws. In this connection, will the executive authorities inform this Council:*

- (a) of the scheduled dates of the above submissions by the SAR Government;*
- (b) of the respective starting dates of the public consultation exercises on the submissions, and whether such consultations will involve ethnic minorities and non-governmental organizations (NGOs); and*
- (c) when a decision on whether or not to introduce legislation to prohibit acts of racial discrimination in the private sector will be made?*

SECRETARY FOR HOME AFFAIRS: Madam President, taking the Honourable Member's questions *seriatim*:

- (a) on timing of submissions, the Administration's second report under the International Convention on the Elimination of All Forms of

Racial Discrimination (ICERD) will form part of China's next report under that Convention. Similarly, our second report under the International Covenant on Economic, Social and Cultural Rights (ICESCR) will form part of China's initial report under that Covenant. As with all reports under treaties to which China is a party, the timing of our submissions is dependent on that of China's submissions to the United Nations. The Central People's Government has asked us to submit our contribution to its initial report under the ICESCR by April 2003. The Central People's Government will inform us in due course of the date by which it intends to submit its report under the ICERD.

- (b) on pre-drafting consultations, in the case of the ICESCR, we will draft the consultation document shortly with a view to conducting the consultations in the summer. That is: we will publish an outline of the report, listing the headings and topics that we propose to address. The public — which will naturally include the ethnic minorities — and in particular concerned NGOs will be invited to comment in writing on the Government's performance in regard to these matters and to suggest any additional topics that they consider the report should address. In the case of the ICERD, the Central People's Government will notify us in good time of the date by which it requires our contribution to its report. We will initiate the usual pre-drafting consultations as soon as practicable thereafter.
- (c) on legislation, we intend to announce a decision on the way forward in due course. We appreciate that the ongoing exercise has taken longer than we originally envisaged. But Members will recognize that the issues are delicate and sensitive and that, with views divided within the community, we need more time to determine how best to balance competing considerations.

MISS EMILY LAU: *Madam President, the Secretary has informed us that the timing of our submissions is dependent on that of China's submissions to the United Nations, which I guess is fair enough. And he said that in relation to the ICESCR, the report to the United Nations is due in June next year, and the Central Authorities have already asked us to submit our information by April next year, which is about three months before the date of submission to the United*

Nations. However, as regards the ICERD, Madam President, the due date is 28 January next year, which is half a year before the due date for submission of the ICESCR-related report. But so far, the Central Authorities have not asked us to make our contribution which, according to the ICESCR, should be made three months before the submission, and that should be November this year. Hence, my question is, Madam President, whether we will start our consultation in preparation for the report anyway, given that time is running out, or whether the SAR Government would ask the Central Authorities, whether we should, abiding by the United Nations timetable, try to submit the ICERD-related report by January next year?

SECRETARY FOR HOME AFFAIRS: Madam President, on the ICERD, we have not yet received notification from the Central People's Government of its intended submission timetable. And once we receive the notification, we will certainly initiate the drafting process as quickly as possible. I do feel that we still have enough time for consultation in the process. Reporting under all these treaties follows a standard cycle, and I think that all parties involved do have the timetable in mind, and we will try our very best to stick to the timetable.

MISS EMILY LAU: *Madam President, the Secretary has not answered part of my supplementary question, and that is, whether the SAR Government will communicate with the Central Authorities, to see whether they intend to stick to the timetable set down by the United Nations.*

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

SECRETARY FOR HOME AFFAIRS: Madam President, in our experience, so far, we have not missed any of the timetables as set by the United Nations, and I do not have any reason to believe that we will miss this one.

MR YEUNG YIU-CHUNG (in Cantonese): *Madam President, if the SAR Government fails to enact the relevant legal provisions or take any action before the report is due, can the Government envisage how the United Nations Committee on the Elimination of Racial Discrimination will deal with the case of Hong Kong, and how that will affect Hong Kong?*

PRESIDENT (in Cantonese): Mr YEUNG, please raise your supplementary in another way. You are asking the Secretary to make predictions, which is hypothetical, and the Secretary has no obligation to answer any hypothetical question.

MR YEUNG YIU-CHUNG (in Cantonese): *Fine, Madam President. Before the report is due but we have not met the requirement, how will it affect Hong Kong and will the Committee denounce us?*

PRESIDENT (in Cantonese): Mr YEUNG, please reconsider how your supplementary should be raised first, I will call on you to ask your supplementary again later. *(Laughter)*

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, the Honourable Emily LAU asked the Secretary in part (c) of her main question that when a decision on whether or not to introduce legislation to prohibit acts of racial discrimination in the private sector would be made by the executive authorities. The Secretary answered in his main reply that as the issues were delicate and sensitive and that with views divided within the community, the Administration needed more time to determine how best to balance competing considerations. May I ask the Secretary if this is the policy of the Government? That is, whenever there are some very sensitive and delicate issues, the Government will only adopt dilatory tactics rather than addressing them squarely. Moreover, may I ask why the Government considers these issues sensitive and delicate? Where does the sensitivity lie? What divided public views are making the Government to delay the whole matter and avoid drawing up legislation?*

PRESIDENT (in Cantonese): Mr LEUNG, please take your seat first. In fact, you have asked three questions in one single supplementary. Nevertheless, I may consider them related to one another.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, I do not agree with the view of the Honourable LEUNG Yiu-chung that we are trying

to delay these issues. Why are these issues delicate and sensitive? In fact, we can note from the history that the relevant panel discussed the same issues in 1996, and it dismissed a bill proposed at that time. We have received dissimilar views during the consultation period. Therefore, when views are divided in the community, I believe Honourable Members will also agree that the Government should exercise prudence in dealing with controversial issues, instead of adopting a high-handed approach to deal with them.

I do not wish to discuss the content of the pros and cons we have received among public views, because it would be a lengthy reply. However, we can really note from the submissions that many people consider legislation will have adverse effects on commercial activities as well as employment relationship.

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, the Secretary has not answered my supplementary. The Secretary said that the issues were rather delicate and sensitive in his main reply, and I have asked the Secretary how to tell whether an issue is delicate and sensitive, and whether it is the policy of the Government to stall on every delicate and sensitive issue.*

PRESIDENT (in Cantonese): Mr LEUNG, I think the Secretary has answered the second part of your supplementary. As to sensitivity, Secretary, do you have anything to add?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, we can identify certain issues which are sensitive the moment we deal with them, (*laughter*) so it is hard to explain. However, I understand that Mr LEUNG may have a different view on that.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, I am glad to hear the Secretary say that the Government would not deal with these issues in a high-handed approach. We have been treated high-handedly on the issues of the accountability system, therefore we are not unfamiliar with the high-handed approach at all.*

PRESIDENT (in Cantonese): Mr LEE, please come to your supplementary direct.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, the Secretary said that on the issue of legislation, as views were divided within the community, the Government needed more time to determine how the issue should be dealt with. However, does the Secretary agree that issues on human rights, especially the human rights of the minority, are often controversial. However, in the international context, our Government has the responsibility to make legislation on these issues, otherwise, we will be denounced by the two committees of the United Nations for failing to honour international obligations, be it the Committee on Economic, Social and Cultural Rights, or the Committee on the Elimination of Racial Discrimination. Will the Secretary agree that it will happen?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, actually, the Hong Kong Bill of Rights Ordinance has covered a number of domains, if anyone is subject to racial discrimination, he is entitled to taking legal action. The issue under discussion now is whether we should make legislation to regulate acts of racial discrimination in the private sector and whether we should criminalize them.

To the best of my understanding, as a signatory region to the relevant conventions, we certainly have the responsibility to endeavour to fulfil the requirement of the conventions. I have repeatedly expressed our determination in this respect to the relevant committees of the United Nations, however, is it necessary to achieve the goal by means of legislation? It is open to discussions, because not all signatories have to meet the requirement by means of legislation alone. As far as the condition of Hong Kong is concerned, certainly in an open, free and pluralistic society with over 6 million population, it would be impossible to say that there is no racial discrimination or behaviour smacks of racial discrimination at all. However, by international standards, is racial discrimination in Hong Kong really so serious that we should draw up legislation expeditiously in order to ameliorate the situation? I believe most people in Hong Kong do not necessarily consider the situation that serious. Moreover, should we not consider making legislation simply because the situation is not

serious? We are not shelving the issue for good, we are considering it. But as the situation is not that serious, and as public views are so divided, should we give the public more time to discuss it and wait for the emergence of a mainstream view before introducing legislation? That would be easier, and it would minimize the chances of a controversy arising in the Legislative Council.

MR YEUNG YIU-CHUNG (in Cantonese): *Madam President, according to past experience, how did the United Nations Committee on the Elimination of Racial Discrimination deal with nations or regions which had not introduced legislation or taken action according to their requirement?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, all signatory states and regions under them have to submit reports to the relevant committee of the United Nations on a regular basis. After examining the report, the relevant committee will make comments in its report, of course that may include denunciation, strong demands, dissatisfaction or all sorts of criticisms. However, the decision on whether or not legislation should be introduced in the relevant country or region rests with the legislature and government of the relevant country or region.

MR ABRAHAM SHEK: *Madam President, is racial discrimination by private persons, groups or organizations so serious that the Government needs to enact anti-racial discrimination laws? If not, what other measures could the Government do to ensure that we comply with the United Nations' requirements?*

SECRETARY FOR HOME AFFAIRS: Madam President, as I have explained in the reply to another supplementary question, I think, by international standard, the degree of severity of racial discrimination in Hong Kong is not by any means serious. For example, while violence arising from racial discrimination is quite common in many big cities, it is almost unheard of in Hong Kong. However, it does not mean that the Government should be complacent about it, and that is why over the years, we have been doing quite a lot in publicity and education. We have been doing quite a lot to help those newcomers and the minorities to integrate into society. Through the provision of education, organization of

communal activities, formation of self-help groups within their localities, we help them to integrate into our society as quickly as possible. In this regard, we are also enhancing our efforts. Actually, we are in the process of establishing a Race Relations Unit under the Home Affairs Bureau, to take up this particular work. We have just finished recruitment, and the whole team will be in place very soon. I think some staff members have just started work for two days. In addition, we will also be setting up a special advisory committee to promote racial harmony, and the majority of its members will come from representatives of ethnic minorities. Thus, they can give us first-hand feedback on how they see the situation, and what they want us to do further in promoting racial harmony in Hong Kong.

PRESIDENT (in Cantonese): This Council has spent more than 17 minutes on this question. We will now proceed to the fifth question.

Gambling Activities on High Seas

5. **MR ABRAHAM SHEK:** *Madam President, every night, thousands of residents or tourists go on short cruise trips for gambling activities on the high seas. In this connection, will the Government inform this Council:*

- (a) whether the Marine Department requires the vessels to provide information on their departure ports, destinations and reasons for berthing in Hong Kong; if so, of the details; if not, the reasons for that;*
- (b) of the respective amounts of resources the Customs and Excise Department (C&ED) and the Immigration Department (ImmD) deployed for immigration clearance for passengers of such vessels in each of the past three years; and*
- (c) how the existing legislation regulates gambling establishments on board vessels, and whether such vessels can be restricted or barred from taking passengers from the local ports for gambling on the high seas?*

SECRETARY FOR HOME AFFAIRS: Madam President, my reply is as follows:

- (a) Under the Shipping and Port Control Regulations, before an ocean-going vessel (including a passenger vessel) enters Hong Kong waters, the owner or his local agent or the master is required to notify the Director of Marine of the vessel's entry, and to provide him with prescribed particulars of the vessel including the name, call sign, nationality, type, registered tonnage, length, number of crew on board, last port of call and purpose of call in Hong Kong. Before the vessel leaves Hong Kong waters, the owner or his local agent or the master is required to apply to the Director of Marine for port clearance, and to notify him of the vessel's next port of call.
- (b) At present, there are eight vessels offering high seas cruises with casinos on board, which depart regularly from Hong Kong. Of these eight vessels, two berth at the China Ferry Terminal, two at the Ocean Terminal and the remaining four are moored to the government mooring buoys opposite Kowloon Bay.

Immigration clearance for the two vessels at the China Ferry Terminal is handled by immigration officers stationed at the Terminal, who are also responsible for immigration clearance in respect of many other vessels berthing at the Terminal. We have no breakdown figures on the resources designated to immigration clearance for these two vessels in particular.

As regards the remaining six vessels, including the two biggest ocean-going cruise vessels moored at the Ocean Terminal, the ImmD deployed about 19 officers a day for immigration clearance of these vessels in the past three years, at an estimated total cost of \$17 million.

The C&ED carries out customs clearance on a selective basis to prevent passengers of these vessels from carrying with them dutiable commodities or prohibited articles. Each operation involves 17 officers. In 1999, 2000 and 2001, the C&ED conducted two, 44 and 39 operations respectively. From January to May 2002, 15 operations were conducted. The estimated cost of

the resources deployed for these customs duties during the past three years is about \$1 million.

- (c) Under the Gambling Ordinance, all unauthorized gambling activities which are conducted by way of trade or business are illegal, except those which have been exempted or authorized by the Government under the law. It follows that any unauthorized gambling activities which take place on board a vessel within Hong Kong's territorial waters is illegal under the Gambling Ordinance. However, if the gambling activities take place on board a vessel when the latter is outside Hong Kong's territorial waters, the gambling activities concerned would fall outside the ambit of the Gambling Ordinance. In other words, the offence provisions of the Gambling Ordinance are not applicable to any vessel offering high seas cruises with gambling opportunities on board, where all the bets could only be placed on board the vessel when it is outside Hong Kong waters.

ABRAHAM SHEK: *Madam President, the Hong Kong people are spending at least \$18 million a year to service this type of cruise ships which encourage people to go out to the high seas to gamble. In the main reply, the Secretary has said that there are rules and regulations which regulate vessels coming in and leaving Hong Kong to declare the last port of call and the next port of call, and yet, the Government issues port clearance to these ships every night. Would the Secretary please advise whether they are acting according to the law or not?*

SECRETARY FOR HOME AFFAIRS: Madam President, we are, of course, acting within the ambit of the law. Whether a vessel is leaving Hong Kong for the next port of call is not a prerequisite for it to have port clearance from Hong Kong. Besides, I would like to clarify that, of the expenditure on immigration clearance and customs control for these vessels, the bulk of it is related to the two big ocean-going cruise vessels which, as I understand, are actually cruise vessels rather than gambling vessels. Many passengers of these vessels go for entertainment, travelling and other purposes other than gambling. It is, of course, debatable that how much we should support this type of activities, but since tourism is one of the economic pillars in Hong Kong, I would think that this is money worth spending.

MR ANDREW WONG (in Cantonese): *Madam President, I believe what the Honourable Abraham SHEK's concern is that according to existing laws, whether the Marine Department has no authority to refuse vessels to return to Hong Kong if they just leave the port of Hong Kong and take a round on the high seas? If so, will the authorities amend the legislation, in order to stop some vessels out of the eight vessels, which have no next port of call and have the sole purpose of providing pure gambling activities, from providing such kind of activities?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, in fact we have been debating the issue of floating casinos for quite some time, and we have studied the question of whether we should amend the laws in order to curb ships exclusively engaged in gambling activities (that is, ships not engaging in travelling or entertainment activities). But the question remains whether we consider gambling activities outside the waters of Hong Kong are so serious that we should amend our legislation and curb such kind of activities. For instance, is there any difference between gambling on a floating casino and taking a ferry and gambling in Macao? Is it necessary to regulate this kind of activities? Are these kind of activities causing damage to Hong Kong? I believe we should discuss these issues first, then we should study whether these kind of activities are serious enough for us to draw up legislation to prohibit them after we have come up with clear opinions.

PRESIDENT (in Cantonese): Mr CHAN Kwok-keung Mr Andrew WONG, has your supplementary not been answered?

MR ANDREW WONG (in Cantonese): *No, Madam President.*

PRESIDENT (in Cantonese): Mr CHAN Kwok-keung, I am sorry, please raise your supplementary.

MR CHAN KWOK-KEUNG (in Cantonese): *Madam President, the Secretary mentioned in his main reply that gambling activities took place on board a vessel outside Hong Kong waters were not illegal. May I ask the Secretary if it is illegal for a bookmaker to receive bets on football matches on board these vessels?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, according to the newly amended Gambling Ordinance, no matter the betting centre of the bookmaker is set up outside Hong Kong, on a ship, a plane or any other port, it is illegal as long as bookmaker tries to take the bets in Hong Kong, or the gamblers place bets in Hong Kong.

MR AMBROSE LAU (in Cantonese): *Madam President, the Secretary mentioned in his main reply that as far as the six vessels with casinos on board were concerned, the ImmD deployed 10 officers a day for immigration clearance of these vessels in the past three years, at an estimated total cost of \$17 million. May I ask the Secretary whether it was a special arrangement? If the answer is yes, then under what circumstance or on what condition will the ImmD make such kind of special arrangement?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, to my understanding, the arrangement of the ImmD is not a special arrangement, in fact, to all incoming vessels, if they berth at ferry terminals, the ImmD will conduct immigration clearance for the passengers of the vessels, similar to the arrangement in the Hong Kong-Macao Ferry Terminal or the China Ferry Terminal. To those vessels not mooring at ferry terminals, ImmD officers will carry out the clearance on board such vessels. We treat cargo vessels, passenger vessels and floating casinos equally without discrimination, therefore the ImmD has not made any special arrangement. I would like to emphasize that although the ImmD deploys 19 officers daily for clearance of these six vessels with casinos on board, in terms of passenger capacity, especially two of them are big ocean-going cruise vessels (I do not wish to name them in order not to make any publicity for them, but Honourable Members should know that they are the two usually berthed at the Ocean Terminal) in Asia, both being cruiser grade vessels, and their total passenger capacity is possibly five times of the remaining four vessels which are possibly engaging in mere gambling activities. According to that ratio, most of the facilities and expenditure of the ImmD should have nothing to do with those gamblers.

DR TANG SIU-TONG (in Cantonese): *Madam President, I would like to follow up the supplementary raised by the Honourable Ambrose LAU, concerning the*

annual expenditure of around \$6 million on immigration clearance for passengers of those six vessels. How does the Government recover the cost? Will there be any charge such as departure tax, so that the Government may recover the cost?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, we do levy a tax on this kind of passengers who travel to Macao via the Hong Kong-Macao Ferry Terminal. However, whether we have imposed the same kind of tax on passengers boarding the vessel in this way, I should go back and check it up. (Annex I) However, I would like to emphasize that it is an essential task for the Government to provide immigration clearance. If the authorities decline to provide immigration clearance service to any incoming vessel simply because the passengers have paid no tax, then we are giving up the immigration control. To the Government, it would be inconceivable. Therefore, this is not only a matter of how much the Government is spending, this is also a matter of responsibility.

MR YEUNG YIU-CHUNG (in Cantonese): *Madam President, the reply the Secretary made just now gives me an impression that the situation is not serious, therefore it is worthless to regulate these kind of activities by drawing up legislation. May I ask the Secretary to what extent the Government considers it serious enough for a review of drawing up legislation to regulate these activities?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, I have probably not said that I have judged the current situation and considered it not so serious. I just raised a series of questions to Honourable Members. For example, do we feel that there is really a difference in nature between boarding these vessels and gambling on the high seas, and boarding a Macao-bound ferry and gambling in Macao? Only if we feel that there is a difference, then we should study what the difference is, and whether such difference is causing damage to Hong Kong? If the damage really exists, we should then study whether the issue is serious enough for us to regulate it by drawing up legislation. At the present stage, I feel the public has not conveyed views clear enough to indicate that the Government should discuss the issue immediately or to solve the issue by drawing up legislation.

MR ANDREW WONG (in Cantonese): *Madam President, since these vessels only sail to the high seas and then return to Hong Kong before stopping at any other ports, it is pointless for the authorities to conduct immigration clearance for passengers on these vessels, because they have just boarded the vessels, and they have not departed. Therefore, registering their boarding will suffice, and then the ImmD will be free from undertaking the expenses and manpower in providing immigration clearance for passengers of these vessels. Consequently, the basic question is: Do we consider passengers boarding a vessel which sails to the high seas as having departed from and returned to Hong Kong? The term "departure" should mean a trip with a definite destination, not a trip to the high seas. This is the crux of the matter, therefore, it has nothing to do with the question that whether the matter is serious or not.*

PRESIDENT (in Cantonese): Mr Andrew WONG, please come to your supplementary direct.

MR ANDREW WONG (in Cantonese): *Madam President, my supplementary is: If the passengers are considered departed, then, where is their destination? If they have not departed, why have the authorities to conduct immigration clearance for them?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, I do not have the legal knowledge in this respect, but judging by common sense, anyone crossing the boundary of Hong Kong should be considered departed, because leaving Hong Kong waters or coming to the high seas, passengers might take other carriers and head for other destinations. Therefore, we should not say that we can disregard whether they have left Hong Kong waters or not, so they should not go through immigration clearance as they have no next port of call.

PRESIDENT (in Cantonese): Last supplementary.

MR ABRAHAM SHEK (in Cantonese): *Madam President, it seems that the Secretary is saying that boarding the floating casinos for gamble purposes is the*

same as gambling in Macao. However, gambling in Macao is legal, but gambling on floating casinos is illegal. May I ask the Secretary if he is aware that some countries have successfully driven these floating casinos out of their waters; if the answer is positive, will Hong Kong do the same?

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam President, at present, gambling activities are not illegal if they take place on board a vessel outside Hong Kong's territorial waters, we have to clarify this first. We have not studied thoroughly of what actions other countries or regions have taken in driving floating casinos away from their waters, but to our understanding, at least one country has drawn up legislation which stipulates that if a vessel only provides gambling activities on the high seas, it would be prohibited from using berthing facilities of the port of that country. We have heard of that precedent. However, we should make this judgement: Under the current condition, does Hong Kong need to take that measure? If the community at large considers these activities should not be encouraged or even be banned, the Government is happy to consider the issue further.

PRESIDENT (in Cantonese): Last oral question.

Determination of Rental Level of Newly-completed PRH Units

6. **MR LAU KONG-WAH** (in Cantonese): *Madam President, at the end of last month, the Rental Housing Committee of the Housing Authority (HA) fixed the per-square-metre rents for public rental housing (PRH) units to be completed in the latter half of this year at the same level as the current highest per-square-metre PRH rents in the corresponding districts and, for the rental units which were formerly built for two Home Ownership Scheme (HOS) projects, the per-square-metre rents are set at 10% higher. In this connection, will the Government inform this Council whether it knows:*

- (a) *if the HA has estimated the median rent-to-income ratio in respect of the prospective tenants of these HOS units; if so, of the ratio;*
- (b) *how the HA has worked out that the rents of these HOS units should be 10% higher than those of newly-completed PRH units in the same district; and*

- (c) *if the HA will consider setting the rents of newly-completed PRH units at a lower level, so as to alleviate the burden on the tenants; if not, of the reasons for that?*

SECRETARY FOR HOUSING (in Cantonese): Madam President, the quality and provisions of flats transferred from the HOS to the rental stock are higher than those for other public rental flats, with proper partitioning into sitting and dining rooms, two to three bedrooms, two toilets, fitted kitchen cabinets, and higher quality materials. To reflect their higher quality, their rents have all along been set at 10% higher than those for other public rental flats. In determining rents, the HA's guideline is that the median rent-to-income ratio of prospective tenants does not exceed 18.5% on the basis of an allocation standard of 7 sq m per person.

For the two rental estates in Kwai Chung and Tin Shui Wai transferred from the HOS, the monthly rents determined by the HA range from \$1,590 to \$3,290, with the average rent at \$2,017, due to bigger area and higher quality of the flats. The recurrent operating deficit for these two estates is estimated to be \$63 million a year. In other words, the rental receipts are insufficient to meet the HA's expenses on management, security, cleansing, maintenance, rates, and so on. The annual recurrent subsidy provided by the HA for these two estates amounts to about \$13,000 per flat. The median rent-to-income ratio of prospective tenants is estimated to be 16.5%.

For prospective tenants preferring cheaper rents, the HA has a stock of flats with lower rents to meet their affordability requirements. With the public rental housing programme running into substantial recurrent deficits and rents being generally affordable, the HA does not plan to reduce the rents for these estates.

The Housing Department's experience is that rental flats transferred from the HOS are very popular among prospective tenants. In 2001-02, out of a total of over 130 000 allocation offers, only 927 offers (0.7% of the total) were rejected because the families wanted lower rents. This bears out our observation that most tenants consider these flats to be excellent value for money. I have visited these families and can share their joy of having a comfortable home.

MR LAU KONG-WAH (in Cantonese): *Madam President, the majority of the PRH waiting list applicants are members of the grassroots whose income level has kept falling in these two years even though rentals have been on the increase these days. In this connection, it is a government policy that rentals for PRH units should not exceed 18.5% of the median income. Hence, the median rent-to-income ratio of prospective PRH tenants, which is estimated to be 16.5% according to the second paragraph of the Secretary's main reply, has not exceeded the maximum limit set. Given that the monthly rents for the two aforementioned rental estates transferred from the HOS are set at such high levels, could the Secretary inform this Council whether the relevant median rent-to-income ratio has exceeded 18.5% or even 25%, and if so, whether there is any breach of the policy concerned?*

SECRETARY FOR HOUSING (in Cantonese): *Madam President, insofar as the rent level is concerned, I believe the most important point is that the rents are generally within the financial capacity of the tenants concerned. As I said just now, the current rents for PRH units are affordable by the public. However, if choices should be available, some members of society would prefer flats that are of better quality and larger in size.*

As regards the figures requested by the Honourable LAU Kong-wah, the 16.5% mentioned by me earlier is but a median, which is certainly lower than the maximum limit of 18.5%. In case Mr LAU would like to know how the distribution of the median rent and median income, I have the figures on hand here. If 42% of the tenants whose rent-to-income ratio does not exceed 15% wish to be allocated PRH units in the two aforementioned estates, that means the rent-to-income ratio of 42% of the relevant tenants does not exceed 15%. On top of that, while 22% of the tenants whose rent-to-income ratio is between 15% and 18% prefer to live in those two estates, 7% and 13% of those of an 18.5% to 20% and 20% to 25% rent-to-income ratio respectively also share the same view. As regards those tenants whose rent-to-income ratio exceeds 25%, about 16% of them would like to be allocated a PRH unit in the two estates mentioned.

DR DAVID CHU (in Cantonese): *Madam President, just now the Secretary emphasized that prospective tenants might accept offer of renovated rental flats with lower rents. May I ask the Secretary whether there is a sufficient stock of such rental flats, and whether they are located in some remote rural areas?*

With regard to the 18.5% median rent-to-income ratio applied to the higher quality rental flats, could the Secretary inform this Council whether this ratio is in breach of the 10% specified under the Housing Ordinance?

PRESIDENT (in Cantonese): Dr CHU, I wish to clarify whether your supplementary question is asking about the PRH units with lower rents.

DR DAVID CHU (in Cantonese): *Madam President, the second question is: Will the 18.5% median rent-to-income ratio set for the higher quality rental flats, which exceeds the 10% specified under the Housing Ordinance, give rise to legal issues?*

PRESIDENT (in Cantonese): Dr CHU, I can only ask the Secretary to answer one of your questions. The Secretary will decide what she should do.

SECRETARY FOR HOUSING (in Cantonese): Madam President, Dr CHU's first question asks whether there is a sufficient stock of rental flats with lower rents for prospective tenants preferring cheaper rents to choose from. The answer to this question is in the affirmative. I enquired with the HA a few days ago and was informed that the HA had currently 660 000 rental units for selection by prospective tenants, including 3 000 renovated units scattering over a number of districts. I also asked the HA whether these renovated rental flats were located in remote areas. The answer given to me was that the units available for selection by prospective tenants in June were located in Cheung Sha Wan, Kennedy Town, Sham Shui Po, San Po Kong, Kwun Tong, Ap Lei Chau, and so on. Taking Sai Wan Estate as an example, the rent of a 43-sq-m unit is \$1,680 a month, and this sum covers also rates, as well as maintenance and management fees. As regards another 49-sq-m unit in So Uk Estate, the monthly rent is \$1,892.

Just now Dr CHU asked whether there would be any breach of the Housing Ordinance. According to the legal advice to us, the 10% median rent-to-income ratio specified under the Housing Ordinance is applicable to only the rent level upon adjustment by the HA. Since this ratio is not used in

determining rents for newly-completed estates, it is not applicable when assessing the rent levels of such estates.

MR ALBERT HO (in Cantonese): *Madam President, recently, the Housing Department has offered many so-called "expensive PRH units" to prospective tenants, and in many cases the Department would require the tenants to sign a declaration. The declaration contains a very short clause to the following effect: "I understand that although the monthly rent of the flat may exceed 15% to 25% of my total family income, I am still willing to accept the allocation of the flat. I also understand that I will not be eligible for any rent assistance until after the next comprehensive rent adjustment exercise for the respective housing estate, or unless there are changes in my family particulars leading to a decrease in family income." May I ask the Secretary whether the Housing Department requires the prospective tenants to sign the said declaration because it wants them to know that the rents of their flats will not be reduced, and that even though the rents are so high, they cannot lodge any complaints, institute legal proceedings or apply for any rent assistance?*

SECRETARY FOR HOUSING (in Cantonese): *Madam President, I thank Mr HO for his supplementary question. This clause is actually to enable the prospective tenants to be aware of their rent burden, so that they will select their flats in the light of their financial capacity. In the past, tenants could apply for assistance under the HA's Rent Assistance Scheme only after the rent adjustment exercise had caused additional financial burden on them. However, since the HA has imposed a freeze on PRH rental levels since 1998, this requirement has been revised to enable tenants to apply for rent assistance even if the HA has not increased their rents. This measure was introduced consequential to a decision made by the HA last year. If Honourable Members are aware of any cases that are eligible for rent assistance, we are very ready to receive the detailed information on such cases and consider their applications.*

MR CHAN KAM-LAM (in Cantonese): *Madam President, I should like to follow up the supplementary raised by Mr Albert HO just now. Given that the prospective tenants are required to sign an undertaking to abandon any attempt to apply for rent assistance when they accept the allocation of these "luxurious PRH flats", why does the Government not simply refrain from allocating such*

flats to the low-income applicants? In this connection, could the Secretary inform this Council what the HA would do if the tenants should experience any changes in their financial capacity after moving into the relevant flats and thus ask for transfer?

SECRETARY FOR HOUSING (in Cantonese): Madam President, I thank the Honourable CHAN Kam-lam for his supplementary question. As I said before, the HA has a very large stock of PRH flats at 660 000, and that is why we hope to enable the tenants to have as many choices as possible. For example, if the son or daughter of a certain tenant will very soon come of age and join the working population, or if the tenant knows that his family will have an additional source of income in future, they may of course choose to pay a higher rent if they do not wish to move so often.

As a matter of fact, whether the median rent-to-income ratio is set at 18.5% or 25%, it is still lower than the ratio set by the United Nations, and the rents of PRH flats are still lower than that paid by the people of Hong Kong for flats in the private sector. Generally speaking, the median rent-to-income ratio for private flats is 27.9%, while the benchmark set by the United Nations is that for the lowest-income 40% families, rent expenses should not exceed 30% of their household income. All these figures are only indexes, and yet our median rent-to-income ratio is still much lower. In fact, many families are willing to pay higher rents for a better living environment.

MISS CHOY SO-YUK (in Cantonese): *Madam President, although the income of PRH residents has dropped tremendously in recent years, the HA still tries to avoid abiding by the restrictions on the median rent-to-income ratio provided in the law by using "rent freeze" as a pretext for not reducing rents. Could the Secretary inform this Council whether the HA would ride out the storm with the public by reducing rents comprehensively for PRH tenants, just like what it has done for the commercial tenants?*

PRESIDENT (in Cantonese): Miss CHOY, your supplementary question has gone far beyond the scope of the main question. Do you wish to rephrase it to give it some relevance to the Secretary's reply?

MISS CHOY SO-YUK (in Cantonese): *Madam President, the supplementary was on rent levels. May I know whether the Secretary is willing to answer this one?*

PRESIDENT (in Cantonese): Miss CHOY, the question lies not in whether the Secretary is willing to answer the supplementary question; the question remains that as President of the Council, I am obliged to not to allow you to raise it. *(Laughter)* So, the Secretary does not have to answer this one. If no other Members would like to follow up, question time ends here.

WRITTEN ANSWERS TO QUESTIONS

Alleged Breach of Land Grant Conditions by River Trade Terminal Company Limited

7. **MR ALBERT CHAN** (in Chinese): *Madam President, it has been reported that the River Trade Terminal Company Limited, which operates the Tuen Mun River Trade Terminal, is suspected of having breached the land grant conditions by conducting at the terminal a sideline business of cargo handling services for ocean-going vessels, and the Hong Kong Port and Maritime Board (PMB) has issued a final notice ordering the company to terminate such services. In this connection, will the Government inform this Council:*

- (a) of the deadline the PMB has set for the company to terminate such business and details of the notice;*
- (b) whether the company has now terminated such business;*
- (c) whether the Government will take legal actions against the company for breaching the land grant conditions; if so, of the details; if not, the reasons for that;*
- (d) whether the land grant conditions have set out penalty terms for breach of the provisions therein; if so, of the details of such penalty terms; if not, the reasons for that; and*

- (e) *whether the Government has assessed the impact of such business conducted by the company on the ocean cargo handling industry as a whole, and if such conduct is unfair to other lawful business operators?*

SECRETARY FOR ECONOMIC SERVICES (in Chinese): Madam President, my reply to all five parts of the question asked by the Honourable Albert CHAN is as follows:

The relevant authority has written to the Hong Kong River Trade Terminal Company Limited in early 2002. We are now seeking legal advice on the issue and are closely monitoring their operations. When we have the legal advice, we will consider how to treat this case.

Development of Broadband Internet Network

8. **MISS EMILY LAU** (in Chinese): *Madam President, will the executive authorities inform this Council whether they will regard broadband Internet network as an essential infrastructure and play a proactive role in constructing an advanced broadband network of high capacity and speed, with a view to enhancing the competitiveness of Hong Kong; if they will, of the details; if not, the reasons for that?*

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Chinese): Madam President, the Government considers broadband Internet network as an extremely important part of our infrastructure. The Government is committed to encouraging the roll-out of broadband network and promoting effective competition in the broadband Internet services market, which will lead to more choices for consumers.

Under the liberalization policy, we now have four local wireless-based fixed telecommunications network services operators, and a cable television company to offer telecommunications service over its hybrid fibre coaxial cable network. Together with the existing four local wireline-based fixed telecommunications network services operators, we now have a total of nine local fixed telecommunications services operators which are capable of rolling

out broadband network. From 1 January 2003, the local fixed telecommunications network services market will be fully liberalized. At present, all commercial buildings and over 95% of residential households are already covered by broadband network.

For services, we have fully liberalized the telecommunications services market. Besides the above nine operators, other Internet service providers can also provide broadband service by leasing the network of those nine operators. At present, over 10 Internet service providers offer broadband services in the market at a minimum price of around \$100 to \$200 per month. The competitive prices of our broadband services compare favourably with the United States and Europe, and our neighbours in Asia. As a result, we see a significant boost in the use of broadband services. As at April 2002, the number of broadband customers doubled within one year, or increased by 14-fold in two years to 757 000. Among them, 701 555 are residential households, accounting for one third of the total residential households in Hong Kong. Our broadband penetration rate is one of the highest compared with developed countries or regions in the world.

We are of the view that allowing operators to invest freely in broadband Internet network on a commercial basis under our liberalization policy is the most effective and economical way to facilitate the development of broadband network. Market competition also ensures that quality services are available to consumers at competitive prices. This will in turn promote the use of broadband services in Hong Kong, and enhance our competitive edge in the development of broadband services and applications.

Colours of Noise Barriers

9. **MR LAU KONG-WAH** (in Chinese): *Madam President, will the Government inform this Council of the factors taken into account in deciding on the choice of colours for noise barriers erected on roads and flyovers, and whether it has considered using transparent noise barriers as far as possible in order to minimize their impact on the landscape and on drivers?*

SECRETARY FOR TRANSPORT (in Chinese): Madam President, the choice of colours constitutes part of the design of noise barriers. Generally speaking,

it is determined by two major factors: first, going with the surroundings to blend the noise barriers into the background; and second, highlighting the features in the design of the noise barriers.

As to the use of materials for noise barriers, while transparent materials can reduce the impact of these barriers on the landscape as well as drivers, they will produce the effect of bouncing off noise from their surface. Hence, these materials may not be suitable for noise barriers to be erected along roads with noise-sensitive buildings on both sides. Under such circumstances, we might have to use sound-absorbing materials, which are however invariably opaque. We will also take into account the findings of the relevant environmental impact assessment report in deciding on the materials to be used for any particular noise barriers.

Banks Hiring Debt-collection Agencies for Recovering Debts

10. **MR ALBERT CHAN** (in Chinese): *Madam President, nowadays, banks often hire debt-collection agencies to collect outstanding repayments for home mortgage loans, credit card loans and other debts. I have received quite a number of complaints from members of the public, alleging that they have been seriously distressed by the tactics employed by these debt-collection agencies and they have even contemplated suicide out of frustration. While it is legal for banks to hire debt-collection agencies or take legal actions to recover debts, such actions have put debtors under immense psychological pressure. In this connection, will the Government inform this Council:*

- (a) *of the number of cases reported to the police about debt-collection agencies' harassment over the past two years;*
- (b) *whether it has specific measures to monitor debt-collection agencies and prohibit them from recovering debts by harassment, so as to reduce the nuisances caused to the debtors; if so, of the details; if not, the reasons for that; and*
- (c) *whether it has measures to encourage banks to discuss with their debtors as far as possible solutions to paying outstanding loans, such as restructuring the debts or extending the repayment periods, so as to avoid resorting to legal actions or hiring debt-collection agencies?*

SECRETARY FOR SECURITY (in Chinese): Madam President,

- (a) In the past two years, the number of crime reports (including criminal damage, intimidation and wounding) and persons arrested in relation to debt-collection activities are as follows:

	<i>2000</i>	<i>2001</i>
Number of reports	2 498	1 959
Arrested persons	327	328

In the same period, the number of non-crime nuisance reports received by the police in relation to debt-collection activities is as follows:

	<i>2000</i>	<i>2001</i>
Telephone nuisance	3 157	4 793
Nuisance visits to premises	2 446	4 188

The current statistics collation system does not provide a breakdown of whether the nuisance is caused by debt-collection companies, creditors, or other persons.

- (b) There are adequate provisions under the present criminal law to deal with various illegal practices employed by debt collection agencies. For instance, debt collectors who resort to intimidation can be prosecuted under the Crimes Ordinance (Cap. 200).

Mindful of public concern on this issue, the Law Reform Commission (LRC) formed a subcommittee in 1998 to consider the adequacy of the existing law and to recommend such changes in the law as appropriate. The subcommittee released a public consultation paper on the "Regulation of Debt Collection Practices" in July 2000 recommending a range of measures to address the problem. The subcommittee is currently reviewing the recommendations in the light of the comments received. A final report will be issued when the work is completed. The Administration will consider whether legislation should be

introduced to regulate the activities and practices of debt collection agencies in the light of the findings of the LRC.

The Hong Kong Monetary Authority (HKMA) is also aware of the public's concern over possible malpractices of authorized institutions (AIs) in the course of recovering debts. The good debt-collection practices to be followed by AIs are set out in Chapter 5 "Recovery of Loans and Advances" of the "Code of Banking Practice" (the Code). During the review of the Code in 2001, the HKMA strengthened the relevant provisions requiring AIs to prohibit debt-collection agencies from collecting debts by harassment or other improper means. In addition, AIs have been required to put in place suitable systems and procedures to monitor the performance of these agencies. AIs should consider whether to terminate their relationship with an agency if they become aware of unacceptable practices or breaches of contractual undertakings by that agency.

- (c) Discussion with debtors on possible arrangements to facilitate payment of outstanding loans is a commercial decision by banks. Banks are generally willing to discuss with debtors in financial difficulties the possibility of debt restructuring or extending the repayment period.

Procurement of Drugs by Hospital Authority

11. **MR NG LEUNG-SING** (in Chinese): *Madam President, regarding the Hospital Authority (HA)'s procurement of pharmaceutical products, will the Government inform this Council whether it knows:*

- (a) *the expenses on procuring drugs manufactured in the Mainland and the percentage it represents in the HA's total drug expenditure in each of the past three years; and the respective average unit prices of these mainland-manufactured drugs and those of comparable ones manufactured in foreign countries; and*
- (b) *if the HA has formulated a policy and laid down specific procurement guidelines for procuring, as far as possible, drugs from*

countries and regions where the drugs are less expensive, provided that the required efficacy and safety of the drugs are ensured and the principles stipulated in the World Trade Organization Agreement on Government Procurement are upheld; if so, of the details of the policy and guidelines; if not, the reasons for that?

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

- (a) At present, pharmaceutical products purchased by the HA and manufactured in mainland China are generic (multi-source) products. (The other group of pharmaceutical products purchased are mainly unisource drugs protected by patents.) All multi-source products are purchased through the competitive tendering process in order to procure the best value-for-money supplies. Expenditure on multi-source products accounts for about one third of the HA's total drug expenditure. The HA's expenditure on procuring drugs manufactured in mainland China in each of the past three years expressed both in absolute terms and as a percentage of the HA's total drug expenditure and multi-source drug expenditure are set out below:

<i>Year</i>	<i>Expenditure on drugs manufactured in mainland China (in million) (a)</i>	<i>(a) as a percentage of the HA's total drug expenditure</i>	<i>(a) as a percentage of the HA's multi-source drug expenditure (estimate)</i>
1999-2000	\$113	7.3%	Not readily available
2000-01	\$124	7.4%	22.4%
2001-02	\$126	7.0%	Not readily available

The HA only has information on the bidding prices of pharmaceutical products offered by those companies who responded to the tenders. The bidding prices offered for some commonly-used pharmaceutical products in the recent tender exercise conducted in 2002 were set out below:

<i>Pharmaceutical Products</i>	<i>Bidding price of mainland - manufactured products</i>	<i>Bidding price(s) of products manufactured in other countries</i>
Glucose IV Infusion BP or Dextrose Injection USP 5% (500 ml)	\$3.519	\$4.6 - \$4.7
Sodium Chloride 0.45% and Glucose 2.5% IV Infusion BP or Dextrose 2.5% and Sodium Chloride 0.45% Injection USP (500 ml)	\$4.488	\$5.3 - \$5.7
Sodium Chloride IV Infusion BP or Sodium Chloride Injection USP 0.9% (500 ml)	\$3.519	\$4.4 - \$4.5
Paracetamol Tablet 500 mg (1 000 tablet pack)	\$31.15	\$29.4

Note: BP refers to British Pharmacopoeia and USP refers to United States Pharmacopoeia

- (b) The HA adopts the "Drug Purchasing Policy of the Public Health services of Hong Kong on Multi-Source (Generic) Pharmaceutical Products" which requires that each pharmaceutical product intended for use in the public sector, that is, the HA and the Department of Health, must conform to the required standards of quality, safety and efficacy. The policy lays down the standards and requirements for the evaluation of multi-source pharmaceutical products from new sources for use in the Department of Health and the HA, including documentation requirements governing the manufacturer, the product and the supplier.

Pharmaceutical products used by the HA are mainly purchased through the competitive tender process. In this regard, the country of origin of a pharmaceutical product is not a factor for consideration in the tender process. In order to obtain the best value-for-money supplies and services through an efficient, fair and

competitive system, the HA has formulated its own procurement policy and has laid down regulations, administrative directions and procedural guidelines in its Procurement and Materials Management Manual. In addition, the HA has to follow the Agreement on Government Procurement of the World Trade Organization for purchase of goods and services exceeding 400 000 Special Drawing Rights.

Redevelopment Project at Kwun Tong Town Centre

12. **MR FRED LI** (in Chinese): *Madam President, it has been almost 20 years since the Government proposed to redevelop Kwun Tong Town Centre, but so far the project has not yet been implemented. The district is in a dilapidated state and residents there are yearning for early implementation of the redevelopment project. The Urban Renewal Authority (URA), which is responsible for the redevelopment project, is now carrying out the relevant land use planning. It is learnt that the redevelopment project may be delayed as the Government has requested the URA to provide schools, civic centres and public transport interchanges, and so on, on the land concerned. In this connection, will the Government inform this Council:*

- (a) *of the type of buildings and ancillary facilities (such as transport and sitting-out facilities) to be provided on the land of the redevelopment project;*
- (b) *whether it has reviewed the appropriateness of providing schools in the area of the town centre; if it has, of the conclusion;*
- (c) *whether the above planning work has been delayed by the need to identify suitable locations for building schools or by other factors; if so, of the reasons; and*
- (d) *whether it has specific measures for expediting the above planning work; if not, of the reasons for that?*

SECRETARY FOR PLANNING AND LANDS (in Chinese): *Madam President, apart from redeveloping dilapidated buildings in older urban areas, an important objective of urban renewal is to provide community facilities that are*

inadequate or absent in such areas at present. The planning guidelines in the Urban Renewal Strategy (URS) contain not only the concept plans of the nine urban renewal target areas but also the detailed plans and planning parameters of the 225 redevelopment projects. The planning parameters set out in detail the community facilities to be provided in each project. According to the Urban Renewal Authority Ordinance, the URA shall follow the guidelines in the URS when implementing individual redevelopment projects.

- (a) The Kwun Tong Town Centre redevelopment project covers an area of about five hectares, of which around 70% is government land. We expect that the future development of the town centre will be mainly for residential and commercial purposes. In order to improve the local environment and traffic conditions, the initial plan is to provide much-needed open space and a well-designed transport interchange with appropriate pedestrian facilities in the town centre. To cater for the growing population and to better serve the residents, we also plan to provide more community and welfare facilities, including schools, markets, refuse collection points, cultural and recreational facilities, residential and nursing homes for the elderly. These facilities are essential to any community.
- (b) The Kwun Tong Town Centre will be a large comprehensive redevelopment area. Having regard to the future population distribution and the existing facilities, a secondary school or post-secondary college has been included in the planned facilities. The provision of these educational facilities is appropriate for the overall development in future.
- (c) In formulating a detailed development plan, the URA is conducting detailed studies regarding the Kwun Tong Town Centre project with respect to the transport arrangements, land use planning and financial arrangements. Relevant government departments are actively assisting the URA in the matter. We hope that the URA will complete the first stage of the studies and the planning work in the near future.
- (d) We will continue to encourage the URA to expedite the various planning studies regarding the Kwun Tong Town Centre redevelopment project. The government departments concerned will render the necessary assistance in the process.

Operation of Community Investment and Inclusion Fund

13. **MR WONG SING-CHI** (in Chinese): *Madam President, the authorities secured funding approval in February this year for the establishment of a \$300 million Community Investment and Inclusion Fund (CIIF), and the membership list of the Committee on the CIIF was announced on 6 April. In this connection, will the Government inform this Council whether the Committee has:*

- (a) worked out the details of the funding arrangements and the commencement date for receiving funding applications; if so, of the details;*
- (b) laid down specific assessment criteria to determine if the project relating to a funding application is "focussing on assisting vulnerable groups" or "exhibiting prospects for longer-term sustainability"; if so, of the details of these criteria; and*
- (c) formulated specific plans and targets to campaign for donations from the public, and whether it has assessed the effectiveness of such fund-raising campaigns in the current economic conditions?*

SECRETARY FOR HEALTH AND WELFARE (in Chinese): Madam President, in the 2001 policy address, the Chief Executive announced the plans to set up the CIIF, to encourage mutual concern and aid among people and to promote community participation in district and cross-sectoral programmes. The CIIF Committee was established in April 2002 and one of its prime tasks is to handle applications for funding. This will involve examining and approving applications, deciding on the level of funding for each successful application, and monitoring and evaluating the effectiveness of funded projects.

The Committee has already met twice and provided valuable input on the initial operational arrangements of the Fund.

- (a) Regarding funding arrangements, the Committee has endorsed a number of basic principles, including:

Eligibility

- (i) Non-governmental organizations (NGOs) and private corporations will be eligible to apply, while individuals and government agencies will not. Joint applications involving different organizations will be permitted;

Nature of Projects to be Funded

- (ii) the Fund will primarily support community-initiated projects which seek to promote the broad objectives of the Fund;
- (iii) the Fund will be open to project proposals from different sectors, for example, welfare, women, community, and so on;
- (iv) territory-wide and local projects will be considered;
- (v) the period of funding will be for a maximum of three years;
- (vi) one-off consumption activities (such as banquets, picnics and trips) which will have no long lasting effect on community development, will not be supported;

Financial Arrangements

- (vii) grants can be capital or time-limited recurrent in nature or a combination of both;
- (viii) staff costs and honorarium payments, where appropriate, can be supported on a time-limited basis;
- (ix) the minimum amount of funding per project will be \$20,000, whilst there is no pre-set maximum amount of funding; and
- (x) the project should primarily not be profit making. Any profit arising from the project must be re-invested back.

The Committee is currently working out the detailed arrangements for the launch of the Fund, including the production of an

Application Guide and Form, relevant promotional activities, and so on, following which we will invite applications as soon as possible.

- (b) As regards assessing applications, the Committee considers that the target groups which the project seeks to help, as well as the issue of longer-term sustainability, should be included in the factors to be considered during the assessment process.

On the specific question of assisting vulnerable groups, the Committee considers that project proposals should also be assessed by reference to:

- (i) whether they could effectively engage marginalized (including vulnerable) groups, that is, those which for various reasons are socially excluded from mainstream society, are hard-to-reach, have minimal social networks and with low accessibility to existing services; and
- (ii) how well they can help link these marginalized groups to the mainstream society, and government and NGO services currently available.

On the question of longer-term sustainability of projects, the Committee considers that proposals should be assessed by reference to:

- (i) whether they possess a longer-term social investment rather than short-term consumption focus (for example, banquets, picnics, and so on);
 - (ii) their capacity to produce a long-lasting and sustainable benefit to the community; and
 - (iii) their capacity and need to continue once this source of funding support ends.
- (c) At present, our focus is on finalizing the many detailed arrangements which will allow us to launch the Fund and start to receive applications. Once this has started, the Committee will turn its attentions to other longer-term matters including the question of public donations.

Storage Facility for Low-level Radioactive Waste

14. **MR HENRY WU** (in Chinese): *Madam President, in February this year, the Administration unveiled its plan to construct a long-term storage facility at Siu A Chau (SAC) for low-level radioactive waste (LLRW) at an estimated budget of \$212 million. In this connection, will the Government inform this Council:*

- (a) *of the component parts of the estimated budget;*
- (b) *of the scenarios it had considered before arriving at the conclusion that the SAC option, as compared to utilizing storage facilities in the Mainland, will allow the Government more flexibility and enable it to respond more readily in managing future LLRW; and*
- (c) *of the current progress of the plan?*

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

- (a) The total estimated cost of the proposed LLRW storage facility at SAC is as follows:

<i>Item</i>	<i>Estimated Cost (Net Present Value at September 2001 price in HK dollars)</i>
(i) Capital Cost	\$89 million
(ii) Total Operation and Maintenance Cost (assuming 80 years of operation)	\$55 million
(iii) Total Renovation Cost (assuming 80 years of operation)	\$13.8 million
(iv) Final Disposal Cost	\$54.2 million
Total Estimated Cost	\$212 million

- (b) Building a storage facility at SAC would allow us more flexibility in handling LLRW, as the waste could be quickly transferred to SAC for storage. In addition, since we do not have to transfer such waste to the Mainland, it would obviate the need to discuss with the Mainland logistical arrangements and the cost every time such waste arises.
- (c) The Environmental Protection Department has invited tender for the SAC facility in late May this year. The tender would close on 30 August 2002. Subject to the tender outcome fully meeting our requirements, we will seek funding approval from the Legislative Council with a view to commencing the construction works in 2003.

Commercial Premises under Housing Authority

15. **DR YEUNG SUM** (in Chinese): *Madam President, regarding the "commercial premises", that is, shopping arcades, car parks, factory buildings and office buildings, under the Housing Authority (HA), will the Government inform this Council if it knows:*

- (a) *the total assets value of each category of commercial premises under the HA, and the Government's respective equities in them, including those acquired through the provision of loans and injection of funds to the HA; and*
- (b) *the current number of employees who are responsible for the management, letting, development and other matters of such commercial premises and, among them, the percentage of non-government employees, together with a breakdown of such employees by the type of jobs they undertake?*

SECRETARY FOR HOUSING (in Chinese): Madam President, no independent market valuation has been made of the HA's commercial properties. In accordance with established accounting practices, the HA's properties are valued and shown on its balance sheet in terms of actual development cost less depreciation. Excluding the value of land provided by the Government, the net book value, subject to audit, of the HA's commercial portfolio (including retail, car-parking, welfare and factories) was \$19.7 billion as at 31 March 2002.

Land provided by the Government is valued and disclosed in the notes to the HA's accounts in terms of its value at the date of completion of the asset on it. As at 31 March 2002, the value of land vested in the HA, subject to audit, is \$24 billion.

All HA's funds are pooled and the HA does not distinguish or earmark specific funds for the construction of new assets. Therefore the assets acquired through the provision of loans and injections of funds to the HA cannot be identified. A total of \$12.8 billion was injected by the Government into the HA since its reorganization in 1988 to February 1993. In October 1994, these funds were converted to loan capital (repayable over 14 years) with interest of 5% per annum. The outstanding balance as at 31 March 2002 was \$7.0 billion. In recognition of the Government's contribution of land for commercial premises, that is, non-domestic equity, the HA shares the overall surplus arising from the operations of commercial facilities equally with the Government.

As regards part (b) of the question, there are currently 900 staff members involved in the management of HA's non-domestic properties. Of these, about 350 dealing with policy issues, research and design, valuation, leasing, contract management, promotion and improvement works. The remaining 550 are front-line staff responsible for the day-to-day control and supervision of estate management and maintenance for both domestic and non-domestic properties. Except for 170 contract staff members who are not civil servants (including about 130 works staff and 40 clerical staff), all of the staff members mentioned above are permanent civil servants.

BILL

First Reading of Bill

PRESIDENT (in Cantonese): Bill: First Reading.

SUPPLEMENTARY APPROPRIATION (2001-2002) BILL 2002

CLERK (in Cantonese): Supplementary Appropriation (2001-2002) Bill 2002.

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 Bill

PRESIDENT (in Cantonese): Bill: Second Reading.

SUPPLEMENTARY APPROPRIATION (2001-2002) BILL 2002

SECRETARY FOR THE TREASURY: President, I move that the Supplementary Appropriation (2001-2002) Bill 2002 be read the Second time.

Section 9 of the Public Finance Ordinance states that "If at the close of account for any financial year it is found that expenditure charged to any head is in excess of the sum appropriated for that head by an Appropriation Ordinance, the excess shall be included in a Supplementary Appropriation Bill which shall be introduced into the Legislative Council as soon as practicable after the close of the financial year to which the excess expenditure relates".

The expenditure accounts for the financial year 2001-02 have been finalized by the Director of Accounting Services. The expenditure charged to 26 heads is in excess of the sum originally appropriated for those heads in the Appropriation Ordinance 2001. In each head, the excess expenditure reflects supplementary provision approved by the Finance Committee or under powers delegated by it. The Supplementary Appropriation (2001-2002) Bill 2002 seeks final legislative authority for the amount of supplementary provision approved during 2001-02 in respect of particular heads of expenditure by the Finance Committee or under powers delegated by it.

The total supplementary appropriation required in respect of the 26 heads of expenditure is \$1,500 million and is mainly attributable to the 2001 civil service pay adjustment and corresponding adjustment to personnel-related subventions.

Despite the supplementary appropriation required for 26 heads of expenditure, total expenditure from the General Revenue Account is within the amount originally included in the Appropriation Ordinance 2001 as a result of savings in other heads of expenditure and the provision made for additional commitments in the original estimates for 2001-02.

President, I hope that Members will support the Supplementary Appropriation (2001-2002) Bill 2002. Thank you.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Supplementary Appropriation (2001-2002) Bill 2002 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.

MOTION

PRESIDENT (in Cantonese): Motion. Proposed resolution under the Interpretation and General Clauses Ordinance.

MR LEUNG YIU-CHUNG (in Cantonese): Point of order.

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung, please make your point.

MR LEUNG YIU-CHUNG (in Cantonese): Madam President, before the Secretary moves his resolution, would you please allow the Honourable LAU Chin-shek, the Honourable LEE Cheuk-yan, the Honourable Michael MAK and I to make a declaration on our dissatisfaction the resolution before we leave the Chamber in protest.

PRESIDENT (in Cantonese): Mr LEUNG, you may not speak. If you wish to leave the Chamber, you are free to do so, but you definitely cannot speak at this stage.

MR LEUNG YIU-CHUNG (in Cantonese): Madam President, to show my dissatisfaction, I have to leave the Chamber.

(Mr LEUNG Yiu-chung, Mr LAU Chin-shek, Mr LEE Cheuk-yan and Mr Michael MAK leave the Chamber.)

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, I move that the resolution proposed under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1), as set out on the Agenda, be passed. The objective of the resolution is to transfer the statutory roles and functions currently conferred on certain Bureaux Secretaries to the Directors of Bureaux under the accountability system responsible for the same policy portfolios upon the reorganization of Policy Bureaux.

On 17 April, the Government announced to the Legislative Council the major points of the accountability system for principal officials (accountability system) and also submitted the draft resolution proposed under section 54A of Cap. 1. The Council immediately set up a Subcommittee to Study the Proposed Accountability System for Principal Officials and Related Issues (the Subcommittee) to discuss in great detail the various arrangements under the new system, including the contents of the resolution proposed under section 54A of Cap. 1 and the relevant legal matters. The Subcommittee has held 15 meetings lasting a total of 58 hours. I should like to take this opportunity to express once again my gratitude to the 30-odd Members on the Subcommittee. They have raised many invaluable opinions on the various arrangements under the new system and the resolution I move for passage today. Moreover, despite the tight schedule, they have also made every effort to discuss very thoroughly each of the major subjects, with a view to perfecting the accountability system and coping with the implementation of the new system on 1 July.

I am also very grateful to the secretariat to the Subcommittee and the Legal Service Division of the Legislative Council Secretariat for their assistance. In helping Members and the Government to arrange meeting times, distribute discussion papers and follow up discussion items, the secretariat to the Subcommittee has helped to make the discussion process more well-organized and orderly. The Legal Service Division and particularly the Legal Advisor to the Council have, on top of providing legal advice and supplementary information on many subjects, helped Members to examine carefully the Government's resolution and a large quantity of relevant papers. Besides, they have also made suggestions to the Government on technical issues relating to the resolution.

Since the Chief Executive announced the proposal to examine the accountability system in his 2000 policy address, Members of the Council, the academia, the media and various sectors of society have engaged in enthusiastic discussions on this proposal and expressed many invaluable views. Having carefully considered and made reference to the opinions from different sectors of society, the Government finally drew up the specific contents of the accountability system after repeated deliberations on the concepts of accountability and different proposals. Today, I wish to repeat briefly the principles to which the Government has adhered in formulating the accountability system, and the core ideas of the new system.

In devising the specific arrangements for the accountability system, we have adhered to the following two principles:

First, the accountability system must be consistent with the Basic Law and be lawful and constitutional. During discussions at the Subcommittee, we have made clear that the accountability system is entirely lawful and constitutional. The Government of the Special Administrative Region has formulated the accountability system on the basis of the Basic Law and all arrangements under the accountability system are fully consistent with the Basic Law.

Second, while implementing the accountability system, we must uphold the integrity of the civil service system and maintain a permanent, neutral, clean and meritocratic Civil Service. The Chief Executive made it clear at the Legislative Council meeting on 17 April that this was the established policy of the Government. The civil service system of recruitment, appraisal, promotion, posting and disciplinary action will not be changed as a result of the implementation of the accountability system. Under the accountability system, the existing spirit and strengths of the Civil Service will be preserved and given fuller play.

The specific arrangements and ideas of the accountability system formulated on the basis of the above principles embody three key features.

Firstly, the appointment arrangement under the new system will be more flexible and it will enable the Chief Executive to select the most suitable persons from within and without the Civil Service as principal officials. Under the new appointment system, competent, committed and innovative persons can be recruited to join the Government and serve the public. In addition, principal

officials under the accountability system will no longer be appointed on civil service terms, and can truly assume political responsibility in answer to the expectation of the public.

Secondly, principal officials under the accountability system will have clearly defined powers and responsibilities. They will be responsible for their respective policy portfolios and be directly accountable to the Chief Executive. Principal officials will have clear demarcation of duties and well-defined powers and responsibilities. As such, they will be held more accountable to the Legislative Council and the public to gain their support. The Chief Executive will devolve authority to them and appoint them as Members of the Executive Council to participate in the top level decision-making process of the Government. As such, the Government will be in a better position to coordinate its priority on policy implementation and allocation of resources. In addition, principal officials will be held responsible for matters within their portfolios. They will be accountable to the public and the Legislative Council, and will answer questions from them. In extreme cases, they may have to resign over major policy failures.

Thirdly, implementation of the accountability system will strengthen the importance attached to public opinions and sentiments and foster a culture of accountability. Principal officials have to take greater initiative to come into contact with the public and formulate policies that meet their needs and aspirations. This includes more visits to districts to communicate with members of the public direct and to take heed of their sentiments. They will have to actively disseminate information through the media and explain policies to the public so that the public can have a better understanding of the rationale of government policies. This will be conducive to building up consensus in the community.

Principal officials under the accountability system will have to engage in proactive communication with Members of the Legislative Council to establish mutual trust and strive for co-operation. They will carefully listen to and consider the views of Members of the Legislative Council with a view to enlisting their support for government policies. To tie in with the implementation of the accountability system, we will reorganize and merge some Policy Bureaux; and put related portfolios under the charge of one Director of Bureau to facilitate better co-ordination in policy formulation and implementation, and to enable the more efficient utilization of resources.

Over the past two months, we have discussed the particulars of the new system thoroughly with the Subcommittee. Besides, the academia, the media and members from various sectors of society have also participated in these extensive discussions. From these discussions we have absorbed many constructive opinions and consequently amended some of the matching arrangements under the accountability system to further perfect them. We have also accepted the views from Members and various sectors of society in revising the proposal on reorganization of Policy Bureaux.

The Government initially proposed to amalgamate the Environment and Food Bureau with the Health and Welfare Bureau because we hoped to keep unnecessary changes to the minimum during the initial implementation of the accountability system to ensure that the functioning of the Government could remain unaffected. For this reason, the Government had intended to merge these two Policy Bureaux with interrelated functions together in their entirety. Moreover, food safety and environmental hygiene are closely related to medical and health services, and so we had initially intended to amalgamate these two Policy Bureaux.

However, some Members and environmental groups were concerned that the original proposal would put an excessively heavy workload on the proposed Secretary for the Environment, Health and Welfare Bureau, so much so that the Secretary would have difficulty in giving sufficient care to the various environmental issues. After consideration, the Government has finally decided to group the existing environment portfolios with those of transport and works, bearing in mind that the three are very closely related to one another and have to co-ordinate with as well as exercise checks and balances on one another.

Under the Government's original proposal, the portfolios of labour would be merged with that of commerce and industry and put under the charge of one Director of Bureau, who would be responsible for striking a balance between the interests of the labour and the management sides. This arrangement is conducive to better understanding and co-operation between employees and employers. Through the tripartite co-operation among employees, employers and the Government, a consensus could be sought to avert the relationship between the two parties from one of the traditional antagonism to co-operative partnership.

However, upon the announcement of the reorganization of Policy Bureaux on 17 April, representatives of the labour sector expressed concern that the proposed Commerce, Industry and Manpower Bureau might attach too much importance to improving the business environment and therefore could not take good care of the labour interests at the same time. We certainly do not believe that any Bureau Director under the accountability system will bias towards any parties. Nevertheless, after taking into consideration the fact that the success or otherwise of the responsible Bureau Director to strike a balance between the interests of the labour and the management sides would depend very much on whether or not he could win the trust of both sides at the same time, we have decided to revise the arrangements and merge the two portfolios of labour affairs and economic development.

At present, the Economic Services Bureau is responsible for supporting the development of the tourism industry, shipping industry, and so on, benefitting not only the investors in the industries but also the employees and consumers. We believe that the role play by the Economic Services Bureau, which is independent of all the interest parties in the sector, is helpful to striking a balance between the interests of the labour and the management sides when formulating labour policies and dealing with labour disputes, thereby enabling the Bureau to win the trust and support of the labour sector.

Now, I should like to explain the contents of the Government's resolution proposed under section 54A of Cap. 1, and to respond to the amendments proposed by Members.

During the process of discussion, some members of the Subcommittee queried whether it would be sufficient to effect the implementation of the accountability system with only the resolution proposed under section 54A of Cap. 1, and whether the resolution was the appropriate legislative vehicle to achieve this purpose. The Secretary for Justice responded to these legal issues with detailed analyses during a debate held by this Council on 30 May, so I do not intend to repeat any of the arguments or details here. However, I do consider it necessary to explain once again the nature and effects of the resolution proposed under section 54A of Cap. 1.

To tie in with the implementation of the accountability system, the Government will reorganize some of the Policy Bureaux on 1 July. Generally

speaking, reorganization of Policy Bureaux of the Government does not require legislation. It can be effected administratively. But since the reorganization of Policy Bureaux will involve a change in the public officers who exercise the relevant statutory functions, legislative amendments are required to transfer relevant statutory powers to the Bureau Directors in charge of the relevant reorganized Policy Bureaux. The resolution proposed under section 54A of Cap. 1 is made exactly for the purpose of transferring such statutory functions, and the legality of this form of legislation is beyond doubt. We have also noted that the conclusion of the report prepared by the Legal Service Division of the Legislative Council for the House Committee also confirmed that from the legal point of view, the Government's resolution should not give rise to any problem.

As a matter of fact, the Government had reorganized the government structure for a number of times in the past and proposed resolutions under section 54A of Cap. 1 to transfer the statutory functions of certain public officers to other public officers. Hence, we believe it is fully in line with the legislative process to propose a resolution under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) to transfer the statutory roles and functions of certain existing Bureau Secretaries to the principal officials under the accountability system responsible for the relevant portfolios upon the reorganization of Policy Bureaux.

With regard to the legal effect of the resolution under section 54A of Cap. 1, I wish to stress again here that the Government has proposed the resolution not to provide a legislative basis for the reorganization of Policy Bureaux or the implementation of the accountability system. The legal effect of the resolution is limited to the transfer of certain statutory powers consequential to the reorganization of Policy Bureaux.

If we understand the objective and effect of the resolution proposed under section 54A of Cap. 1, we can see very clearly what is wrong with the amendments proposed by Members. If the amendments proposed by the six Members in relation to the transfer of statutory functions should be passed, on the one hand, some of the statutory functions would be transferred to certain Bureau Secretaries who would no longer exist after 1 July; and on the other, even though the Directors of Bureaux assuming office on 1 July would be held accountable for the relevant policies under their charge, they could have no power to perform their statutory functions. To put it simply, if the amendments proposed by Members should be passed, the relevant Directors of Bureaux

would have only the responsibilities but not the powers. We consider this totally unacceptable.

Mr Albert HO's amendment seeks to preserve 1 July as the implementation date, subject to the Chief Executive's publication in the Gazette Mr HO's draft Code for Accountable Officials under the Accountability System (Code). As a matter of fact, the Government has already undertaken to publish the Code in the Gazette, and that is why we do not consider it necessary to list this undertaking and the relevant arrangements in the resolution. Moreover, the draft Code attached to Mr HO's amendment has not included the amendments which the Government has undertaken to make during the meetings of the Subcommittee. There are altogether seven amendments. I wonder whether Mr HO has forgotten to incorporate them into his draft Code or he has found it not necessary to make such amendments. Considering the undertaking it has made during the meetings of the Subcommittee and the need for a Code which is acceptable to both the Government and the Legislative Council, the Government therefore opposes the amendment proposed by Mr HO.

Madam President, despite the divergent views held by the Government and some Members on certain subjects during discussions on the new system, I believe the majority of Members and the Government do share a common objective, which is the hope that the accountability system can enable the Government to implement its policies more effectively, thereby achieving the objective of good governance. For these reasons, I implore Honourable Members to vote in favour of the Government's resolution to implement the matching arrangements in the reorganization of Policy Bureaux to tie in with the implementation of the accountability system on 1 July.

Thank you, Madam President.

The Secretary for Constitutional Affairs moved the following motion:

"That -

- (1) with effect from 1 July 2002 -
 - (a) the functions exercisable by the Secretary for Commerce and Industry by virtue of the Ordinances specified in column 2 of Schedule 1 be transferred to the Secretary for Commerce, Industry and Technology;

- (b) for the purpose of giving full effect to subparagraph (a), the provisions specified in Schedule 1 be amended by repealing "Secretary for Commerce and Industry" wherever it appears and substituting "Secretary for Commerce, Industry and Technology";
- (2) with effect from 1 July 2002 -
- (a) the functions exercisable by the Secretary for Information Technology and Broadcasting by virtue of the Ordinances specified in column 2 of Schedule 2 be transferred to the Secretary for Commerce, Industry and Technology;
 - (b) for the purpose of giving full effect to subparagraph (a) -
 - (i) the provisions specified in Schedule 2 (other than items 2(b) and 3) be amended by repealing "Secretary for Information Technology and Broadcasting" wherever it appears and substituting "Secretary for Commerce, Industry and Technology";
 - (ii) the Film Censorship Ordinance (Cap. 392) be amended -
 - (A) in section 2(1), by repealing the definition of "Secretary" and substituting -

""Secretary" (局長) means the Secretary
for Commerce, Industry and
Technology;"
 - (B) in the provisions specified in item 2(b) of Schedule 2, by repealing "資訊科技及廣播局局長" wherever it appears and substituting "局長";
 - (iii) the Film Censorship Regulations (Cap. 392 sub. leg.) be amended, in the provisions specified in item 3 of Schedule 2, by repealing "資訊科技及廣播局局長" wherever it appears and substituting "局長";

- (3) with effect from 1 July 2002 -
- (a) the functions exercisable by the Secretary for Economic Services by virtue of the Ordinances specified in column 2 of Schedule 3 be transferred to the Secretary for Economic Development and Labour;
- (b) for the purpose of giving full effect to subparagraph (a) -
- (i) the provisions specified in Schedule 3 (other than items 2, 3, 4, 5, 6, 7, 24 and 26(b)) be amended by repealing "Secretary for Economic Services" wherever it appears and substituting "Secretary for Economic Development and Labour";
- (ii) the Gas Safety Ordinance (Cap. 51) be amended -
- (A) in section 2, by repealing the definition of "Secretary" and substituting -
- ""Secretary" (局長) means the Secretary for Economic Development and Labour;"
- (B) in the provisions specified in item 2 of Schedule 3, by repealing "經濟局局長" wherever it appears and substituting "局長";
- (iii) the Gas Safety (Gas Supply) Regulations (Cap. 51 sub. leg.) be amended, in the provisions specified in item 3 of Schedule 3, by repealing "經濟局局長" wherever it appears and substituting "局長";
- (iv) the Gas Safety (Registration of Gas Installers and Gas Contractors) Regulations (Cap. 51 sub. leg.) be amended, in the provisions specified in item 4 of Schedule 3, by repealing "經濟局局長" wherever it appears and substituting "局長";

- (v) the Gas Safety (Registration of Gas Supply Companies) Regulations (Cap. 51 sub. leg.) be amended, in the provision specified in item 5 of Schedule 3, by repealing "經濟局局長" and substituting "局長";
- (vi) the Gas Safety (Miscellaneous) Regulations (Cap. 51 sub. leg.) be amended, in the provision specified in item 6 of Schedule 3, by repealing "經濟局局長" and substituting "局長";
- (vii) the Gas Safety (Gasholders Examination) Regulation (Cap. 51 sub. leg.) be amended, in the provision specified in item 7 of Schedule 3, by repealing "經濟局局長" and substituting "局長";
- (viii) the Consumer Goods Safety Ordinance (Cap. 456) be amended -
- (A) in section 2, by repealing the definition of "Secretary" and substituting -
- ""Secretary" (局長) means the Secretary for Economic Development and Labour;"
- (B) in the provisions specified in item 24 of Schedule 3, by repealing "經濟局局長" wherever it appears and substituting "局長";
- (ix) the Freight Containers (Safety) Ordinance (Cap. 506) be amended -
- (A) in section 2(1), by repealing the definition of "Secretary" and substituting -
- ""Secretary" (局長) means the Secretary for Economic Development and Labour;"

- (B) in the provision specified in item 26(b) of Schedule 3, by repealing "經濟局局長" and substituting "局長";
- (4) with effect from 1 July 2002 -
- (a) the functions exercisable by the Secretary for Education and Manpower by virtue of the Ordinances specified in column 2 of Schedule 4 be transferred to the Secretary for Economic Development and Labour;
- (b) for the purpose of giving full effect to subparagraph (a) -
- (i) the provisions specified in Schedule 4 (other than items 4, 6 and 7) be amended by repealing "Secretary for Education and Manpower" wherever it appears and substituting "Secretary for Economic Development and Labour";
- (ii) the Employees Compensation Assistance Ordinance (Cap. 365) be amended -
- (A) in section 2, by repealing the definition of "Secretary" and substituting -
- ""Secretary" (局長) means the Secretary for Economic Development and Labour.";
- (B) in the provisions specified in item 4 of Schedule 4, by repealing "教育統籌局局長" wherever it appears and substituting "局長";
- (iii) the Employees' Compensation Insurance Levies Ordinance (Cap. 411) be amended -
- (A) in section 2, by repealing the definition of "Secretary" and substituting -

"Secretary" (局長) means the Secretary for Economic Development and Labour.";

(B) in the provisions specified in item 6 of Schedule 4, by repealing "教育統籌局局長" wherever it appears and substituting "局長";

(iv) the Occupational Deafness (Compensation) Ordinance (Cap. 469) be amended -

(A) in section 2, by repealing the definition of "Secretary" and substituting -

"Secretary" (局長) means the Secretary for Economic Development and Labour;"

(B) in the provisions specified in item 7 of Schedule 4, by repealing "教育統籌局局長" wherever it appears and substituting "局長";

(5) with effect from 1 July 2002 -

(a) the functions exercisable by the Secretary for the Environment and Food by virtue of the Ordinances specified in column 2 of Schedule 5 be transferred to the Secretary for the Environment, Transport and Works;

(b) for the purpose of giving full effect to subparagraph (a) -

(i) the provisions specified in Schedule 5 be amended by repealing "Secretary for the Environment and Food" wherever it appears and substituting "Secretary for the Environment, Transport and Works";

(ii) the Water Pollution Control (Appeal Board) Regulations (Cap. 358 sub. leg.) be amended, in Form

1 of the Schedule, by repealing "*Secretary*" and substituting "*Secretary for the Environment, Transport and Works*";

(iii) the Water Pollution Control (Sewerage) Regulation (Cap. 358 sub. leg.) be amended -

(A) in Part I of Schedule 1, by repealing "環境食物局局長" wherever it appears and substituting "局長";

(B) in Part II of Schedule 2, under the heading "**Particular Modifications and Additions**", in respect of the reference to section 2, by repealing paragraph (a)(iii);

(iv) the Environment and Conservation Fund Ordinance (Cap. 450) be amended, in section 10, by repealing everything after "before" and substituting -

"1 January 2000 has effect -

(a) on and after that date but before 1 July 2002 as if done by the Secretary for the Environment and Food; and

(b) on and after 1 July 2002 as if done by the Secretary for the Environment, Transport and Works.";

(6) with effect from 1 July 2002 -

(a) the functions exercisable by the Secretary for Transport by virtue of the Ordinances specified in column 2 of Schedule 6 be transferred to the Secretary for the Environment, Transport and Works;

- (b) for the purpose of giving full effect to subparagraph (a) -
- (i) the provisions specified in Schedule 6 (other than items 2(b), 4, 5, 10, 11, 13(b), 17, 18(b), 19(b), 21, 22 and 23) be amended by repealing "Secretary for Transport" wherever it appears and substituting "Secretary for the Environment, Transport and Works";
 - (ii) the Lands Tribunal Rules (Cap. 17 sub. leg.) be amended -
 - (A) in rule 43, by repealing the definition of "Secretary" and substituting -

""Secretary" (局長) has the same meaning as in the Ordinance.";
 - (B) in the provisions specified in item 2(b) of Schedule 6, by repealing "運輸局局長" wherever it appears and substituting "局長";
 - (iii) the Ferry Services Ordinance (Cap. 104) be amended, in section 41(1), by repealing "Secretary for the Transport" and substituting "Secretary for the Environment, Transport and Works";
 - (iv) the Tramway Regulations (Cap. 107 sub. leg.) be amended -
 - (A) in regulation 2, by repealing the definition of "Secretary" and substituting -

""Secretary" (局長) means the Secretary for the Environment, Transport and Works.";
 - (B) in the provisions specified in item 4 of Schedule 6, by repealing "運輸局局長" wherever it appears and substituting "局長";

(v) the Eastern Harbour Crossing Ordinance (Cap. 215) be amended -

(A) in section 2(1), by repealing the definition of "Secretary" and substituting -

"Secretary" (局長) means the Secretary for the Environment, Transport and Works;"

(B) in section 7(2) and (3), by repealing "Secretary" and substituting "Secretary for Transport";

(C) in the provisions specified in item 5 of Schedule 6, by repealing "運輸局局長" wherever it appears and substituting "局長";

(vi) the Peak Tramway (Safety) Regulations (Cap. 265 sub. leg.) be amended -

(A) in regulation 2, by repealing the definition of "Secretary" and substituting -

"Secretary" (局長) means the Secretary for the Environment, Transport and Works;"

(B) in the provisions specified in item 10 of Schedule 6, by repealing "運輸局局長" wherever it appears and substituting "局長";

(vii) the Water Pollution Control (Sewerage) Regulation (Cap. 358 sub. leg.) be amended, in Part II of Schedule 2, in paragraph 1(1), (2) and (3), by repealing "運輸局";

(viii) the Roads (Works, Use and Compensation) Ordinance (Cap. 370) be amended -

- (A) in section 2(1), by repealing the definition of "Secretary" and substituting -

"Secretary" (局長) means the Secretary for the Environment, Transport and Works;"

- (B) in section 42(2), (3) and (4), by repealing "Secretary" and substituting "Secretary for Transport";

- (C) in the provisions specified in item 11 of Schedule 6, by repealing "運輸局局長" wherever it appears and substituting "局長";

- (ix) the Kowloon-Canton Railway Corporation Regulations (Cap. 372 sub. leg.) be amended -

- (A) in regulation 1A, by repealing the definition of "Secretary" and substituting -

"Secretary" (局長) means the Secretary for the Environment, Transport and Works;"

- (B) in the provisions specified in item 13(b) of Schedule 6, by repealing "運輸局局長" wherever it appears and substituting "局長";

- (x) the Tate's Cairn Tunnel Ordinance (Cap. 393) be amended -

- (A) in section 2(1), by repealing the definition of "Secretary" and substituting -

"Secretary" (局長) means the Secretary for the Environment, Transport and Works;"

- (B) in the provisions specified in item 17 of Schedule 6, by repealing "運輸局局長" wherever it appears and substituting "局長";
- (xi) the Western Harbour Crossing Ordinance (Cap. 436) be amended -
- (A) in section 2(1), by repealing the definition of "Secretary" and substituting -
- ""Secretary" (局長) means, subject to subsection (2), the Secretary for the Environment, Transport and Works;"
- (B) in the provisions specified in item 18(b) of Schedule 6, by repealing "運輸局局長" wherever it appears and substituting "局長";
- (xii) the Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Cap. 474) be amended -
- (A) in section 2(1), by repealing the definition of "Secretary" and substituting -
- ""Secretary" (局長) means, subject to subsection (2), the Secretary for the Environment, Transport and Works;"
- (B) in the provisions specified in item 19(b) of Schedule 6, by repealing "運輸局局長" wherever it appears and substituting "局長";
- (xiii) the Tsing Ma Control Area Ordinance (Cap. 498) be amended -
- (A) in section 2, by repealing the definition of "Secretary" and substituting -

"Secretary" (局長) means the Secretary for the Environment, Transport and Works and includes any public officer the subject of a written delegation by the Secretary for the Environment, Transport and Works under section 9;"

(B) in the provisions specified in item 21 of Schedule 6, by repealing "運輸局局長" wherever it appears and substituting "局長";

(xiv) the Railways Ordinance (Cap. 519) be amended -

(A) in section 2, by repealing the definition of "Secretary" and substituting -

"Secretary" (局長) means the Secretary for the Environment, Transport and Works;"

(B) in section 45(1) and (4), by repealing "Secretary" and substituting "Secretary for Transport";

(C) in the provisions specified in item 22 of Schedule 6, by repealing "運輸局局長" wherever it appears and substituting "局長";

(xv) the Discovery Bay Tunnel Link Ordinance (Cap. 520) be amended -

(A) in section 2(1), by repealing the definition of "the Secretary" and substituting -

"Secretary" (局長) means the Secretary for the Environment, Transport and Works;"

- (B) in the provisions specified in item 23 of Schedule 6, by repealing "運輸局局長" wherever it appears and substituting "局長";
 - (xvi) the Mass Transit Railway Ordinance (Cap. 556) be amended, in sections 3 and 52(3), by repealing "Secretary" and substituting "Secretary for Transport";
- (7) with effect from 1 July 2002 -
- (a) the functions exercisable by the Secretary for Works by virtue of the Ordinances specified in column 2 of Schedule 7 be transferred to the Secretary for the Environment, Transport and Works;
 - (b) for the purpose of giving full effect to subparagraph (a) -
 - (i) the provisions specified in Schedule 7 (other than item 8) be amended by repealing "Secretary for Works" wherever it appears and substituting "Secretary for the Environment, Transport and Works";
 - (ii) the Builders' Lifts and Tower Working Platforms (Safety) Ordinance (Cap. 470) be amended -
 - (A) in section 2(1), by repealing the definition of "Secretary" and substituting -
 - "Secretary"(局長) means the Secretary for the Environment, Transport and Works;"
 - (B) in the provisions specified in item 8 of Schedule 7, by repealing "工務局局長" wherever it appears and substituting "局長";

- (8) with effect from 1 July 2002 -
- (a) the functions exercisable by the Secretary for Financial Services by virtue of the Ordinances specified in column 2 of Schedule 8 be transferred to the Secretary for Financial Services and the Treasury;
 - (b) for the purpose of giving full effect to subparagraph (a) -
 - (i) the provisions specified in Schedule 8 (other than items 6 and 7) be amended by repealing "Secretary for Financial Services" wherever it appears and substituting "Secretary for Financial Services and the Treasury";
 - (ii) the Securities and Futures Commission Ordinance (Cap. 24) be amended, in section 59(2)(e), by repealing ", the Secretary for Financial Services";
 - (iii) the Insurance Companies Ordinance (Cap. 41) be amended, in section 53A(3)(e), by repealing ", the Secretary for Financial Services";
 - (iv) the Banking Ordinance (Cap. 155) be amended, in section 120(5)(f), by repealing ", the Secretary for Financial Services";
 - (v) the Money Lenders Ordinance (Cap. 163) be amended, in section 5(2)(d), by repealing ", the Secretary for Financial Services";
 - (vi) the Exchanges (Special Levy) Ordinance (Cap. 351) be amended -
 - (A) in section 2, by repealing the definition of "Secretary" and substituting -

""Secretary" (局長) means the Secretary
for Financial Services and the
Treasury;"

- (B) in the provisions specified in item 6 of Schedule 8, by repealing "財經事務局局長" wherever it appears and substituting "局長";
 - (vii) the Exchanges (Special Levy) Rules (Cap. 351 sub. leg.) be amended, in the provision specified in item 7 of Schedule 8, by repealing "財經事務局局長" and substituting "局長";
 - (viii) the Occupational Retirement Schemes Ordinance (Cap. 426) be amended, in section 78(1)(d), by repealing ", the Secretary for Financial Services";
 - (ix) the Leveraged Foreign Exchange Trading Ordinance (Cap. 451) be amended, in section 63(2)(d), by repealing ", the Secretary for Financial Services";
 - (x) the Mandatory Provident Fund Schemes Ordinance (Cap. 485) be amended, in section 42(1)(d), by repealing ", the Secretary for Financial Services";
 - (xi) the Securities and Futures Ordinance (5 of 2002) be amended by repealing section 378(3)(f)(iv);
- (9) with effect from 1 July 2002 -
- (a) the functions exercisable by the Secretary for the Treasury by virtue of the Ordinances specified in column 2 of Schedule 9 be transferred to the Secretary for Financial Services and the Treasury;
 - (b) for the purpose of giving full effect to subparagraph (a), the provisions specified in Schedule 9 be amended by repealing "Secretary for the Treasury" wherever it appears and substituting "Secretary for Financial Services and the Treasury";

- (10) with effect from 1 July 2002 -
- (a) the functions exercisable by the Secretary for the Environment and Food by virtue of the Ordinances specified in column 2 of Schedule 10 be transferred to the Secretary for Health, Welfare and Food;
 - (b) for the purpose of giving full effect to subparagraph (a), the provisions specified in Schedule 10 be amended by repealing "Secretary for the Environment and Food" wherever it appears and substituting "Secretary for Health, Welfare and Food";
- (11) with effect from 1 July 2002 -
- (a) the functions exercisable by the Secretary for Health and Welfare by virtue of the Ordinances specified in column 2 of Schedule 11 be transferred to the Secretary for Health, Welfare and Food;
 - (b) for the purpose of giving full effect to subparagraph (a) -
 - (i) the provisions specified in Schedule 11 (other than items 20(b), 22 and 31) be amended by repealing "Secretary for Health and Welfare" wherever it appears and substituting "Secretary for Health, Welfare and Food";
 - (ii) the Mental Health Ordinance (Cap. 136) be amended, in section 74(4), by repealing everything after "apply" and substituting -
"-
(a) after that commencement and before 1 July 2002, as if they had been made by the Secretary for Health and Welfare;

- (b) on and after 1 July 2002, as if they had been made by the Secretary for Health, Welfare and Food.";
- (iii) the Smoking (Public Health) Ordinance (Cap. 371) be amended -
 - (A) in section 2, by repealing the definition of "Secretary" and substituting -
 - "Secretary" (局長) means the Secretary for Health, Welfare and Food;"
 - (B) in the provisions specified in item 20(b) of Schedule 11, by repealing "衛生福利局局長" wherever it appears and substituting "局長";
- (iv) the Hong Kong War Memorial Pensions Ordinance (Cap. 386) be amended -
 - (A) in section 2, by repealing the definition of "Secretary" and substituting -
 - "Secretary" (局長) means the Secretary for Health, Welfare and Food;"
 - (B) in the provisions specified in item 22 of Schedule 11, by repealing "衛生福利局局長" wherever it appears and substituting "局長";
- (v) the Social Workers Registration Ordinance (Cap. 505) be amended -
 - (A) in section 2(1), by repealing the definition of "Secretary" and substituting -
 - "Secretary" (局長) means the Secretary for Health, Welfare and Food;"

- (B) in section 1(1)(b) of Schedule 1, by repealing "Secretary" and substituting "Secretary for Health and Welfare";
 - (C) in the provisions specified in item 31 of Schedule 11, by repealing "衛生福利局局長" wherever it appears and substituting "局長";
- (12) with effect from 1 July 2002 -
- (a) the functions exercisable by the Secretary for Housing by virtue of the Ordinances specified in column 2 of Schedule 12 be transferred to the Secretary for Housing, Planning and Lands;
 - (b) for the purpose of giving full effect to subparagraph (a) -
 - (i) the provisions specified in Schedule 12 (other than items 2(b) and 3) be amended by repealing "Secretary for Housing" wherever it appears and substituting "Secretary for Housing, Planning and Lands";
 - (ii) the Estate Agents Ordinance (Cap. 511) be amended -
 - (A) in section 2(1), by repealing the definition of "the Secretary" and substituting -

""Secretary" (局長) means the Secretary
for Housing, Planning and Lands;"
 - (B) in the provisions specified in item 2(b) of Schedule 12, by repealing "房屋局局長" wherever it appears and substituting "局長";
 - (iii) the Estate Agents (Licensing) Regulation (Cap. 511 sub. leg.) be amended, in section 7(5), in paragraph (a) of the definition of "compliance with the relevant condition" and the definition of "relevant examination",

by repealing "Secretary for Housing" and substituting "Secretary";

- (iv) the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation (Cap. 511 sub. leg.) be amended, in the provision specified in item 3 of Schedule 12, by repealing "房屋局局長" and substituting "局長";

(13) with effect from 1 July 2002 -

- (a) the functions exercisable by the Secretary for Planning and Lands by virtue of the Ordinances specified in column 2 of Schedule 13 be transferred to the Secretary for Housing, Planning and Lands;

(b) for the purpose of giving full effect to subparagraph (a) -

- (i) the provisions specified in Schedule 13 (other than item 4) be amended by repealing "Secretary for Planning and Lands" wherever it appears and substituting "Secretary for Housing, Planning and Lands";

(ii) the Hong Kong Airport (Control of Obstructions) Ordinance (Cap. 301) be amended -

(A) in section 2(1), by repealing the definition of "Secretary" and substituting -

""Secretary" (局長) means the Secretary for Housing, Planning and Lands.";

(B) in the provisions specified in item 4 of Schedule 13, by repealing "規劃地政局局長" wherever it appears and substituting "局長";

(iii) the Urban Renewal Authority Ordinance (Cap. 563) be amended, in section 36, by adding -

"(10) For the purposes of subsections (4) and (7), the functions of the Secretary for Planning and Lands under the repealed Ordinance shall, on and after 1 July 2002, be performed by the Secretary for Housing, Planning and Lands."

(14) in addition to and without derogating from section 23 of the Interpretation and General Clauses Ordinance (Cap. 1) -

(a) anything lawfully done before 1 July 2002 ("commencement date") by or in relation to a public officer from whom any function is transferred under this Resolution ("former officer") pursuant to or in connection with that function shall on and from that date be regarded, in so far as necessary for the purpose or in consequence of that transfer, as done by or in relation to, as the case may be, the public officer to whom that function is transferred ("new officer");

(b) anything that, immediately before the commencement date -

(i) may be done and is in the process of being done by or in relation to a former officer pursuant to or in connection with any function transferred under this Resolution may; and

(ii) is required to be done and is in the process of being done by or in relation to a former officer pursuant to or in connection with any function transferred under this Resolution shall,

on and from that date, be continued by or in relation to, as the case may be, the new officer;

(c) without limiting subparagraphs (a) and (b) -

(i) any document, agreement or arrangement creating or giving rise to legal rights or obligations that -

- (A) refers to a former officer, or was prepared, made or entered into by a former officer on behalf of the Government; and
- (B) is in force immediately before, or is to come into force on or after, the commencement date,

shall on and from that date be construed, in so far as necessary for the purpose or in consequence of the transfer of function under this Resolution from the former officer to the new officer, as if the references to the former officer included references to the new officer;

(ii) in any legal proceedings -

- (A) in which a former officer is a party; and
- (B) that are subsisting immediately before the commencement date,

the new officer shall on and from that date substitute for the former officer as that party;

(iii) any -

- (A) right of appeal against a decision of a former officer; or
- (B) right to have such decision reviewed,

that is subsisting immediately before the commencement date may on and from that date be exercised as if the decision were a decision of the new officer;

(iv) any right of appeal to a former officer that is subsisting immediately before the commencement date is to be treated on and from that date as being a right of appeal to the new officer;

- (v) any right to have anything reviewed by a former officer that is subsisting immediately before the commencement date is to be treated on and from that date as being a right to have that thing reviewed by the new officer;
- (vi) any form that is specified or prescribed before the commencement date for use in connection with any function of a former officer that is transferred under this Resolution may on and from that date be used despite the fact that it contains references to the former officer, and those references shall be construed as references to the new officer.

SCHEDULE 1

[para. (1)(a) & (b)]

AMENDMENTS RELATING TO TRANSFER OF
FUNCTIONS OF SECRETARY
FOR COMMERCE AND INDUSTRY TO SECRETARY FOR
COMMERCE, INDUSTRY AND TECHNOLOGY

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
1.	Import and Export Ordinance (Cap. 60)	Section 39(2).
2.	Dutiable Commodities Ordinance (Cap. 109)	Section 2(5).
3.	Bills of Lading and Analogous Shipping Documents Ordinance (Cap. 440)	Section 7(1) and (2)(a).
4.	Copyright Ordinance (Cap. 528)	Sections 46(1), 70(4), 83(3), 84(2), 121(16), 152, 171(1), (2) and (3) and 189(2) and Schedule 2 (paragraph 43).
5.	Prevention of Copyright Piracy Ordinance (Cap. 544)	Sections 38 and 39.

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
6.	Trade Marks Ordinance (Cap. 559)	Section 1(2).
7.	Copyright (Suspension of Amendments) Ordinance 2001 (Cap. 568)	Section 3(2).
8.	Hong Kong Trade Development Council Ordinance (Cap. 1114)	Section 11(1)(b)(vi).
9.	Intellectual Property (Miscellaneous Amendments) Ordinance 2001 (2 of 2001)	Section 1(2).
10.	Dutiable Commodities (Amendment) Ordinance 2001 (19 of 2001)	Section 1(2).
11.	Dutiable Commodities (Amendment) Regulation 2001 (L.N. 248 of 2001)	Section 1.

SCHEDULE 2

[para. (2)(a) & (b)]

AMENDMENTS RELATING TO TRANSFER OF
FUNCTIONS OF SECRETARY
FOR INFORMATION TECHNOLOGY AND BROADCASTING TO
SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
1.	Telecommunications Ordinance (Cap. 106)	Section 32U.
2.	Film Censorship Ordinance (Cap. 392)	(a) Section 29(1). (b) Sections 16(2)(a), 17(1)(b), (2) and (2)(b) and (c)(i)(A), (4) and (8), 18(1)(b), (2)(b), (3) and (3)(b)

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
		and (c)(i)(A), (5) and (9), 19(1)(ii), (2), (2A), (2B), (3) and (3)(b), (4) and (4)(b), (6) and (10), 29(1)(i) and 30.
3.	Film Censorship Regulations (Cap. 392 sub. leg.)	Regulations 8 and 8(b) and 9 and Schedule 5 (Part II).
4.	Office of the Telecommunications Authority Trading Fund (Cap. 430 sub. leg.)	Schedule 1 (item 1(p)).
5.	Electronic Transactions Ordinance (Cap. 553)	Section 2(1)(the definition of "Secretary").
6.	Entertainment Special Effects Ordinance (Cap. 560)	Section 2 (the definition of "Secretary").
7.	Broadcasting Ordinance (Cap. 562)	Schedule 1 (Part 2, section 15(6)(b)(ii) and Part 3, section 29(6)(b)(ii)).
8.	Telecommunication (Amendment) Ordinance 2000 (36 of 2000)	Section 1(3).

SCHEDULE 3

[para. (3)(a) & (b)]

AMENDMENTS RELATING TO TRANSFER OF FUNCTIONS OF
SECRETARY FOR ECONOMIC SERVICES TO SECRETARY FOR
ECONOMIC DEVELOPMENT AND LABOUR

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
1.	Specification of Public Offices (Cap. 1 sub. leg.)	Schedule.

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
2.	Gas Safety Ordinance (Cap. 51)	Sections 8(3)(ia), 13(4)(d), 17(1) and (3) and 18(1).
3.	Gas Safety (Gas Supply) Regulations (Cap. 51 sub. leg.)	Regulations 44A and 45(2)(d).
4.	Gas Safety (Registration of Gas Installers and Gas Contractors) Regulations (Cap. 51 sub. leg.)	Regulations 28(2)(d) and 36.
5.	Gas Safety (Registration of Gas Supply Companies) Regulations (Cap. 51 sub. leg.)	Regulation 23(2)(d).
6.	Gas Safety (Miscellaneous) Regulations (Cap. 51 sub. leg.)	Regulation 3E(2)(d).
7.	Gas Safety (Gasholders Examination) Regulation (Cap. 51 sub. leg.)	Section 9.
8.	Port Control (Cargo Working Areas) Ordinance (Cap. 81)	Section 3(1).
9.	Travel Agents Ordinance (Cap. 218)	Section 50(1).
10.	Shipping and Port Control Ordinance (Cap. 313)	Section 56.
11.	Merchant Shipping (Safety) Ordinance (Cap. 369)	Sections 5(1), 8(1) and (2), 93(1), 94(1) and (2) and (2)(b), 95(1), 96(1) and (2), 97(1) and (2), 98(1), 99(1) and (2), 100(1), 101(1), 102(1) and (1)(f), 103(1), 104, 105(1) and (3), 106, 107(1), 108(1), 110(3C) and (4) and 115(3).

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
12.	Merchant Shipping (Safety) (Cargo Ship Safety Equipment Survey) Regulations (Cap. 369 sub. leg.)	Regulation 2 (the definitions of "Certifying Authority" and "Government surveyor").
13.	Merchant Shipping (Safety) (Musters and Training) Regulations (Cap. 369 sub. leg.)	Regulation 6(4).
14.	Merchant Shipping (Safety) (Passenger Ship Construction and Survey) (Ships Built On or After 1 September 1984) Regulations (Cap. 369 sub. leg.)	Regulation 1(2) (the definition of "Government Surveyor").
15.	Merchant Shipping (Safety) (Radio Installations Survey) Regulations (Cap. 369 sub. leg.)	Regulation 2 (the definition of "Government surveyor").
16.	Electricity Ordinance (Cap. 406)	Sections 36(1)(a), 38(1), 39(1), 43(3), 44(1), 45(1) and (2) and 59(6).
17.	Electricity Supply Lines (Protection) Regulation (Cap. 406 sub. leg.)	Section 13(1)(b).
18.	Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413)	Section 3(2) and (5)(vii).
19.	Merchant Shipping (Prevention of Oil Pollution) Regulations (Cap. 413 sub. leg.)	Regulations 1(2) (the definitions of "Certifying Authority" and "surveyor"), 35(1) and 36(1).
20.	Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) Regulations (Cap. 413 sub. leg.)	Regulation 23(2).

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
21.	Merchant Shipping (BCH Code) Regulations (Cap. 413 sub. leg.)	Regulations 1(3)(d) and 4(2).
22.	Merchant Shipping (IBC Code) Regulations (Cap. 413 sub. leg.)	Regulations 1(3)(c) and 4(2).
23.	Toys and Children's Products Safety Ordinance (Cap. 424)	Sections 4, 6(1) and (2), 14(3), 15(1) and (3), 16(1) and 35(1).
24.	Consumer Goods Safety Ordinance (Cap. 456)	Sections 2 (the definition of "認可標準"), 5, 13(2), 14(1) and (3), 15(1) and 30(1) and (1)(a).
25.	Merchant Shipping (Seafarers) Ordinance (Cap. 478)	Sections 5(2), 6(4), (5) and (6), 17, 72(1), 73(1), 80(5), 81, 82(1), 86, 89(1), (2) and (3), 95(2), 96(1), 97(1), 100(1), 104(1), 107(1), 119(2), 120(e), 121(1) and 125(4).
26.	Freight Containers (Safety) Ordinance (Cap. 506)	(a) Section 1(2). (b) Section 27(1).
27.	Freight Containers (Safety) (Applications for Approval of Containers) Regulation (Cap. 506 sub. leg.)	Section 1.
28.	Freight Containers (Safety) (Fees) Regulation (Cap. 506 sub. leg.)	Section 1.
29.	Freight Containers (Safety) (Arrangements for Authorized Persons) Order (Cap. 506 sub. leg.)	Section 1.

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
30.	Freight Containers (Safety)(Examination Procedure) Order (Cap. 506 sub. leg.)	Section 1.
31.	Merchant Shipping (Local Vessels) Ordinance (Cap. 548)	Sections 1(2), 17(3), 72(3)(c) and 89(1) and (2).
32.	Shipping and Port Control (Amendment) Ordinance 1999 (70 of 1999)	Section 1(2).
33.	Travel Agents (Amendment) Ordinance 2002 (10 of 2002)	Section 1(2).
34.	Shipping and Port Control (Amendment) (No. 3) Regulation 2000 (L.N. 141 of 2000)	Section 1.

SCHEDULE 4

[para. (4)(a) & (b)]

AMENDMENTS RELATING TO TRANSFER OF
FUNCTIONS OF SECRETARY
FOR EDUCATION AND MANPOWER TO SECRETARY FOR
ECONOMIC DEVELOPMENT AND LABOUR

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
1.	Factories and Industrial Undertakings Ordinance (Cap. 59)	Section 7(1)(od).
2.	Factories and Industrial Undertakings (Safety Management) Regulation (Cap. 59 sub. leg.)	Sections 26(1) and 27(1).
3.	Contracts for Employment Outside Hong Kong Ordinance (Cap. 78)	Section 4(2)(d).

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
4.	Employees Compensation Assistance Ordinance (Cap. 365)	Section 10(2), (3) and (4).
5.	Occupational Safety and Health Council Ordinance (Cap. 398)	Section 22(5).
6.	Employees' Compensation Insurance Levies Ordinance (Cap. 411)	Sections 8(2)(b) and 9(2) and (3).
7.	Occupational Deafness (Compensation) Ordinance (Cap. 469)	Section 12(1) and Schedule 1 (section 8(1), (2), (3), (5) and (6)) and Schedule 2 (section 1(3)(a) and (b), (4) and (5)).

SCHEDULE 5

[para. (5)(a) & (b)]

AMENDMENTS RELATING TO TRANSFER OF
FUNCTIONS OF SECRETARY
FOR THE ENVIRONMENT AND FOOD TO SECRETARY FOR
THE ENVIRONMENT, TRANSPORT AND WORKS

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
1.	Forests and Countryside Ordinance (Cap. 96)	Section 2 (the definition of "Secretary").
2.	Wild Animals Protection Ordinance (Cap. 170)	Section 22(1) and (2).
3.	Animals and Plants (Protection of Endangered Species) Ordinance (Cap. 187)	Section 19(1A).
4.	Air Pollution Control Ordinance (Cap. 311)	Section 2 (the definition of "Secretary").

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
5.	Air Pollution Control (Appeal Board) Regulations (Cap. 311 sub. leg.)	Regulation 2 (the definition of "Secretary").
6.	Air Pollution Control (Specified Processes) Regulations (Cap. 311 sub. leg.)	Second Schedule (Form 5), Fourth and Fifth Schedules.
7.	Waste Disposal Ordinance (Cap. 354)	Section 2(1) (the definition of "Secretary").
8.	Waste Disposal (Charges for Disposal of Waste) Regulation (Cap. 354 sub. leg.)	Section 1.
9.	Waste Disposal (Designated Waste Disposal Facility) Regulation (Cap. 354 sub. leg.)	Section 8.
10.	Water Pollution Control Ordinance (Cap. 358)	Section 2(1) (the definition of "Secretary").
11.	Noise Control Ordinance (Cap. 400)	Section 2 (the definition of "Secretary").
12.	Noise Control (Appeal Board) Regulations (Cap. 400 sub. leg.)	Schedule (Forms 1 (note 3), 2 (note 2) and 2A (note 2)).
13.	Ozone Layer Protection Ordinance (Cap. 403)	Section 2 (the definition of "Secretary").
14.	Environment and Conservation Fund Ordinance (Cap. 450)	Section 2 (the definition of "Secretary").
15.	Dumping at Sea Ordinance (Cap. 466)	Sections 1(2) and 4(2).
16.	Marine Parks Ordinance (Cap. 476)	Section 20(1).

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
17.	Marine Parks and Marine Reserves Regulation (Cap. 476 sub. leg.)	Section 18(1).
18.	Environmental Impact Assessment Ordinance (Cap. 499)	Schedule 1 (the definition of "Secretary").

SCHEDULE 6

[para. (6)(a) & (b)]

AMENDMENTS RELATING TO TRANSFER OF
FUNCTIONS OF SECRETARY
FOR TRANSPORT TO SECRETARY FOR THE ENVIRONMENT,
TRANSPORT AND WORKS

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
1.	Specification of Public Offices (Cap. 1 sub. leg.)	Schedule.
2.	Lands Tribunal Rules (Cap. 17 sub. leg.)	(a) Schedule (Forms 10 and 11). (b) Rules 44(1)(b), 46(2) and (3) and 47(1) and (2).
3.	Ferry Services Ordinance (Cap. 104)	Sections 22(2) and 28(7)(a) and (b).
4.	Tramway Regulations (Cap. 107 sub. leg.)	Regulations 3(9)(d) and 6(1), (2) and (3).
5.	Eastern Harbour Crossing Ordinance (Cap. 215)	Sections 2(1) (the definitions of "工程項目協議", "保證協議" and "經營協議"), 9(2), 10(3), 68(1), (2) and (2)(a) and (b)

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
		and (3), 69(1) and (1)(a), (2), (4)(a) and (6)(a) and 75(5).
6.	Public Bus Services Ordinance (Cap. 230)	Sections 6(2A), 12A(1), (2), (3) and (4), 33(1) and 35(1).
7.	Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237)	Section 25.
8.	Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240)	Section 11.
9.	Peak Tramway Ordinance (Cap. 265)	Sections 4, 5, 7(1), (2), (3) and (4), 7A(1), (2) and (3), 8, 9(2) and (3), 10, 12, 14B(1), 14D(1) and (4) and (4)(b), 14E(1), (2), (3) and (4), 14F(2) and 15(1)(b) and (d)(i).
10.	Peak Tramway (Safety) Regulations (Cap. 265 sub. leg.)	Regulations 3(2) and (3) and (3)(a)(i) and (ii) and (b), 5(2) and (3) and (3)(a)(i) and (ii) and (b), 8(2) and 15(2)(a) and (c).
11.	Roads (Works, Use and Compensation) Ordinance (Cap. 370)	Sections 2(3), 3(1), (2) and (3), 4(1), 5, 6(1) and (2), 7, 8(1), (2) and (4), 9, 10(1), 11(1), (1A)(a), (b) and (c), (6), (7) and (7)(a), (b) and (c) and (9)(a), 12, 13(5), 14(1)(a) and (c) and (2)(f), 15(5) and (8), 16(1)(a) and (c) and (2)(f), 18(1)(a) and

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
		(c) and (2)(e), 19(1), (2), (5) and (6), 20(1), (2)(a), (3) and (4), 21(1), (2), (3)(d), (4) and (5), 22(5), (6) and (7), 27(1)(a), 28(1), (3), (4) and (6), 29(1), (2), (3), (4), (5), (6), (7) and (8) and (8)(b) and (c), 30(1), (2), (3) and (4), 31(1)(a), 34(a), 35, 36(b) and (c) and Schedule (Part II).
12.	Kowloon-Canton Railway Corporation Ordinance (Cap. 372)	Sections 4(1)(a) and 30(1) and Second Schedule (Part I, paragraph 8 and Part II, paragraph 14) and Third Schedule (paragraphs 1(2) and 2).
13.	Kowloon-Canton Railway Corporation Regulations (Cap. 372 sub. leg.)	(a) Regulation 14(7). (b) Regulations 11(6)(c), 13(1), (2) and (3).
14.	Road Traffic Ordinance (Cap. 374)	Sections 2 (the definition of "prescribed limit"), 5(1) and (2)(a), 6(1), 7(1), 8(1), 9(1), 10(1), 11, 12(1), 12A(1), 21(2), 39G(1), 88B(3), 109(1) and (2), 116(1), 121(2), 122 (paragraph (b) of the definition of "expressway works") and 131(1).
15.	Road Traffic (Parking) Regulations (Cap. 374 sub. leg.)	Regulations 12(5) and 17(1) and (1)(c) and (3).

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
16.	Road Traffic (Expressway) Regulations (Cap. 374 sub. leg.)	Regulation 28.
17.	Tate's Cairn Tunnel Ordinance (Cap. 393)	Sections 2(1) (the definitions of "工程項目協議", "另一項保證協議" and "保證協議"), 6(2), 7(3), 46(1), (2) and (2)(a) and (b) and (3), 47(1) and (1)(a), (2), (4)(a) and (6)(a) and 53(5) (the definition of "決定").
18.	Western Harbour Crossing Ordinance (Cap. 436)	(a) Section 38(2)(b). (b) Sections 2(1) (the definitions of "工程項目協議" and "保證協議") and (2), 6(4), 7(5), 43(1), (2), (3), (4) and (5), 45(2), (4), (5) and (5)(b) and (6)(a), 46(1), 48(1), 49(9), 51(2), (3) and (4), 58(1), (2) and (2)(a) and (b) and (3), 59(1) and (1)(a), (3)(a), (5)(a) and (8)(a), 66(3)(the definition of "決案") and 70.
19.	Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Cap. 474)	(a) Sections 17(1) and 32(3)(b). (b) Sections 2(1) (the definitions of "工程項目協議" and "保證協議") and (2), 6(4),

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
		7(5), 37(1), (2), (3), (4) and (5), 39(2), (4), (5) and (5)(b) and (b)(i) and (6)(a), 40(1), 42(1), 43(9), 44(2), (3) and (4), 51(1), (2) and (2)(a) and (b) and (3), 52(1) and (1)(a), (3)(a), (5)(a) and (b) and (8)(a), 59(3)(the definition of "決定") and 64.
20.	Airport Authority (Automated People Mover) (Safety) Regulation (Cap. 483 sub. leg.)	Sections 1 (paragraph (b) of the definition of "automated people mover premises"), 5(1) and (2), 6(1), (3) and (4) and 11.
21.	Tsing Ma Control Area Ordinance (Cap. 498)	Sections 2 (the definition of "管理協議"), 9(2), 10, 25(1) and (3) and 27(2).
22.	Railways Ordinance (Cap. 519)	Sections 3(1), (2) and (3), 4, 5(1) and (2), 6(1), (2), (3), (4), (6), (7) and (8), 7, 8(1), (2) and (2)(b) and (3), 9(1), 10(1) and (4), 11(1) and (2), 13(1), (2) and (2)(a) and (b) and (4)(a), 14, 15(1) and (1)(a) and (c) and (2), 18(4), 19(1)(a) and (c) and (2)(f), 20(5) and (8), 21(1)(a) and (c) and (2)(f), 22(1), 23(1)(a) and (c) and (2)(e), 24(1), (2), (3), (5) and (6), 25(1), (2)(a), (3) and (4), 26(1),

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
		(2), (3)(d), (4) and (5), 27(6), (7) and (8), 32(1)(a), 33(1), (3) and (5) and (5)(b), 34(1), (2), (3), (4), (5), (6) and (6)(a), (b) and (c), (7) and (8) and (8)(b) and (c), 35(1), (2), (3) and (4), 36(1)(a), 39(a), 40, 41(c), 44(1), (2) and (3) and (3)(a) and (b) and Schedule (Part II).
23.	Discovery Bay Tunnel Link Ordinance (Cap. 520)	Sections 11(2), 14(2), 15(a) and (b), 22, 24(4), (5), (7), (8) and (9), 28(1) and (1)(b), (h) and (j) and 32(2)(a).
24.	Mass Transit Railway Ordinance (Cap. 556)	Section 2 (the definition of "Secretary").
25.	Road Traffic Legislation (Amendment) Ordinance 2002 (3 of 2002)	Section 1(2) and section 5 (the new section 102B(4)).

SCHEDULE 7

[para. (7)(a) & (b)]

AMENDMENTS RELATING TO TRANSFER OF
FUNCTIONS OF SECRETARY
FOR WORKS TO SECRETARY FOR THE ENVIRONMENT, TRANSPORT
AND WORKS

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
1.	Defences (Firing Areas) Ordinance (Cap. 196)	Second Schedule.
2.	Architects Registration Ordinance (Cap. 408)	Section 7(6).

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
3.	Engineers Registration Ordinance (Cap. 409)	Section 6(6).
4.	Surveyors Registration Ordinance (Cap. 417)	Section 6(6).
5.	Planners Registration Ordinance (Cap. 418)	Section 6(6).
6.	Sewage Services Ordinance (Cap. 463)	Section 13(1).
7.	Sewage Services (Trade Effluent Surcharge) Regulation (Cap. 463 sub. leg.)	Section 4(1).
8.	Builders' Lifts and Tower Working Platforms (Safety) Ordinance (Cap. 470)	Sections 30(1)(a), 32(1) and (1)(b), (c), (d) and (e), 33(1), 36(3), 37(1) and (1)(c), (d), (e) and (f) and 38(1) and (2).
9.	Landscape Architects Registration Ordinance (Cap. 516)	Section 6(6).

SCHEDULE 8

[para. (8)(a) & (b)]

AMENDMENTS RELATING TO TRANSFER OF
FUNCTIONS OF SECRETARY
FOR FINANCIAL SERVICES TO SECRETARY FOR
FINANCIAL SERVICES AND THE TREASURY

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
1.	Trustee Ordinance (Cap. 29)	Second Schedule (paragraphs (a) and (b) of the Table).

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
2.	Insurance Companies Ordinance (Cap. 41)	Section 59(2).
3.	Insurance Companies (Actuaries' Standards) Regulation (Cap. 41 sub. leg.)	Schedule.
4.	Gambling Ordinance (Cap. 148)	Section 29(2).
5.	Census and Statistics Ordinance (Cap. 316)	Section 11(1).
6.	Exchanges (Special Levy) Ordinance (Cap. 351)	Sections 4A(1) and (3) and 5(2) and (2)(b).
7.	Exchanges (Special Levy) Rules (Cap. 351 sub. leg.)	Rule 10A.
8.	Stock Exchanges Unification Ordinance (Cap. 361)	Section 34(2A).
9.	Leveraged Foreign Exchange Trading Ordinance (Cap. 451)	Section 72(1).
10.	Banking (Amendment) Ordinance 1999 (42 of 1999)	Section 1(2).
11.	Securities (Margin Financing) (Amendment) Ordinance 2000 (20 of 2000)	Section 1(2).
12.	Securities (Amendment) Ordinance 2000 (30 of 2000)	Section 1(3).
13.	Banking (Amendment) Ordinance 2001 (32 of 2001)	Section 1(2).

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
14.	Securities and Futures Ordinance (5 of 2002)	Sections 1(2) and 406(1) and Schedule 8 (Part 1, section 1 (the definition of "Secretary")) and Schedule 10 (Part 1, sections 74(13), 75(13) and 76(13)).
15.	Banking (Amendment) Ordinance 2002 (6 of 2002)	Section 1(2).

SCHEDULE 9

[para. (9)(a) & (b)]

AMENDMENTS RELATING TO TRANSFER OF FUNCTIONS OF
SECRETARY FOR THE TREASURY TO SECRETARY FOR FINANCIAL
SERVICES AND THE TREASURY

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
1.	Interpretation and General Clauses Ordinance (Cap. 1)	Section 3 (the definition of "Financial Secretary").
2.	Betting Duty Ordinance (Cap. 108)	Section 7.
3.	Estate Duty Ordinance (Cap. 111)	Sections 3(1) (the definitions of "account" and "affidavit for the Commissioner"), 12(6A), 16(1B), 20 and 28.
4.	Inland Revenue Ordinance (Cap. 112)	Sections 88A(7) and 88B(3).
5.	Hospital Authority Ordinance (Cap. 113)	Sections 7(2) and 16 and Schedule 3 (paragraphs 6(1) and 18(1) and (2)(b)).

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
6.	Mental Health Ordinance (Cap. 136)	Schedule (section 3).
7.	Quarantine and Prevention of Disease Ordinance (Cap. 141)	Section 8(5).
8.	Tax Reserve Certificates Ordinance (Cap. 289)	Section 3(1AA), (2) and (3).
9.	Tax Reserve Certificates (Fourth Series) Rules (Cap. 289 sub. leg.)	Rule 2A(2).
10.	Business Registration Ordinance (Cap. 310)	Sections 14(1A) and 16(d).
11.	The Ombudsman Ordinance (Cap. 397)	Schedule 1A (section 2(2)).
12.	Employees' Compensation Insurance Levies Ordinance (Cap. 411)	Section 15(5)(a).
13.	Western Harbour Crossing Ordinance (Cap. 436)	Section 38(2)(a).
14.	Amusement Rides (Safety) Ordinance (Cap. 449)	Section 25(5).
15.	Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Cap. 474)	Section 32(3)(a).
16.	Sex Discrimination Ordinance (Cap. 480)	Section 65(3) and Schedule 6 (sections 4, 14(1) and (2)(b), 15(2), 16(2) and (3) and 17(2)).
17.	Personal Data (Privacy) Ordinance (Cap. 486)	Schedule 2 (sections 1(2), 2(2) and (3) and 3(2)).

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
18.	Entertainment Special Effects Ordinance (Cap. 560)	Section 37(3).
19.	Urban Renewal Authority Ordinance (Cap. 563)	Sections 10(3), 11(3) and 12(3).
20.	Hong Kong Council for Academic Accreditation Ordinance (Cap. 1150)	Sections 10 and 18.

SCHEDULE 10

[para. (10)(a) & (b)]

AMENDMENTS RELATING TO TRANSFER OF
FUNCTIONS OF SECRETARY
FOR THE ENVIRONMENT AND FOOD TO SECRETARY FOR
HEALTH, WELFARE AND FOOD

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
1.	Dutiable Commodities Ordinance (Cap. 109)	Sections 6(4A)(a) and 6A.
2.	Dutiable Commodities (Liquor) Regulations (Cap. 109 sub. leg.)	Regulations 2(1) (the definition of "prescribed fee") and 2A(5) and (6).
3.	Public Health and Municipal Services Ordinance (Cap. 132)	Sections 55(6)(b)(i) and (d)(i) and 125I(1) and (1)(b) and (2) and Third Schedule (the entries relating to sections 15, 26, 28, 29, 35, 42, 49, 77, 80, 83A, 92B, 94A, 104, 116, 123, 123C, 124E and 124I).

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
4.	Milk Regulation (Cap. 132 sub. leg.)	Section 4.
5.	Pesticides Ordinance (Cap. 133)	Section 19(1B) and (1C).
6.	Public Health (Animals and Birds) (Chemical Residues) Regulation (Cap. 139 sub. leg.)	Section 1.
7.	Dogs and Cats Ordinance (Cap. 167)	Section 2 (the definition of "Secretary").
8.	Agricultural Products (Marketing) Ordinance (Cap. 277)	Section 4(6).
9.	Rabies Ordinance (Cap. 421)	Section 2 (the definition of "Secretary").
10.	Plant Varieties Protection Ordinance (Cap. 490)	Sections 4(2) and 42(1).
11.	Whaling Industry (Regulation) Ordinance (Cap. 496)	Sections 2 (the definition of "licensing authority"), 4(5) and 5(1).
12.	Veterinary Surgeons Registration Ordinance (Cap. 529)	Sections 3(2) and (2)(c), 4(2), 5(h), 7(1), 28(1) and 29(2) and Schedule 1 (sections 1(2), 2 and 3(6)).
13.	Fixed Penalty (Public Cleanliness Offences) Ordinance (Cap. 570)	Section 17.
14.	Public Health and Municipal Services (Amendment) Ordinance 2002 (1 of 2002)	Section 1(2) and section 3 (the new section 128D(6) and (20)).

SCHEDULE 11

[para. (11)(a) & (b)]

AMENDMENTS RELATING TO TRANSFER OF FUNCTIONS OF
SECRETARY FOR HEALTH AND WELFARE TO SECRETARY
FOR HEALTH, WELFARE AND FOOD

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
1.	Hospital Authority Ordinance (Cap. 113)	Sections 4(d), 5(l) and (n), 8(2) and (3), 9(2), 10(4), 16, 17 and 18(6) and Schedule 3 (paragraphs 6(1) and 18(1) and (2)(b)).
2.	Public Health and Municipal Services Ordinance (Cap. 132)	Section 55(6)(b)(ii) and (d)(ii).
3.	Mental Health Ordinance (Cap. 136)	Sections 42B(6)(c), 44B(5), 59Z(1), 59ZA (the definition of "special treatment"), 59ZC(1), 72(1) and 73 and Schedule (section 3).
4.	Mental Health Regulations (Cap. 136 sub. leg.)	Schedule (Form 12).
5.	Pharmacy and Poisons Ordinance (Cap. 138)	Section 30(10).
6.	Quarantine and Prevention of Disease Ordinance (Cap. 141)	Section 8(5).
7.	Dentists Registration Ordinance (Cap. 156)	Section 29(1A) and (1C).
8.	Medical Registration Ordinance (Cap. 161)	Sections 21B(2)(f) and 33(3) and (5).

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
9.	Midwives Registration Ordinance (Cap. 162)	Section 23(2) and (3).
10.	Nurses Registration Ordinance (Cap. 164)	Section 27(2) and (3).
11.	Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165)	Section 7(1).
12.	Volunteer and Naval Volunteer Pensions Ordinance (Cap. 202)	Section 35(1) and (2).
13.	Protection of Children and Juveniles Ordinance (Cap. 213)	Section 39(1) and (1B).
14.	Reformatory Schools Ordinance (Cap. 225)	Sections 10(1), 11, 13, 19(2) and 38.
15.	Child Care Services Ordinance (Cap. 243)	Section 18(2A).
16.	Probation of Offenders Ordinance (Cap. 298)	Section 12(1).
17.	Animals (Control of Experiments) Ordinance (Cap. 340)	Section 13(1) and (4).
18.	Medical Clinics Ordinance (Cap. 343)	Section 15(1).
19.	Supplementary Medical Professions Ordinance (Cap. 359)	Section 29(1A), (1B) and (3).
20.	Smoking (Public Health) Ordinance (Cap. 371)	(a) Section 16A. (b) Sections 14A(1) and (2) and 18(2).
21.	Community Service Orders Ordinance (Cap. 378)	Sections 13 and 14.

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
22.	Hong Kong War Memorial Pensions Ordinance (Cap. 386)	Sections 2 (the definition of "合資格受益人"), 4, 6(1), 7(1), (2) and (3), 8, 9(1) and (2), 10(1) and (2), 11(1) and (2), 16(c) and 22.
23.	Hong Kong Council on Smoking and Health Ordinance (Cap. 389)	Sections 16 and 17(4) and (6).
24.	Chiropractors Registration Ordinance (Cap. 428)	Schedule (section 4(6)).
25.	Bedspace Apartments Ordinance (Cap. 447)	Section 3(1)(e).
26.	Residential Care Homes (Elderly Persons) Regulation (Cap. 459 sub. leg.)	Section 10(1), (2) and (3).
27.	Residential Care Homes (Elderly Persons)(Appeal Board) Regulation (Cap. 459 sub. leg.)	Section 16 and Schedule (Form 1).
28.	Human Organ Transplant Ordinance (Cap. 465)	Section 3(2) and (3).
29.	Disability Discrimination Ordinance (Cap. 487)	Sections 65(3), 86(1) and 87(1).
30.	Coroners Ordinance (Cap. 504)	Section 5(1).
31.	Social Workers Registration Ordinance (Cap. 505)	Sections 4(4), 5(4), 38(3), (4) and (7) and 39(2) and Schedule 1 (section 11(4)).
32.	Chinese Medicine Ordinance (Cap. 549)	Section 1(2) and section 2 (the definition of "Secretary").

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
33.	Human Reproductive Technology Ordinance (Cap. 561)	Sections 1(2), 2(2) and (10), 4(2)(j) and (4), 5(1)(a), 6(5), 45(1) and (1)(b) and 46.
34.	Po Leung Kuk Ordinance (Cap. 1040)	Schedule (paragraphs 18(2)(b) and (7) and 19(3)).
35.	Tung Wah Group of Hospitals Ordinance (Cap. 1051)	Schedule (paragraphs 19(2)(aa) and (7) and 20(3)).
36.	Pok Oi Hospital Incorporation Ordinance (Cap. 1068)	Section 4(4).
37.	Yan Chai Hospital Ordinance (Cap. 1106)	Sections 3(1), (2) and (3) and 7(1).
38.	Nurses Registration (Amendment) Ordinance 1997 (82 of 1997)	Section 1(2).
39.	Medical and Health Care (Miscellaneous Amendments) Ordinance 2002 (9 of 2002)	Section 1(2).

SCHEDULE 12

[para. (12)(a) & (b)]

AMENDMENTS RELATING TO TRANSFER OF
FUNCTIONS OF SECRETARY
FOR HOUSING TO SECRETARY FOR HOUSING,
PLANNING AND LANDS

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
1.	Housing Ordinance (Cap. 283)	Section 7A(1), (3) and (7).
2.	Estate Agents Ordinance (Cap. 511)	(a) Section 1(2).

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
		(b) Sections 2(1) (the definition of "訂明"), 3(1), 12(1)(a), (4) and (5), 18(3), 31(1), (2) and (3)(a) and (b), 32(1), (3) and (10), 37(1), 38(5), 44(1), 46(2), 49(3)(b), 53(1) and 56(1).
3.	Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation (Cap. 511 sub. leg.)	Section 4(1).

SCHEDULE 13

[para. (13)(a) & (b)]

AMENDMENTS RELATING TO TRANSFER OF
FUNCTIONS OF SECRETARY
FOR PLANNING AND LANDS TO SECRETARY FOR
HOUSING, PLANNING AND LANDS

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
1.	Buildings Ordinance (Cap. 123)	Sections 5(1) and (3A), 5AA(2)(a), 11(1) and (4A), 11AA(2)(a), 38(1) and (5), 39A(1) and 46(2)(a).
2.	Town Planning Ordinance (Cap. 131)	Section 24(1).
3.	Aerial Ropeways (Safety) Ordinance (Cap. 211)	Section 28(1).
4.	Hong Kong Airport (Control of Obstructions) Ordinance (Cap. 301)	Sections 3(1AA), (2A), (3A) and (3B), 7(1) and 23(1).

<i>Item</i>	<i>Ordinance</i>	<i>Provision</i>
5.	Lifts and Escalators (Safety) Ordinance (Cap. 327)	Section 2(1) (the definition of "Secretary").
6.	Electricity Networks (Statutory Easements) Ordinance (Cap. 357)	Sections 2 (the definition of "approved scheme"), 3(1), 7(1) and 9(2), (3) and (4).
7.	Western Harbour Crossing Ordinance (Cap. 436)	Section 15(2).
8.	Sewage Tunnels (Statutory Easements) Ordinance (Cap. 438)	Section 2 (the definition of "Secretary").
9.	Registrar General (Establishment) (Transfer of Functions and Repeal) Ordinance (Cap. 439)	Section 31.
10.	Land Drainage Ordinance (Cap. 446)	Section 2 (the definition of "Secretary").
11.	Land Survey Ordinance (Cap. 473)	Section 2 (the definition of "Secretary").
12.	Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Cap. 474)	Section 15(2).
13.	Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545)	Section 12(1).
14.	Urban Renewal Authority Ordinance (Cap. 563)	Section 2 (the definition of "Secretary")."

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

PRESIDENT (in Cantonese): Seven Members have given notice to move amendments to this motion respectively. The proposed amendments are set out in the paper circularized to Members. The motion and the seven amendments will now be debated together in a joint debate.

In accordance with the Rules of Procedure, I will call upon Mr Albert HO to speak first, to be followed by Mr Frederick FUNG, Mr Andrew CHENG, Mr Fred LI, Mr LAW Chi-kwong, Miss Cyd HO and Mr SIN Chung-kai; but no amendments may be moved at this stage.

MR ALBERT HO (in Cantonese): Madam President, consequential to the proposal made by the Chief Executive on the so-called accountability system for principal officials (the accountability system), the Government has proposed a relevant resolution today to transfer the statutory functions of individual Bureau Secretaries to new Directors of Bureaux after the reorganization. Though the Democratic Party has clearly indicated that we will vote against the government motion, like what we have done in the past, we will try our best to move amendments to improve the motion so as to prevent giving us a very bad or the worst system as a result of the passage of the government motion.

The amendment that I shall propose today seeks to add one condition on commencement — the Government must publish the Code for Accountable Officials under the Accountability System (the Code) in the Gazette on or before 1 July before the motion can become effective. We hope that Members will support the amendment.

At the meetings of the Subcommittee to Study the Proposed Accountability System for Principal Officials and Related Issues (the Subcommittee), Members of the Legislative Council held detailed discussions on the Code. The Democratic Party also made many specific recommendations with reference to the Ministerial Code of the United Kingdom and proposed that constitutional conventions, including the convention that upon the passage of a no-confidence motion by the Legislative Council accountable officials must tender the Chief Executive their resignations, so that accountable officials could be accountable and answerable to the Legislative Council and the public.

In the cabinet and parliamentary development history of the United Kingdom, the constitutional status of the Ministerial Code has become more and more important with the passage of time and accumulation of experience. Not only has it become a set of references for all Ministers, but it has also laid down a number of specific principles and provisions for compliance by Ministers. This Ministerial Code also represents the behaviour and performance that the public and media require of the Ministers or the so-called "public expectation". If the Ministers violate such provisions or fail to meet the public's expectation, they must tender the Prime Minister their resignations or the Prime Minister should take the initiative to propose the replacement of Ministers.

In developing its own accountability system, the Government of the Hong Kong Special Administrative Region (SAR) is already congenitally deficient due to the absence of a foundation in democracy. So, in the implementation of the new system, if we simply do not have a basic regulatory code, the new system will become an irresponsible system. Though the Government did say that the Code would be promulgated before 1 July, until today when the relevant resolution is soon to be passed by the Legislative Council, government officials are still unable to produce the final version of the Code. This is most regrettable and puzzling indeed.

As responsible Legislative Council Members, we certainly could not just disregard the enactment of the Code for the SAR. Therefore, with reference to the Ministerial Code of the United Kingdom and the findings of public opinion polls, in consideration of the comments made by Members at Subcommittee meetings and the response of the Government, and with reference to the draft Code of the Government, we amended the content of the Government's draft Code and formulated a Code for the SAR. We consider our Code is consistent with public expectations. We have actually introduced some major amendments in our version. As regards Secretary Michael SUEN's allusion earlier to whether or not some amendments have yet to be added, we certainly hope the Government will consider adding them to the Code if there were such amendments. However, we believe that the most important issues have already been listed in our version and those are also our most basic requirements. If the Government wishes to make any additions in the future, it will be very easy and I believe it can do so. I hope this version can first be tabled for Members' consideration.

The content of the Democratic Party's proposed Code is broadly similar to the Code drafted by the Government earlier at the request of Members. Apart from applying to all accountable Secretaries of Departments and Directors of Bureaux, the proposed Code of the Democratic Party also applies to the Director of the Chief Executive's Office under the accountability system. The Government also indicated that it was willing to accept this proposal.

In the Code, the Democratic Party specifies that in the event where an accountable official knowingly misleads the Legislative Council or where the Legislative Council passes a no-confidence motion in relation to an accountable official, the official in question should tender the Chief Executive his or her resignation. The former is made with reference to the experience of the United Kingdom and the provisions of the Ministerial Code, while the latter is made in the hope that the SAR would establish a set of constitutional conventions under which accountable officials are accountable to Legislative Council Members. The objective of both provisions lies in establishing a checking mechanism to require accountable officials to set an example and to be answerable and accountable for the policies formulated by them and for the work of departments under their leadership. They cannot, as in the past, advance excuses for their mistakes and refuse to assume responsibilities. As to whether the officials should step down, the final decision certainly rests with the Chief Executive. However, the Code seeks to take the first step in establishing constitutional conventions, and that is, the officials must tender their resignations. I also hope that the Chief Executive will respect the Legislative Council. If the motion of no-confidence were carried, he should accept the resignation offer of accountable officials.

In the United Kingdom, Sir Richard SCOTT pointed out in his report (entitled the Inquiry into the Export of Defence-Related Equipment and Dual-Use Goods to Iraq and Related Prosecutions) that the essence of ministerial accountability lay not in the threat of resignation but in the obligation to inform the Parliament. He proposed that the House of Commons should pass a resolution on accountability, to stress the obligation of Ministers and civil servants "to be open with the House and not to mislead it". The Government then counter-proposed a resolution, which took out the term "civil servants" from the resolution, and the resolution was eventually passed by the Parliament and incorporated into the Ministerial Code by the British Prime Minister.

According to Article 64 of the Basic Law, the SAR Government must be accountable to the Legislative Council. Therefore, it is absolutely necessary to stipulate clearly in the Code the standards and expectations in relation to how accountable officials can fulfil their responsibility of being accountable to the Legislative Council. Accountable officials should have the obligation "to be open with the Legislative Council and not to mislead it". The Democratic Party believes that accountable officials have the obligation and responsibility to provide accurate information to the Legislative Council. If any errors were found, they should correct the relevant information at the earliest opportunity and should not knowingly mislead the Legislative Council. This is our minimum requirement which is also reasonable and sensible. The officials will have committed very serious mistakes if they knowingly mislead the Legislative Council. We think that such officials should offer their resignations to the Chief Executive and the Chief Executive should also accept their resignations. Furthermore, if the Chief Executive discovers such misleading acts, he should replace those officials.

Furthermore, the SAR should also establish a set of constitutional conventions to allow accountable officials to bear political responsibilities for blunders in their portfolios and policies. From 20 to 22 April 2002, the Democratic Party conducted a telephone poll and successfully interviewed 824 people. 60% of the respondents were of the opinion that once the Legislative Council passed a no-confidence motion, the officials in question should resign. Everyone knows it is very rare for the Legislative Council to move a no-confidence motion and if it does, some extremely important issues of serious political consequences must be involved. Moreover, since the Legislative Council has adopted a group voting system in accordance with the manner in which Members are returned, it is very difficult for a motion to be carried by both geographical constituencies and functional constituencies. If a no-confidence motion is really carried, not only does it reflect that the situation is very serious but also that a major consensus has been reached among Members over the question of right or wrong. In that event, the officials in question must tender the Chief Executive their resignations. If the accountable officials are willing to bear the political responsibilities, we fail to see how this provision will pose any difficulty for them? On the contrary, if the provision on tendering the Chief Executive resignations under rare circumstances cannot be included in the Code, how can this still be called an accountability system?

Furthermore, according to the proposed Code of the Democratic Party, the Chief Secretary for Administration is accountable to the Chief Executive for civil service policy and the management of the Civil Service. Therefore, accountable officials should fully co-operate with the Chief Secretary for Administration. This is in line with the Democratic Party's idea of making the Chief Secretary for Administration responsible for the civil service policy portfolio. The Honourable CHEUNG Man-kwong of the Democratic Party will later move a resolution to transfer the statutory powers of the Secretary for the Civil Service to the Chief Secretary for Administration.

With reference to the provisions of the United Kingdom, the Democratic Party stipulates in the Code that controlling officers, if necessary, are responsible for submitting written report to the Director of Audit on the safety, economy and advantage of public moneys and government property to avoid wastage of public moneys. This is meant to protect controlling officers against bearing unnecessary political responsibilities in relation to these issues in the discharge of their duties.

The Code of the Democratic Party also stipulates that accountable officials may participate in political organizations or bodies as members. We think that this is a natural direction of development and the Democratic Party does not have anything against it. The Government also indicated that it would expressly include this point. However, we must emphasize that senior officials with affiliation with political parties or organizations should not abuse public tools for private use and take advantage of government resources to benefit their own political parties or organizations or cause other political parties or organizations with different political views to suffer unfair treatment.

As regards the so-called "sanitization" of accountable officials on retirement from office, many members of the Subcommittee were of the opinion that within one year after retirement from office, accountable officials should seek the approval of a select committee appointed by the Chief Executive before taking up any employment or engaging in any business and this is not restricted to employment of a consultancy nature — I am sorry, what I mean is taking up any employment within one year. This is not a question of whether or not the select committee should be consulted, but rather its approval must be sought. Compared to the existing provision on the "sanitization" of senior officials, the new provision is already very lenient. This is because at present, civil servants have to apply for approval for employment within three years after departure

from the service. However, we now agree to reduce the three-year period to one year. The Democratic Party certainly does not agree with the Government's explanation. The Government thinks the announcement by the select committee is already very effective and accountable officials will have no alternatives but to abide by the decision because enormous pressure will be exerted by public opinions. If the Government's point is tenable, then we are only shortening the period that is already written in the civil service code to one year, so what is wrong with that? We are only hoping that there will be greater restriction. The most important objective on the retirement restriction is not only to ensure that outgoing officials can not make use of the highly sensitive information acquired during their service, but also maintain public confidence in the whole system, including the honesty and integrity of the officials.

This is the gist of the Democratic Party's amendment to the draft Code. Though we do not know who will be appointed accountable officials, these officials must comply with the Code. Even accountable officials who are personally appointed by the Chief Executive must also meet with public expectations of their conduct. I hope Members will support this important amendment of the Democratic Party.

I so submit.

MR FREDERICK FUNG (in Cantonese): Madam President, with regard to the implementation of the accountability system for principal officials announced by the Chief Executive two months ago, both the Hong Kong Association for Democracy and People's Livelihood (ADPL) and I think that the proposal would serve to bring in a group of people who share the same philosophy of governance as that of the Chief Executive and place them in the Civil Service to play a political role. This would also distance civil servants from political affairs so that they can truly be politically neutral after the reunification. As we understand it, this is a transfer of power in that it changes the colonial system of civil servants governing the territory into an accountability system. This is a process of political reform and we believe the reform will make the powers and responsibilities of officials in the administration of Hong Kong more clearly defined and that civil servants can truly be politically neutral. In the long run, this will have a positive impact on the development of our political system. As I already explained why we would support the motion in the last Council debate on the accountability system, I do not intend to repeat our arguments and I would

only like to spend more time on putting forward our views. Although we agree to the general direction of the accountability system, our views are different from that of the Government on certain details regarding the implementation of the system and in particular the proposal on the reorganization of Policy Bureaux and on the issue of labour.

In the middle of April when the Chief Executive briefed this Council on the proposed accountability system, he suggested that the existing 16 Policy Bureaux be reorganized and that their number should be revised to 11 in accordance with the principle that related policy portfolios should come under the responsibility of the same Director of Bureau. From the point of view of efficiency in governance, the reduction in the number of Policy Bureaux is justified, but both the ADPL and I have strong reservations and doubts about the original proposal of merging the related bureaux to form the Commerce, Industry and Manpower Bureau and the Environment, Health and Welfare Bureau. First of all, the merger of the former is indeed a master stroke in imagination, for it is marrying two areas of policy of a vastly distinct nature into one. The Government may think that this is an excellent idea, but we are concerned that this will create a lot of troubles as the proposal will create a mammoth organization which controls one third of government expenditure and whose establishment accounts for 18% of the Civil Service. Such an immense organization is astonishingly huge. A month or so later, there came an unexpected turn of events as the authorities came under the fire of public opinion and the Legislative Council Subcommittee. The authorities made a change of mind and the Chief Secretary for Administration announced in the debate on the accountability system that the original proposal to merge the labour policy portfolio with that of trade and industry was revised into a merger of the affairs of labour and economic development. On the other hand, the Government also revised the original proposal to merge the Food and Environment Bureau with the Health and Welfare Bureau. Under the new arrangement, the environmental protection and pollution control affairs of the Food and Environment Bureau will merge with the policy areas of transport and works; and food safety and environmental hygiene affairs will come under the charge of the Secretary for Health and Welfare.

Although the Government claims that it has acceded to good advice and accepted many views from Honourable Members and the public, the ADPL and I are still not satisfied with the latest merger proposal. We think that under the major premise of not making any changes to the number of 11 proposed Policy

Bureaux, labour affairs should be detached and put under the ambit of a separate Policy Bureau. The environmental affairs should be merged with the Bureau for Housing, Planning and Lands. We also propose that the three policy portfolios of works, economic affairs and information technology should come under the Bureau for Economic Development. We will propose an amendment to this effect.

First of all, both the ADPL and I think that despite the claim made by the Chief Executive that the proposal to reorganize the Policy Bureaux is anything but scientific, at least the proposal should take into account the objective reality and demonstrate the most basic common sense. All this is not profound knowledge of any kind. However, the handling of the labour affairs portfolio is baffling indeed. It does not make much difference to merge the policy areas of labour and trade and industry under the former proposal or to merge the policy areas of economic affairs and labour under the new proposal. In these two proposals, it can be found that labour affairs are given a secondary position. The many problems faced by the wage earners are of secondary importance and they are regarded as only one of the factors in economic development, like climate, natural resources, price of raw materials, and so on. Moreover, the policy area of labour affairs is divided into two parts. Madam President, as the saying goes, a man cannot serve two masters. So how can labour policies come under the responsibility of two Policy Bureaux? It is doubtful if we can find a bureau director who is able to put in the best of his efforts in studying into the problems of labour, unemployment, labour protection, and so on as if he is the bureau director responsible for labour policies. We are not sure where we can discuss these problems.

Second, both the ADPL and I are of the view that the authorities simply lack sufficient justifications in merging labour policy into the Economic Development Bureau. The Chief Secretary for Administration has pointed out that the tourist industry and the logistics industry are the key growth industries of Hong Kong and these industries should be able to offer a lot of job opportunities in the labour market and that in formulating policies on developing the tourist industry and the logistics industry, consideration can be made by the relevant Bureau Director to complement an employment policy. In our opinion, this kind of thinking based on market supremacy might have been helpful to our growth in the past, but at a time of increasing unemployment and slow economic recovery, it is unrealistic of the Government to rely on the conventional wisdom of "jobs will be easy to find when the economy thrives" and to mix labour policy

with economic policy. In so doing, the Government is also not addressing the difficulties faced by the wage earners. Moreover, the belief in the concept of economic growth as a driving force for employment is prompting the Government to put in great efforts in promoting the development of local economy in various communities of Hong Kong. It is surprising that the Financial Secretary has also said that local community economy is able to provide many jobs to help those people with low academic qualifications and skills to get by and have a job. Then why do we not set up a Home Affairs and Labour Bureau? In fact, the Government may also consider another option. The Chief Executive has said that in the next 15 years 1 600 projects of various sizes will be launched in Hong Kong and it is expected that thousands of jobs will be created. Then why do the authorities not set up a Labour, Transport and Works Bureau? Obviously, it is not right to apply this standard to decide labour affairs should come under which bureau.

From the above example, both the ADPL and I think that the idea to combine economic development and labour affairs is crude and lacking in careful consideration. It appears that the Government is not serious about coping with the labour problems and no consideration has been given to the fact that there are more than 3.4 million wage earners in Hong Kong and that labour problems should be given a prime position. Now labour affairs are only given a secondary position after economic development affairs. The ADPL and I think that if labour policies come under the charge of two Policy Bureaux, they may pass the responsibilities to each other. So there is a need to make the bureau for labour a separate bureau. The policy on employment should be labour-oriented and various issues on labour which are closely related to the interests of the wage earners should be examined from an objective and unbiased point of view. There are views that similar results can be achieved when the Education and Manpower Bureau takes charge of manpower policies as it is the present case. In the long run, the investment in manpower resources and the encouragement given to lifelong learning, and so on, should be able to enhance the quality of the working population. The authorities are also concerned about the serious unemployment situation. The latest unemployment rate released two days ago has reached 7.4% and the total number of unemployed people has soared to more than 250 000. The figures show that it is an urgent task to solve the unemployment problem and create more jobs. So the authorities should make employment its first and foremost task and set up a labour bureau. I think we all know that an independent Civil Service Bureau will be set up. Yesterday the editorial in the *Hong Kong Economic Journal* expressed views similar to mine.

We hope that the Government will take positive measures to address the problem of employment which is a great concern for the more than 3 million workers in Hong Kong. The present proposal made by the authorities to have different Policy Bureaux responsible for labour policies shows that the Government is not attaching enough importance to labour issues and arbitrarily assign them to different Policy Bureaux.

Speaking from another perspective, we know that other advanced countries in the world, such as the United States, the United Kingdom, Japan, France and Germany, have all set up a separate ministry for labour affairs. At least these countries will not seek to merge labour policies with those departments for economic development. Even in Singapore which has always been regarded as our competitor because its state and conditions of economic development are similar to ours, a Ministry of Manpower has been set up to oversee labour affairs. The Hong Kong Government has always stressed a match of business with manpower or a match of economic affairs and labour is possible, but in advanced countries of the world, including our major competitor, such a practice is not adopted. For it is going against the prevailing trend and it also shows that the Hong Kong Government does not think that labour issues are important.

Under the major premise of not changing the number of 11 Policy Bureaux and adding the above proposal to set up a separate labour bureau, the ADPL and I suggest to incorporate the portfolios of environmental protection and pollution control into the Housing, Planning and Lands Bureau to form an Environment, Housing, Planning and Lands Bureau. We must admit that this compromise does have inadequacies, but it is more appropriate than the merger of the portfolio of environmental protection with those of transport and works as proposed by the authorities. As a matter of fact, during the period from 1989 to 2000 the Government incorporated environmental conservation into the ambit of the Policy Bureau responsible for planning and lands to form the Planning, Environment and Lands Bureau. The Bureau was tasked with the responsibility of co-ordinating and promoting environmental protection efforts. Our proposal also affirms the fact that this combination of environment, transport and works is not appropriate. The technocrats in the Government share the same work basis and they are experienced in merging government departments and our proposal should be able to help them in these aspects and avoid merging policy areas which are not related. The Government is presently doing such work and we believe this move will not bring any drastic change, nor will it cause any great adverse impact on the Government.

Another change related to the setting up of the Labour Bureau is to merge the three portfolios of commerce and industry, economic services and information technology into an Economic Development Bureau. This "three in one" proposal seeks to amalgamate and co-ordinate the related policy areas of the services sector, the tourist and logistics industries, support for small and medium enterprises, attracting inward investments and the construction of economic infrastructure, and so on. All these three portfolios share a similar business element and a merger would be most effective.

Madam President, both the ADPL and I believe that setting up a separate bureau for labour policies will enable a Policy Bureau to concentrate its efforts on examining the present problems of labour and economic restructuring, as well as the various issues related to unemployment such as those related to different age groups and in different sectors. The bureau can also be charged with the responsibility of helping workers to adapt to the restructuring and look for jobs. In the long run, we reckon this will ease the prevalent critical unemployment problem. The new bureau can also provide a policy perspective which is based on labour and formulate policies on the planning of issues related to the working population and demands for employment, thus making these policies better able to address the serious labour problems at present. The most important thing is, however, a separate Labour Bureau will be able to show that the Government really cares for the 3 million workers. If labour affairs are incorporated into a Policy Bureau recklessly and form a minor part of its portfolio, then it would create an impression on the wage earners that the Government has abandoned them and will not care for them any more. So I hope that the Government will think twice. Thank you.

MR ANDREW CHENG (in Cantonese): Madam President, according to the latest information released by the Government, in the revised reorganization of government structure, the Economic Development and Labour Bureau will be formed by combining four of the six departments presently under the Economic Services Bureau, that is, the Civil Aviation Department, the Marine Department, the Post Office and the Hong Kong Observatory with the Labour Department under the Education and Manpower Bureau. Although the perceived proposal will involve two departments less and that there may be changes to the above-mentioned policy areas, the merger of these four departments with the Labour Department under the same bureau is basically the same as the former proposal

of merging them under the Commerce and Industry Bureau. Such a move is a blatant disregard of the interests of more than 3 million workers in Hong Kong. Just imagine the placing of these four departments, namely, the Civil Aviation Department, the Marine Department, the Post Office and the Hong Kong Observatory whose nature are totally different from each other, in the same Policy Bureau with the Labour Department, will make the new Economic Development and Labour Bureau an odd hybrid which resembles nothing. Will the new principal officials be able to adhere to the principle of monitoring the internal and external communications of Hong Kong while taking care of the interests of the workers and also achieve effective co-ordination between both? I am not optimistic about that, and this will definitely lead to labour policy becoming a subordinate concern of the bureau, instead of being its major concern. This merger of totally different policy areas will in the end adversely affect the role played by the Labour Department through the years in the protection of employees and their benefits, on employment, training, and the promotion of occupational safety and health.

Madam President, as every citizen in Hong Kong will know, the Civil Aviation Department, the Marine Department, the Post Office and the Hong Kong Observatory are respectively responsible for the monitoring of the delivery of services of different nature. Apart from serving Hong Kong, they play a more important role in connecting Hong Kong with the world in terms of marine and land transport, postal communications and meteorological forecast. These will ensure that the life of the people of Hong Kong and our economy are under protection and that our economy can stay highly competitive. So the role played by each of these departments is unique. Now the two departments under the Economic Services Bureau, namely the Port and Maritime Board and the Travel Agents Registry, have not been allocated to the control of any Policy Bureau in the new government structure. According to the latest information available, these two departments are no longer found on the government website since 12 June. It is baffling to note the uncertainty of the Travel Agents Registry as the Government has made it clear on many occasions that the development of tourism is a major direction of development for our economy after restructuring. Apart from promoting economic growth, tourism can also create job opportunities so it is mutually beneficial if the work in the registration of travel agents can be co-ordinated by the Labour Department. The uncertain future of the Travel Agents Registry shows that there is a great problem with the reorganization and that the Government has lost its own bearing.

The above-mentioned four departments all have a unique character in that their scope of monitoring touches on the local and external communication services. The policies formulated by these departments are unlike those by other departments. The focus of labour policies is by comparison mainly on local issues and when these are put under the control of the Economic Development and Labour Bureau, the formulation and implementation of labour policies may become secondary or even not be given due attention. So the Democratic Party opposes the proposal to merge economic development affairs with those of labour. We are in favour of maintaining the *status quo*, that is, the Education Department and the Labour Department should come under the control of the Education and Manpower Bureau.

Madam President, the Education and Manpower Bureau is presently tasked with the responsibilities of formulating policies in education and manpower. The Education Department and Labour Department under it have clearly defined functions and they are mutually complementary. At present, there are five statutory bodies which are closely associated with the Education and Manpower Bureau, namely, the Occupational Safety and Health Council, the Employees Retraining Board, the Clothing Industry Training Authority, the Construction Industry Training Authority and the Vocational Training Council. After the formation of the Economic Development and Labour Bureau, their respective roles and whether their corresponding unit is the Economic Development and Labour Bureau or the Education and Manpower Bureau all remain uncertain. As the Government plans to transfer the functions of the Labour Department in training to the Education and Manpower Bureau, this will confuse the role of these statutory bodies and the co-ordination efforts of the Labour Department. It appears that no careful thoughts have been given by the Government to the functions of these statutory bodies and the problems brought about by the transfer of powers of the Directors of Bureaux. Would there be wastage of resources if these statutory bodies have to be responsible to both the Economic Development and Labour Bureau and the Education and Manpower Bureau? In sum, in a bid to facilitate the merger of other bureaux and departments, the Government is again causing overlap. It has also completely destroyed the proven co-ordination between education and manpower policies within the Education and Manpower Bureau.

Madam President, according to the law, the Secretary for Education and Manpower is responsible for vetting and approving the budget of a number of related boards and councils. After the merger, the Secretary's function to give approvals will be affected. Take the example of the Occupational Safety and Health Council, its main source of income is the employees' compensation insurance levy collected by the Employees' Compensation Assistance Fund Board. After the merger, when the Secretary for Economic Development and Labour is confronted with the negotiations and counter-proposals made by the business sector on the levy, will the Secretary be able to remain fair and impartial? Should the Secretary protect the rights and interests of the workers or will the Secretary only accede to the demands of the business sector to the neglect of worker interest? In the Clothing Industry Training Authority where a clothing industry training duty is collected to meet the operating expenses of the Authority, the same kind of conflict of interest may arise. Moreover, the existing function of the Labour Department in formulating regulations for compliance by employers and employees may be affected after the merger, for it is worrying whether the new Secretary will be able to protect the interest of workers.

Madam President, information collected from the Internet shows that in about 20 countries in the world of different sizes, despite their state of economic development and protection accorded to workers, there is some kind of consistency within their government structure in the design of the organs responsible for labour affairs. Countries which set up a department specifically for labour affairs include our neighbours like China, Taiwan, Singapore and India; as well as European and American countries like the United States, Canada, Sweden, Finland, Denmark, Luxembourg and Argentina. If labour affairs are merged with other policy areas, these are usually merged with social welfare or health and welfare affairs as in the case of Japan, Thailand, Saudi Arabia, Bulgaria, Spain, France, Belgium, Peru and Jamaica. Other combinations include the merger of labour and labour relations with small and medium enterprises affairs in the case of Australia, the merging of labour and education affairs in the United Kingdom, and in the case of Egypt, the merger is rather special where labour and immigration matters are combined. So the criteria of merger as proposed by the Hong Kong Government are still incomprehensible to us. Or there is simply no criterion at all? The Government may perhaps think that it would be fine as long as the accountability system for principal officials can be put into practice by 1 July and it does not matter whether the merger will result in an odd organization which resembles nothing and whether the new Economic Development and Labour Bureau will likewise become a nondescript.

Most governments of the world either have a separate organization for labour affairs or they will combine labour affairs with social welfare or with health and welfare. The simplest and most obvious reason is that the governments wish to formulate, implement and enforce policies smoothly so that labour rights and interests can be respected and protected. Even as the merger of different policy areas is used, the principle of avoiding conflicts of interest by all means is adopted. The SAR Government knows very well that it is difficult to strike a balance between the interests of the employers and employees, especially in Hong Kong economy where positive non-intervention is practised. At a time of economic downturn, the employers have more bargaining power than ever while the employees are finding their bargaining power shrinking all the time. The establishment of the Economic Development and Labour Bureau will only serve to intensify tensions in labour relations. The latest unemployment rate as released on Monday shows that the number of jobless people for the last quarter is over 253 000, or 7.4% of the workforce. The Government is not only powerless to cope with the unemployment issue, it is also making some rash moves to merge labour affairs with other affairs, in total disregard of the conflict existing between employers and employees. In the end, the interest of workers will definitely be injured.

Madam President, in recent years the development of education in Hong Kong and the training of human resources have followed market trends. If education and employment policies can be made complementary to each other, they will be better able to meet the needs of economic restructuring. Compared to other policies, it would be a sensible idea to combine education policies with labour policies and the chances of inducing conflicts of interest are relatively low. The Government now proposes to assign the training functions of the Labour Department to the Education and Manpower Bureau. However, the Education and Manpower Bureau still has to co-ordinate with the Economic Development and Labour Bureau on this. Is this not a waste of resources?

Madam President, on the amendment proposed by the Honourable Frederick FUNG, we think that it would be best if labour affairs can be put under the charge of an independent organization. So it would be a most satisfactory solution to set up a Labour Bureau. As the amendment proposed by Mr Frederick FUNG touches on a number of policy areas, the Democratic Party will propose other amendments on other structural combinations. So the Democratic Party will abstain from voting on Mr Frederick FUNG's amendment.

Madam President, I so submit.

MR FRED LI (in Cantonese): Madam President, two years ago, the Government made a reform to the administrative framework. I still recall at that time Mr Michael SUEN was responsible for the scrapping of the Councils. The Government disbanded the two Municipal Councils and formed the Environment and Food Bureau and the Food and Environmental Hygiene Department to co-ordinate environmental hygiene and food safety affairs. The reorganization also incorporated the Environmental Protection Department, the Agriculture, Fisheries and Conservation Department and the Food and Environmental Hygiene Department into the Environment and Food Bureau. So it can be said to be fit and proper to merge related policy areas under one single Policy Bureau.

According to the idea held by the Government two years ago, such a combination is most fit and proper. I will quote from a speech made by the Secretary for the Environment and Food, Mrs Lily YAM on a briefing session of the Legislative Council Panel on Environmental Affairs on 17 October 2000. Mrs YAM said, "After the formation of the new policy bureau, apart from being able to concentrate on environmental protection matters, another result is there can be better co-ordination between the policy bureau and the three departments under it, that is, the Environmental Protection Department, the Agriculture, Fisheries and Conservation Department and the Food and Environmental Hygiene Department. These three departments are closely linked with each other in environmental protection and food hygiene efforts. Not only were we very concerned about co-ordinating the work of these three departments over the past nine months, we will do the same in future so that our environmental protection and environmental hygiene policies and measures will be implemented more smoothly."

The "future" which Mrs YAM referred to on behalf of the Government was only a very short time in future. The so-called concern for the work of these three departments only lasted for a very short time as well. If the resolution proposed by the Government is passed today, that will mean the formal establishment of the Environment, Transport and Works Bureau and the Health, Welfare and Food Bureau. It would also imply that the Government is undoing things of its own making. Work in environmental protection and environmental hygiene will no longer be closely related. And when environmental protection affairs, agriculture, fisheries and conservation matters and food and environmental hygiene matters come under two different Policy Bureaux, there is no more need for co-ordination. The Environment and Food

Bureau is perhaps the most short-lived Policy Bureau since the founding of the territory. The Chief Executive induced its establishment, but when it is beginning to walk on its own, it is also the Chief Executive who disbands it.

When the Government made the proposal on the accountability system for principal officials, the original proposal on the transfer of functions of the Policy Bureaux is to incorporate environmental hygiene affairs into the Health and Welfare Bureau. This will undoubtedly produce a super bureau which is given as much as \$70 billion of financial resources every year and the control of almost 30 000 persons. Though there may be defects with this plan, matters in environmental hygiene, food safety and environmental protection are after all placed under the charge of one Policy Bureau and as work in these areas is related, policy co-ordination is still possible.

I am not sure if it was due to the severe criticisms that the Government seemed to have lost its bearing and came up with a proposal which is even worse than its predecessor. The new proposal will not only create one super bureau, but two instead. Also, under the new proposal, the Health, Welfare and Food Bureau has an annual expenditure of more than \$70 billion and a staff size of 25 000. The Environment, Transport and Works Bureau has an annual expenditure of close to \$50 billion and a staff of about 19 000. The huge amount of resources and staff under the control of these two Policy Bureaux are far more than those in the control of other Policy Bureaux. Finally, the spinning of matters concerning environmental hygiene, food safety and environmental protection makes the Government unable to honour its pledge to ensure efforts to be concentrated on environmental protection work, as Mrs YAM said. We do not know if Mrs YAM's departure from the Civil Service is due to this reason.

When the Government made the first proposal, some Members quipped that the person who would be the accountable Director of the Environment, Health and Welfare Bureau would have to be a superman. When the new proposal was made, even when environmental protection affairs are taken out of this portfolio, the Bureau Director would still have to be a superman. Worse still, the authorities will create not just one superman, but two, for the permanent secretary will also have to be responsible for a lot of work. According to the papers submitted by the Government, there will only be one permanent secretary in the Health, Welfare and Food Bureau. It is amazing to find in other Policy Bureaux which encompass many policy areas, such as the Economic Development and Labour Bureau, the Housing, Planning and Lands Bureau, and

the Financial Services and the Treasury Bureau, there are two permanent secretaries charged with work in different policy areas. It is only in the Health, Welfare and Food Bureau that there is one permanent secretary. We can envisage that after the formation of this Policy Bureau, the permanent secretary will be responsible for four policy areas, namely health, welfare, food safety and environmental hygiene. Such an arrangement is not only killing the health and body of the office bearer, but also shows that not enough thoughts have been given to it. Does the Government think that policies which are so far-reaching and extensive can be handled by just one Bureau Director and one permanent secretary?

We are convinced that the most sensible administrative arrangement is to maintain the existing statutory functions of the Environment and Food Bureau. In terms of policy formulation, implementation and resource allocation, to put together affairs of environmental protection, environmental hygiene and food safety would serve to group related policy areas together while not creating any competition in according priorities.

If the Government will maintain the Environment and Food Bureau and its departments unchanged, the annual expenditure will only be \$7.7 billion, or 10 times less than the original proposal, and 6.5 times less than the new proposal. The Democratic Party thinks that not only will our proposal not cause any significant change to the resources of the Policy Bureaux, it will also make an even distribution of the work of the Policy Bureaux. No Policy Bureau will get an excessive workload and no other will get an undersized workload. Moreover, policy work which may be contradictory in nature would not be handled by the same Policy Bureau, thus minimizing internal conflicts and preventing any policy area from being victimized.

In the new proposal on arrangements in respect of Policy Bureaux, it was suggested that the policy areas of environmental protection, transport and works be combined. Much opposition from the public was raised after the announcement. There are worries that any environmental protection policy would be overwhelmed by transport and works policies and hence it is not possible to launch environmental protection policies or engage in environmental assessment work free from the influence or intervention of other policies.

Under section 16(1)(f) of the Environmental Impact Assessment Ordinance, when authorities like the Commissioner for Transport object to the results and

conclusions of the environmental assessment reports, the dispute can then be transferred to the Environment and Food Bureau where the advice of the Secretary is sought or the Commissioner is authorized to follow the advice of the Secretary. When the Secretary for the Environment and Food gives his advice on the subject, efforts must be made to ensure that the effect of his advice is to protect the environment. If an Environment, Transport and Works Bureau is set up, the Bureau Director will have to face dilemmas like the need to protect the environment and to ensure that the projects will commence and complete on time.

As Mrs YAM has said, the Environment and Food Bureau will enable the Government to concentrate its efforts on environmental protection. If these matters are combined with transport and works, the new Policy Bureau may find it almost impossible to concentrate its efforts on environmental protection. If a compromise needs to be reached between the various environmental protection issues and other policy issues within the bureau, the transparency of these policies will certainly decrease and that may lead to conflicts and clashes in transport and works policies which have environmental protection implications being ironed out before the public learns about them. The Democratic Party thinks that it is not acceptable to sacrifice environmental protection affairs to make way for transport and works. If the Environment, Transport and Works Bureau wants to carry out work in these policy areas in an open, fair and impartial manner, and to enable the public to see that its work is open, fair and impartial, then I believe the chances for the Bureau to achieve this target are even slimmer than the Chinese national team winning the World Cup.

The amendment proposed by me seeks to maintain the functions of the Environment and Food Bureau unchanged. If my amendment is not passed, the Honourable LAW Chi-kwong will propose another amendment to transfer the statutory functions of the Environment and Food Bureau to the Housing, Planning and Lands Bureau and to transfer the existing statutory functions performed in respect of food safety and environmental hygiene by the Secretary for the Environment and Food to the Director of the proposed Health, Welfare and Food Bureau. However, the Democratic Party thinks that the ideal arrangement is to keep the status quo unchanged. Mr Michael SUEN has listened to our speeches patiently and he has said that any unnecessary changes should be avoided. I hope he will understand that my proposal is to avoid making unnecessary changes as much as we can and to maintain the existing Environment and Food Bureau. Suppose our amendment is not passed, the

second best plan would be to incorporate environmental protection affairs into the Housing, Planning and Lands Bureau. This is still far better than the Environment, Transport and Works Bureau proposed by the Government. If Mr LAW Chi-kwong has the chance, and I am sure he has, to propose an amendment, he would explain in detail the proposal and the arguments for it.

Madam President, I so submit.

MR LAW CHI-KWONG (in Cantonese): Madam President, Mr Fred LI has raised many of the points I wish to talk about, so my speech will be very short.

One reason why the Honourable Fred LI and I wish to move our amendments is that at a meeting of the Panel on Environmental Affairs about two weeks ago, many environmental groups presented their views on the latest proposal of the Government. Four schemes, listed as follows in order of their preference, were discussed during the meeting: first, a separate bureau for the environment; second, one single bureau for the environment and planning and lands; third, the grouping of the environment, food and health and welfare under one common bureau, a proposal first advanced by the Government itself but subsequently withdrawn; and fourth, placing the environment, transport and public works under one single bureau, as currently proposed by the Government. As Members know, from the perspective of environmental organizations, the first choice must be a separate bureau for the environment; the second choice is one single bureau for the environment and planning and lands; the third choice is the very first proposal of the Government, that is, grouping the environment, food and health and welfare under one common bureau. Although these organizations worry that grouping the environment, food and health and welfare under one bureau may result in less attention being given to the environment, yet this concern will not be suppressed at least. In contrast, they think that the scheme currently advanced by the Government, that is, placing the environment, transport and public works under one single bureau, is the least desirable option.

The amendment proposed by Mr Fred LI is slightly different from the preferences listed above, and the major difference is that the amendment proposes to retain the Environment and Food Bureau. Besides showing a concern for the environment, this proposal also takes account of the Government's principle of structural rationalization. Sometimes, unless

absolutely necessary, it is better not to make too many changes, which is why we think that the retention of the Environment and Food Bureau is one of the desirable options. But if Mr LI's amendment is not passed, I will have to propose my own amendment. To put it simply, my amendment proposes to take away the environment from the current scheme advanced by the Government, and then combine it with housing and planning and lands, meaning that all these policy areas will be put together, in what we consider a "minor surgical operation". The two schemes proposed by us are not perfect, but I must say we have to strike a balance among many different factors, and these schemes advanced by the Democratic Party have received support from many environmental groups and university professors.

Some people have in fact advanced an alternative viewpoint, arguing that in some other countries, transport and the environment are put together. This we do realize. But we worry about the bad records of the Government. I think Members should still remember what happened to the environmental impact assessment of the Lok Ma Chau Spur Line — the Secretary for Transport even went so far as to exert pressure publicly on the Director of Environmental Protection, asking him to endorse the Spur Line in the environmental impact assessment. The Secretary for Transport did so even in public. If the two policy areas concerned had been put together under one bureau, it would not have been necessary for him to do so, for all could have been resolved internally by the bureau. But this would be an absolutely undesirable arrangement.

Admittedly, sometimes, if policy areas with potential conflicts are placed under the same bureau, the conflicts can be resolved internally. But what we wish to see is an open, fair and impartial treatment of environmental issues. We all understand that it is actually a question of balance, but if everything is going to be determined by the inclinations of the accountable Director of Bureau, then the system will not be a sound system. We maintain that the system must balance different factors and interests and consider and look at things from different perspectives. For this reason, the scheme currently advanced by the Government is the worst one from the standpoint of environmentalism.

In a word, the best scheme should be the establishment of a separate bureau for the environment. This is of course a purely environmentalist perspective, which is why the Democratic Party will support the amendment to be moved by Miss Cyd HO later on. Thank you, Madam President.

MISS CYD HO (in Cantonese): Madam President, I believe that today, all amendments in relation to environmental issues enjoy equal opportunities, and that is, equal opportunities to be voted down. The fact that the environmental groups have expressed strong support for all our three different amendments clearly stated a fact, and that is, they certainly do not support the Government and they think that any one of the amendments is better than that of the Government.

Madam President, today's government motion is actually very high-handed. The political appointment of Directors of Bureaux is a significant and fundamental political reform that has far-reaching consequences. But we are only given 64 days (of deliberation) before endorsing such an important issue and many details have not been carefully considered. Environmental affairs are a ready example.

After we pointed out that the first proposal of the Government was not satisfactory and that it would lead to the establishment of a super Policy Bureau, the Government amended its proposal within a couple of days. The Government said it had heeded good advice, but the fact was it got what it wanted and seized the opportunity to amalgamate environmental affairs with transport and works. I propose to set up an independent Environmental Affairs Bureau, so that it could deal with environmental and natural conservation issues from an independent perspective and exercise checks and balances on various works and transport infrastructure projects.

The Government first proposed to establish a super bureau to amalgamate the four portfolios of environment, food, health and welfare, taking up one third of the Government's resources and manpower. Though, at present, we still do not know who will be the future Director of this Bureau, we believe that such a huge Policy Bureau will be a heavy burden, no matter who takes up the job. After we put forward our opinion, the Government came up with another proposal in a couple of days, and on both occasions, it indicated that the proposals had been given thorough consideration. One of the proposals were thoroughly considered for 40-odd to 50 days and the other less than four or five days. So, I began to have a very different understanding of "thorough consideration".

Madam President, the environmental groups have made many submissions and here I have a big pile of submissions at hand, but the Government has not properly responded to each of these submissions. It has insisted on passing this

resolution before 1 July. This obstinate attitude will certainly create more disputes in the future. Today, many Members have adopted different ways to deal with this issue. Some Members boycott this motion; some oppose it; some will never move any amendment; and some have proposed amendments. I believe all the different attitudes are actually pointing in one direction, and that is, they think the Government is being very irresponsible in rushing through this important political reform so carelessly.

Soon after the "three-in-one proposal" was put forward by the Government, the environmental groups responded very quickly. Some groups made submissions to the Chief Executive; some launched a one-man one-letter online campaign; and some groups wrote to the United Nations. The voices of the environmental groups were very clear and unanimous, but since the Government put forward its second proposal and got what it wanted, it never made any changes again. It even cited the example of the Netherlands. In fact, Madam President, I just came back from an overseas conference, where one of the delegates happened to be a Member of the Dutch Parliament. I had particularly sought his opinion on this issue. He said there were actually many conflicts after the amalgamation. Even their environmental groups, which are so well developed and capable, have found their initiatives difficult and suffered many setbacks. He personally thought that the amalgamation was not appropriate. Our environmental groups have also cited many counter examples. They pointed out that countries like China, the United Kingdom, the United States, France and Germany have set up independent authorities on environmental affairs, so that they could look at the infrastructure projects of the whole country from an independent perspective.

The Chief Executive has a very peculiar way of stating his position. He rang up the Chairman of the Legislative Council Panel on Environmental Affairs on the morning of the day of the meeting and told the Chairman that he attached enormous importance to environmental affairs and asked him to be rest assured. I cannot understand how a simple phone call and message relayed through the Panel Chairman can make us feel rest assured. Miss Emily LAU asked the environmental groups present at the meeting whether they believed the Chief Executive's words. At that time, the environmental groups were very modest and kind, and did not answer Miss LAU's question directly. They only referred to deficiencies in policies on the environment in the past. They also said environmental policy was like an abandoned baby that was being shuffled around and said many changes were made in the past 10 years. What they meant was the Chief Executive's attitude of "settling the matter" by a single phone call

should not inspire our confidence. The way in which he has dealt with this matter rightly reflects that the implementation of the whole system is cast in an overtone of the rule by man and influence of this factor. Are we expected to trust him on the basis of a single phone call?

Madam President, if environmental affairs were really amalgamated with works and transport, we worry very much that the independent perspective of environmental assessment could not be retained. As Mr LAW Chi-kwong said earlier, once the Policy Bureau reaches a unanimous conclusion behind closed-door meetings, it is no longer required to announce the true information and the true impact will not be made known to the public. The Policy Bureau will make a decision after balancing the pros and cons at closed-door meetings. In the future, environmental affairs will only become a tool for green washing works and transport affairs, and that is, what the environmental groups called "貼綠".

Yesterday, Mr Paul TANG, the Acting Secretary for Transport suddenly assumed a very different attitude. In a seminar yesterday, he specifically emphasized that the Government would continue to provide a transport system that attaches great importance to environmental protection, so as to meet the future needs of sustainable development of Hong Kong. His volte-face was hailed as the acme of perfection. In the past, many Members have come into contact with Mr TANG at the Panel on Transport. During our discussions on Route 7 and Route 10, we asked him to provide us with some figures in relation to those routes but the figures we got from the officials were constantly changing and those figures were neither complete nor true. This made many Members really upset. However, now that the new system is to be implemented and environmental affairs have to be amalgamated with transport and works, Mr TANG suddenly becomes a vanguard of environmental protection. Could we really be convinced? In the past, we asked him to assess the financial implications of railways and roads from a comprehensive and consolidated perspective. We hoped that the Government could make a comparative study on railways and roads from various aspects, such as the direction of the railway development strategy and social interest as a whole, including medical expenses, air quality and road repairs and maintenance. However, the officials of the Bureau were very much against this and unwilling to conduct an assessment from this perspective. Their reason is easily understandable for if assessments are made from this perspective, the final conclusion may be unfavourable to road development. Therefore, when this "three-in-one" Policy Bureau is established in the future, I believe the relevant officials will be suffering from schizophrenia, so serious that the new Policy Bureau cannot operate smoothly and environmental policies will be sacrificed.

What made us even more worried is that the top echelons of our Government have never placed environmental policies at the top of their agenda. Last week, when the Chief Secretary for Administration attended an international conference on sustainable development, he indicated that in times of economic downturn, the people would generally attach more importance to economic improvement than environmental protection and people were generally of the opinion that sustainable development and environmental protection would affect economic development. Madam President, the Chief Executive once said that he hoped Hong Kong could become a centre for export of environmental protection technology while contributing to economic development at the same time. However, our senior executives have not only failed to promote vigorous development in this direction but also made such comments at a time when the Policy Bureaux are being amalgamated. This has caused the environmental groups and the public great worries and grave concerns.

The case in question also involves the neutrality of civil servants. We very much worry that the Director of Environmental Protection will be stripped of his power to veto infrastructure projects. Though the Government indicated that the Directors of Bureaux would deal with issues in relation to the relationship of the amalgamated bureaux and departments, the advisory framework and the powers of statutory organizations within 12 months after the implementation of the new system, so far the Government is still unable to lay down any criteria. It has also failed to give us a satisfactory answer in relation to the neutrality of civil servants. Secretary Michael SUEN said the Director of Environmental Protection would still be able to raise the same issues with the new Policy Bureau in the future, but the content of the composite circular to civil servants was entirely different. It was clearly stated in the circular that civil servants must win the trust of the Directors of Bureaux with their own performance; civil servants could not make comments that are not in line with government policies. So, how could this inspire any confidence in us?

Over the past 10 years, environmental policies have gradually become more independent and professional and environmental initiatives have also become preventive instead of remedial in nature. In fact, this is heading in the right direction. However, having just taken two steps forward, it is possible that we are now going backwards. This is really most regrettable.

Madam President, developments in technology have accelerated the depletion of natural resources. Today, we are not using resources left behind

by our ancestors, but rather resources that should be enjoyed by our next generation. If we are still not careful in controlling the use of resources; checking and preventing pollution and damages, we will only leave behind a place that is full of pollution and diseases to our next generation. This is really a sin.

MR SIN CHUNG-KAI (in Cantonese): Madam President, the Democratic Party proposes a resolution to transfer the statutory functions of the Secretary for Financial Services and the Treasury to the Financial Secretary. The rationale behind this proposal is that this would streamline the administrative structure and enhance the efficiency of the Government. Another rationale is that under the proposal made by the Government, the functions of the Financial Secretary in future will overlap to a great extent with those of the new Secretary for Financial Services and the Treasury. This may lead to confusions in policy formulation and also problems associated with a blurred delineation of powers and responsibilities and an unclear division of labour.

Under the existing legislation, the Financial Secretary is specifically tasked with the duties of handling local financial policies, monetary policies as well as other fiscal and financial matters. The powers of the Financial Secretary with respect to financial policies come mainly from the Public Finance Ordinance under which he is tasked with the responsibilities of formulating the budget and other matters concerning public revenue. As for monetary policies, the Exchange Fund Ordinance stipulates that the Financial Secretary should be the chairman of the Exchange Fund Advisory Committee and he is vested with full powers in the management and use of the Exchange Fund to maintain the stability of the exchange rate of Hong Kong dollar. In terms of fiscal and financial matters, the powers of the Financial Secretary come from more than 10 different pieces of legislation, such as the Banking Ordinance, the Securities and Futures Commission Ordinance, the Companies Ordinance, the Mandatory Provident Fund Schemes Ordinance, and so on. The Financial Secretary is also vested with important decision-making powers. With respect to the government structure, the Secretary for the Treasury, the Secretary for Financial Services and the Chief Executive of the Hong Kong Monetary Authority (HKMA) all report directly to the Financial Secretary and assist the Financial Secretary in the formulation and implementation of the above-mentioned policies.

Though there is much room for improvement in the previous arrangements in the administrative framework of the Government, at least there is a clear division of labour and an unequivocal delineation of powers and responsibilities. Under the proposed accountability system, the new accountable official, that is, the Secretary for Financial Services and the Treasury will no longer report directly to the Financial Secretary and the office-bearer will be responsible for the planning, implementation and consequences of the policies in his portfolio. The new accountable Bureau Director will be directly responsible to the Chief Executive for the consequences of his policies and he will bear all the responsibilities for these policies. Specifically, the duties of the accountable Bureau Director will be to control and manage public revenue and expenditure, including government assets and investments; he is also responsible for policies on taxation, government rates and other items of fees and charges. All these are meant to ensure that the Government will collect enough revenue and that a simple, stable and adequate taxation system is maintained. In addition, the new Bureau Director is responsible for policies and legislation with respect to trading in securities and futures, banks, insurance companies, corporate governance and improvements in the financial infrastructure, and so on. He is also in charge of government efforts in economic analysis.

There are two problems with the above arrangements and they are difficult to resolve. First, the existing statutory functions of the Financial Secretary with respect to fiscal and financial policies will be maintained and he is responsible for such policies in Hong Kong. These functions will overlap to a large extent with those to be performed by the new Secretary for Financial Services and the Treasury. Who should be responsible for decisions in public finance and financial policies in future, the Financial Secretary or the new accountable Bureau Director?

In public finance policies, for example, if there are divergent views held by the new accountable Bureau Director and the Financial Secretary on taxation policy, then how is the problem going to be solved? Should there be a policy failure, then who is to be held responsible? Under the Interpretation and General Clauses Ordinance, the Financial Secretary is also taken to mean the Secretary for the Treasury. That is to say, the Secretary for the Treasury may also exercise the powers of the Financial Secretary, then how is the work of the two officials going to be divided? The Legal Adviser of the Legislative Council has also pointed out that the position of these two principal officials are equal under the accountability system and it would be inappropriate if the Secretary for

Financial Services and the Treasury may exercise the powers of the Financial Secretary. But the resolution proposed by the Government has not mentioned this point at all.

Similar problems may arise with regard to financial services. Under the Securities and Futures Commission Ordinance, the Securities and Futures Commission (SFC) is obliged to report to the Financial Secretary the findings of its investigations into insider dealings and the Financial Secretary will decide whether or not the matter should be pursued. Matters of this kind which involve the implementation of policies on securities matters should perhaps be handled by the new accountable Bureau Director. But if the Financial Secretary continues to be vested with this power, then how will powers and responsibilities be clearly defined? There are hundreds of provisions which involve examples as the one mentioned above and to date the Government has yet to offer a satisfactory solution.

Second, if the Government decides after a review to reduce the powers of the Financial Secretary so that the new Secretary for Financial Services and the Treasury will have all his vested powers intact so that he can be fully accountable for his own policy portfolio, then will the powers of the Financial Secretary be undermined? What objects are left for his functions? According to the papers provided by the Government, it seems that the only functions of the Financial Secretary which remain are to co-ordinate the work of various Policy Bureaux and to hold discussions with the Central Government concerning the "closer economic partnership arrangement".

With respect to policy matters, this is already the prime duty of the Chief Secretary for Administration, and the Chief Executive is of course the commander-in-chief in all kinds of co-ordination work. The major duty of the convenor of the Executive Council is also on policy co-ordination. The Director of the Chief Executive's Office is also playing a co-ordination role behind the scene. With so many people engaging in co-ordination work in the SAR Government, it is expected that the Financial Secretary would not have to spend a lot of time and efforts on co-ordination. Then the only duty left for the Financial Secretary will be holding discussions with the mainland authorities on the "closer economic partnership arrangement". In that eventuality, the Financial Secretary may have to adopt a new title, "the Hong Kong representative for trade talks with the Mainland".

In future, the Directors of Bureaux will report directly to the Chief Executive and so the Financial Secretary should find some of his functions as a direct supervisor of his respective Policy Bureaux somewhat relieved, and so he should be able to be directly responsible for the work of one or two Policy Bureaux. The Treasury should continue to be directly supervised by the Financial Secretary, for the Treasury is responsible for the implementation of policies on public finance and the compilation of the annual budget. Hence the overlap in functions and ambiguities in powers and responsibilities can be avoided. When the Financial Secretary is given the charge of formulating policies on public finance, the Treasury will be responsible for their implementation. At this stage, there is no need for a Bureau Director to be responsible for such work and the assistance given by the permanent secretary will suffice.

With regard to financial policies, presently work in policy formulation and regulation in various sectors of the financial services industry are undertaken by various statutory bodies. For example, the HKMA oversees the banking sector, the SFC oversees the securities trading sector, and the Mandatory Provident Fund Schemes Authority oversees MPF and retirement fund businesses. As for the insurance industry, although there is no statutory regulatory body for it, there is an independent Office of the Commissioner for Insurance which performs regulatory functions. In such circumstances, the Financial Secretary should be able to undertake direct co-ordination with assistance from the permanent secretary of the Financial Services and the Treasury Bureau. This will enable a smooth division of labour between the Financial Secretary and the Financial Services and the Treasury Bureau, thus obviating the need to amend the existing legislation related to the financial services industry. The Financial Secretary will still be the accountable official responsible for fiscal and financial policies.

The remaining department related to the financial services industry is the Standing Committee on Company Law Reform. The secretaries for the Standing Committee are officials from the Companies Section under the Financial Services Bureau and the Companies Registry. The functions of the Standing Committee are to make recommendations on corporate governance. At present, the work in respect of corporate governance is undertaken by various officials and institutions like the Financial Secretary, the Financial Services Bureau, the SFC and the Commercial Crime Bureau of the police. There is a lack of comprehensive policy analyses and promotion in corporate governance and progress in this area is slow. In order that co-ordination can be more

effective, the relevant work should be put under the direct charge of the Financial Secretary.

With respect to monetary policies, under existing legislation, the Financial Secretary is vested with full powers in monetary policies. The HKMA is a public body which assists the Financial Secretary in this aspect. In order that the implementation of the accountability system can ensure credibility and independence in monetary policies, it is imperative that the Government studies the feasibility of changing the HKMA into a formal statutory organization and to enact legislation for the HKMA, vesting in its Chief Executive clear statutory powers, delineating his statutory powers and setting up a board of directors to enhance the governance structure of the HKMA. With respect to the resolution today, the Democratic Party agrees that the HKMA should remain under the ambit of the Financial Secretary.

All in all, under the resolution proposed by the Democratic Party, as an accountable official, the Financial Secretary will directly co-ordinate the work of the Permanent Secretary for Financial Services and the Treasury (Treasury), the Permanent Secretary for Financial Services and the Treasury (Financial Services), and the Chief Executive of the HKMA. In the short term, the Financial Secretary will remain the chairman of the Exchange Fund Advisory Committee and his other statutory functions, powers and responsibilities will also remain unchanged. This will on the one hand prevent the Financial Secretary from becoming a nominal head in financial services stripped of solid powers, and on the other achieve a more rational division of labour, making the use of public resources more cost-effective and avoiding waste of public money as a result of the emergence of a large number of Bureau Directors.

With these remarks, I support the resolution.

MR IP KWOK-HIM (in Cantonese): Madam President, first I would like to report briefly on the outcome of the deliberations of the Subcommittee to Study the Proposed System of Accountability for Principal Officials and Related Issues (the Subcommittee). The Subcommittee is composed of 34 Members. In six and a half weeks, it held a total of 54 hours of meetings and received 126 representations from deputations and individuals. The Subcommittee also presented reports on its deliberations to the House Committee on 24 May, 7 June and 14 June respectively.

The major topics deliberated by the Subcommittee include constitutionality of the accountability system, the function, composition and operation of the Executive Council, the inclusion of the post of Secretary for Justice and Secretary for the Civil Service in the accountability system, preserving the integrity and political neutrality of the Civil Service, functions of the Director of the Chief Executive's Office, the appointment, employment and removal of principal officials, Code for Principal Officials, the splitting, merging and retention of Policy Bureaux, legislative measures to give effect to the accountability system, procedures on examining establishment, financial proposals and resolutions, as well as the proposed resolution on the transfer of functions under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) to be moved by the Secretary for Constitutional Affairs and to be dealt with by the Legislative Council today.

Madam President, some members of the Subcommittee are of the view that since the accountability system will bring about significant and fundamental changes, primary legislation instead of today's resolution should be introduced to underpin the accountability system so that the proposal would be scrutinized in detail with the benefits of a full legislative process.

Some Members questioned whether the use of a resolution under section 54A of Cap. 1 alone is adequate to launch the accountability system. They are of the view that Cap. 1 is primarily an interpretation ordinance. In addition, the proposed system is not merely a reorganization of the government structure as claimed by the Administration, but introduces a new political layer to the existing government structure.

A Member also pointed out that section 54A of Cap. 1 is adequate only for the purpose of transferring statutory functions between posts of similar nature, that is, civil service posts. Given that the principal officials under the accountability system are a new category of public officers, that is, political appointees who are not civil servants, it is not appropriate to effect the transfer of statutory functions under section 54A of Cap. 1 until the offices of principal officials have been created by means of legislation.

The Administration has explained that the implementation of the accountability system involves reorganization of a number of Policy Bureaux. Generally speaking, reorganization of government structure does not require legislation, but legislative amendments are required to transfer the respective

statutory functions previously exercisable by the relevant Bureau Secretaries to the respective new principal officials. The transfer of statutory functions is to be effected by way of a resolution made under section 54A of Cap 1. This has also won the support of some Members.

The Legal Adviser of the Legislative Council provided a detailed legal analysis and opinion to the Subcommittee in writing. The view of the Legal Adviser is that there does not appear to be legal grounds for concluding that the application of section 54A of Cap. 1 would be unlawful.

The Government also made some proposals on the splitting, merging and retention of bureaux under the proposed accountability system. The Government proposed the establishment of 11 Policy Bureaux, as opposed to the 16 Policy Bureaux at present. Members have different views on the number of Directors of Bureaux under the accountability system and the grouping of policy portfolios under their purview.

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

The Subcommittee also deliberated in detail the policy aspect of the resolution to be moved by the Administration, but members have not reached any unanimous view. As regards the legal and drafting aspects, the Legal Service Division has studied the resolution proposed by the Government and submitted a report to the House Committee meeting confirming that these aspects of the proposed resolution are in order.

Madam Deputy, members of the Subcommittee hold divergent views on the policy issues in various aspects of the accountability system. Seven members have also proposed amendments to the Administration's resolution separately. I believe all Members present will consider all the relevant information and legal advice before deciding whether to support the Government or the amendments of individual Members.

Madam Deputy, now I would like to express some views on this resolution on the accountability system on behalf of the Democratic Alliance for Betterment of Hong Kong (DAB). The DAB supports the resolution moved by the Government under Cap 1. Many Members have criticized the whole process of

examining the accountability system as being too short and too hasty, but I do not agree with this. As the Chairman of the Subcommittee, I think that throughout the whole process of deliberation, all members took part in discussions during meetings conscientiously and studied all documents with due care, regardless of whether they spoke up during meetings or not. In the face of documents which adds up to a thickness of several feet and were made up of government proposals, members' questions and positions, we conducted in-depth and thorough deliberations. Some Members hold the view that six and a half weeks were insufficient for going through and digesting the contents of the documents and that the whole process was rather crude, therefore the resolution should not be supported. I find the idea of deciding whether to support the resolution according to the time spent on meetings to be simplistic. In fact, whether or not the motion should be supported depends on the stand of individual Members and whether the motion is reasonable, rather than on the number of meetings convened by the Subcommittee. It is a matter of opinion as to whether holding 15 meetings totalling 54 hours in one and a half months to scrutinize a motion is rushing things through. In this Legislative Session, I also chaired two other Bills Committees scrutinizing two bills. One of them is the Noise Control (Amendment) Bill 2001. Only four meetings totalling 10 hours were required for its scrutiny. The other is the Fire Safety (Buildings) Bill. From March 2001, it took over one year, during which 17 meetings lasting over 30 hours in total were held, for the scrutiny of the Bill. From this, we can see that it is neither fair nor scientific to decide whether to support a bill according to the time spent on its scrutiny.

Regarding why it is necessary to complete the deliberation of the resolution on the accountability system within two months, I believe we are all fully aware that this is to enable the accountability system to be implemented on 1 July, so as to tie in with the administration of the Chief Executive in the second term. The Subcommittee also understood the urgency of this matter. Under these circumstances, members carried out the deliberation efficiently. During the whole process of deliberation, members conducted in-depth and detailed discussions on the relevant issues. This is an undeniable fact. Just now I also heard Mr Albert HO admit in his speech that our discussion was fairly detailed and in-depth.

Some Members have proposed a lot of amendments, in particular, they have proposed various amendments on the grounds that the reorganization of the policy portfolios are not appropriate. For example, there are different views on

whether a bureau should be set up for the environmental protection portfolio, and there are also amendments relating to labour issues in which different parties hold different views. The DAB considers that there are conflicts in the principles of many policies. Take the environmental protection portfolio as an example, the Government proposed the merging of the environmental protection and transport portfolios. The assertion that this will definitely create contradictions in policies to the detriment of the environmental protection portfolio may not necessarily be a mature view. In fact, the causes of clashes in policies lie in the differences in the nature and principles of different policies, not the reorganization of Policy Bureaux. The environmental protection policy is by its very nature contradictory to and in conflict with individual policies. The environmental protection policy has conservation, sustainable development, and so on, as its goal. When it comes into conflict with certain policies such as the transport policy and the policy on planning and lands, negotiations and compromises are the necessary processes in policy discussion. Such a process of negotiation and discussion upon the occurrence of clashes has in fact all along existed. No matter if one Policy Bureau is fully in charge of the environment and transport and public works, or it is two Policy Bureaux that are in charge of environmental protection and transport policies respectively, clashes would still occur, the only difference lies in whether the conflict will be resolved internally within one bureau or whether the differences between two bureaux will be referred to the Chief Secretary for Administration for decision. The DAB considers that it is actually better for such problems to be resolved as early as possible. It is also desirable for one Policy Bureau to resolve contradictions in policies in internal discussions. Therefore, the DAB supports the proposal to merge the environmental protection and transport portfolios and put them under the charge of one Policy Bureau.

As regards the ideal reorganization proposal, there are in fact no standards of good or bad. It depends on whether the proposal is reasonable and whether there are sufficient justifications, as well as whether it can tie in with the operation of the Government. The DAB supports the Government's proposal because we believe that the executive has the best understanding of the merits and demerits and characteristics of different policy combinations, and the deepest experience in policy implementation. One of the aims of the SAR Government in implementing the accountability system is to rationalize the division of labour and duties of the executive, so that the reshuffle of policy portfolios can keep abreast of the developments of the new era. Therefore, the policy blueprint outlined by the executive naturally has to move in this direction. Moreover, the

present proposal to establish 11 Policy Bureaux has in fact amply demonstrated the concepts on the future division of labour, policy objectives and philosophy of governance of the SAR Government and will also facilitate the Legislative Council in carrying out its monitoring role. Therefore, the DAB supports the proposal on the reorganization of Policy Bureaux.

Concerning the amendment to the Code for Accountable Officials under the Accountability System (the Code) proposed by the Democratic Party, the DAB considers the amendment to be of little significance because the proposal of the amendment is already in place. Firstly, the amendment mentions that the Code should be made public by publication in Gazette, but the Government has already undertaken to the Subcommittee to do so and the accountability system will come into effect only after gazettal. The public can refer to the Code at any time. Before publication in the gazette, existing principal officials are still vested with statutory powers and designates cannot assume their roles prior to that time. Secondly, concerning the so-called newly added contents, the DAB considers that the Basic Law and existing legislation already have provisions for this.

As to the Democratic Party's proposal that the Code, apart from being applicable to all accountable Secretaries of Departments and Directors of Bureaux, should also be applicable to the Director of the Chief Executive's Office, we believe the Director of the Chief Executive's Office, as a public officer, as a member of the executive, is already regulated by Article 64 of the Basic Law, which stipulates that the executive authority is accountable to the Legislative Council, as well as Article 99, which stipulates that it must be dedicated to its duties and be responsible to the SAR Government. In addition, the DAB believes that many of the contents of the Code contravene the underlying concepts of the accountability system, for example, the proposal that the Chief Secretary for Administration has to be accountable to the Chief Executive on civil service policies and the management of civil servants. This clearly differs from the plan conceived by the Government. Therefore, in view of the above reasons, the DAB does not support the amendment proposed by the Member concerned. Thank you, Madam Deputy.

MISS MARGARET NG: Madam Deputy, I oppose the resolution proposed by the Secretary for Constitutional Affairs. I have already explained my reasons for opposing the Government's accountability system in the motion debate on 29

May 2002. I have also stated my reasons for opposing the related establishment and finance proposals at the meetings of the Establishment Subcommittee and the Finance Committee respectively. There is no need to repeat them. They stand.

In addition to all those reasons, I oppose the resolution now before this Council because a resolution under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1), for the purpose stated by the Secretary, is improper and an abuse of that provision, and because the resolution, in spite of its unprecedented scope and complexity, has not been subject to the requisite scrutiny by this Council. Due process is, therefore, absent and unsatisfied.

The Government's claim that a resolution under section 54A is proper is on the basis that this is a normal transfer of functions from one Secretary to another, and similar transfers have been effected by way of section 54A many times before. If we only look at the words, this would appear to be correct. But the reality is glaringly otherwise. In reality, the government structure is being radically changed. A completely new category of political appointees is being created. Let us call them "ministers", as so often represented to the press. Ministers are to be directly under the Chief Executive and above the entire Civil Service. Ministers are not civil servants. They are to have direct authority over the highest ranking civil servants.

But, called "ministers", they would have no existence under our law. If, tonight or tomorrow, this resolution is not passed, they will have no power or function under our statutes. They will be able to command and direct no one. They will have no legal standing to interfere in any administrative process or procedure. All legal powers and functions are conferred on the present Secretaries, all of whom are civil servants. What this Council is being asked to do is to take away all the powers and functions exercised by civil servants, and put them in the hands of these ministers. This is a kind of transfer that this Council has certainly never seen before, neither in kind nor in scope.

Madam Deputy, I do not go into the right or wrong of the accountability system here. My point is that one cannot pretend to use section 54A to effect this kind of change. This resolution is merely subsidiary legislation intended to effect formal changes. The substantive change, namely, the change in government structure and creation of the new class of ministers with their powers and duties, should have been effected first, and this can only be done properly by

legislation. Without that primary legislation, this resolution is a sham and an abuse.

The sham and the sophistry is glaring. "Ministers" have to be renamed "Secretaries", so that in words they appear the same as the existing offices, except for a different organization of areas of responsibility. We do not give a person the right to exercise a power merely by giving him a title. We do not remove power from an office by changing its name. These are not the ways of an honest government.

Madam Deputy, I call upon Members to reject this resolution also because it has not been duly scrutinized by this Council. The normal procedure long established in this Council is that any major policy change requiring legislation must first be discussed as to policy in the relevant panel. Then the proposed legislation is studied and vetted clause by clause in the subsequent bills committee, or subcommittee if it is subsidiary legislation. The Administration has the duty to provide full information and explanation to Members in the process, so as to assist Members to arrive at their own conclusion of whether the proposal should be supported.

In this particular instance, the House Committee has decided to entrust both tasks to a subcommittee formed for the purpose. The House Committee has the right to do so. However, within less than two months, Members had to appraise the whole accountability system proposal which had sprung up entire and presented to this Council in any of its concrete details for the first time. Members have to start from scratch, from fundamental issues of constitutionality to practical impact on the administration of Hong Kong. In that compressed timetable, Members' legitimate questions were routinely given cursory answers which no self-respecting government could have given.

But the most serious issue is this. In order to decide whether the resolution should be passed, Members have to know at least what it actually contains and means in reality. This resolution affects at least half of the sum total of executive powers and functions that our laws have conferred on the entire Government. It is not an easy job to look at all the provisions and consider their meanings. The documents provided by the Administration setting out the actual amendments alone are several feet high. Yet as I have pointed out repeatedly in the meetings with officials, these documents do not actually show us what the changes are. For example, an excerpt from an ordinance stating that "the

Secretary may amend schedule 1 and schedule 2 by notice in the Gazette" is meaningless without Members being shown what schedules 1 and 2 are, and how this power works in that ordinance as a whole.

I asked officials currently exercising these powers to attend the meetings of the Subcommittee to explain and to answer questions. My request was supported by several Members. But the Administration refused to do so. Without the Administration's assistance, it is just not possible for us to go through on our own all the changes that the resolution proposes to bring about, let alone go through them in time.

There are real and concrete issues. Members are duty-bound to ask at least three main questions: (1) Is it clear what powers and functions are being transferred to and from each office? (2) Would the transfer result in concentrating too much power on any one office, and if there is a danger of this happening, are sufficient safeguards and transparency being provided? (3) Would the transfer result in any anomalies and render the well-thought out mechanisms of the original enactment problematic? None of these questions were given any opportunity of being properly examined.

Let me give some examples just to illustrate the seriousness of the problem. The Financial Secretary has vast powers under our statutes. A computer search shows 737 references to the Financial Secretary in the statute books. Major powers and functions include: the management of government finances under the Public Finance Ordinance; the preparation of financial estimates of revenue and expenditure, determining the increase or degree of government fees and charges, the supervision and regulation of companies, banks, the Hong Kong Monetary Authority (HKMA) and the Securities and Futures Commission (SFC). Every controlling officer has to obey the regulations made, and the directions and instructions given by the Financial Secretary. The Financial Secretary has the power to call for investigation into companies, to call for accounts and confidential information from business corporations; he controls the Exchange Fund; and he makes key appointments in the whole financial structure of the Hong Kong Special Administrative Region (SAR).

None of these powers and functions are directly dealt with under this resolution. But, under Cap. 1, "Financial Secretary" is defined to mean "the Financial Secretary of the SAR and the Secretary for the Treasury". In other words, in law, any power of the Financial Secretary can be exercised by the

Secretary for the Treasury. This is not a problem at present, because the Secretary for the Treasury reports to the Financial Secretary. However, under the resolution, the "Secretary for the Treasury" will be changed to the "Secretary for Financial Services and the Treasury". If the resolution is passed, this new minister will be able to exercise all the powers and functions of the Financial Secretary under the law, since the new minister does not report to the Financial Secretary. The system is radically changed. There is a need for the purposes of good administration, transparency and accountability, to state explicitly which powers will be exercised by the Financial Secretary, and which by the new minister.

The office of Secretary for Financial Services and the Treasury will be added to our statute books by this resolution. Yet, the simple question, "what powers and functions does the Secretary for Financial Services and the Treasury have?" has no answer. I asked Mr SUEN the question. He told me bluntly that the Government had not yet sorted that out, and would do so only in the coming year. But the public needs to know now. Who will oversee the HKMA? Who will instruct the Chairman of the SFC to start proceedings?

Another example is the powers and functions of the new Secretary for the Environment, Transport and Works. The existing Environmental Impact Assessment Ordinance (Cap. 499) seeks to protect the environment by requiring projects and works listed in a schedule set by the Secretary for the Environment and Food to submit an Environmental Impact Assessment report. This is the monitoring mechanism. If the assessment result does not meet the standard, the Director of Environmental Protection can issue a cessation order to stop the project from going ahead. Before he issues the order, the consent of the Secretary for the Environment and Food is required under section 24 of Cap. 499. But, under the resolution, this power is transferred to the new "Secretary for the Environment, Transport and Works". The anomalous result is that the minister who orders projects and works will be subject to environmental impact assessment ultimately under his own control. Such an arrangement will destroy the independence of the mechanism, and undermine the public's confidence in it.

If this Council were asked to approve this new arrangement in a free standing bill, in-depth questions will no doubt be raised, resulting in major amendments or objection. As it is, this Council is asked to accept on trust that this glaring anomaly will not be a problem. The point that I am trying to make is not just about environmental protection. My point is, without due scrutiny,

how can Members tell how many similar or worse anomalies are brought about by this resolution? If the Administration refuses to provide any satisfactory answer, the only proper course for this Council to adopt is to reject the resolution in its entirety.

Madam Deputy, for all we know, given time and patience, the problems that I have raised may be ironed out. A well-balanced legislation establishing the powers and functions, duties and rights of ministers may be a welcome development of the system of government for the SAR. But time is precisely what this Council was refused, because the Administration has insisted on our passing the resolution today so as to implement the system on 1 July. No reason for the deadline, apart from its being the hope and wish of Mr TUNG Chee-hwa, has ever been given. A proposal which puts the wish of one person above the demands of due process under the rule of law does not deserve the support of this Council. On the contrary, we should and must reject it without hesitation.

Madam Deputy, I would just like to explain that because of the reasons for my opposition to the resolution, it is not, in logic and in principle, possible for me to support any of the amendments to be proposed by my Honourable colleagues. I understand and respect their views, and their desire to bring forward counter-proposals, and shall abstain from voting on their amendments.

Thank you.

DR YEUNG SUM (in Cantonese): Madam Deputy, the SAR Government has introduced a complicated system of political appointees into the Civil Service in an extremely hasty manner and within a very short time. Many people say the accountability system for principal officials (accountability system) is worthy of support since every government leader has his own team. However, as we all know, the situation in Hong Kong is very different. In Western societies, the political ruling group of a government is founded on a democratic system. Government leaders, by whatever title they are called, are returned by universal suffrage. They are credible and representative of their voters. Ministers are accountable, not just to parliament but to the whole nation as well. But Hong Kong lacks a democratic system. So basically, Madam Deputy, the Democratic Party will oppose the accountability system, irrespective of the efforts made by the Government to promote it. The Democratic Party will clearly vote against

the proposal because the so-called accountability system is not really accountable to the people due to the absence of universal suffrage and a credible and representative system.

Madam Deputy, indeed, if the Chief Executive wants to have his own team, he has it already. For example, Ms Elsie LEUNG, Mr Antony LEUNG, and so on, were appointed by the Chief Executive from outside the Civil Service to help him in administration. Is it necessary to bring about dynastic and fundamental changes to the Civil Service? These are very costly changes, because we will have 16 permanent secretaries, three Secretaries of Departments and 11 Directors of Bureaux. Though the Government said the \$40 million-odd would be recovered from merging some departments and bureaux, it could be the junior civil servants who are sacrificed ultimately. If the goal of the Chief Executive is just to have a team of his own, is it worthwhile to implement such an expensive accountability system as the one in question with many senior officers but fewer junior ones and with dynastic changes being made?

Furthermore, the accountability system will produce harms before it can generate any benefits. The major harm is that it constitutes a heavy blow to the Civil Service. First, I trust the accountability system will cause enormous impact on the culture of the Civil Service. The system of civil officials established by the former British Hong Kong Government had several features. Officials were extremely professional and politically neutral generalists. They were not involved in commercial investments. Their experience and expertise within the Government excelled in continuity. That was why even without a democratic system, this British-style Civil Service saw Hong Kong through many a crisis and helped it establish a status that it is enjoying now. The accountability system, if implemented, will deal a heavy blow to the culture of the Civil Service, I believe. I would not say that people recruited from outside are not competent, but they do have numerous links to the interests of the business sector and the professionals. A scholar once said to me jokingly that at the end of the day, Mr LI Ka-shing's men would certainly be among those in the accountability system. Just wait and see. Already, we have learnt from the newspapers that one of the prospective Bureau Directors is closely related to the LI family. Would this new culture, one with numerous links to business and professional interests, be faced with a great crisis if it has to work within a Civil Service that should be politically neutral and free from conflicts of interests? Let us wait and see.

Moreover, Madam Deputy, we made it quite clear last time that the Democratic Party opposed the political appointment of the Secretary for the Civil Service. The reason is that on the one hand the Government said it hoped that civil servants should be politically neutral, but on the other it is making the Secretary for the Civil Service a political appointee, who is an official that must follow collective responsibility of the Executive Council. The Secretary has to keep confidentiality and faithfully carry out the decisions of the Executive Council. How can the Secretary remain politically neutral? When we listened to the views of the public, most civil service groups indicated that they would oppose the political appointment of the Secretary for the Civil Service. Then, permanent secretaries would become politicized because they are basically no different from Secretary Michael SUEN. They would have to promote policies, appear on radio shows, meet with the press and receive questions from Members of the Legislative Council. Thus, creating the posts of permanent secretaries will not make the Civil Service politically neutral because they will have to promote government policies. So, the design runs counter to the intention of setting up a politically neutral Civil Service.

Second, Madam Deputy, I am gravely concerned that the system would adversely affect the morale of the Civil Service. For example, the press is speculating that Mr LAM Woon-kwong will assume the office of Director of the Chief Executive's Office. Some clear-minded reporters pointed out that in money terms, Mr LAM might be receiving a far lower salary than the new secretaries. In addition, many officials will have reduced prospects of promotion. Existing secretaries may not want to become permanent secretaries because they are used to handling policy matters now, but in future they will have to listen to those new appointees. How well will they be co-operating with the permanent secretaries who used to handle policy matters and make decisions on policies? When the new Bureau Directors assume their new posts, they will naturally want to prove their mettle to the people. But those permanent secretaries under them will have to share their risks and their political pressure. I trust that under the circumstances the Civil Service will be dealt a heavy blow. I will later move a resolution to transfer the functions and responsibilities of the Secretary for Constitutional Affairs to the Chief Secretary for Administration because I do not think the new Secretary for Constitutional Affairs will have much work to do and should not be graded at a Director of Bureau level, but should be graded at the level of a permanent secretary. Why? It is because under the new framework, the Chief Secretary for Administration will become a mere figurehead. Whereas civil servants in the past reported to the Chief

Secretary for Administration as if he were the head of all civil servants, now the new Bureau Directors will basically report to the Chief Executive direct. We feel sorry for the new Chief Secretary for Administration because while he used to have powers on all policy matters, he is now undermined. We suggest that the Secretary for Constitutional Affairs, who will have very little to do, be downgraded to a permanent secretary and placed under the Chief Secretary for Administration. Mr CHEUNG Man-kwong will be moving another resolution, which I will not discuss here.

The third drawback is one that administration by the Government will be seriously affected, in my opinion. As I said just now, since many secretaries are used to handling policy matters, they may not be willing to become permanent secretaries. There may be others who, due to various reasons, may be willing but the Chief Executive did not approach them. Well, then, how can team spirit come into play? I truly wonder what problems will arise as the old culture changes to the new. Worse still, before a new culture can be established, the old may have been destroyed. As people find themselves at the junction of an old culture and a new one, transition will have to take place quickly. The Government cannot wait to prove to the world that the system is perfect. We can compare the case to the World Cup Finals in which Ireland and South Korea did very well despite a lack of any superstars. That was the result of team spirit. I would ask questions such as: How great an impact will the accountability system have on the Government? As the old culture changes to the new, can existing officers and new-comers work together to bring team spirit into play for the benefit of the community? Madam Deputy, I do have grave doubts.

The people hope to have a democratic government that answers their needs and a transparent system because people's livelihood is very difficult now and the unemployment rate has been climbing to new heights. The rate stands at 7.4% now. That means there are more than 250 000 people who are jobless. If the Government cannot work as a team, how can it relieve the hardships faced by the community? Money has been spent, people have been chosen, some of who came from the outside, and the Government is saying it is doing what the people want by smoothening the relationship between the executive and the legislature. But is it true in reality? My answers to most of the questions are in the negative. In fact, many people do not quite understand or are not really aware of the close relationship between democracy and people's livelihood. A democratic government cares about public opinion and will respond to their demands because the power of the government comes from voters, and so a democratic

government caters to and responds to the needs of the people. At a time as this, especially, when people are in a plight and unemployment is high, how can social problems be solved through economic and social policies? As a democratic system is founded on support from the general public, the interests of different social strata must be looked after. Thus, people's demands have to be met with government response. Unfortunately, the Chief Executive or the accountability system gives people the impression that the interests of the businesses are being favoured. Good administration or bad, they are not accountable to us. Even if the Legislative Council passed a vote of no-confidence, the Chief Executive might still choose to not to dismiss the relevant officials. Can a government that centralize all the powers balance the interests of different social strata and solve the unemployment problem? I doubt it very much.

Talking about democracy, I must naturally state some viewpoints clearly. During the five years since the reunification, the SAR Government has been holding back democracy. It has not assisted the Hong Kong community to move gradually towards democracy. According to the Basic Law, there will be a review of the political system in 2007. Will the Government inform this Council what preparations it has made for the review in the interim? What has Secretary Michael SUEN in this Chamber done about the mechanism to amend the Basic Law? The population of Hong Kong has grown by 250 000 but the number of seats of the District Councils remain the same. It was said powers would be devolved to the District Councils after the Municipal Councils were disbanded. What extra powers have been given to the District Councils? Indeed, Secretary Michael SUEN and the Government are impeding democratization. So, would Secretary Michael SUEN stop saying we, the Democratic Party, preach democracy only once a year. He should not say anything he deems fit without letting the people air their views. When he criticizes other people, would he please also ask what the Government has done? I hope he can give me a clear reply when he responds later.

In the '80s, the democrats made repeated demands for the Government to return Legislative Council seats and the Chief Executive by universal suffrage. 70% of the public supported the demands. The democrats conducted numerous forums and surveys. It was very clear as to what the public wanted. Though some people say what people now care about most are economic issues because we are faced with an economic downturn and structural unemployment. But if people are asked whether they would support electing the Chief Executive by universal suffrage, 70% of the public would support the method of election.

Would the Secretary say that is not a fact when he reads the results of the surveys? The democrats have done much work. If the Secretary says the democrats have made no achievements, we would continue to work harder. However, would the Secretary inform this Council in reply what achievement the Government has made? What reforms have there been regarding the District Councils? After the Municipal Councils were scrapped, what extra powers have been given to the District Councils? How much progress has the Government made in putting in place a mechanism for amending the Basic Law? When can a review of the political system be launched? The Secretary has never accounted for all these. The Government has been holding back democracy. The strength of the democrats is limited, but still we will do our best. The Secretary, however, belittles our efforts by saying that we preach democracy only once a year. This is nonsense. Despite this, we will continue to make efforts and we will review our work.

Insofar as transparency of the political system is concerned, Madam Deputy, the accountability system is a closed-shop business, lacking in a comprehensive consultation process among the public. Some people will certainly say a number of groups have voiced their opinions. However, I do not think the Government has consulted widely at all. It has not even produced a consultation document. Legalizing football gambling took some time in its consultation process and consultation is still ongoing. How long has consultation been conducted on the accountability system? What documents are there for people to discuss? None whatsoever! Such closed-shop business, haste and lack of transparency are very disappointing and regrettable.

Some prospective Directors of Bureaux say the principal aim of the accountability system is to strengthen communication between the people and the Legislative Council and to enhance the accountability of civil servants. Madam Deputy, I must reiterate that if the Government and the new directors do want to achieve these aims, I think first, there must be established a constitutional convention in this Council such that when a motion of no-confidence is passed in respect of a Bureau Director, the Chief Executive should accept the consensus and report to the Central Government for dismissal of the relevant official. Second, before these Bureau Directors are appointed, they must come before the Legislative Council to state their aspirations, answer questions posed by Members and let the people know their commitment in administration. Third, the Bureau Directors should regularly attend panels of this Council to explain government policies and listen to the opinions of the public. Fourth, there must

be established some safeguards to prevent civil servants from being overly politicized and immunize them against unreasonable control by the Bureau Directors forcing them to act against their conscience or professional conduct. Lastly, I welcome the new Bureau Directors to visit the districts and serve the people together with us Democratic Party members. I also welcome them to attend this Council for debates that will most likely send sparks flying.

Madam Deputy, the accountability system produces harms before it can generate any benefits. It is like a house built on sand. The house, without a firm foundation, may further undermine the efforts of the government in administration. It only shows the intention of the Government to rush to claim credit and bears witness to its capricious administration. The people will tell in future whether the system is a success.

I so submit.

MISS EMILY LAU (in Cantonese): Madam Deputy, I rise to speak in opposition to the resolution moved by the Secretary for Constitutional Affairs.

I believe what the Secretary seeks to do today through moving the resolution will bring about the biggest ever change in the governance of Hong Kong. However, I will not call it reform because reform is something good. It is merely a change. As pointed out by Mr IP Kwok-him earlier in the meeting, the Subcommittee was only given six-odd weeks to discuss such a significant change, whereas we have spent more than a year on discussing the Fire Safety (Buildings) Bill. I think it is essential for such a significant change to be dealt with through the enactment of primary legislation. The Secretary will probably say the Government has never done anything like this before. Right, never since the establishment of the SAR has such a thing been done. Neither did the Government do so when Mrs Lily YAM was appointed Secretary. However, only one Policy Bureau was involved at that time. Now the present case involves all the bureaux. Since it is now sought to transfer all powers, it is necessary to make a law and scrutinize it *seriatim* to see how transfers and mergers can be effected. I believe the Secretary knows (because he has attended a number of meetings) that nothing substantial has been achieved so far. Since the matter was dealt with in such a crude manner, how can we say we have exercised all diligence in scrutinizing the entire resolution in good faith and then lend it our support? This explains why I made it clear in a meeting held by the Subcommittee that I would not be responsible for the resolution.

I believe I am not a lazy and irresponsible legislator. So why did I make such a statement at the meeting? This is because I felt that there were lots of things I had not gone through one by one. No one seemed to be interested in looking at them. Neither would the Government look at them too. It was thus decided among ourselves that nothing more could be done. We were indeed subject to a time limit because the resolution had to be moved today, that is, 19 June. Therefore, please excuse me for having made such a statement.

The Secretary, Mr LAM Woon-kwong, debated against racial discrimination more than two hours ago here in this Council. The Secretary remarked that enacting legislation for a private domain would give rise to great controversies. He further remarked that the issue had been debated since 1996 and that controversial matters would not be handled in a high-handed manner, like crushing crabs with a big stone. I responded that many would be crushed to death and completely squashed several hours later. The Secretary added that it would do us no harm to spend more time discussing the issue since it had already been found to be highly controversial in 1996. I have no idea what further discussions can there be. I only know we were given only six-odd weeks scrutinizing this resolution and now the matter is a "big mess".

In spite of that, Madam Deputy, I have attempted to acquire more information. However, what I went through was like a tooth-removing operation. I understand the Secretary has his own difficulties. He had erred repeatedly since he was unable to sort out the matter clearly. First I asked him who would be the 16 permanent secretaries. How can things turn out to be like that if it merely involves a change in titles? Although the Secretary took the trouble to provide this Council with the information, we were told just two hours later that the information issued was erroneous because one surplus post was put under the Health, Welfare and Food Bureau. I do not know if this is really the case, or it is because Dr YEOH Eng-kiong rejected the idea. A post was subsequently removed from the Bureau and put under the Economic Development and Labour Bureau. I have been asking this question: Should we be provided an organization chart of the relevant bureaux if there is not just a change in titles, and additional posts are to be created instead?

Although our request was made a few weeks ago, the Secretary still refused to provide us the information. We were thus given the impression that even the Secretary had no idea of the relevant structure. In a meeting held by the Finance Committee last week, a chart showing the overall government

structure was eventually provided to us by the Secretary. However, it can be said that what we were provided was not what we wanted. Even though the Secretary had eventually provided us the information, it was proved to be erroneous again. We were given a new information paper two hours later for certain bureaux were found to be missing in the previous information paper. Today, we finally got what we wanted, the organization chart of each government department, two hours ago. Actually, it is no stranger to every member of the Finance Committee. Nonetheless, it has taken several weeks before our request for the information was met.

I realized after receiving the information paper why the Government had been unwilling to give it to us. Madam Deputy, it is because the information paper has not provided us the information we need. Furthermore, I believe some of the arrangements have not been approved by this Council. According to the information (Madam Deputy, the information was presented in English), for the sake of facilitating design, all principal assistant secretaries will be treated like administrative assistants for the accountable Bureau Directors. This is not just a change in titles. Moreover, this arrangement is not yet approved by this Council. However, the new government structure will start operating on 1 July. Is it lawful and reasonable? Even if the resolution is passed today, the Legislative Council Secretariat will have to follow up. This information paper was brought to us by the Secretary General of the Legislative Council through urgent dispatch just two hours ago. Though directorate posts are involved in the reshuffle, I believe the transfer of these posts and relevant powers has not yet been submitted to the Finance Committee for discussion.

Madam Deputy, the chart has merely listed all posts, without stating the distribution of responsibilities. Since the Secretary was unable to provide the information requested by Chairman of the Finance Committee, the Chairman asked if the information could be provided in one year. Though the answer given by the Secretary was in the affirmative, I insisted that the information be provided immediately because we had to know the government structure when the accountability system comes into operation on 1 July. As all the posts are represented only by lines on the chart, we have virtually no idea of the distribution of responsibilities. The Finance Committee should have rejected such information. I wonder what has happened to Honourable colleagues today for they have accepted everything. Such information should be unacceptable, according to the standard of the Finance Committee. This information paper was submitted to us only at the last minute, and some information is still missing.

I raised this question last Friday: Is the arrangement of allowing civil servants to draw monthly pensions while working as principal officials under the accountability system after receiving a lump sum of their pensions appropriate? Mr Ian WINGFIELD responded to Members at that time that information would be provided to us (I have not yet received anything but this sheet of paper. I believe the Secretariat will surely provide us any further information it has received) to explain how the Chief Executive can exercise his discretion in an unconstrained manner for he has made it clear in advance that the relevant civil servants can resign from their posts. It does not matter even if they have violated the rules. In other words, these accountability officials can enjoy double benefits for they can receive salaries as well as pensions at the same time. I have not yet received any comment from Mr WINGFIELD in response to a legal question raised by me at that time. This shows that the Government has still not provided us with the information we have asked for.

As pointed out by Miss Cyd HO just now, we have not received the composite circular issued to civil servants. The circular, which seeks to spell out the relationship between civil servants and accountability officials, is expected to come into effect on 1 July, before the consultation conducted by Secretary Michael SUEN is completed. How can I be expected to vote in support of this resolution when the consultation is not yet over, amendments are yet to be made by the Government, and Members have yet to read the relevant information? I can definitely not give my consent when information is still not complete.

Many colleagues argued earlier that it was most important that the accountability system for principal officials could manifest accountability since it made it possible for principal officials to be dismissed. However, this is not really the case. Only the Chief Executive can dismiss accountability officials. Then comes the Central Government. I guess the Legislative Council can play the role of establishing constitutional conventions. In other words, if we propose (and pass) a motion of no-confidence, the relevant official will have to resign.

Madam Deputy, I raised another constitutional convention in a House Committee meeting last week. No one raised any objection at that time. I asked the Government, particularly the Chief Executive, to announce in this Council the major decision he is going to publish tomorrow or the day after tomorrow, that is, the new government structure under discussion at the moment.

No one in the House Committee opposed this proposal at that time. Madam Deputy, I would like to thank you for raising this point with the Chief Secretary for Administration on Monday.

I personally wrote a letter to the Chief Executive, Mr TUNG Chee-hwa, on Monday morning, suggesting to him the importance of the executive authorities being accountable to the legislature and expressed the hope that he would consider coming to this Council to establish a constitutional convention. Today, I received a reply from the Chief Executive. I was told that, under Article 48 of the Basic Law, principal officials of the SAR Government are nominated by the Chief Executive, who will report to the Central People's Government for appointment. Furthermore, the Chief Executive will publish the relevant arrangement in due course, and attend a Question and Answer Session to be held by this Council on 8 July. Members may put questions on matters of concern to the Chief Executive during the session. This reply is definitely not a proper answer to my question. The holding of the Question and Answer Session by the Chief Executive is actually in response to a request made by Mr LAU Chin-shek. Mr LAU decided to invite the Chief Executive to come to this Council because the existing Bureau Secretaries were unable to answer his questions concerning the accountability system. Now that the Chief Executive will not be able to come until July. I am afraid everything will be overtaken by events then.

I made my request in the House Committee last week because the relevant announcement was made here in this Council by the Chief Executive on 17 April. A Subcommittee was subsequently set up to scrutinize the resolution before the matter was referred to the Finance Committee for funding consideration. This Council was actually involved throughout the process. Even though the matter is going to end, and the Chief Executive is prepared to promulgate the new structure, the names of the accountability officials and the new membership of the Executive Council, why did he refuse to come to this Council? Some people said it is because the Chief Executive is trying to "pull down the bridge after crossing the river". In my opinion, the matter is not as simple as it appears to be. When the Chief Executive needs us, he will come. Why should he come when he no longer needs us? Just as what the President was told by the Chief Secretary for Administration, his appearance before this Council will induce many negative reports. But why does he not ask himself the reasons leading to such negative reports? It will be wrong to think that the negative reports stem from the deliberate remarks or criticisms made by Members of this Council.

Very often, it is rather because the remarks made by someone unable to think the matter through are found to be flawed upon questioning. It will thus give rise to negative reports. Was the Chief Executive afraid that his announcement might induce negative reports and he therefore chose not to come?

Madam Deputy, the Chief Executive's mentality is he would approach this Council when he needed our support. When it comes to this very important moment when announcement is going to be made, and when Honourable colleagues have agreed that the Government should establish a constitutional convention of making such announcements in this Council, we have been told by the Chief Executive that he would make his own arrangement. What arrangement will he actually make? The answer is to hold a press conference. It has been reported that the Chief Executive would hold a press conference with his new team. Actually, I see no problem in doing so. We only request the Chief Executive to, accompanied by his new team, announce his plan in this Council. After that, he may answer questions and then hold a press conference. What we want is just this constitutional convention.

The Chief Secretary for Administration made the following remarks in a debate held on 29 May: "The Government understands that support from the Legislative Council is indispensable if it is to implement its policies successfully. Principal officials under the accountability system must be held fully accountable for the policies under their own jurisdiction. Immediately after the assumption of office, they must be fully prepared to actively communicate with Members of this Council, build up a relationship of mutual trust, and strengthen co-operation". What remarkable "co-operation", "communication", and "mutual trust"! The Chief Executive must not treat this Council in this manner. This resolution is the most important decision since the establishment of the SAR Government. It is really surprising that the Chief Executive rejected the request of all members of the House Committee to make his announcement in this Council. His decision actually represents a complete disrespect of this Council. Given this beginning and foundation, will it be possible to build up mutual trust and strengthen co-operation? We must look at the evidence before agreeing to work together to implement policies. The Chief Executive will only impress us that he is not sincere if he continues with his empty talks. Members might even doubt if he takes this Council seriously.

Madam Deputy, I strongly agree with the point raised by some colleagues that the repeated changes of mind regarding the merger of two portfolios, namely the labour and the environmental portfolios, during the recent shake-up

impressed the public clearly that the two portfolios were orphans. When it comes to the labour sector, the whole community is now shocked by the unemployment problem. This Council is being criticized as a result of this, and we are blamed by the public for having failed to propose a solution to the problem. I think Members of this Council should take up the responsibility of proposing a solution, if any. This is because no one believes the executive authorities can do anything to help. For instance, the executive authorities once raised the idea of local community economy. However, no further action has been taken so far. Members can see that the executive authorities have come to their wits end.

The treatment received by the environmental portfolio is even worse. Several Members mentioned earlier that this portfolio was given the worst arrangement after repeated reshuffles. What worries me most is that the present situation is already not promising. It is possible that "sustainable development", a matter of concern to us, will be driven to extinction because of this merger. The Honourable HUI Cheung-ching raised a question last week with respect to cross-boundary infrastructural co-operation. While Members agreed it was necessary to build roads and bridges, I asked whom would be responsible to monitor sustainable development and whether both parties would observe the same set of environmental protection standards. The then Acting Secretary for Transport replied without giving a thought to the question that both parties would adhere to their own practice. This suggests that the Secretary has not given any consideration to the issue. If the environmental portfolio is put under a super bureau, will the public believe the bureau will really give consideration to environmental problems? Environmental protection and conservation is as important as development. It is essential for two powerful bureaux to co-operate. Instead of competing against each other, they should strive to achieve a balance. If the environmental portfolio is put under a certain bureau to compete with such other "loud" and "fierce" portfolios as the works portfolio, how can it make its voice heard? I am therefore in support of spinning off the environmental portfolio.

Madam Deputy, I understand that the Democratic Party has given much thought before coming up with its proposals. I have no intention to object to its amendments too. Therefore, I will abstain from voting.

MR JAMES TIEN (in Cantonese): Madam Deputy, the topic under discussion today is the accountability system for principal officials. A number of

Honourable colleagues have been serving as legislators for numerous years. If we look back at the period between the '80s and the '90s, we will find that under the administrative framework of the British Hong Kong Government, Governors were invariably sent from Britain. All senior officials were British too. But many official posts were later gradually taken up by locals. In the course of formulating major policies, the Governor was not the only one who made the decision. The British Government probably had a part to play. This was definitely possible in those years. Throughout the years, civil servants have been playing a very important role. Between the '80s and the '90s, many concrete consultative exercises were carried out by local civil servants on behalf of Britain. In my opinion, local civil servants have done an excellent job. Coupled with the diligence and industry of the people of Hong Kong, the territory has been able to make such a remarkable achievement today.

The first Government of the Hong Kong Special Administrative Region (SAR) set up during the transitional period after the reunification actually remained unchanged in the way of governance. The old governance pattern adopted by Britain continued to be used since 1997, with civil servants forming the core of the governance team. In the past few years, we gradually felt that the old *modus operandi* might be flawed. This is probably attributed to the progress of democratization in Hong Kong and the enhanced transparency of government operation. Moreover, a lot of policies were found to be problematic in enforcement. Furthermore, we were faced with such problems as overlap of government policies, economic depression, poor business environment, high unemployment, and so on.

I concur entirely with many Honourable Members who said that today's question is very important in the sense that it will bring about a significant change in the governance of Hong Kong. According to the old governance pattern, policies were formulated by a Governor sent from Britain and a number of civil servants. From now on, civil servants will no longer be collectively responsible for policy formulation. Instead, principal officials will be appointed to assume responsibility for their own portfolio and formulate relevant policies. Many Honourable colleagues have expressed the worry that, since the Civil Service has operated for so many years, civil servants may find it hard to adapt to the changes all of a sudden. Their argument is certainly not groundless. However, if we refrain from making changes, it will be tantamount to sticking to the rut. Eventually, no one will bear responsibility under the so-called collective responsibility system.

Actually, many colleagues from the pro-democracy camp have expressed strong views on substandard piling problems in public housing. They acted so strongly then because they saw that the mechanism was problematic. Being civil servants, major decision-making officials were collectively responsible. Under such circumstances, it was impossible for us to ask them to resign. Even if the relevant officials wished to resign, they might not be able to do so because the faith of the entire Civil Service would be compromised. The reputation of the Civil Service might also be affected. As no one could bear this responsibility, the officials were allowed to remain in their posts.

What should be done if reform is to be carried out? Are we going to follow some overseas examples? In other words, after a candidate is selected president or Prime Minister (through one-person-one-vote election, indirect election, or some other means), he will appoint his ruling team under a system similar to the accountability system. Under the so-called accountability system, an accountability official will be promoted if he performs well; if not, he will be asked to step down.

Many of colleagues have also raised questions about appointment by the Central Government and the no-confidence motion. Under the existing *modus operandi*, we have to act according to the Basic Law which stipulates clearly that principal officials are appointed by the Central Government. Nevertheless, it is always possible for this Council to propose a no-confidence motion in future. If this really happens, I believe the principal official in question will voluntarily resign, instead of embarrassing the Chief Executive since he will otherwise have to report to Beijing for the dismissal of the official. The official may even justify himself by saying that he bears the responsibility for his own decision and that he is free to resign if he does not want to remain in office. Is it really necessary for the Basic Law to clearly state that the power to make appointment does not really exist and that this Council shall hold the power of dismissal? Will it be unrealistic if we are to hold this power? If the Central Government possesses the appointment power while this Council possesses the dismissal power, will such a *modus operandi* be problematic? This is why I think the current *modus operandi* will be useful for handling similar problems in future. In the event that another principal official becomes the target of a no-confidence motion and the motion is subsequently passed after a bicameral voting is held (even Members of the pro-democracy camp have agreed to this proposal), I believe the official, who must have made a very serious mistake, will resign voluntarily. There will be no need for dismissal.

Now I will like to say a few words on the appointment by the Chief Executive of people from his own team or his old acquaintances. I believe this is what leaders worldwide will choose to do in order to form the so-called cabinet. In overseas countries, after a certain political party wins an election, its members will be chosen to form the cabinet. Though the appointees might not be the best candidates, the party leader will not appoint someone from the opposition party even though they might make better candidates. This is how the model works. Of course, problems will arise if all the appointees are incapable. People in the community will definitely criticize them.

What is being adopted at present is a "transitional" model, in the sense that civil servants will be turned into principal officials. A total of 11 accountable officials, apparently equally divided between civil servants and non-civil-servants, will be appointed at the first stage, though the exact details will be known tomorrow when the announcement is made. If this is really the case, that is, if many incumbent Bureau Secretaries become accountable officials, they will be able to achieve continuity. This is because, given their familiarity with the civil service *modus operandi*, they will not encounter great problems in articulating with the new system. As for the newcomers from outside the government, they must start learning quickly. In my opinion, principal officials and permanent secretaries, that is, remaining civil servants, are mutually dependent. While principal officials need the permanent secretaries to help them, permanent secretaries are obliged to help their new bosses. If a permanent secretary only brings big troubles to his new boss, the former will definitely not have an easy job to do. Conversely, if a newly appointed principal official knows nothing about his job and makes decisions casually, his permanent secretary should warn him that problems will arise sooner or later. I believe it is much more likely for the pair to work in partnership rather than in antagonism. In any case, I hope they can be given the opportunity to try this out.

As regards the question of whether 11 principal officials are excessive, the Liberal Party actually once doubted whether it was excessive to have 16 Bureau Directors and wondered whether eight to nine would be adequate when the idea first struck us. This is because the Hong Kong Government is not required to handle diplomatic affairs and maintain armed forces. It is only required to administer such a tiny place as Hong Kong. Is it really necessary to have so many principal officials? The Liberal Party was previously of the opinion that

if the Government's premise was to streamline its structure, it would be unnecessary to have so many principal officials. Later, during the discussions held between the Government and Honourable Members, the Government made numerous analyses to demonstrate to us that this number of principal officials was indeed necessary to facilitate the smooth operation of the Government. We also noted a point raised by Members of the pro-democracy camp, that is, civil servants will object if too many principal official posts are cut. This is because the chances for civil servants to fill vacant posts arising in future will diminish.

In my opinion, the present layout has taken into account various aspects. This is because in making the decision, it was necessary to be mindful of the need to retain sufficient posts for the civil servants who would choose to remain and, at the same time, of recruiting talents from outside the Government for the purpose of introducing new views. In addition, some principal official posts, such as the Secretary for the Civil Service, are highly controversial, though it was at the end decided that 11 Bureau Directors would be required. Although the Liberal Party considers it slightly excessive for the Government to appoint 11 principal officials, we will still support the Government's decision. At the same time, some colleagues in this Council have some opinions on the number of principal officials. For instance, some opine that the labour portfolio should become independent, while others consider it necessary for the environmental protection portfolio to remain independent. At least, today's amendments contain these views, which are supported by a number of Members too. However, the number of principal officials will rise to 13 should the amendments be passed. This will be even greater than the current proposal. Will it be right for us to do so? Today, we would rather support the Government's proposal of establishing 11 principal official posts. It is hoped that the third SAR Government can consider streamlining its structure or abolishing certain posts by 2007 after the system has operated for some time.

Some Members have criticized the accountability system for being biased towards the business sector, or government policies would benefit mainly the business sector. I am convinced that the major policies adopted in Hong Kong over the past many years were conducive to this specific sector. This policy was actually adopted by the former British Hong Kong Government. Up to this very moment, it is also the policy adopted by the first SAR Government. This is because for such a tiny place as Hong Kong to support its huge population of

7 million, the people of Hong Kong can only rely on themselves for survival under the operation of a free economy and capitalism. We have no oil or gold resources under the ground. We can only rely on our human resources for development. If no one is willing to make investments, where can the workers find jobs? The Government has all along adopted this principal policy. How can it be said that the Government is favouring the business sector?

I think the only contentious point is labour legislation. Insofar as other areas are concerned, the entire community will be benefited should Hong Kong be able to secure a more favourable investment item. It is simply impossible for the business sector to receive the full benefits, while workers are not benefited at all. Furthermore, if the report on the announcement tomorrow is true, most of the 11 principal officials will actually be transferring from the Civil Service. Only several officials are recruited from outside the Government. Moreover, not all of them come from the business sector. Therefore, I do not in the least feel that the entire policy is favouring the business sector.

I would like to say a few words on the amendments. The first amendment I would like to talk about is related to the economic and labour portfolios. The labour portfolio is all along under the charge of the Education and Manpower Bureau. The Liberal Party has been of the view that there are two major types of labour problems. The first type involves problems which are required to be submitted to this Council, more controversial in nature, and of relevance to both parties, such as compensation, paid and unpaid holidays, severance payments, and so on. Another type involves issues of a higher level. Examples are ways to boost the employment opportunities in Hong Kong, ways to improve the current working environment, and so on. If the head of the Labour Bureau or the Labour Bureau is to function independently, we may as well criticize them for "making a cart behind closed doors". They can only formulate labour legislation behind closed doors since they have no idea of what is happening outside. Though they may make labour legislation to provide workers with excellent protection, employers finding the protection unaffordable may subsequently be forced to wind up their businesses. As a result, workers will lose their jobs too. I have raised the point twice that no work is equal to zero. Multiplying any number by zero is always equal to zero. Labour legislation means nothing to a worker who has lost his job. Maternity leave also means nothing to a woman without a job. Likewise, a jobless person cannot possibly get any paid sick leave.

In the past, the labour portfolio and the education portfolio were put together. As a result, the Education and Manpower Bureau managed almost everything, from secondary schools to universities, training, retraining and labour. Some people have been making this criticism over the years: Can the training and retraining programmes administered by the Labour Department really nurture and train people to cope with the needs of the economy today? We have actually seen that many problems have arisen. The current thinking is that labour affairs should be brought closer to the business sector, that is, to be included in the economic development domain. Many Honourable colleagues have made many suggestions on the economic development portfolio. In Hong Kong, this portfolio covers many domains, including tourism, logistics, containers, and many other related trades. If the Economic Development and Labour Bureau can grasp the new employment direction, such as the major area of investment, it will be able to advise us as to which direction human resources training should preferably take. The Bureau should indeed act like a prophet in enlightening people. I think it should be able to do so. Many workers are now suffering badly. They realize only after completing retraining that they are not wanted by the business sector and this has led to divorces from the reality. In my opinion, the present arrangement can probably resolve some of the problems. Of course, when it comes to labour legislation, this Council can play a very important role. Although the relevant principal officials are responsible for the economic and labour portfolios, we may work in collaboration with various political parties in this Council in order to reach a consensus.

The same situation happens in the environment portfolio too. Do we really want to set up an independent environment bureau which will only deal with its own business, without paying any attention to affairs related to economic development and those concerning housing, transport and other policies? Not necessarily. This explains why it was initially proposed that the environment portfolio be combined with health affairs. However, the Government later came up with two alternatives. One is to follow the old arrangement of combining environmental affairs with housing, planning and lands portfolios; and the other is to combine environmental affairs with transport and works, as presently proposed by the Government. Actually, environmental protection, or environment, is closely related to transport and works. At the same time, it can be said that environment is relevant to housing, planning and lands. What worries people in the industry is that transport was put before works and environment according to the former proposal. Now that environment is to come first, does it imply that the Government will favour environment over

transport and works? Nevertheless, I believe all principal officials, despite have so many policy areas under their charge, will balance the policy portfolios under their jurisdiction and strive to balance the interest of all parties.

Madam Deputy, the Liberal Party supports this resolution generally. It hopes the Government can endeavour to do even better in the coming few years, after the implementation of the system. It is also hoped that the next SAR Government can review all policy portfolios if there should be any room for improvement.

MR CHEUNG MAN-KWONG (in Cantonese): Madam Deputy, Members of the Legislative Council from the Democratic Party have proposed a total of two motions and five amendments, despite the full knowledge of the impossibility of their passage, in order to put down in records that we oppose the accountability system for principal officials launched by the Government. This is because the system is not democratic, not accountable, and the process of implementation is too rash, too ill-advised, full of glaring loopholes and giving rise destructive consequences.

During the motion debate on 29 May, I spoke on behalf of the Democratic Party the 10 deadly sins of the accountability system. They are:

1. a material change in the nature of the Executive Council;
2. political neutrality of civil servants becomes a myth;
3. permanent secretaries cease to be politically neutral;
4. a confusion in the powers of the Principal Secretaries and Directors of Bureaux;
5. the split and merger of departments are arbitrary and hectic;
6. the merger of bureaux and departments may lead to massive layoffs;
7. constitutional conventions are as flimsy as castles in the air;

8. pro-government parties monopolizing political power;
9. conflicts of interest caused by the unholy alliance of businessmen and officials; and
10. court politics in a modern society.

We shall use these as the basis for our monitoring of the administration by the Government. We are of the view that the Democratic Party and all opposition parties should be obliged to mobilize and unite the people to oversee the work of the Government and fight for democracy and a better Hong Kong with a revived economy and reduced unemployment.

The accountability system as proposed by the Government is very likely to be passed today as it has the support of the newly formed shadow ruling coalition party. The accountability system will be in force in Hong Kong from 1 July. The political scene here will see a gradual development towards polarized bipartisan politics. On the one hand is the establishment formed by the SAR Government and all pro-government parties, and on the other is the power of the people built around the axis of democrats. These two forces will contend not only in the political assemblies, but also in the community, in the media and among the people. They will exercise balances and checks on each other, flexing their muscles as they try to win the hearts of the people.

The Democratic Party is no pro-government party, for the simple fact that there is no political system founded on democratic elections here, nor is the government we have democratic. Due to the restrictions in the electoral system, we cannot become the majority party in the Legislative Council. What we can do is to persistently make the voice of the people heard, despite the fact that it is regarded as noise not to be welcome. During these five years since the reunification, a combination of the high-handed measures and gross impotence of the SAR Government has left the territory sunk in the rock bottom of an economic impasse. The wealth of millions of people has simply been vaporized, thousands forced out of their jobs or into underemployment, civil servants and the staff of subvented organizations toil their days in fear, professionals and professors took to the streets in protest. The whole society of Hong Kong is overwhelmed by anger and discontent as it passes the darkest five years in its history. The Democratic Party is fully convinced that the role we play as an opposition party in this Council and the voice of the people we speak up on their

behalf, are not in vain. We may have not done so well and for which some criticisms have been directed against us. We understand that these are made with the fervent hope that we should rectify and do better. We will commit these fondly to our hearts as they become the force which drives us onward.

The accountability system is the first step we make. Michael SUEN once sneered at the democrats, saying that they only fight for one day of democracy every year. Such a remark displays the sheer contempt and arrogance of those in power for those who are not. This is like the great European teams in the World Cup Finals looking down on the emerging forces from Asia. When the people have not yet learned the painful lessons that this high-handed and arrogant government who lacks a popular mandate and whose policies are enemies to the people, is precisely the cause of their miseries, they will not make democracy an important and direct demand. They would only blame themselves for being unlucky, for lacking the skills to catch fish in the pond. But they do not know that the pond which used to be full of fishes and shrimps has dried up, with all the fishes and shrimps laid bare to dry.

The SAR Government knows nothing about ruling Hong Kong. All the officials know is to put the blame on the mines buried by their colonial predecessors. All they know is to blame the blunders and failures on the Policy Secretaries who are after all, also officials. All they know is to say that there are too many notes of discord and grievances in this society, that the media and the political parties are bad-mouthing Hong Kong. So the accountability system is launched with the hope that all the failures over the past five years can be erased. That is the most stupid ostrich in the world, for it thinks that all would be beautiful when it digs its head deep into the sand. But it does not know that a sandstorm is coming, and soon it will be drowned in the sea of sand.

The Democratic Party will prove that it is a party to be reckoned with. We will make the South Korean soccer team our model and we will fight against all odds like the Koreans, for dignity and respect. Over the past two months we have been using our limited resources to take on the Government on this issue of an accountability system. We are convinced that the contentions and struggles in this context are part and parcel of democracy. For not only does the process expose the autocratic nature of the Government, but that democracy is infused in the accountability politics. We urged the Government to compile a Code for Accountable Officials under the Accountability system. We proposed the establishment of constitutional conventions to check principal officials under the

accountability system. We pointed out the various inadequacies in the resolution on the accountability system due to its hasty introduction. We made criticisms on the issue of conflict of interest after principal officials have retired from office and attacked the regulatory system for it. We attacked the kind of court politics that would emerge under the accountability system. We defended the excellent tradition of the Civil Service. All these efforts will not be in vain, for they will be put on the records at the starting point of the accountability system. It will become the starting point for our efforts to urge for the establishment of a genuine accountability system, from one which is accountable to the Chief Executive to one which is accountable to the people. We will not give up any battlefield. Even if the resolution proposed by the Government is passed, we will strive to make amendments on the merger and reorganization of Policy Bureaux and have them put on the records. We shall keep on fighting, though we know that the odds are heavily against us.

We are no scholars. We will not exaggerate the impact of putting something on record. For if we are satisfied with merely putting something on record, if we do not put up a real struggle, if we do not make democracy and accountability part and parcel of the new political system, and if we do not learn from the failures of democracy or from the frustrations of the people, then we are only scholars talking about politics in their study and what we do is useless. However, we will learn from our past failures and move forward. Democracy is life. Now the people of Hong Kong are living through the worst times for the past 20 years. We are not demanding just for the return of Members of the Legislative Council and the Chief Executive by universal suffrage. We also want to put forward some practical solutions to ease people's hardship and soothe their suffering. We will strive to make democracy part of the quest for a better life, instead of just an empty slogan.

But since the new politics of accountability has appeared, we have the grounds to turn this bogus system of accountability into something real. The system should be made applicable to the new principal officials and the Chief Executive. Our Chief Executive and the new principal officials who have ascended to power are all protected by the Basic Law. The Chief Executive is returned uncontested and he appoints a group of people who do not have to go through any elections. These officials will meet challenges in the political assemblies, in the community and from the media and the people. The Democratic Party will put forward all kinds of targets and demands representing public opinion and direct them to each of the accountable officials, on every

policy area and with every passing day. We will bring up major issues like those on the economy, unemployment, education, and so on. We will link our demands for democracy and accountability with the suffering and hopes of the people. These would become new political aspirations.

The Government and the pro-government parties have rich resources and power behind their back. We would not be timid and forget the public opinion behind us, as well as the criticisms, support and expectations that come with it. Any political party which sets its goal on democracy and seeks support from the people has to stand up in the midst of the worst of times and under the most scathing attacks. It should make its voice heard and take bold actions. It should take on the Government and the pro-government parties as opponents. It should strive to effect progress in society and improvements to the people's lot, so that they will not have to live worse off for five more years. On this eve of the implementation of the accountability system, the number of unemployed and under-employed people in Hong Kong combined accounts for more than 10% of the population. The bosses are having a bad time, the same goes for workers and professionals. Everyone is having a bad time. This is the truest and harshest phrase summing up the five years since the reunification. This is a shame to the five years of TUNG Chee-hwa's governance and for the people, their greatest fear for TUNG's re-election for another term of five years.

The motion proposed by the Government will pass today, but we will launch our efforts to establish parliamentary constitutional conventions. We will formally request TUNG Chee-hwa and his accountable Directors of Bureaux to come before this Council to answer questions from Members concerning their policies and stands so that they can come under the scrutiny and comment of the public and the media. This will ensure the discharge of duties under the system of accountability. Now TUNG Chee-hwa says that he can come to the Council only 18 days after the Directors of Bureaux are appointed. His answer is the best counter-example of accountability system, and it is also the most ridiculous example. He is dismantling the same system that he puts up with his own hands. He should be denounced. I would also like to point out that the essence of the accountability system is that the principal officials should be held responsible for the success or failure of their policies. Once a grave blunder is committed and when after a motion of no-confidence is passed by the Legislative Council, the official concerned is obliged to tender the Chief Executive his resignation. It is the Democratic Party's suggestion that the official should tender his resignation instead of being dismissed. For if the official is to be dismissed, that will have

to be recommended by the Chief Executive and approved by the Central Government. It is our hope and wish that a real political culture of accountability can be built up in Hong Kong and that we should have the accountability system in practice and not merely in name. This is the essence of our amendments.

Madam Deputy, Michael SUEN says that the amendments proposed by the Democratic Party on the reorganization of the administrative framework if passed would render the new accountable officials with only their responsibilities but not the powers.

Actually such a scenario is the Government's own making, it is even deliberately arranged by the Government. I recall in a meeting of the Subcommittee on the accountability system, many Honourable Members pointed out that the Government should get a resolution passed in the Legislative Council or the resolution as amended by Members first before an application is made to the Finance Committee for funding to create the new posts under the accountability system. But the logical demand from Members was rejected and a forceful application for funding was made first in the Finance Committee before a resolution was proposed in this Council to create the posts concerned.

Now as Members propose their amendments to the Government's resolution, this Council is threatened that when the amendments are passed there would not be any posts created by the funding and so the accountable officials will only have the duties but not the powers and that they cannot therefore discharge their statutory functions in their respective policy portfolios.

The move made by the Government to secure funding to create the posts it wants before seeking to pass a resolution on the posts is tantamount to not following the rules of the game. When the results are fixed before the match begins, it is even worse when Members are prevented from making amendments. The Democratic Party will not succumb to this blatant violation of the rules of the game for we are opposed to such behaviour. We hope that the Government will follow the rules of the game. Once the amendments made by Members are passed, then the Government should revise its request for funding before submitting the proposal to the Legislative Council again. This is how the parliamentary practice should be respected.

Madam Deputy, the Democratic Party opposes the accountability system for it is not democratic, not accountable, fraught with problems and plagued with

destructive consequences. We demand that TUNG Chee-hwa should be held responsible for the failure of this accountability system. With these remarks, I oppose the motion.

MR HUI CHEUNG-CHING (in Cantonese): Madam Deputy, I rise to speak in support of the Government's decision to merge commerce, industry, technology and broadcasting to form the Commerce, Industry and Technology Bureau and also the merging of economic development and labour to form the Economic Development and Labour Bureau. When compared with the original proposal of merging commerce, industry and labour and of setting up two separate bureaux, namely, the Economic Development Bureau and the Information Technology and Broadcasting Bureau, the present reorganization scheme of the Government is not only much simpler, but also able to highlight the importance of the connection, assistance and co-ordination among the relevant policy areas.

First, the establishment of the Commerce, Industry and Technology Bureau can reflect precisely the necessity that in this era of new economy, the local commercial and industrial sector must seek to upgrade its competitiveness by making good use of technology. At the same time, this is also a recognition of the role played by technology-based industries in the economic development of Hong Kong. On the other hand, harmonious labour relations also count a lot in determining whether our economy can recover and restructure itself successfully. In this connection, the functions and responsibilities of the Economic Development and Labour Bureau can aptly highlight the significance of harmonious labour relations. I hope that these two new bureaux can step up their communication with the relevant industries, endeavour to improve our business environment and abolish unnecessary regulations. In particular, they must grasp the business opportunities brought about by the accession of the Mainland to the World Trade Organization, attract more inward investments and create more jobs for the people.

Some Members suggested splitting up the Economic Development and Labour Bureau, so that a separate Labour Bureau can be set up and merging economic development with the Commerce, Industry and Technology Bureau. In this connection, I have to refer to a point emphasized all along by the Chief Executive — from now on, all government policies will be formulated with priority accorded to people's employment opportunities. In that sense, the merging of labour and economic development is in fact an attempt by the

Government to ensure that in terms of organizational set-up and during the conception of policies, there can be prior assurance that economic policies will always take account of labour interests, thereby highlighting the unique significance of labour interests in our economic development. The establishment of a separate bureau for labour affairs will of course carry a very great symbolic significance. But in practice, this may split the handling of labour affairs from that of other issues, which is not conducive to their co-ordination with other policy areas. Madam Deputy, I so submit.

MS AUDREY EU (in Cantonese): Madam Deputy, the resolution under discussion today has given rise to so many problems that 15 minutes are simply not long enough for us to express our views. I can only choose to discuss three major issues. To start with, I think it is basically inappropriate for the accountability system for principal officials (the accountability system) to be effected by way of a resolution. The appropriate way should be to submit a new piece of primary legislation. Secretary Michael SUEN stated that there was nothing special about this resolution for this method had been used many times before. However, this resolution is different from previous ones, both in terms of contents and nature. By way of this resolution, certain powers and functions will be transferred from one official to another. In addition, certain posts and powers originally provided for under previous legislation will be abolished. At the same time, new functions of three Secretaries of Departments and 11 Bureau Directors which were not political appointment posts under previous legislation will be created. It is impossible to achieve all this simply by way of resolution. Neither is this approach proper. The second major problem stems from time constraint. Madam Deputy, Mr TUNG suggested the idea of the accountability system in October 2000. I do not understand why it took so long before the proposal was formally raised in the middle of April 2002. In addition, this Council was asked to endorse it in 10 weeks' time.

The Subcommittee chaired by Mr IP Kwok-him has held a total of 15 meetings and spent 54 hours scrutinizing the accountability proposal. Some Members are of the opinion that the deliberation period is sufficient. However, the accountability system involves the transfer of functions among a number of Policy Bureaux. It will also bring about significant changes in the Government's governance and decision-making structure. We should therefore discuss it in detail.

According to my rough calculation, Members taking part in the scrutiny have received a total of 155 documents on the accountability proposal. Without taking into accounting those attending the hearings, the documents involving the transfer of the functions of the Policy Bureaux add up to more than 3 100 pages. Are the changes to be affected appropriate? Are there any conflicts of roles or functions? Is it necessary to give Members more time to carefully examine the matter? Nevertheless, Members were asked by the Government to complete the scrutiny of the accountability proposal and the resolution in 10 weeks. I think this is unfair to Members of this Council as well as the public. The Government has also acted irresponsibly. Miss Margaret NG has explained the work that needs to be done for the purpose of properly scrutinizing the resolution in her speech earlier. So I do not wish to repeat it. I can only say I personally feel that I have not been given enough time to do the necessary scrutiny.

Actually, we can see that the Administration has made frequent mistakes due to the time constraint. Last week, Members still received 70-odd pages of the revised version of the accountability system. Even reference to "Health, Welfare and Food" was found missing in the explanatory note of the organization chart of the accountability system submitted to this Council by the Government. I recall when Mr LEE Cheuk-yan asked Secretary Michael SUEN at a Subcommittee meeting about the distribution of the 16 permanent secretaries, Mr SUEN replied that he did not remember it because he was "old". Though the relevant papers were later given to Members, they were again found to be wrong and had to be revised again. Madam Deputy, even if we merely judge from the adequacy of information, the information given to us even up to this stage when the debate is being held is, as pointed out by colleagues, still incomplete. I simply dare not imagine how chaotic the Government can be after the accountability system is implemented for the Government has made so many errors in carrying out its preparatory work.

The accountability system is "innately deficient". It is not backed up by a democratic political system and there is a lack of checks and balances between the Chief Executive and accountability officials. Moreover, the constitutional convention of obliging officials impeached by this Council to resign voluntarily is still not in place. I have spoken at lengths on these issues on past occasions. Therefore, I do not intend to repeat them here. Today, I would like to say a few words on "postnatal imbalance". This is also the third major area I wish to discuss.

THE PRESIDENT resumed the Chair.

Under the accountability system, the number of Policy Bureaux will be reduced from 16 to 11. This is supposedly good from the angle of streamlining the structure. However, the Government has made such mistakes as uneven division of work, conflicting roles and last-minute reshuffle in its redistribution of the work of Policy Bureaux. For instance, its initial proposal of merging commerce and industry with manpower was criticized by outsiders, including this Council, as "favouring commerce and industry over labour". Furthermore, the Government was accused of creating a "super bureau" through the merger of environmental affairs and the health and welfare portfolio. As a result, Chief Secretary Donald TSANG proposed an amendment when the accountability system was debated in this Council on 19 May and, as a result, five of the 11 bureaux were reshuffled again. Though the Government has been praised by some Members for heeding good advice, I am of the opinion that the new proposal contains the same number of problems as the old one. In particular, the merger of the environment portfolio and transport and works has resulted in a particularly serious role conflict. The environmental impact assessment mechanism set up under the existing law is bound to be destroyed too.

Under the Environmental Impact Assessment Ordinance (EIA Ordinance), such power is mainly vested in the Secretary for the Environment and Food, to be enforced by the Director of Environmental Protection. In exercising such statutory powers as altering or abolishing environmental permits or issuing orders on suspension of works, the Director of Environmental Protection is required to seek the consent of his boss, that is, the Secretary for the Environment and Food. According to the resolution proposed by the Government, however, the functions and powers conferred under the EIA Ordinance will be transferred to the new Secretary for the Environment, Transport and Works. It is most ridiculous that the works projects governed by the EIA Ordinance cover the transport and works projects administered by the new Secretary too. In other words, when the relevant projects are carried out in future, the new Secretary will be required to submit to his subordinate, that is, the Director of Environmental Protection, the relevant environmental impact assessment reports and apply for works permits. In the meantime, for the purpose of exercising the works supervision power conferred under the EIA

Ordinance, the Director of Environmental Protection is required to seek the consent of the Secretary for the Environment, Transport and Works. Such a ridiculous arrangement of "self supervision" is really laughable!

On the other hand, the new Bureau Director might take the place of the incumbent Secretary for Transport as a director of the Kowloon-Canton Railway Corporation (KCRC). When the Kowloon-Canton Railway Corporation (Amendment) Bill was submitted to this Council for scrutiny earlier, the Government already pointed out that the role of the Secretary for Transport and the Secretary for the Treasury on the Board of the KCRC is to pursue the interest of the KCRC faithfully. However, the KCRC, as an entity operating on commercial principles, is aimed at making profit through constructing railways. This may give rise to conflicts with environmental conservation, and when such conflicts arise, the new Bureau Director may have to induce a split personality.

There is no such problem with the existing structure because the environment, transport and works portfolios are headed by three different Bureau Directors of the same standing. The merit of this arrangement is the exercise of checks and balances among them. Of course, it will be best if they can work in rapport when internal disputes arise, as this happens from time to time according to the Secretary. Failing this, the disputes may, under the existing law, be dealt with by an independent appeal committee. Let me cite the Long Valley incident as an example. The Secretary for the Environment and Food has, on grounds of protecting the environment, all along insisted on supporting the Director of Environmental Protection to veto the EIA report submitted by the KCRC with respect to the construction of the Lok Ma Chau Spur Line. The dispute thus arisen was eventually dealt with by an independent appeal committee in accordance with the mechanism provided under the EIA Ordinance. The KCRC's appeal was subsequently dismissed by the committee, which ruled it necessary for the KCRC to re-submit an EIA report.

I do not know if the new Bureau Directors will have to "sue themselves" should the accountability system be implemented. Decision-making will in future be dictated entirely by personal preference, rather than through an independent mechanism. Many colleagues have spoken today to express the worry that the environmental protection portfolio might, like an abandoned child, be taken lightly by the Secretary. Madam President, I would like to make it clear that my concern is not focused on whether the environmental protection

portfolio will be merged with another portfolio or become an abandoned child. My concern is rather focused on the conflicting functions. I think it is impossible for the Government to resolve this problem by merely appointing an environmentalist to be the Bureau Director. This is unfair to the Bureau Director because he will be required to head two conflicting portfolios. Whatever decision he makes, he will be criticized by either one of them. Therefore, Madam President, we cannot rely solely on appointing a suitable person to resolve this problem. Instead, we have to rely on a sound mechanism. A sound mechanism is already in place under the existing law. The merger proposed by the resolution will only completely destroy the mechanism set up under the existing law.

We will also find similar problems facing the merger of economic and manpower affairs. The new Secretary for Economic Development and Labour will also face conflicting economic and labour interests. Furthermore, Miss Margaret NG has also mentioned the point that, under the Interpretation and General Clauses Ordinance, the "Financial Secretary" should cover the Secretary for the Treasury as well. There will no longer be a subordinate relationship between the Financial Secretary and the new Secretary for Financial Services and the Treasury after the accountability system is implemented. Secretary Michael SUEN has so far been unable to explain clearly how their work will be divided. Instead, Members are told to wait patiently until the new officials assume office when the relevant arrangement will be made in due course and Members be informed of the relevant details. Under such circumstances, Madam President, it is totally irresponsible of the Government to ask Honourable Members to vote for the resolution.

Madam President, the various situations mentioned above fully reflect that the accountability proposal has been prepared in a crude manner, entirely without thorough consideration. Furthermore, I have also noted that the division of work among the permanent secretaries under the accountability Bureau Directors is very uneven. For instance, two permanent secretaries are appointed under the Economic Development and Labour Bureau to look after economic and labour affairs separately. On the contrary, the Secretary for Health, Welfare and Food, an office believed to be tasked with heavy workload, is assisted by only one permanent secretary. If the Government fails to handle this most fundamental work properly, how can we expect the accountability system to operate smoothly in future?

In sum, Madam President, the accountability system proposed by Mr TUNG is suffering from "innate deficiency and postnatal imbalance". The public is bound to suffer if the accountability system runs into trouble in implementation or when the government policies only tilt towards a certain side.

Since I cannot support the original motion in principle, I will render no support or raise objection to most of the amendments proposed by colleagues from the Democratic Party, the Frontier and the Hong Kong Association for Democracy and People's Livelihood. However, I will vote in support of Miss Cyd HO's proposal of establishing an independent environment bureau and Mr Fred LI's proposal of "restoring" the Environment and Food Bureau to demonstrate my view on the restructuring and merger. However, this does not mean I support the essence of the original resolution.

With these remarks, Madam President, I oppose the Government's resolution.

MISS LI FUNG-YING (in Cantonese): Madam President, Members' remarks today on this resolution moved under the Interpretation and General Clauses Ordinance and the relevant amendments all give me the feeling that we are trying to do something which is clearly impossible to achieve. Well before this resolution is put before the whole Council, the very same legislature and the very same Members, in the Finance Committee and the Establishment Subcommittee, already endorsed the accountability system consisting of three Departments and 11 Bureaux and the required funding. It is difficult to imagine that with just the lapse of a week or so, this legislature can now endorse a resolution that runs counter to the original arrangement of three Departments and 11 Bureaux.

That said, as a representative of the labour sector, I still have to make my points clearly when faced with such a major change in government structure, one which is bound to produce very far-reaching consequences. The Government originally proposed to group the policy areas of manpower, industry and commerce under a Commerce, Industry and Manpower Bureau. This proposal led to many criticisms both inside and outside the legislature. Subsequently, the Government changed its mind, and now it has proposed to combine manpower and economic development and set up an Economic Development and Labour Bureau. According to the Chief Secretary for Administration, such a change can allay Members' worries and highlight the Government's concern about labour policies.

When the Government proposed such a change, I already criticized that it was just the same stuff with a new package. My view still stands. I fail to see how we can bring about any substantial changes by separating labour policies from industry and commerce and putting them under the Economic Development and Labour Bureau, nor can I see how we can possibly highlight the Government's emphasis on labour affairs by so doing. No matter where we put labour policies — whether merging them with commerce and industry or with economic development, their subordinate nature in relation to commerce, industry and economic development will not be changed. This is even worse that the existing arrangement of putting labour policies under the Education and Manpower Bureau; even the Secretary for Education and Manpower admits that the most she can spare for handling labour and manpower and training matters is only just one third or a quarter of her time.

I do not think much of the education policies of the SAR Government, but when it comes to the merger of Policy Bureaux, I would think that under the philosophy governance of the SAR Government, the best choice of a merger with either economic development or commerce and industry is not labour, but education. From our formal education system to the whole range of training and value-adding courses, we can notice the prevalence of a myopic drive for short-term success and interests. Since the objective of education and training policies is no longer the nurturing of talents but the upgrading of competitiveness, it is best to combine all these departments that strive for competitiveness. I think this is also in line with the Secretary's talks about complementary qualities, about highlighting the Government's emphasis on education.

Madam President, the unemployment rate of Hong Kong has risen to 7.4%, believed to rise even higher. The SAR Government has long since set the tone for the solution to the problem — there is nothing much the Government can do, and what is most important is that the economy of Hong Kong must improve, for when this comes, the unemployment problem can then be solved. So, it is not difficult to foresee that if labour policies are merged with economic development, the unemployment problem will be tackled in the context of improving the economy of Hong Kong. But my worry is that before the economy of Hong Kong improves, the 250 000 unemployed workers will become altogether too impatient to wait, and the unemployment ranks will also keep on growing. Well, assuming that we can achieve economic development, does this mean that we can thus ignore workers' unemployment and the disparity in wealth in the era of new economy?

At the end of last month, our organization, the Federation of Hong Kong and Kowloon Labour Unions, held a meeting with the Chief Executive, Mr TUNG Chee-hwa, during which we requested the Government to amend the legislation on protecting labour rights and interests. Later, the Chief Executive met with the representatives of a chamber of commerce. According to media reports, the chamber of commerce requested the Government to improve the business environment and make sure that labour legislation will not add to the burden of employers. Worse still, some in the industrial and commercial sector have even asked for a comprehensive review on our labour legislation, with a view to lightening the burden of employers. When faced with all these divergent views, how is the Economic Development and Labour Bureau, the prime concern of which is the economy, to strike a balance? I am not at all optimistic about this.

Labour policies in fact involve many different issues, ranging from labour legislation improvement, to a safe workplace, to the employment of the vulnerable, to manpower training, and so on. As early as more than 10 years ago, the Federation of Hong Kong and Kowloon Labour Unions already suggested the Government to upgrade the Labour Department, to make it an independent body with sole responsibility for labour affairs. In this connection, a couple of days ago, the editorial of a newspaper asked a very good question: "Why is it that while there is a Director of Bureau to handle the employment and fringe benefits of the 180 000 civil servants, the 3 million or so employees in Hong Kong are not accorded equal treatment? The Government's disregard for labour issues is really hard to understand."

Madam President, if the Government really attaches importance to labour issues, and if it genuinely wishes to allay Members' anxieties, the correct approach should be to set up a separate Labour Bureau, to remove labour policies from the purview of the bureaux for industry, commerce and economic development. Only a separate bureau for labour policies that takes to heart the rights and interests of the 3 million employees can better pool the strength of the people of Hong Kong to scale new heights for the prosperity of Hong Kong.

Madam President, I so submit.

MR AMBROSE LAU (in Cantonese): Madam President, over the past few years, some problems with the SAR Government's administration have emerged,

and lessons have been learned; all this has made the reform of our government structure and approaches the common aspiration of the people. The introduction of the accountability system for principal officials (accountability system) to ensure that administration by the Government can keep abreast of the times has therefore become a general consensus in the community. According to the findings of an independent survey organization commissioned by the Government, the accountability system is able to command a support rating of 60% among the people. At the end of last month, the relevant motion moved by the Government was passed by the Legislative Council with an overwhelming majority, and on the 14th of this month, the Finance Committee also passed the supplementary appropriation for paying the salaries of the principal officials under the accountability system. The Hong Kong Progressive Alliance (HKPA) is of the view that the accountability system is solidly founded on public opinion, and that it can effectively raise administrative efficiency and promote the economic recovery and restructuring of Hong Kong. There are only two weeks to go before 1 July, so with this time constraint, the urgent task of this Council should be to pass this "transfer of powers" resolution in connection with the accountability system, so as to ensure that it can be implemented as scheduled on 1 July.

Madam President, the introduction of the accountability system within the constitutional parameters set down by the Basic Law signifies a major reform of the political structure of the SAR. The aim of this reform is to eliminate the various problems with government administration and clearly set out the responsibilities and common convictions of senior officials, with a view to ensuring that government administration can take account of people's sensibilities, canvass opinion support and give priority to the overall interests of Hong Kong. Since public opinions are in support of the accountability system, this Council should take the lead in supporting its early implementation.

As for how functions should be allocated among the accountable principal officials, different people would have different opinions. The point now is not whether the present proposal of the Government can win the support of scores of Members or whether the proposal can meet their individual requirements. Well, even the views of just the several Members belonging to the HKPA are divided. A consensus among Members of this Council, I venture to think, is difficult, if not impossible. I think what matters most instead is whether or not there are any obvious problems with the Government's present proposal. The HKPA fails to see any, and it thus thinks that the present proposal is acceptable.

As for further adjustments and related contentious issues, we should actually let the accountability system operate for some time before we take steps to address those aspects that need improvement.

Madam President, the candidates for accountable officials are also a concern to the community. The HKPA maintains that this should fulfil three principles. First the virtuous and competent should be appointed. As pointed out in *Mo Zi*, "Exaltation of the virtuous is the foundation of politics." This means that respect for and appointment of the virtuous and competent should be the principle underlying all politics. The *Rites of Chou* also has it that "the contributions and achievements of the virtuous can make a country prosperous and strong." This means that if the virtuous and competent can come forward to make contribution, they will be able to help make a country prosperous and strong. With the virtuous in power, the prosperity of Hong Kong can definitely be promoted. Second, the candidates should be widely representative and there should be a satisfactory line-up of various kinds of talents. That is why the commercial, political, labour and professional sectors should be covered, and the candidates should possess expertise in different fields, so that there can be a team in which people with different expertise can complement one another. That way, we can ensure the efficiency and appropriateness of government policy-making in the overall interest of Hong Kong. Third, a proper balance should be struck between attracting talents from the wider community and converting existing civil servants for appointment to accountability offices. Care must be taken to ensure that while talents are welcomed, the stability of the existing Civil Service is not affected.

Accountable officials should also maintain close communication and links with this Council, so as to improve the relationship between the executive and the legislature and realize the principle of mutual checks and balances and co-ordination between the two as laid down in the Basic Law. But whatever the case may be, be it checks and balances or co-ordination, the executive and the legislature must make the overall and long-term interests of Hong Kong their primary concern.

Madam President, whether or not the accountability system can bring any practical benefits to the people is the only yardstick to measure the success or otherwise of the system. What is more, such practical benefits should all be tangible, instead of any rosy plans and empty promises. Therefore, the HKPA

maintains that under the accountability system, priority should be accorded to economic and livelihood issues. The process of government decision-making must be streamlined, so that there can be prompt answers to people's aspirations. Concrete steps must be taken to solve problems and bring about an early recovery of the economy, so that people's livelihood can be improved.

Madam President, I so submit.

MR TAM YIU-CHUNG (in Cantonese): Madam President, in regard to the resolution moved today by the Government on the accountability system for principal officials (the accountability system), some Members have proposed quite a number of amendments on the portfolios of the various Policy Bureaux. I do not agree to these amendments. The reason is that the executive should know best how its work should be divided. I do not think that there is any need for any outsiders to offer any advice, or even to point their fingers here and there, telling the executive how it should restructure itself, or even proposing amendments. If the executive so decides that a certain scheme of reorganization is the most appropriate, it must have considered the whole matter from many different perspectives. And, do not forget that the executive is to be held responsible for the consequences of reorganization.

Some say that the Government has failed to establish a separate bureau for one individual policy area, criticizing that the Government is not paying enough attention to the policy area concerned. But I am of the view that the successful implementation of any policy must require the support and co-ordination from other bureaux. All structures are in a way static. If we emphasize the importance of structural independence only and ignore the need for co-ordination, conflicts among different departments are bound to intensify, and huge wastage of public resources as in the case of Long Valley will occur repeatedly.

Madam President, the passage in this Council of the resolution moved by the Government on the accountability system will signify the completion of all the requisite legal formalities and procedures. A new structure for the executive and a new Executive Council will then come into being, and they together will form the governing team of the SAR. I hope that the new governing team can, on the basis of administrative efficiency, enhance its strength of policy formulation, grasp public opinions more effectively and accept

more policy recommendations, so that it can make appropriate policy decisions, respond to the aspirations of society in a timely manner and deliver better services to the people.

With these remarks, I support the resolution.

MR NG LEUNG-SING (in Cantonese): Madam President, regarding the broad issue on whether to support the accountability system for principal officials (the accountability system) in principle, this Council had a debate on the issue and voted it. Suggestions on the pros and cons were expressed very clearly and the results were categorical. Therefore, I will not repeat them here.

Undoubtedly, the resolution today involves many documents. It can be said, when viewed from a certain angle, that scrutiny has to be carried out within a tight timeframe. However, basically, it deals with only the transfer of statutory functions of existing Directors of Bureaux. Mainly, technical issues rather than complex legal issues are involved here. Strictly speaking, this has no necessary link to the system for implementing the accountability system, which is a new system. One may say that passing the resolution is not a necessary step to implement the accountability system. A crucial change involved in the implementation of the accountability system lies in the system in which principal officials are appointed on non-civil service contracts. This is not at all related to the present resolution. The effect of the change is only to effect the reorganization of some policy areas. The implementation of the accountability system and the reorganization mentioned will, taken together, enhance efficiency. Understandably, some associations and doubts about the legal aspects will arise out of the change. The said implementation and the reorganization can be dealt with separately, nonetheless. If treated separately, the resolution should be simple enough. Indeed, the Basic Law and local laws never contain stipulations on the framework of the Government. In the past, the Government did put forward resolutions under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) to effect reorganization of the framework of the Government. Since the practice was used in the past, why must we change it just because of the implementation of the accountability system? Or why must we even use a bill to regulate the framework of the Government? My personal view is that the practice, both in the past and at present, is able to maintain flexibility in the organizational set-up of the

Government so that it can keep abreast of the times and address the ever-changing circumstances and administrative needs of Hong Kong. This is a merit in the existing arrangement for the political system. I endorse the view of the Government in that legislation should not be categorized and one should not think that the higher the level of legislation the better it is. If a policy objective can be achieved by way of subsidiary legislation, it is not necessary to enact primary legislation.

In the lengthy 50-odd hours of meeting of the Subcommittee to Study the Proposed Accountability System for Principal Officials and Related Issues (the Subcommittee), a substantial part of the discussion was related to this resolution. The Government has responded to most of the questions raised by members of the Subcommittee. What are being asked now are old questions asked before, not new ones. Members may not be satisfied with the responses and they may object to the resolution on that count. However, it would appear unreasonable to oppose the resolution for the reason that time allowed has been insufficient. The Legislative Council and the public often ask the executive authorities and the Judiciary to act in a time-efficient manner; so, it would not be fair to the public if the legislature did not act in a similar manner. Since the Legislative Council must not be an exception, it has a greater responsibility to act in a time-efficient manner in dealing with such an important and urgent issue as the accountability system. Some colleagues suggest that it is necessary to spend a year or two to scrutinize the resolution. If that amount of time were spent to scrutinize the resolution, which is one involving only a transfer of functions, Hong Kong would again become a joke in the international community. If any blunder occurs in the scrutiny of the resolution, other Members and I, who support the resolution, will share the responsibility. Nevertheless, I do not believe procrastination is the quintessential part of legislative work. We should not delay matters till Honourable Members can find faults in the resolution. Without the chance to procrastinate, some Members may not have the chance to shirk their responsibility as Members of the Legislative Council.

What is worthy of note is that the resolution moved by the Government receives close attention from colleagues from the Frontier and the Democratic Party. They have proposed amendments to it; the Democratic Party even put forward a similar resolution. All these amendments and resolutions may contain different requirements but they chiefly serve to transfer certain functions of existing Directors of Bureaux to some principal officials under the

accountability system or impose some conditions on the transfer. In other words, the said colleagues endorse effecting the reorganization of the government framework by way of a resolution moved under section 54A. This also means the colleagues agree that it is legally valid for the Government to move the resolution as it does now; otherwise, the only plausible action would simply be to oppose the resolution. The legal basis of the resolution and the amendments are identical. As such, if the Legislative Council should be held responsible for any blunders in law, so, just as Members who support the government resolution will be responsible, so will those Members who move and support the amendments or resolutions moved by some Members, unless this Council is an irresponsible assembly.

Madam President, my view on the resolution and amendments is that the Legislative Council is certainly entitled to making suggestions or requests regarding the functions and division of work on policy areas handled by the leadership of the executive authorities. Nevertheless, I think basically it would be more appropriate for the leadership, which is familiar with the internal operation of the Government to decide, after taking into consideration of the development of society. Any impropriety in the division of work or confusion in policies or overlapping in administration will result in the relevant parties being held politically responsible. In the discussion of the demarcation of policy areas and division of work, some people think some areas should be independent of each other so that there can be exercised checks and balances. I have certain reservations about that. It is because successful administration by the executive authorities hinges on overall co-operation and complementary actions rather than mutual checks; otherwise, separatism will readily result. It has been clearly stated in the Basic Law that the Legislative Council is responsible for monitoring or checking the work of the executive authorities, perhaps through legislative processes. If it were said that the same Director of Bureau dealing with different policy areas would give rise to conflicts, would it be said as well that that the Chief Executive is being reported to by different directors should be a concern? As society develops, the division of work in respect of policies is not set in concrete. The division may change in future in the light of social changes, and so will the next Chief Executive. The accountability system may emerge as one that suits the real needs of Hong Kong through a series of metamorphosis, trial and error and adjustments.

Madam President, I so submit.

DR DAVID CHU (in Cantonese): Madam President, on behalf of the HKPA, I rise to speak in support of the Government's proposal to merge the Housing Bureau with the Planning and Lands Bureau to form the Housing, Planning and Lands Bureau. At present, the housing policies of the Government involve a number of parties: the Housing Bureau, the Housing Department, the Planning and Lands Bureau, the Hong Kong Housing Authority, the Hong Kong Housing Society, and Members of the Executive Council. They or their representatives often make announcements on different occasions, but the announcements may not be consistent. This readily creates unnecessary speculations in the market. Confusions in policies and messages not only weaken investment sentiments but also confuse the people.

In fact, government housing policies and the economy are closely linked. Public housing and land supply are a major province in the government housing policy and a concern to the people for all along. I hope the new Bureau may demonstrate its accountability spirit, launch housing policies and structural reforms of depth and insight, and rectify duplication of work and unclear responsibilities. The Government, in particular, must lay down a set of clear and long-term housing policies that are not piecemeal in nature but are able to suit themselves to the times so that the supply of public housing may meet the needs of the people and the economic situation to restore the confidence of the people and investors in the housing policies of the Government.

Madam President, I so submit.

DR RAYMOND HO (in Cantonese): Madam President, compared with the existing system, the accountability system for principal officials (the accountability system) is no doubt more in line with the current social needs of Hong Kong. Apart from helping to increase the accountability of principal officials, the accountability system can also make the implementation of policies more efficient. I wish to take this opportunity today to express the following views. The Subcommittee spent a total of 54 hours on scrutinizing the resolution, and I already put forward some of the views at the meetings of the Subcommittee. But I must still repeat them here.

First, after listening to the opinions of different people in the community, the Government has decided to incorporate the environment portfolio into the

originally proposed Transport and Works Bureau. I think this is a correct decision. To begin with, the infrastructure and the development of transportation and transport are closely related to environmental protection. If all these policy areas can be put under the charge of one single Director of Bureau, a balance between infrastructure development and environmental protection can thus be struck. Besides, such an arrangement can also enhance the internal co-operation and co-ordination of the Government, thus preventing the lack of co-ordination found in the case of the Lantau North-South Road Link and the Long Valley section of the KCR Lok Ma Chau Spur Line, which wasted huge resources. There are going to be two permanent secretaries, one responsible for the environment and the other transport and works. The latter will definitely be overburdened, in marked contrast to the former. I think this arrangement is not satisfactory.

In regard to the post of Secretary for the Civil Service, I maintain that it should best be filled by a pensionable civil servant on the permanent establishment. The matters dealt with by the Civil Service Bureau are mainly connected with the internal personnel issues of the Government, such as terms of employment and conditions of service, fringe benefits, and so on, which are not directly related to the public at large. Under the proposed scheme of the Government, the Secretary for the Civil Service will have responsibility for two areas: (1) civil service policies; and (2) the management of civil servants. But the accountable official concerned may encounter huge difficulties in the course of discharging these two responsibilities.

I can give one example here. When the Secretary for the Civil Service deals with matters involving civil servants, such as drastic reductions of their salaries and fringe benefits or massive curtailments of the civil service establishment, he has to listen to civil servants' views and relay the voices of opposition to the Executive Council. If the Executive Council does not take his advice and adopts a decision unacceptable to civil servants, thus arousing their strong discontent, what will become of the Secretary? The Secretary for the Civil Service has in this particular case offered appropriate advice to the Executive Council, but will he still be held politically responsible, since something has gone wrong with the matters within his portfolio?

What is more, when the "political appointment" of this Secretary for the Civil Service comes to an end, or even when he is held politically responsible, he

may encounter immense difficulties in returning to the Civil Service, because civil servants, who do not know what is going on due to the confidentiality observed by the Executive Council, may be altogether hostile to him. These are practical problems that the Government must address.

I also wish to say a few words on the confidentiality observed by the Executive Council. As a body assisting the Chief Executive in decision-making, the Executive Council inevitably has to discuss some sensitive issues, and for this reason, the need for confidentiality is understandable. However, as long as public interests and national security are not jeopardized, the Executive Council should really consider enhancing its transparency when it deals with matters of public concern. This can make it easier for the Government to secure public support for the implementation of its policies.

Overall, the selection of principal officials is a very important factor determining the success of the accountability system. The people selected must be suitably qualified in terms of personality and experience, and they must also be politically shrewd and skilful, being able to communicate effectively with the masses, the media and this Council, and to rally community support for government policies. It must be noted that the offices of principal officials must never be used as the training grounds for any novices in politics, nor should any novices be allowed to mess things up. The reason is that during the five-year term of office, a principal official may have to spend the first year on learning the ropes, and he may have to halt the implementation of new and significant policies in his last year of office. This means that he may only have three years to make his influence felt or to implement policies already formulated.

Permanent secretaries are required to assist principal officials in a wide variety of ways, and they must also discharge many important responsibilities: assisting principal officials in formulating and explaining policies; defending the government position; guiding and assisting in the operation of the departments under principal officials; and assisting principal officials in getting and deploying the resources required for policy implementation and service delivery. That is why the selection of permanent secretaries is also very important. The Government should not only pay attention to the selection of principal officials and ignore the significance of selecting permanent secretaries.

Under the new system, the Chief Executive will play a very crucial role. If the Chief Executive can launch a strong leadership, the problem of "discussions without decisions and decisions without actions" can be eased. But the Chief Executive must get to know the operation of each and every Policy Bureau really very well, and he should not allow the growth of any "mountain-stronghold" mentality either.

Madam President, my suggestions are basically aimed at enabling the accountability system to function more smoothly, so that the dilemma created by the existing government framework can be eliminated and the efficiency of administration by the Government enhanced. With these remarks, I support the resolution.

Thank you, Madam President.

MISS CHOY SO-YUK (in Cantonese): Madam President, in the motion debate held at the end of last month on the accountability system for principal officials (the accountability system), I made it clear that in order to ensure the Administration would listen to public views sufficiently, to reduce the impact of bureaucracy on administrative efficiency and to initiate changes to the present situation of senior officials being vested with powers but not responsibilities, in principle I fully support the expeditious implementation of the accountability system. However, regarding the Government's insistent refusal to establish a separate bureau for the environment portfolio, attaching it instead to the transport and public works portfolios and putting it under the charge of the same Bureau Director, I opposed it right from the beginning. And now, I believe the issue has changed for the worse. Putting aside the issue of the choice of person for the Bureau Director, there are many inherent defects in the present proposal, including confusions arising from self-monitoring; policies on environmental protection will also easily be relegated to the sideline as a result of the personal preference of the Bureau Director, thus denying the monitoring function of any chances of coming into full play and making it an illusory function. Furthermore, if everything is kept within a bureau, problems will occur easily and be easily hidden, and the public will inevitably be deprived of the right to know. In view of this, in the voting to be conducted later, I will support Mr Fred LI's amendment to retain the Environment and Food Bureau and Miss Cyd HO's amendment to establish a separate Bureau for environmental protection policies.

Regarding Mr LAW Chi-kwong's proposal to merge the environment portfolio with housing, planning and lands portfolios, I will vote against this amendment for two reasons. The first is that if the environmental protection portfolio is merged with the housing and planning and lands portfolios, this will create a huge workload for the bureau, which is the reason why we were opposed to the original idea of merging the environmental protection portfolio with the health and welfare portfolio. The second reason is that the merger of the environmental protection and planning portfolios is originally the best option, and I have repeatedly expressed my hope that the environmental protection and planning portfolios be merged. However, if the element of housing is added to it, the contradiction between housing and the environment is the same as that between the environment and public works. In fact, the contradiction between the environment and planning is that if a piece of land is earmarked, then the piece of land has to be allocated; if buildings have to be constructed, then land has to be allocated. This is also a case of self-monitoring. Therefore, I also strongly object to the merger of the planning and housing portfolios.

Madam President, I understand that under the present circumstances, the chances of successfully establishing a separate bureau for the environmental protection portfolio is slim. However, today's resolution will not bring our efforts to an end, but rather it is the beginning of another campaign. After the formal launch of the Environment, Transport and Works Bureau on 1 July, I believe environmentalists and I will closely monitor all the words and deeds of the Bureau. If there is the slightest sign indicating that all kinds of predictions made by us are unfortunately correct, all of us will definitely come forward and raise our strong objections. The present situation can be described as "the revolution has not yet been successful and comrades still have to strive towards it."

Madam President, recently I have heard some doubts being voiced on the question of whether it is necessary to make one accountable Bureau Director solely responsible for environmental policies. The views can be summarized into two main points: firstly, the workload arising from policies on environmental protection cannot justify forming a separate bureau; secondly, if separate bureaux are formed for various portfolios, this will not only create a cumbersome government structure, but will also be impractical.

I would like to comment on these two points. Firstly, as mentioned in the last debate, the nature of environmental protection is to monitor and to exercise checks and balances. The workload can indeed vary greatly. It can be heavy or light, and even if there is no work at all, it would not mean the immediate end of the world. It is just as if there were no Audit Commission in the SAR Government, the daily operation of the Government would not be affected. What is more, with less concern on "having one's plait grabbed from behind", various departments may function more smoothly and even forge ahead bravely. However, I believe no one would dare to suggest that the Audit Commission be incorporated into any administrative framework on the grounds that it does not have sufficient work to do.

By the same token, the workload in environmental protection in fact depends on our attitude towards sustainable development. We can completely ignore it and put it at the back of our minds, however, in the end, what will be sacrificed will not merely be the money of the public which is earned through their toil, but our future and our next generation.

Madam President, our environment and our ecology are so fragile that once destroyed, it would take ten times or a hundred times of care and attention to restore them to their original state, but more often than not, it is simply impossible to do so. For example, if a piece of wetland is destroyed, even if we expend all manpower and resources to try and restore it to its former condition, it is absolutely impossible to do so. Moreover, rare species, once extinct, cannot be bought back with any amount of money. However, sadly, when we wake up to the extent of destruction wrought by development, usually things are already irreversible.

Similarly, consideration for sustainable development should actually be incorporated into every policy of the SAR Government. For example, recently we have been actively discussing various forms of cross-boundary co-operation, but in all this, how much thought have we given to sustainable development? Similarly, while we concentrate on developing transport facilities, have we given equal attention to the concept of sustainable development? When this Council discussed the population policy last week, did we incorporate the element of sustainable development into it?

Madam President, I cannot provide specific data to quantify the heavy workload of environmental protection to Honourable colleagues. However,

take the Panel on Environmental Affairs chaired by me as an example, 28 meetings have been held so far in this session and this is the largest number among all panels. Moreover, it has also held the largest number of joint meetings with other panels. From this it can be seen that the workload that comes from environmental issues is very heavy and wide-ranging.

What kind of monitoring network do we really want to put in place for environmental protection? A small one or a large one? A lax one or a stringent one? One fraught with loopholes or an all-encompassing set-up? All this will have a direct bearing on the amount of work in environmental protection. I hope that the Government will seriously ponder the answer to this question and then explain the reasons for the criteria to Members clearly.

Here I would like to stress that I support implementing the accountability system. One of the main reasons is that the structure has to be streamlined to reduce the impact of bureaucracy on administrative efficiency. Therefore, I have always insisted on establishing a separate bureau for environmental protection, and this is not meant to create a government with a bloated structure but because the monitoring role such a bureau has to assume makes it different in nature from other bureaux and it is impossible to merge it with other Policy Bureaux which are directly related to it. Take again the Audit Commission as an example, since it has to carry out value for money audit on various departments, structurally it has to be completely detached from other Policy Bureaux and be directly accountable to the Chief Executive. If we understand this rationale, I believe we do not have to continue to argue why a separate bureau for environmental protection policies has to be established. Perhaps some colleagues will think that in fact people are more important than the system. If someone who attaches a great deal of importance to environmental protection can be found to serve as the Secretary of the Bureau, then would the problem not be resolved? Madam President, I have great reservations about this, because we should by no means make a system adapt to people, but rather we should make people adapt to a system. People may change, but systems will last longer. Therefore, I absolutely do not subscribe to such an opinion. However, there are also people who ask: If the three policy portfolios are to be grouped together, would it be more appropriate for someone attaching greater importance to environmental protection to assume the post of the Secretary, or would it be more appropriate for someone well-versed in public works and transport to assume the post of the Secretary of the Bureau? My answer is simple enough:

the Secretary select must be someone well-versed in environmental protection. This is not just because we consider environmental protection important, but because the greatest number of policies fall into the scope of environmental protection, whereas most of the duties in public works has to do with implementation and there are comparatively less policy issues in respect of public works, but its policy implications on environmental protection efforts are very profound and there is more work on policy formulation in the latter regard. Therefore, if it is not possible for the Secretary to give full attention to all three areas, then environmental protection should be his prime consideration.

Madam President, finally, I would like to take this opportunity to respond to Mr James TO's accusation in the Finance Committee meeting last week that I am a chameleon. Firstly, let me make it clear that from the beginning to the end I did not change colour. I do hope that I could be more flexible, but unfortunately I could not. I am usually rather firm, therefore I cannot become a chameleon. My stand is simple and clear, that is, while strongly demanding that a separate bureau be established for environmental protection policies, for the sake of the general situation, I do not wish to negate the entire accountability system just because of this issue and disregard the long-term interest of Hong Kong. In fact, if Mr TO criticizes me for not showing enough support for environmental protection, I do not mind at all and can even admit it. But I think his comments are obviously directed at me for not insisting on inflating some very minor point out of proportion and for not rejecting the whole system regardless of the general situation and interest of Hong Kong. I cannot agree with him on this point.

Furthermore, there have also been comments that it is only after I was lobbied by the Government and criticized by Mr TO that I applied for exemption from the DAB. In fact, before the Finance Committee held its meeting and before the Chief Executive gave me a call, I had already applied to the DAB for exemption from voting along the party line. At about the same time, I stated my position clearly to environmental protection groups such as the Conservancy Association and Friends of the Earth, telling them that I would vote in the affirmative in the meetings of the Finance Committee and I would also apply for exemption from the party, as well as lobbying my party to support the idea of establishing a separate bureau for the environmental protection portfolio. Therefore, the above speculation does not tally with the facts at all.

Madam President, Hong Kong requires us to do a lot for it. Together with all sectors of society, we have to stand by our convictions and unite together in order to facilitate the early recovery of the economy and build a better community. I have high expectations on the accountability system and also hope that the Chief Executive and his new governing team will not let us down.

I so submit.

DR TANG SIU-TONG (in Cantonese): Madam President, other Members belonging to the HKPA have already expressed their views on the accountability system for principal officials. On behalf of the HKPA, I rise to speak in support of the Government's proposal to set up the Health, Welfare and Food Bureau and the Environment, Transport and Works Bureau. The arrangement of responsibilities for these two Bureaux, though not perfect, are still acceptable.

The original proposal of the Government to merge the Environment and Food Bureau and the Health and Welfare Bureau will not only lead to the formation of a super bureau burdened with extremely heavy responsibilities, which is inconsistent with the principle of structural rationalization, but may also dilute the emphasis on those issues of long-standing concern to the Chief Executive, namely the elderly welfare, the environment and public health. In the end, such a bureau may very much unfortunately become "a jack of all trades". The Government now proposes to set up the Health, Welfare and Food Bureau which does not cover the environment; this can at least prevent the formation of a "bloated" bureau with too many types of responsibilities, thus avoiding the wastage of public money resulting from inadequate attention to individual policy areas. But still, it must be admitted that this bureau is still vested with many responsibilities. Failing sound management, all people in Hong Kong will suffer. For this reason, I hope that the Government can keep a close watch on the actual operation of this bureau, and I further hope that it can review its effectiveness regularly with an open attitude. Once any problems are detected, decisive actions must be taken to adjust the distribution of responsibilities.

Environmental issues are prone to causing disputes, so political skills are especially called for to balance the interests of all sides, and massive lobbying is also required. This is quite different from the policy areas of health, welfare and food, which are more practical in nature and which lay more emphasis on the

quality of front-line services. In contrast, the environment is much more closely related to transport and the infrastructure. If environmental protection work always takes on an antagonistic attitude towards other kinds of development, the only result will be more conflicts. The fact is that a conciliatory attitude should be adopted to work out mutually acceptable arrangements to the benefit all the people. The Long Valley incident is an apt reflection of how public money may be wasted as a result of inadequate communication and ineffective co-ordination among government departments. Therefore, it is sensible for the Government to place the environment portfolio under the Environment, Transport and Works Bureau.

In regard to Miss Cyd HO's amendment on establishing an Environment Bureau, I must say I naturally think that the cause of environmentalism should be supported. But I also think that it is open to question as to whether a separate Policy Bureau with sole responsibility for the environment must be set up. There are currently 16 Policy Bureaux, and in terms of the significance and complexity of administration and management, each policy area handled by these existing bureaux can in fact justify the establishment of a separate bureau. But the Government is after all constrained by limited resources. So, if people criticize the Government for failing to attach importance to individual policy areas because it cannot fully realize the ideal of "one bureau for one policy area", I must say that the views of these people are much too simplistic and unrealistic.

In fact, every Member may have in mind what he or she thinks is the best scheme. For instance, a Member may think that since the policy areas of health, food and the environment are more closely related, they should be combined under one single bureau; since welfare services involve the provision of Comprehensive Social Security Assistance, medical services, and so on, to the less fortunate grassroots, they should be combined with labour affairs to form one single bureau; and, transport and works should come under the charge of yet another bureau. This may just be my personal view on how Members think. But the question is: In case one finds that the Government's proposal is different from one's own wish, should one thus think that the Government's proposal is necessarily undesirable? If everyone of us treats his or her own scheme as the only viable option, I am afraid we may end up holding discussions that can lead to no conclusions at all .

We all know that the Government is constrained by limited resources. In the case of some bureaux, because of historical reasons, major changes are just

not possible. And, anyway, too many Policy Bureaux will only work against inter-departmental and inter-sector co-ordination. For this reason, what is most important is that the new Directors of Bureaux can adopt a neutral and impartial stance and work effectively to balance the needs of the environment, economic development and land owners. That way, the concept of sustainable development can be realized, and all possible conflicts and disputes can be turned into an all-win situation. This is the most satisfactory situation.

Madam President, I so submit.

MR HENRY WU (in Cantonese): Madam President, although I was not a member of the Subcommittee on the accountability system for principal officials (the accountability system), I have all along been following the development of this matter with very great concern, and I have frequently met with people from different sectors to exchange views with them, to listen to what they have to say. I therefore wish to take this opportunity today to express my personal views on this matter. As far as my understanding goes, society in general is in support of the Government's idea of introducing an accountability system. Many people think that the operation of the SAR Government in the five years following the reunification can show us that the governmental structure and *modus operandi* of old do warrant reform. And, they agree that in terms of its general direction, the accountability system is both timely and appropriate, worthy of our support.

The accountability system we now talk about was at first referred to as a "ministerial system". But as I understand it, since it was decided that the term "ministerial system" could not truly reflect the actual political situation and the functions of the officials concerned, it was subsequently replaced by the term "accountability system". The proposed new system does carry some unique characteristics of its own, so although to call it a "ministerial system" may not be at all appropriate, we may still name it as a "Hong Kong-style ministerial system", in very much the same way as we have "Hong Kong-style white tea". That way, the new system may sound more intimate and give a clear picture to both locals and outsiders.

In regard to the first intent of a "Hong Kong-style ministerial system", my understanding and wish are that the "ministers" should be officials with "both powers and accountability". They should be vested with the power to deploy manpower flexibly and lead the operation of their departments; they should have

the power to make sensible manpower deployment according to the ability of their staff and policy requirements. And, precisely because these officials are vested with a high degree of autonomy in the exercise of their powers, there must be a need for accountability. Such a system of high autonomy and accountability can presumably attract the social cream of the crop to join the leadership of the SAR Government. This is what I think the ideal model for a "Hong Kong-style ministerial system".

The idea of an accountability system was actually first mentioned in the policy address of 2000. However, perhaps because of the lingering recession locally and worldwide, perhaps also because of such international incidents as September 11 and Enron of the United States, the people, who are worried so much by the high unemployment rate and negative assets, have not had the mood to discuss this matter in a serious manner. And, in the community, there have not been any heated discussions or great reverberations over the past two years. This explains why we have the impression that the Government is trying to introduce the accountability system in great haste.

Madam President, as I said in the beginning of my speech, there is a need to introduce a "Hong Kong-style ministerial system", and this is also a timely and appropriate action to take. That is why I must say that the general direction of the whole thing must be supported. However, many people whom I have approached, especially those who support and take part in environmentalist activities, do have some reservations about the allocation of responsibility for the environment. These people think that it is more appropriate to place the environment portfolio under the Planning and Lands Bureau. As a member of the Environmental Campaign Committee, I have all along been very concerned about the environment and greening, and very often, I would raise various proposals on environmental improvements and more greening in the Public Works Subcommittee. I have however discovered that because the authorities have already made their decisions at the planning stage, any specific changes proposed in the Public Works Subcommittee may trigger off a whole range of other changes or may even affect the progress of the works concerned. So I would think that if greening and environmental considerations can be taken into account as early as the planning stage, the works concerned will certainly be able to proceed more effectively and smoothly. Therefore, I will support the amendment of Mr LAW Chi-king, which seeks to transfer responsibility for the environment from the Environment, Transport and Works Bureau proposed by the Government to the Housing, Planning and Lands Bureau.

Madam President, under the accountability system now proposed, beneath the level of accountable officials, the past mode of operation of the Civil Service will be retained. As a result, the elite from the commercial sector may not necessarily be able to do things as they used to in the commercial world. The situation may be particularly difficult if they as supervisors find that their subordinates cannot meet the job requirements but are unable to deploy their manpower flexibly. I can therefore foresee that the road ahead for the "Hong Kong-style ministerial system" will be both long and rugged. In the future, government operation may no longer be marked by "discussions without decisions and decisions without actions", but by "actions without smoothness" instead. It was small wonder that because of the concern about her son, the mother of a person rumoured to be a "prospective minister" even said publicly that she did not want her son to become an accountable official, for "as an accountable official, he would have to be grilled and criticized." We can thus imagine that to be an accountable official will be no easy job. Rather, it is going to be very hard life, with a lot of pressure, lots of harmful effects on one's health. That is why all those elite from the commercial world or society at large who are willing to accept appointment as accountable officials are likely to be people who love Hong Kong, who are prepared to give up their high salaries and positions and a leisurely life, and who are willing to accept the thankless job of serving the people. In a way, they are all "good, best and super" fellows, in brief, "G.B.S", who can at any time be admitted as members of the G.B.S. Club.

There have been lots of rumours about who will be appointed as "Hong Kong-style ministers"; some non-civil servant "prospective ministers" are of particular interest to the public and the media. I am sure that whoever they may be, these people should be very much used to grilling others in the past, and they should have criticized others a lot too, I may say. But in the future, they will be placed in the reverse position, having to take grilling and criticisms. This will be very different from their life in the past. Understandably, they may need quite some time to settle into their new roles.

Madam President, in the Chamber today, we can see that the government officials attending the debate have been pulling a long, long face, with no smile, absolutely no smile at all. I very much hope that our "prospective ministers" are all watching the live broadcast of this meeting. That way, they will be able to have a taste of the tense atmosphere here. I am sure that this is something quite unlike watching World Cup matches.

Madam President, I wish the "Hong Kong-style ministerial system" every success with all my heart; I wish that Hong Kong can thus get rid of "discussions without decisions and decisions without actions" in the coming few years. I further hope that we can avoid the possible occurrence of "actions without smoothness". To these G.B.S. Club members of tomorrow, I now pay my highest tribute. In the morning of 1 July, I will say to them, "Good morning! Good Health! The best of luck!"

Madam President, I so submit.

MS MIRIAM LAU (in Cantonese): Madam President, last month, when this Council debated the accountability system for principal officials (the accountability system) proposed by the Government, I already pointed out that there were lots of instances of the lack of co-ordination among the various Policy Bureaux, particularly in respect of the transportation and transport infrastructure, where the Transport Bureau and the Environment and Food Bureau could not achieve any co-ordination on many occasions. I pointed out that this had not only rendered the transport industry at a loss as to what it should do, but also delayed the completion of quite a number of transport infrastructure projects. I do not intend to repeat all these examples today.

The Liberal Party is of the view that the Government's proposal to separate environmental policies from the Environment, Health and Welfare Bureau and combine them with the Transport and Works Bureau is a more satisfactory arrangement. The reason is that when the environment and transport policies are put under the charge of one single Director of Bureau, this Director must then balance the needs of environmentalism and transport, so as to avoid any unnecessary disputes arising from any lack of policy co-ordination. However, many people have still put forward many views following the Government's announcement of this proposal. Let me now try to summarize these views as follows:

First, some people think that the environment portfolio should not be merged with transport and works under one bureau, because they worry that transport policies may thus take precedence over environmental policies, and the latter may be sacrificed. Some others even advocate the establishment of a separate bureau for the environment. Miss Cyd HO will move an amendment

on this today, and Miss CHOY So-yuk and other Members have said that they will support the amendment. Those in support of this proposal maintain that the Government can thus be prevented from being forced to compromise on its commitment to the environment "behind closed doors". They therefore conclude that a separate bureau can provide the maximum protection to environmentalism. The supporters of this proposal are in fact advocating a spirit of "dominance". If such a spirit becomes prevalent within the Government, even the establishment of a separate bureau for the environment will be useless, because all Policy Bureaux may try to suppress one another, including the bureau for the environment, to facilitate the implementation of their own policies. In case all bureaux seek to suppress and dominate one another, what kind of government will our Government become? The Liberal Party must emphasize that it proposes, endorses and supports balance and co-ordination, instead of confrontation and vicious competition.

Second, some think that under the existing system, even when the Director of Environmental Protection faces the pressure from other Policy Bureaux, he can still have the backing of the Environment and Food Bureau, he can still have sufficient autonomy to exercise his powers under the Environmental Impact Assessment Ordinance. But, as they argue, if the Director of Environmental Protection is put under the charge of the new Environment, Transport and Works Bureau, he may be subjected to some kind of pressure, because the new Director of Bureau, owing to the need to balance the different requirements of environmental protection and transport, may hold different views from those found in the Director of Environmental Protection's environmental impact assessment report. If people who argue that way really think that Hong Kong is a community ruled not by the law but by the man, then I would say that no matter which Director of Bureau is going to head the Director of Environmental Protection, there will not be any difference at all. It is simply impossible for the Director of Environmental Protection to see eye to eye with his superior on every issue, so whoever the Director of Bureau concerned may be, the Director of Environmental Protection may well be "purged" whenever there is any disagreement. But if these people still believe that Hong Kong is a community ruled by the law but not by the man, they simply do not have to worry about anything, because they will know that the Director of Environmental Protection can actually continue to act on the statutory powers conferred under the Environmental Impact Assessment Ordinance or according to an established system, instead of following the personal preferences of the Director of Bureau concerned.

Third, some people worry that if the Director of Bureau of the future Environment, Transport and Works Bureau turns out to be a person concerned about transport matters, the policies of the Bureau will be biased towards transport, and conversely, if the Director of Bureau is a person concerned about environmentalism, the policies of the Bureau will be biased towards environmentalism. In this connection, I wish to point out that it is explicitly stated in Code for Accountable Officials under the Accountability System that accountable officials are responsible for formulating, explaining and defending government policies as well as canvassing support from the public and the Legislative Council. So, if the Director of Bureau introduces a policy which is entirely biased towards transport, which is entirely against environmentalism, he will definitely be criticized by environmental groups. In the opposite case, if he introduces an environmental policy at the full expense of transport development, I am sure that his life will not be easy either.

Environmental protection and transport are placed under the same Policy Bureau under the accountability system now put forward by the Government. I think the future Director of Bureau must seek to build up a triangular partnership with both environmentalists and the transport industry, so as to ensure that his policies can command support from both environmentalists and the transport industry, and that there will be no attempts to achieve dominance, no mutual accusations and suspicion. If the Director of Bureau cannot do this, I think he cannot be considered qualified for the job.

The implementation of the accountability system by the Government is the first step, and a good one too. There may be imperfections with all new systems. The Liberal Party hopes that the Government can review the accountability system on a continuous basis, with a view to perfecting it.

Madam President, I so submit.

MISS CHAN YUEN-HAN (in Cantonese): Madam President, the Government implements the accountability system for principal officials with the purpose of changing the old system. I believe the numerous incidents that happened in society over the past few years have also prompted public demands for reforms. There was the new airport incident; and there was the problem of substandard piling of public housing units into which an inquiry is still being conducted in the Legislative Council. Inquiries were conducted by the Legislative Council on

both incidents, and the housing problem has not yet drawn to a close. From these incidents, we can see that the civil service structure in Hong Kong was once very advanced. But after several decades, what used to be an advanced system may already become a superfluous structure featuring multiple policy-makers exercising checks and balances on one another, and may even come to a state of stagnation.

Madam President, being a member of the Select Committee inquiring into the substandard piling problem of public housing units, I am not in a position to say too much about the details of the inquiry and so, we should not discuss it any further until the completion of the report. In the course of the inquiry, something had made us very frustrated all along, for we found that the civil service structure has the function of taking all civil servants under its wing. Even when something has gone wrong, nobody will have to shoulder responsibilities. At times, we are enraged by this. But what can we do? This is a problem with the structure. Such a structure that exercises checks and balances is originally a good and advanced structure. But after decades of development, the structure has come to a state that nobody has to be held responsible when problems arise and that it even performs a function of bringing everyone under its wing. This is the problem discovered by us during the inquiry into the incident. This is indeed infuriating.

I remember after problems with the construction of public housing units were revealed, the Legislative Council debated a motion of no confidence in Ms Rosanna WONG and Mr Tony MILLER. I still recall that the then Chief Secretary for Administration, Mrs Anson CHAN, mentioned several principles. She told us that the rules of the entire game did not require officials to bear responsibilities and eventually to be dismissed. I clearly remember this remark of hers, for I thought at the time that she was correct. It is because the rules of the game then did not require officials to bear responsibilities and so, we could only observe the rules of the game. But because of this, there was the view in the community (including this Council) that reforms were warranted, or else Hong Kong would be in trouble should things go on like that. Let us not talk about the impact brought by such new factors as the financial turmoil that Hong Kong has gone through, the globalization of the world economy and our country's accession to the World Trade Organization. We have faced many changes, but I am not going to talk about them today. The problems have long existed, and it is incumbent on us to make changes to address these problems. Therefore, the Hong Kong Federation of Trade Unions (FTU) supports that

changes be made in society and hopes that through these changes, solutions can be identified accordingly for some of the problems that have yet been resolved, such as the unemployment problem, the biggest problem in society now. For this reason, we support that changes be introduced.

However, having read the contents of the reform proposed by the Government in April, I had no idea about the rationale of the Government in the various mergers of policy areas, and the proposals have indeed struck me as strange. For example, commerce and industry, an area about which I am most concerned, would merge with manpower, but these have all along been two conflicting areas. I very much wish to share with Honourable colleagues my views in this regard. Generally speaking, the employers who take on labour are on the side of commerce and industry, whereas manpower certainly refers to labour. What will happen if these two areas are merged? So, I put forward the "buttock theory" at that time. There is this saying in China: "The brain follows where the buttock goes". Which way will the accountable official in that office follow? I think this is not an irony, but a fact. It shows that the mergers proposed by the Government then were not well-considered in some areas or in certain aspects. I only looked at some of the problems from the Government's viewpoint and I could see that the Government had not examined certain problems meticulously.

Having listened to our views, the Government then made a few revisions, and we welcome them. I remember when the Government made public the appointment of the new Chief Secretary for Administration — not Mrs Anson CHAN, but the incumbent Chief Secretary for Administration — and when Mr Donald TSANG answered questions in the Legislative Council, I happened to be on a visit to Australia. At that time, I was interviewed by a radio station and I said I welcomed this act of the Government, because commerce and industry were closely related to labour. I deeply feel the seriousness of unemployment in Hong Kong. The financial turmoil and globalization of the world economy have not only dealt a blow to our economy, but also brought drastic changes to the financial services and real estate sectors. The real estate sector, which used to employ many people, has now become a big problem; and there are also the service industries and others. In the '70s and '80s, we often said that we could take pride in the diversified economy of Hong Kong. We could say at that time that even if we did not have garments today, we still had the metal industry tomorrow; even if we did not have the metal industry today, we still had electronics. Today's economy, in comparison, is very weak. So, from the

angle of resolving the employment problem, we should welcome a merger between economic services and manpower.

I was in Australia at that time and so, I did not read the details of the proposal. When I came back, I carefully read the proposal and found that it was utterly unacceptable. I found it even more unacceptable particularly after reading the organization chart submitted to us by the Government recently. Frankly speaking, it is unacceptable because the Government has asked us to give it one year before an assessment will be made. I feel gravely concerned as to the candidate who will assume this office as the accountable principal official. I can tell Members that this official will be in serious trouble for a certain period of time.

Madam President, I will now read out the organization chart given to us by the Government recently: Under the Secretary for Economic Development and Labour, there are the Civil Aviation Department, Marine Department, Post Office, Hong Kong Observatory and Labour Department. I cannot but ask: If policy has to be changed to facilitate the development of a binary economy (which is made up of high technology and assistance for grass-roots workers in employment), similar to the local community economy currently promoted by the Financial Secretary, Mr Antony LEUNG, what can be done to this end? I cannot see the direction and I found that there is none. Having read the details, I asked this question and the officials explained that the development of logistics was related to employment. My colleagues then joked that it appeared we should turn to the Works Bureau for solutions to the employment problems, because the Works Bureau was allocated some \$600 billion and so, it should be able to provide the greatest number of job opportunities. If officials simply give garbled explanations, I would feel that the Government has not taken steps to positively address the problem.

Next, I will turn to the Labour Department. The duties of the Labour Department actually cover several areas only, namely, labour relations, occupational safety and health, labour disputes, and the handling of unemployment which was added to its ambit only recently. How does it handle unemployment? It has introduced the Youth Pre-employment Training Programme and some training schemes for the middle-aged, and no follow-up actions have been taken after the completion of these schemes. None of the duties of the Labour Department are about how workers can be provided with more job opportunities.

I noted this inadequacy, and we have actually been criticizing this point. So, we do not support the proposal of the Democratic Party today to merge labour with manpower. Nor do we support a merger between labour and education, which is the *status quo*. It is because, as I have all long criticized, these two areas are of great importance. Labour is of great importance. So is education reform. If these areas are combined, I am afraid no improvement could possibly be made. As the Secretary for Education and Manpower, Mrs Fanny LAW, has said in the Legislative Council, it would be impossible for her to accomplish this task.

On the contrary, I think issues relating to labour, unemployment, and so on, should all be grouped under the purview of one dedicated department. I very much hope that the Government will seriously listen to this view. The Government will make the announcement on the day after tomorrow. I do not know who will be the Secretary for that Bureau. Some said that it is going to be Mr Stephen IP. Then I must wish him good luck. I do not know how this new accountable principal official, of whom the entire community has high expectations, can resolve the unemployment problem. If any official should tell me that this reorganization is not meant to address unemployment, then regarding the need to resolve unemployment, a major problem confronting us now, as consistently emphasized by Mr TUNG, how can this official respond to the entire community, including the SAR Government? I hope Secretary Michael SUEN, can answer this question later.

Some said that the Government can initiate policy changes. But I entirely fail to see such a possibility. I have a document issued by the Government in April on the proposed implementation of the accountability system. In this document, in relation to the proposal of merging commerce and industry with manpower, the situations in six territories and countries in the world were set out for comparison. We do see examples of mergers of policy areas in other countries. For example, in our country, labour is combined with social security; in Singapore, the human resources department is made independent; in Australia, employment and labour relations are combined; in the United Kingdom, employment and retirement are merged; and in the United States, there is a Department of Labour. Effecting mergers along these lines would appear to be quite reasonable. Since others have effected such mergers, why should we not follow their example? But Madam President, if we take a closer look at their cases, we can see very clearly that they have explicitly stipulated the formulation of an independent policy on employment in respect of manpower planning and development.

Madam President, we have not yet exhausted all the information on the Internet. But we can already see that in other countries, labour policy covers over 10 to almost 20 areas, including small-business economy, similar to the local community culture economy or local community economy recently proposed by the Financial Secretary, Mr Antony LEUNG. In the United States, these activities are co-ordinated by the Secretary of Labour. So, why can other countries have alternative economic developments, that is, apart from the mainstream economy, they have other alternatives, including the development of locality economy, local community economy, local community culture economy, creativity economy? It is precisely because other countries know very well where the problems are, and this can help resolve some of the problems in that some people will still have job opportunities even if they cannot integrate into the mainstream economy.

Madam President, these countries and territories have very clear organization charts, whereas ours is flimsy. I do not know who will take this position. The SAR Government now proposes the implementation of the accountability system, under which this Bureau is made to resolve the unemployment problem. How possibly could this official resolve the problem?

Mr Frederick FUNG will propose an amendment, and he asked me earlier if I would support him. I said that I very much support that co-ordination be taken up by a Secretary for Labour. But who would have the courage to assume this office? But then I said all we have now is just a Labour Department, and what can the Labour Department do? I also asked Frederick FUNG whether or not he knew what it could do. Later, the several colleagues from the FTU had thought about this for a long time. We finally decided to support Mr Frederick FUNG, because he had at least proposed an amendment to this end. Mr Frederick FUNG knows better than anyone else that I support the establishment of a Labour Bureau.

Madam President, I have made such a detailed analysis for the Government because given that Mr TUNG, government officials, the Legislative Council and even the community at large consider that it is most important to take measures to stimulate the economy and create employment opportunities, I think then the Government, in implementing these important measures, must confer on the new accountable official certain powers. If we do not confer powers on that accountable official, I am afraid the accountable official of this Bureau would step down very soon. It is because while he is responsible for

promoting the development of high technology, he also has to develop the other component of binary economy, including the development of local community economy, creativity economy, local community culture economy and locality economy or attracting small and medium enterprises to return to Hong Kong. Without these powers, he cannot possibly implement the various policies, and what if this happened? So, I very much hope to use the views expressed by me today to induce the Government to do something — as a matter of fact, I have put forward these views not just today. Madam President, for some time in the past, I had expressed this view to different senior officials and Policy Secretaries. I had been telling them that if the situation remained unchanged, I would not give them my support.

Moreover, I also hope that the accountable official responsible for commerce, industry and manpower or economic services and labour will not be particularly inclined towards certain industries. I think the Government cannot appoint members of the labour sector to take up these offices. By the same token, it cannot appoint anyone from the industrial and business community, for this will be unfair to the appointees. It is inappropriate since these people may unduly bear the stamp of their sectors or industries. Any decision made by the Government to make appointments from these two sectors will certainly arouse challenges from the public on the status of the appointees. Therefore, I think either academics or serving officials should be appointed as the accountable officials for these policy areas. I think this is also a very important point.

"The brain follows where the buttock goes" was a very common saying in the Mainland many years ago, and I think there is wisdom in it. I have no intention to draw a distinction by social classes. But the thinking of any person will invariably change in accordance with his position. So, I hope that the office overseeing these two policy areas — it was previously said to be commerce and industry merging with manpower, but now it has been changed into economic development and labour — can be taken up by someone who is neutral. I think this will enable him to command greater credibility, and when he has to convince a particular party of anything, his arguments will stand a better chance of being accepted.

Madam President, although the organization chart of government departments has been completed and it has aroused criticisms from us, the Government will likely make the announcement either tomorrow or on the day after tomorrow. That is to say, the Government may take account of the

outcome of our debate. I hope that the Government will still reconsider our views in certain areas in this final stage of its design of the new system. After all, the unemployment rate has now reached 7.4%, and we expect this rising trend to continue in the next couple of months. No one would wish to see this. Therefore, the question of how the Government can appoint someone with dedication and determination to co-ordinate this area of work becomes even more important.

Recently, we have paid visits to a number of places, including Australia and Macao. Colleagues who went on the visit to Macao were impressed by the enthusiasm of Macao officials. When we were in Australia, we were also impressed by the enthusiasm of Australian officials. It is very important to have dedication and determination, particularly in handling the unemployment problem. It is because to resolve unemployment, there must be some officials who are dedicated to their work wholeheartedly so as to come up with solutions that mainly serve to promote employment. I fully agree with Ms Miriam LAU that we are not opposing each other. But the question is: If the official is made responsible for both economic development and labour issues, he must adopt clear and specific measures mainly to tackle unemployment, complemented by policies on economic development. Otherwise, not only the wage earners will become jobless, the entire environment in society will also deteriorate, with domestic consumption becoming even weaker. A vicious cycle will thus develop and continue, inducing the death of Hong Kong eventually. Therefore, I hope that the SAR Government will pay attention in the appointment relating to this office. First, it must ensure that the appointee has dedication and determination and second, he must be given certain powers so that he can adopt measures to mainly tackle unemployment. Only in this way can the Government truly answer the aspirations of society at large. At the moment, the most pressing task is to resolve the problem of a high unemployment rate. Otherwise, the present situation will do severe damages to the economic ecology of Hong Kong.

MR KENNETH TING (in Cantonese): Madam President, Honourable colleagues of this Council conducted a rather comprehensive debate on the accountability system for principal officials (the accountability system) at the end of last month, and the accountability system was eventually given support by this Council. The amendments proposed by a number of Members in response to the resolution moved by the Government today only reflect the divergent views

held by Honourable Members on how the policy portfolios should be reorganized. It can be said that the amendments are merely technical disputes which will not injure our expectations of the accountability system.

I believe there will always be diverse inclinations among Members with different background as to what arrangements should be made in respect of the reorganization of Policy Bureaux to come up with an invincible line-up, since it is basically extremely difficult for a consensus to be reached. The emergence of so many amendments today precisely illustrates this point.

The Liberal Party has always considered the proposal acceptable in essence. This is because the Government has, during the process of reorganizing its Policy Bureaux, fully considered the views of its internal staff and members of the community, and taken the initiative to make adjustments in response to opinions expressed by outsiders before coming up with the proposal formally introduced today. It is meaningless for Members to continue entangling themselves in their proposals by thinking that their proposed combination is the best. No one should dare to say that his proposal is the best or the most reasonable as long as the accountability system is not yet put into actual implementation.

For instance, some Members hold that labour and environment problems are the most important issues. As a result, they insist that an independent bureau be set up to take charge of labour and environment issues. According to this logic, does it imply that the Government will have to expand the number of Policy Bureaux to 20 or so before the problems can be resolved? If the Government really does so, how can it streamline its structure through the accountability system and achieve its major goal of promoting efficiency of administration by the Government?

If commerce and industry are combined with the economic development portfolio in order to make the labour portfolio independent as suggested by some Members, the Commerce, Industry and Technology Bureau created by merging industry, commerce with economic development will surely become overloaded. It will, on the contrary, do no good to Hong Kong's overall economic development. Moreover, Hong Kong will be unable to keep pace with the rapidly changing global economic development. Eventually, its competitiveness will be further undermined, not to mention its ability to compete with overseas rivals.

Madam President, being an employer, I have to face numerous labour problems too. I personally think that the present arrangement of merging labour affairs with economic development affairs is acceptable. Given the prevalent serious unemployment problem, which is closely related to the overall economic development, I believe the present arrangement can better enable the new Policy Bureau to prescribe the right medicine to improve the business environment for the purpose of ameliorating the unemployment problem.

As a representative of the industry sector, I have high hopes on the combination of commerce and industry affairs with information technology affairs to become one single bureau. This is because the prosperity of Hong Kong is attributed to the success of its commerce and industry over the years. At the same time, information technology is advancing at a tremendous pace. The public definitely hopes we can give full play to our strengths and inject new momentum into Hong Kong economy through combining relevant technology and traditional commerce and industry. Coupled with the fact that information technology has already become one of the important industries in Hong Kong, so the merger between the two is indeed a reasonable arrangement. I am fully confident that the Chief Executive will be able to find a suitable candidate for appointment as accountability official for this new bureau, so as to further promote the development of Hong Kong's commerce and industry.

With these remarks, Madam President, I support the Government's original motion.

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

MR ANDREW WONG (in Cantonese): Madam President, first of all, I must apologize to you and colleagues. My cellular phone beeped at about six o'clock because I have swapped mine with my wife's. I just returned from the United States this morning and my wife's cellular phone has a pre-set alarm function, which I deactivated immediately just now. So, my apologies, and I am really sorry about that. I hope to bring to this Chamber the sunshine of California to cheer everybody up.

At the motion debate on 29 May, the meeting of the Establishment Subcommittee on 6 June and the meeting of the Finance Committee on 14 June, I

spoke in opposition to the proposed accountability system for principal officials (accountability system) to be implemented soon. I stated my reasons in detail then. Today, I reiterate that I am against the accountability system, but I do not wish to repeat my previous arguments. However, what I am going to say may return to my previous arguments, but I will present my arguments from a different perspective.

On the present resolution, there are seven amendments and two motions. I now declare that I will oppose all of them. I do not know whether, when a certain amendment is passed, Members who have proposed other amendments will support the amended motion. They may, or they may not; I do not know. Why did I mention these possibilities? Just a moment ago, the Honourable NG Leung-sing said we should support by way of logic motions that were successfully amended. Nevertheless, Members must understand that some Members indicated in their speech that they have proposed amendments to minimize damages in the belief that the motions might be passed even if they were amended, but it is unlikely that the amendments can be passed.

I only said I would not support any of the amendments and motions. That is not related to whether the motions as amended should be supported. If I said where amendments were passed, I would not support the amended motions, then that would constitute a contradiction. I must state here that I oppose all of the amendments and motions because I hold completely different views. The seven amendments and two motions can be classified into two categories in terms of their contents. Category one comprises the amendment proposed by Mr Albert HO and the motions proposed by Mr CHEUNG Man-kwong and Dr YEUNG Sum. There is a requirement for the Code for Accountable Officials under the Accountability System (the Code) to be gazetted before it can come into effect. Should the requirements for gazettal as specified in amendments be regarded as a prerequisite for passage of the motions? Similarly, like the motion debate last time, one may ask: Should universal suffrage be a prerequisite? I think Members may have a debate about this because their positions are different.

I think universal suffrage is obviously a development different from the accountability system. But can gazettal be deemed as a prerequisite? I think if this can be established as a constitutional convention or if the Government can undertake to make this a constitutional convention, or if it undertakes to put on record the Code, which is the equivalent of the Ministerial Code, then gazettal or

not is not a problem. Of course, the relevant details are more important. I cannot support the accountability system because if principal officials, after making a blunder and being given a vote of no confidence by the Legislative Council, are not penalized, the Government can never make any promises. This is the major reason why I oppose the accountability system.

Some Members proposed that the Code be made a prerequisite. My personal opinion is that the Ministerial Code in was drawn up only recently. The Ministerial Code was promulgated in 1997. Before that, there were no written rules about this but the Ministerial Code was obviously there. In the last motion debate, I did not make the six points mentioned by me as prerequisites. What I demanded was not a perfect system but a first step, which has to be feasible, should be free from adverse consequences or should generate as few anticipated adverse consequences as possible. In this regard, I could see that several points, at least the second point to the sixth one among the six points proposed by me, might result in some undesirable developments. That was what I could foresee and had to be guarded against or even prevented. For example, some deputy directors may not be exactly deputy directors and their personal secretaries may loss around. As another example, I could see no reason why the Secretary for Justice cannot transfer some of her powers to the Director of Public Prosecutions. Lest all future politically appointed Secretaries for Justice might be subject to even more attacks and the political environment would become even more unstable.

Another point is about the determination of the grade of the head of civil servants at either D10 or D9. I do not think it is reasonable to downgrade it to D8 because the person holding this post may act at the same time as clerk to the Executive Council. If, however, there are other considerations such that the Director of the Chief Executive's Office should be a political appointee rather than a civil servant, then that post should simply be changed to that of a Chief Cabinet Secretary and let the official shoulder responsibility for a certain policy area and make the office part of the accountability system.

There is another point about constitutional conventions. They are the three points about constitutional conventions that I often talk about and as I have been talking about them all too frequently, I do not intend to repeat them here. It is for these reasons that I think the amendment by a Member to make gazettal of the Code as a prerequisite the accountability system can be implemented is unnecessary and so I cannot support the amendment.

Category two of the contents of the seven amendments and two motions involves a reshuffle of duties and functions in respect of some policy areas. The reshuffling is confusing and appears to have been done at the behest of the management. At the end of the day, the 16 bureaux could become 26, a point on which Members have debated at length. At the meeting on 29 May, I made the point that the accountability system and the portfolios, and the reorganization, reshuffle of Policy Bureaux are different issues. While the accountability system, referring to political accountability (my main point) is the melody, the reorganization, reshuffle is at best the accompaniment, or even sort of noise. From the amendments moved today and the speeches made by Members, it seems the noise has taken precedence over the melody. I made this point at the meeting on 29 May, so I do not wish to repeat it now. I do not know if the Chief Secretary for Administration would collect all the ingredients and shake them up into a new cocktail. Would it taste even better?

In fact, I think the division of policy areas involves values and interests. I need to stress the issue of interests because often interests are involved and must be dealt with as a separate issue; otherwise chaos would result. No matter how appropriate the division of work was (very appropriate division of labour may be achieved), Members still succeeded in making their voices heard regarding their dissatisfaction with the accountability system or its flaws. By flaws, I mean possible undesirable consequences, which should not be treated lightly so that the motion is passed hastily.

Lastly, I wish to talk about the need for enactment of primary legislation and the order of legislation and funding. I had said, at the relevant Subcommittee, that it was lawful and feasible, insofar as jurisprudence is concerned, to implement the accountability system by way of subsidiary legislation. But I reconsidered this point recently and thought some problems could still arise. This time, my opinions are slightly or even very much different from those of Miss Margaret NG. While Miss NG stressed adding a level of political accountability, my views are such that they are closer to those of Ms Audrey EU because though she mentioned political accountability, she was referring mainly to the abolition of posts.

Section 54 of the Interpretation and General Clauses Ordinance (Cap. 1) appears to have generated some serious problems. I do not intend to read out that section because Members may look it up later. I looked up the laws and found the section was made in 1975. The capital A in "section 54A" tells us it

was a section that was added afterwards. I found that the provision was added in 1975 and the Attorney General then spoke on the section, which did not seem to have any problem. I have to read the English text for Members because I could not find the Chinese text, which might not have appeared yet in 1975. As at 1 October 1975, the section read "..... will empower this Council by resolution to transfer statutory functions vested in a public officer to another public officer, this is not a common occurrence, but where the need arises, the transfer can, as the law stands (as the law stood then — my edition), be effective only by legislation." From this provision, it seems the aim was to enable the transfer of power from one public officer to another without going through legislation or resort to primary legislation. But then we must study carefully the definitions of "public office" and "public officer" under the Interpretation and General Clauses Ordinance. The two terms define each other because by definition a "public officer" means one who holds "public office" and "public office" is an office that can be filled by a "public officer". According to this analysis, I think "public office" is more important than "public officer" because there must be a "public office" before there is a "public officer". So, what are involved here are not just three posts. The accountability system to be implemented would transfer powers from one post to another. In the process, a new post is created. The current position is that two post titles are combined to form a new one and the two old ones are abolished. I think the crux of the problem lies in this arrangement, which I think will generate a problem. I do not know what would happen if legal proceedings involving these posts were instituted. Once the motion is passed and if someone takes the matter to court, it could eventually turn out that the transfer of powers was not valid and primary legislation was required.

However, I think that whatever the case may be, if the Legislative Council did not pass the resolution today, a very bizarre situation would obviously result. This situation is so bizarre that I do not know how to analyse it. If we did not pass the resolution, the new posts dealt with by the Finance Committee and the Establishment Subcommittee would begin to take effect on 1 July because that is the day when the accountability system will come into effect. So, some posts would become effective though they do not have any functions to perform, but the old posts are already abolished. If we did not pass the resolution, the result would be equally bizarre and the Government would have to make a lot of remedies between now and 1 July. I do not know how the remedial work would have to be done before it could be considered complete. The situation now is forcing us to pass the resolution. If we did not do so, we might have to convene

a number of meetings. However, if the resolution were passed, the Government might have to face a lot of proceedings. My feeling now is that I do not know whether it is better to pass the resolution or not to do so.

At the beginning of the debate, all speeches centred around political issues and I was not very much interested in that. After giving some more thoughts to the matter, I think the jurisprudence aspect is also problematic. Therefore, I suggest that Members should ask the Government whether it is possible to reconsider dealing with the matter by way of subsidiary legislation. Madam President, we may use the "negative vetting" procedure because under the law, the Government is empowered to table laws before the Legislative Council and within 28 days the Legislative Council may scrutinize a piece of subsidiary legislation. Other issues may be dealt with by way of resolutions. Nevertheless, if the budget is involved, all proposals in the budget will have to be incorporated into the Revenue Bill and dealt with accordingly before implementation. Since revenue proposals may be dealt with in this manner, why can issues as important as the accountability system not be dealt with similarly?

Madam President, I think the Government may be asking for trouble. If my suggestion is adopted, everything will be very simple. No change of posting is required. An official may hold two offices concurrently and the matter may be dealt with properly. Members may then lend their support to the new framework with pleasure, though they may not know what the outcome will be. But this is better than the topsy-turvy state of affairs we are faced with now.

Madam President, I must reiterate that I oppose the resolution. Whether the amendments are carried or not, I will not abstain but will be voting against them. Thank you, Madam President.

MR BERNARD CHAN: Madam President, during the last five years, we have expected civil servants, people who are supposed to be politically neutral, to act as politicians. We have expected them to play a role in providing leadership. We have expected them to make difficult decisions. We have expected them to defend those decisions and to convince the community to accept them. It is probably fair to say that we have expected too much of them. It is unrealistic and unfair to expect career civil servants to play such a role. In my view, this has contributed to the tendency of our Government in recent years to avoid making difficult, and maybe controversial, decisions.

To take just a few examples. We should have started to take firm action to curb traffic growth, increase pedestrianization and improve our urban environment. But we did not do it. We should have banned the sale and slaughter of live chickens in our streets. But we did not do so. We should have launched a radical review of our whole approach to gambling. But we did not do so. We should have started to change our system for health care funding. But again, we did not do so.

These issues will not go away. And the Government will have more controversial decisions to make in the future, decisions on subjects like welfare, housing subsidies, taxation and immigration. We need senior government officials who can push bold policies, convince the community of the need to change and, if necessary, fight against interests groups. We cannot expect our politically neutral civil servants to be able to do that. But from now on, we will have the right to expect such an approach from Policy Secretaries.

In theory, therefore, the accountability system should bring us better government. And I say "in theory" because, in practice, the success of this new structure will depend 100% on the quality of the people who are appointed to serve as Policy Secretaries. The accountability system is a recipe. And like all recipes, we need good quality ingredients.

There is a danger that senior officials coming into the Government from the outside world, especially from the business world, will find it just as difficult to play a political role as our traditional civil servants.

In the business world, one will concentrate on shareholders' return, and will have no other considerations. The world of politics is very different. Politics is "the art of the possible". One cannot give an order and expect something to happen. One has to win hearts and minds. This, to me, is the main potential problem with the accountability system. If the quality of the people is not right, we could actually make things worse.

I do not agree with the other criticisms that we have been hearing about the new system. I do not agree that it is a backward step for democracy. A ministerial structure will be an essential part of a future, more democratic, system of government. I find it quite surprising that Members who are most vocal in favour of democracy are so vocal in opposition to this new system.

I do not agree with the idea that the accountability system will upset our existing checks and balances. We have a strong executive branch, and it is checked by an outspoken, if relatively weak, legislature and, of course, by our laws. It has never been the job of the Civil Service to check the executive branch — it is a part of the executive branch.

Nor I do agree with the idea that this system will concentrate more power in the hands of the Chief Executive. He has exactly the same amount of power as before. This also means that it will be easier for him to delegate that power to other people.

But the question is — what will those people do with that power? If those people are of the right quality, we should see a steady improvement in the Government of Hong Kong. If they are the wrong people, this could make things worse.

Madam President, I hope that the Chief Executive will choose his new Policy Secretaries with care. And I look forward to a more decisive and more confident leadership in the years ahead.

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

MRS SELINA CHOW (in Cantonese): Madam President, I am not going to repeat the points made by Members of the Liberal Party. I just wish to state that the Liberal Party supports the direction and the current development of the accountability system for principal officials. In the last motion debate on this topic, I mentioned indeed many reasons to explain why we support it. We do not only support it. We also hope that the accountability system can be implemented expeditiously and so, we support this resolution.

We do not consider that all the elements contained in this system or resolution are perfect, which is impossible. This is only the start now. To the Government or Hong Kong as a whole, this is a very new attempt. Any new attempt will involve some measure of risks. But it does not mean that we should hold ourselves back from making this new attempt because of such risks. Indeed, we know it only too well that there is a very strong consensus not just in this Chamber, but also in the community at large, that a government led by

non-accountable senior civil servants cannot be allowed to go on any longer and changes are therefore warranted, and soon. Regarding a point made by Honourable colleagues earlier about insufficient time for the scrutiny process, I very much agree with what Mr IP Kwok-him had said. We certainly have to perform our duties, but the realistic circumstances sometimes may not be totally ideal. As we work in this world, we often have to consider the realistic needs as well as the time. We, Members of this Council, have been working very hard, and I do respect Members who have been hardworking. While many Members are very dissatisfied with the timeframe, they have done their utmost in their work. But I just do not agree that we should give a thumbs-down to the resolution because we were not given sufficient time.

Members have often questioned the soundness of such a structure. As I said earlier on, any framework of this sort is basically very complex and requires constant review and improvement. Let us not talk about Hong Kong. Even in the United Kingdom, environmental protection and transport matters are merged only in recent years. Why? It is because the development of society warrants such a change. A more recent example is the proposal by the President of the United States, George W. BUSH, to set up a federal domestic security office. This is certainly in response to the need arising from anti-terrorism and the September 11 incident. He proposed to the Congress the establishment of this new department, and the Congress was poised to support him even before the scrutiny of this proposal. This is a general direction. They, as a nation, are obviously united in this objective. So, I think we must learn as we work. Certainly, I understand that some colleagues considered that we must start in a correct way. But given the present situation and after discussions, we generally think that this can be a framework to start with. As to whether improvements are necessary at a later stage, I do not rule out this possibility and in this connection, transparency is very important. Moreover, we must keep a close watch on it, particularly at the outset. It is because if it can keep on operating and after more hands-on experience has been obtained or after proper adjustments are made in many areas, constant changes may no longer be necessary.

Having said that, however, with regard to the Government's approach in handling the whole issue, I must express my personal dissatisfaction. I am not making this comment in my capacity as the Chairman of the House Committee, because I have not consulted the House Committee. This is just my personal observation. In the course of scrutiny, we had constantly heard colleagues

express dissatisfaction because government officials had not properly answered questions raised by them. In fact, the officials should have explained to us that this is just a new beginning, that we must learn from experience, and that some of the arrangements are actually there now, only that they will now be passed onto some new accountable officials for further improvement. Had they taken this attitude, I trust that many colleagues would have found the proposal more worthy of acceptance. But they have not taken this attitude. We heard some officials say that they did not have the answers and that Members might have to ask the future Bureau Directors. I think it is very difficult for the Legislative Council to accept this kind of attitude.

But in all fairness, we should not put all the blame on Secretary Michael SUEN. Now that the Government has proposed this accountability system. The three Principal Secretaries and the Chief Executive may have to think about this: Why were Secretary Michael SUEN and other officials, such as officials from the Education and Manpower Bureau, being put in a rather difficult position in which they had to come before the Legislative Council to answer questions? Why did the Government not give them some help and let them know a bit more, so that they could answer Members' questions when they were here? I think the Government should review this point. It is because after all, we hope that the Government can nurture a very healthy relationship between the executive and the legislature. But how can we build up such a relationship? There must be dialogues and respect. So, I must register my disappointment at Mr TUNG Chee-hwa not coming to the Legislative Council to explain to us the accountability system at the earliest opportunity. I understand that all officials under the accountability system will have to be appointed by the Central People's Government, and I trust few Members would question this. We will respect this. Furthermore, this is also mentioned in the Basic Law. But after their appointment, they must face the Legislative Council, because every Bureau Director will have to come to the Legislative Council sooner or later and face the panels or other committees. If they can start out positively and proactively, and establish a good relationship with the Legislative Council, it will indeed be very helpful to their work in future.

I very much hope that as soon as the system starts to work, Mr TUNG and the new Bureau Directors — some of whom have never set foot in this Chamber before, if the press reports are correct — can come to the Legislative Council. This will be a good start for us and for them as well. As I have just said, the relationship between the executive and the legislature is founded on mutual

respect and communication. We often hear officials say that their view of coming to the Legislative Council is very negative, for they will only expect a dressing down by Members and they will rarely expect praises by Members. That is true. Few Members will give praises to officials.

Honestly, I do not quite identify with those Members who like only to scold people. But to the Government, I believe it is most important to appreciate that irrespective of the attitude of Members or whether their comments are well-justified, this is still the hall of a parliamentary assembly, and Members must have reasons in making those comments. Being a responsible government, it is imperative that after listening to all the views on each issue, it can filter the views and take on board the best views for incorporation into government policies, working in concert with this Council for public interest. I think the spirit of checks and balances and mutual co-operation is the most important. So, if we are not on good terms with each other, and if officials are in a cold sweat whenever they think of the Legislative Council and Members get hot under the collar at the sight of officials, then it would be utterly difficult for discussions to be conducted in a completely objective manner. Please bear in mind that we are actually working together to serve the same community.

Some Members said earlier on that the South Korean soccer team is gorgeous indeed. But let us not lose sight of the patriotic spirit of the South Korean soccer team and the South Koreans. On the contrary, how much do Hong Kong people and this Chamber love Hong Kong? We should indeed work together and should not move farther and farther apart from one another. But faced with this big change, I have the feeling that it has already pulled us farther apart. This, I think, is somewhat unfortunate. But to the Liberal Party, we are always positive and look ahead. Although our perspectives and standpoints are different, and we often have different positions — it is only natural that there are many different positions among Members — we can still join hands and work for the benefit of Hong Kong. Then why can we not join hands with the Government or officials under the accountability system?

I very much hope that the Government will seriously review this to enable the accountability system to truly make a good start, so that this new system can become a genuine system of accountability. Thank you, Madam President.

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

MR MARTIN LEE (in Cantonese): Madam President, it is very obvious that the Government has put forward this proposal in a hurry; the contents of the proposal just are not mature. The organization chart we have here is presented to us only today. One thing strange enough is that the characters in the second half of this document are very small, so small that they are hardly legible. Perhaps I may have some presbyopia problem now, but the characters are indeed so small that you have to use a magnifying glass to read them. Does it follow that the positions printed in these small characters are also of very small significance, with the Directors of Bureaux being of greater importance while other posts are of increasingly smaller importance? Perhaps I am correct, those officers are really of such insignificant importance.

However, the question remains whether the Government has made proper preparations. A number of Members have mentioned earlier that there were already revisions made to the government papers shortly after they were presented to this Council; the Government just kept making revisions incessantly. Some Members have put the blame on Secretary Michael SUEN. For my part, I do have sympathy for him and understand his situation very well. If the Democratic Party has requested me to do likewise, I could only oblige; now even though the Government has not prepared well, he still has to do his job as instructed. In fact, the Government just has not prepared properly. Some Members, such as the Honourable Mrs Selina CHOW, said the Government might as well "start". A number of Members have also mentioned that it would do no harm to "start" at the present stage. However, why must the Government "start" on 1 July? Nobody has provided any explanation in this respect. But then, everybody knows it very well that it is all because the Chief Executive wants to "start" on that day. Given the Chief Executive has said, "Mount the horses", everyone has to "mount the horse" even though the horses are arranged in the wrong order. Regardless of whether the horses are coming from the first class or the ninth class, they must all "mount the horses". Let me draw an analogy using the World Cup Finals. If a person used to play basketball were suddenly required to play as a forward in a football match, then when you asked him how he was going to play in the match, he could only tell you to ask the team captain because he had no idea either. The present practice of the Government and the ministerial system it introduces are no different from such a football team; both of them will really become laughing stocks.

Actually, Members affiliated to the pro-democracy camp can play a very easy role in this matter: Simply doing nothing and waiting to see what will befall the Government in the end with folded arms. But they have not done that. As you can see, Members from the pro-democracy camp have put forward so many well thought out amendments. If Members should listen to their speeches carefully, they could easily note that the amendments are much better than the Government's resolution, and the reorganization proposals suggested by them are also much better than the structure tabled by the Government before us now. If the Chief Executive was really smart, he should tell Secretary Michael SUEN to promptly send him the scripts of all the speeches made today, so that he could study the contents in detail and expeditiously follow the suggestions made in the speeches. However, is our Chief Executive really that smart and does he have such breadth of mind? I believe Members do know it very well. Quite the contrary, he may perhaps say that because the pro-democracy camp has made such suggestions, we must make every effort to avoid doing them.

Madam President, Secretary Michael SUEN has come here today to be the "scapegoat", so we really should not make his life any more harder. *(Laughter)* How has the Government acted? Who is actually working behind Secretary Michael SUEN today? Certainly, that must be Chief Executive TUNG Chee-hwa. Who could that be if not him? But then, he just will not come to this Chamber. Why does he keep refusing to come to this Chamber? The reason is very simple: He is afraid that he does not know how to answer the questions we put to him. In response to our questions, Secretary Michael SUEN just told us that he did not know the answers. However, deep in his heart he might perhaps say, "Go ask the Chief Executive". But since the Chief Executive refuses to come here, to whom could we raise the questions? Actually, we really do not have to raise any more questions; the resolution will certainly be carried, as almost 40 Members are now waiting to cast their affirmative votes. Somebody would be very unhappy if Members should raise too many views.

Just now Mrs Selina CHOW made it very clear that the Government should review its approach and then asked why the Chief Executive refused to come to this Chamber to have direct dialogue with Members to show more respect for us. She was very much disappointed with the Chief Executive's refusal to come to the Council to explain the new proposal to Members. I just cannot help but wonder why she is still prepared to cast an affirmative vote despite the great dissatisfaction she has.

Let me make a forecast. Actually, we can very easily guess how Members will vote. It is more difficult to guess which country's football team will win the World Cup this year, because World Cup matches always have "unexpected" results. How will Members affiliated to the Liberal Party and the Democratic Alliance for Betterment of Hong Kong vote? I can assure you that they will certainly cast an affirmative vote. I dare them to not cast an affirmative vote! The voting result is indeed very clear to us.

If Members have such great dissatisfactions and can see that the Government is pushing through to "start" on 1 July hastily without giving any reasons, why do they not request the Government to postpone the matter a little while? Should it not be better for the Chief Executive to give us a clear explanation on 8 July after the Government has got everything prepared properly? In that case, Secretary Michael SUEN will not tell this Council he does not know this or that, or even who should he turn to in order to get things clarified. Why can Members not suggest the Government postpone the implementation of the proposal until 1 October? Why can the proposal not be postponed for a few months? Will that cause the Government to have any difficulty functioning properly? Why must some Members of this Council choose to cast an affirmative vote? If Members are dissatisfied with the proposal, they should not cast an affirmative vote until the Government has got everything prepared properly. Why can Members not choose to vote this way?

Mrs Selina CHOW was really interesting just now, because she subsequently mentioned that she wondered whether we had any love for Hong Kong. If Members from the pro-democracy camp do not love Hong Kong, why have they put forward so many amendments? As I said earlier, Members from the pro-democracy camp can just sit back and wait to see what will befall the Government eventually. What the Members from the pro-democracy camp have done are done out of their love for Hong Kong. On the contrary, Members who will cast an affirmative vote are the ones having no love for Hong Kong; otherwise, the resolution will not be handled in such a hasty and crude manner. They will first cast an affirmative vote but are not prepared to be held accountable when problems arise in future. Is it what an accountable Government should do? Is that the so-called accountability system?

The Government has utterly no respect for this Council. It has been paying lip service to improving the relationship between the executive and the legislature for too many years. The Chief Executive has been in office for five

years, and over these past five years he has been talking about this issue. He will soon enter into his sixth year of office, yet he is still talking about this. Perhaps he will still be discussing how the relationship between the executive and the legislature can be improved during his tenth year of office. It has been said that the Chief Executive would still discuss the issue with Members and write a report on the discussions. I have also been given to understand that the Chief Executive would also solicit Members' opinions on other issues. Actually, these are my opinions. All the things I have mentioned in this speech are my opinions. If the Chief Executive does respect the Legislative Council, he should come here to explain the new system to Members, rather than trying to "mount the horse" first and discussing the details at some later stages.

I am sure that no country in this world would seek to "mount the horse" so hastily in making such a major change — a change involving the entire system. The people of Hong Kong should cease to criticize us for discussing without deciding any more; this time we are deciding without discussing, are not we? I believe our national leaders will be very pleased to see the Chief Executive's performance this time. They may perhaps praise him for the good job done: He knows what to do well before the ministerial system is implemented, what a "capable guy"! But then, is the Chief Executive really so capable? Just wait and see!

Hence, Madam President, if Members of this Council do not try to make a good showing and do not want the Government to have respect for us, well, just cast an affirmative vote. Actually, the majority of the Members will certainly cast an affirmative vote. In which case, Members should not say they are disappointed any more. If Members are so disappointed with the Government, they should reflect their disappointment by not giving the Government their support. This is the only way to make the Government respect this Council and stop doing things to us in its present way. Frankly speaking, if Members should tolerate the Government this time and give it their support, the Government will think we can be easily got at because it can ask us to cast an affirmative vote any time. If Members are willing to do that, how can they expect people to respect us? Why should we show no respect for ourselves by casting an affirmative vote despite the dissatisfactions we have with the Government? Do the electors vote us in just to cast an affirmative vote? Are we going to cast an affirmative vote to support the Government regardless of how undesirable the policies it introduces? Are we going to refrain from stopping the Government even

though we know there is something wrong with it? Are we showing our love for Hong Kong in doing all this? Madam President, I know it is only futile for me to speak on, as the result is already very clear. Thank you.

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

(No Member responded)

PRESIDENT (in Cantonese): Secretary for Constitutional Affairs, you may now speak on the seven amendments.

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, with regard to the resolution proposed by the Government, seven Members have proposed amendments to it. In today's debate, Members have expressed their views on the Government's resolution and the various amendments. Now I will respond to the amendments proposed by Members and state the position of the Government.

First of all, I would like to speak on the amendment proposed by Mr Albert HO. I think Mr Albert HO's amendment is rather original. All of the amendments proposed by the seven Members, with the exception of the one by Mr HO, focus on the transfer of statutory functions. Only Mr HO has proposed an amendment to the commencement date of the resolution. While Mr HO still fixes the effective date of the resolution at 1 July, its implementation has to be subject to the publication by the Chief Executive in the Gazette of the Code for Accountable Officials under the Accountability System (the Code) drafted by Mr HO.

However, the contents of Mr HO's amendment are indeed somewhat puzzling. Firstly, Mr HO has attached a condition to the effective date of the resolution, stipulating that the resolution shall take effect only after the gazettal of the Code. In the debate on the accountability system for principal officials in the Legislative Council on 30 May, I explicitly made an undertaking that the Government would publish the Code in the Gazette before 1 July this year for public information. So, I think Mr HO's amendment does not carry any substantive meaning, since we have openly stated that the Code will be published

in the Gazette. The Government is going to do so even without Mr HO's amendment.

Secondly, the Code as attached to Mr HO's amendment has made a number of amendments to the draft Code submitted by the Government to the Legislative Council Subcommittee to Study the Proposed Accountability System for Principal Officials and Related Issues for discussion. These amendments are made to the effect that:

- (1) a principal official under the accountability system shall resign after the Legislative Council has passed a motion of no confidence in relation to him;
- (2) a principal official under the accountability system shall seek the approval of a committee appointed by the Chief Executive before taking up any employment or going into any business within one year after stepping down from office; and
- (3) the Chief Secretary for Administration rather than the Secretary for the Civil Service shall manage the Civil Service and formulate policies on the Civil Service.

With regard to these issues, we already reiterated the position of the Government in the motion debate on 29 and 30 May. The Legislative Council passed by a vast majority vote the motion of supporting the implementation of the accountability system by the Government on the basis of the Government's proposal. We, therefore, consider it unnecessary to further debate on these facts.

Thirdly, we believe the version of the Code as attached to Mr HO's amendment may not be able to obtain support from a majority of Members, for it does not include the amendments that the Government had undertaken to make at meetings of the relevant Subcommittee of the Legislative Council. They are as follows:

- (1) Principal officials under the accountability system shall not use any public resources for non-government purposes, including purposes relating to activities of any political party;

- (2) Arrangements for the temporary absence of principal officials under the accountability system;
- (3) Principal officials under the accountability system shall declare whether they are members of any political party. They shall also declare any change in their status in relation to their membership with any political party;
- (4) Principal officials under the accountability system, when considering to become a member of any political party or taking part in any political activities, must ensure that no conflict of interest with the business of the Government or the official duties of the principal officials shall arise; they must also ensure that no conflict shall arise with the oaths to uphold the Basic Law and the oaths of allegiance to the SAR Government made by them when they assume office;
- (5) Apart from being appointed to the relevant board of directors in their official capacity or holding honorary posts in non-profit-making organizations or charitable bodies, principal officials shall not hold office as directors of other companies;
- (6) Prior permission from the Chief Executive shall be sought for principal officials under the accountability system to accept an invitation from any organization or foreign government to make a sponsored visit; and
- (7) Transport arrangements for overseas visits by principal officials under the accountability system.

These amendments are not found in the Code provided by Mr HO. We consider that there are inadequacies in that version of the Code. So, since Members hold that these amendments should be incorporated into the Code, and as they are not included in Mr HO's version, I think Members should not endorse his amendment in any case. Moreover, the Government has already decided to publish in the Gazette the amended Code on 28 June. By then, members of the public will be able to read the contents of the Code.

On the arrangements for the reorganization of Policy Bureaux, many Members had given their views, and the relevant Subcommittee of the Legislative Council had also discussed many issues in detail. The Government had, in fact, carefully considered the views of Members and also the views of the public. Certain adjustments were subsequently made to the original arrangements, and we also responded and explained to Members in the motion debate on 29 and 30 May. So, I am not going to repeat the reasons here.

Today, the topic of our debate is the resolution proposed by the Government under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1). As I said at the beginning of this debate, the purpose of this resolution proposed under section 54A of Cap. 1 is to transfer the statutory functions of some of the existing Secretaries to the accountable Secretaries with responsibilities in the relevant areas after the reorganization of Policy Bureaux. The resolution is not legislation to provide for the reorganization of Policy Bureaux.

By the same token, if the amendments proposed by Members concerning the transfer of functions are passed, it does not mean that the Policy Bureaux concerned will then be reorganized. Nor does it mean that the Secretaries and organizational structures as referred to in the amendments will come into existence on 1 July. Therefore, the amendments proposed by Members, if passed, will only lead to the transfer of statutory functions to Secretaries who will no longer exist on 1 July, and will make it impossible for some Secretaries under the accountability system who will resume office on 1 July to perform their due statutory functions, thus creating a scenario where the Secretaries have responsibilities but not the powers.

Finally, as regards the legal opinion put forward by the Honourable Andrew WONG earlier on, we have, in fact, carefully examined it. But we consider that what he has said earlier does not constitute sufficient grounds for us to arrive at the conclusion mentioned by me earlier on.

For these reasons, I implore Members to vote against the seven amendments proposed by Members. Thank you, Madam President.

PRESIDENT (in Cantonese): I now call upon Mr Albert HO to move his amendment.

MR ALBERT HO (in Cantonese): Madam President, I move that the Secretary for Constitutional Affairs' motion be amended, as set out in the paper circularized to Members.

Mr Albert HO moved the following amendment:

"That the motion to be moved by the Secretary for Constitutional Affairs under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) at the Legislative Council meeting of 19 June 2002 be amended -

- (a) in paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12) and (13), by deleting "with effect from 1 July 2002" and substituting "with effect from 1 July 2002 and subject to the publication by the Chief Executive in the Gazette of the Code for Accountable Officials under the Accountability System as attached in the Annex";
- (b) in paragraph (14)(a), by adding "subject to the publication by the Chief Executive in the Gazette of the Code for Accountable Officials under the Accountability System as attached in the Annex," before "anything lawfully done";
- (c) in paragraph (14)(b), by adding "subject to the publication by the Chief Executive in the Gazette of the Code for Accountable Officials under the Accountability System as attached in the Annex," before "anything that"."

(See Annex II for contents of the annex of the relevant amendment)

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Albert HO to the Secretary for Constitutional Affairs' motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Albert HO rose to claim a division.

PRESIDENT (in Cantonese): Mr Albert HO 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.

PRESIDENT (in Cantonese): Honourable Members, please excuse me. The Clerk has just reminded me that a Member who is now in this Chamber has not pressed the "Present" button and cast his vote. Since this Member is present, he should press the "Present" button, and if he does not wish to do so, he should leave this Chamber.

(Mr Michael MAK left the Chamber)

PRESIDENT (in Cantonese): If there are no more questions, the result will now be displayed.

Functional Constituencies:

Mr CHEUNG Man-kwong, Mr SIN CHUNG-kai and Mr LAW Chi-kwong 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 CHAN Kwok-keung, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Miss LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted against the amendment.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi and Mr Frederick FUNG voted for the amendment.

Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Andrew WONG, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr TANG Siu-tong, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Mr MA Fung-kuok voted against the amendment.

Miss Cyd HO, Miss Emily LAU and Ms Audrey EU 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, three were in favour of the amendment and 23 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 27 were present, 10 were in favour of the amendment, 13 against it and three abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negated.

MRS SELINA CHOW (in Cantonese): Madam President, in accordance with Rule 49(4) of the Rules of Procedure, I move that in the event of divisions being

claimed in respect of the Secretary for Constitutional Affairs' motion or any amendment thereto, the Council do proceed to such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mrs Selina CHOW be passed. Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

I order that in the event of divisions being claimed in respect of the Secretary for Constitutional Affairs' motion or any amendment thereto, the Council do proceed to such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Mr Frederick FUNG, you may now move your amendment.

FREDERICK FUNG (in Cantonese): Madam President, I move that the Secretary for Constitutional Affairs' motion be amended, as set out in the paper circularized to Members.

Mr Frederick FUNG moved the following amendment:

"That the motion to be moved by the Secretary for Constitutional Affairs under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) at the Legislative Council meeting of 19 June 2002 be amended -

- (a) in paragraph (1), by deleting "Secretary for Commerce, Industry and Technology" wherever it appears and substituting "Secretary for Economic Development";
- (b) in paragraph (2), by deleting "Secretary for Commerce, Industry and Technology" wherever it appears and substituting "Secretary for Economic Development";
- (c) in paragraph (3), by deleting "Secretary for Economic Development and Labour" wherever it appears and substituting "Secretary for Economic Development";
- (d) in paragraph (4), by deleting "Secretary for Economic Development and Labour" wherever it appears and substituting "Secretary for Labour";
- (e) in paragraph (5) -
 - (i) by deleting "Secretary for the Environment, Transport and Works" wherever it appears and substituting "Secretary for the Environment, Housing, Planning and Lands";
 - (ii) in subparagraph (b)(ii), by deleting "Secretary for the Environment, Transport and Works" and substituting "Secretary for the Environment, Housing, Planning and Lands";
- (f) in paragraph (6), by deleting "Secretary for the Environment, Transport and Works" wherever it appears and substituting "Secretary for Transport and Works";

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- (g) in paragraph (7), by deleting "Secretary for the Environment, Transport and Works" wherever it appears and substituting "Secretary for Transport and Works";
 - (h) in paragraph (12), by deleting "Secretary for Housing, Planning and Lands" wherever it appears and substituting "Secretary for the Environment, Housing, Planning and Lands";
 - (i) in paragraph (13), by deleting "Secretary for Housing, Planning and Lands" wherever it appears and substituting "Secretary for the Environment, Housing, Planning and Lands";
 - (j) in Schedule 1, in the heading, by deleting "SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY" and substituting "SECRETARY FOR ECONOMIC DEVELOPMENT";
 - (k) in Schedule 2, in the heading, by deleting "SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY" and substituting "SECRETARY FOR ECONOMIC DEVELOPMENT";
 - (l) in Schedule 3, in the heading, by deleting "SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR" and substituting "SECRETARY FOR ECONOMIC DEVELOPMENT";
 - (m) in Schedule 4, in the heading, by deleting "SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR" and substituting "SECRETARY FOR LABOUR";
 - (n) in Schedule 5, in the heading, by deleting "SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS" and substituting "SECRETARY FOR THE ENVIRONMENT, HOUSING, PLANNING AND LANDS";
 - (o) in Schedule 6, in the heading, by deleting "SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS" and substituting "SECRETARY FOR TRANSPORT AND WORKS";

- (p) in Schedule 7, in the heading, by deleting "SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS" and substituting "SECRETARY FOR TRANSPORT AND WORKS";
- (q) in Schedule 12, in the heading, by deleting "SECRETARY FOR HOUSING, PLANNING AND LANDS" and substituting "SECRETARY FOR THE ENVIRONMENT, HOUSING, PLANNING AND LANDS";
- (r) in Schedule 13, in the heading, by deleting "SECRETARY FOR HOUSING, PLANNING AND LANDS" and substituting "SECRETARY FOR THE ENVIRONMENT, HOUSING, PLANNING AND LANDS".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Frederick FUNG to the Secretary for Constitutional Affairs' motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Frederick FUNG rose to claim a division.

PRESIDENT (in Cantonese): Mr Frederick FUNG has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Mr CHAN Kwok-keung and Miss LI Fung-ying 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 WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Henry WU, Mr Tommy CHEUNG, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted against the amendment.

Mr CHEUNG Man-kwong, Mr SIN CHUNG-kai and Mr LAW Chi-kwong abstained.

Geographical Constituencies and Election Committee:

Miss CHAN Yuen-han and Mr Frederick FUNG voted for the amendment.

Mr CHAN Kam-lam, Mr Andrew WONG, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr TANG Siu-tong, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Mr MA Fung-kuok voted against the amendment.

Miss CYD HO, Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi and Ms Audrey EU 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, two were in favour of the amendment, 21 against it and three abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 27 were present, two were in favour of the amendment, 12 against it and 12 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negated.

PRESIDENT (in Cantonese): Mr Andrew CHENG, you may move your amendment.

MR ANDREW CHENG (in Cantonese): Madam President, I move that the Secretary for Constitutional Affairs' motion be amended, as set out in the paper circularized to Members.

Mr Andrew CHENG moved the following amendment:

"That the motion to be moved by the Secretary for Constitutional Affairs under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) at the Legislative Council meeting of 19 June 2002 be amended -

- (a) in paragraph (3), by deleting "Secretary for Economic Development and Labour" wherever it appears and substituting "Secretary for Economic Development";
- (b) by deleting paragraph (4);
- (c) in Schedule 3, in the heading, by deleting "SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR" and substituting "SECRETARY FOR ECONOMIC DEVELOPMENT";
- (d) by deleting Schedule 4."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Andrew CHENG to the Secretary for Constitutional Affairs' motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Andrew CHENG rose to claim a division.

PRESIDENT (in Cantonese): Mr Andrew CHENG has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Mr CHEUNG Man-kwong, Mr SIN Chung-kai and Mr LAW Chi-kwong 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 CHAN Kwok-keung, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Henry WU, Mr Tommy CHEUNG, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted against the amendment.

Miss LI Fung-ying abstained.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN and Mr WONG Sing-chi voted for the amendment.

Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Andrew WONG, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Frederick FUNG, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Mr MA Fung-kwok voted against the amendment.

Miss Cyd HO, Miss Emily LAU and Ms Audrey EU 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, three were in favour of the amendment, 22 against it and one abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 27 were present, nine were in favour of the amendment, 14 against it and three abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr Fred LI, you may move your amendment.

MR FRED LI (in Cantonese): Madam President, I move that the Secretary for Constitutional Affairs' motion be amended, as set out in the paper circularized to Members.

Mr Fred LI moved the following amendment:

"That the motion to be moved by the Secretary for Constitutional Affairs under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) at the Legislative Council meeting of 19 June 2002 be amended -

- (a) by deleting paragraph (5);
- (b) in paragraph (6), by deleting "Secretary for the Environment, Transport and Works" wherever it appears and substituting "Secretary for Transport and Works";
- (c) in paragraph (7), by deleting "Secretary for the Environment, Transport and Works" wherever it appears and substituting "Secretary for Transport and Works";
- (d) by deleting paragraph (10);
- (e) by deleting paragraph (11);
- (f) by deleting Schedule 5;
- (g) in Schedule 6, in the heading, by deleting "SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS" and substituting "SECRETARY FOR TRANSPORT AND WORKS";
- (h) in Schedule 7, in the heading, by deleting "SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS" and substituting "SECRETARY FOR TRANSPORT AND WORKS";
- (i) by deleting Schedule 10;
- (j) by deleting Schedule 11."

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

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

(Members raised their hands)

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

(Members raised their hands)

Dr YEUNG Sum rose to claim a division.

PRESIDENT (in Cantonese): Dr YEUNG Sum has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Mr LAW Chi-kwong and Miss LI Fung-ying 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 CHAN Kwok-keung, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Henry WU, Mr Tommy CHEUNG, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted against the amendment.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG and Ms Audrey EU voted for the amendment.

Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Andrew WONG, Mr Jasper TSANG, Mr LAU Kong-wah, Mr TAM Yiu-chung, Dr TANG Siu-tong, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Mr MA Fung-kwok voted against the amendment.

Miss Cyd HO and Miss Emily LAU 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, four were in favour of the amendment and 22 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 27 were present, 12 were in favour of the amendment, 12 against it and two abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr LAW Chi-kwong, you may move your amendment.

MR LAW CHI-KWONG (in Cantonese): Madam President, I move that the Secretary for Constitutional Affairs' motion be amended, as set out in the paper circularized to Members.

Mr LAW Chi-kwong moved the following amendment:

"That the motion to be moved by the Secretary for Constitutional Affairs under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) at the Legislative Council meeting of 19 June 2002 be amended -

- (a) in paragraph (5) -
 - (i) by deleting "Secretary for the Environment, Transport and Works" wherever it appears and substituting "Secretary for the Environment, Housing, Planning and Lands";
 - (ii) in subparagraph (b)(ii), by deleting "*Secretary for the Environment, Transport and Works*" and substituting "*Secretary for the Environment, Housing, Planning and Lands*";
- (b) in paragraph (6), by deleting "Secretary for the Environment, Transport and Works" wherever it appears and substituting "Secretary for Transport and Works";
- (c) in paragraph (7), by deleting "Secretary for the Environment, Transport and Works" wherever it appears and substituting "Secretary for Transport and Works";
- (d) in paragraph (12), by deleting "Secretary for Housing, Planning and Lands" wherever it appears and substituting "Secretary for the Environment, Housing, Planning and Lands";
- (e) in paragraph (13), by deleting "Secretary for Housing, Planning and Lands" wherever it appears and substituting "Secretary for the Environment, Housing, Planning and Lands";
- (f) in Schedule 5, in the heading, by deleting "SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS" and substituting "SECRETARY FOR THE ENVIRONMENT, HOUSING, PLANNING AND LANDS";

- (g) in Schedule 6, in the heading, by deleting "SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS" and substituting "SECRETARY FOR TRANSPORT AND WORKS";
- (h) in Schedule 7, in the heading, by deleting "SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS" and substituting "SECRETARY FOR TRANSPORT AND WORKS";
- (i) in Schedule 12, in the heading, by deleting "SECRETARY FOR HOUSING, PLANNING AND LANDS" and substituting "SECRETARY FOR THE ENVIRONMENT, HOUSING, PLANNING AND LANDS";
- (j) in Schedule 13, in the heading, by deleting "SECRETARY FOR HOUSING, PLANNING AND LANDS" and substituting "SECRETARY FOR THE ENVIRONMENT, HOUSING, PLANNING AND LANDS".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr LAW Chi-kwong to the Secretary for Constitutional Affairs' motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr LAW Chi-kwong rose to claim a division.

PRESIDENT (in Cantonese): Mr LAW Chi-kwong has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Mr LAW Chi-kwong and Mr Henry WU 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 CHAN Kwok-keung, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Miss LI Fung-ying, Mr Tommy CHEUNG, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted against the amendment.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi and Mr Frederick FUNG voted for the amendment.

Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Andrew WONG, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr TANG Siu-tong, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Mr MA Fung-kwok voted against the amendment.

Miss Cyd HO, Miss Emily LAU and Ms Audrey EU 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, four were in favour of the amendment and 22 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 27 were present, 10 were in favour of the amendment, 13 against it and three 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): Miss Cyd HO, you may move your amendment.

MISS CYD HO (in Cantonese): Madam President, I move that the Secretary for Constitutional Affairs' motion be amended, as set out in the paper circularized to Members.

Miss Cyd HO moved the following amendment:

"That the motion to be moved by the Secretary for Constitutional Affairs under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) at the Legislative Council meeting of 19 June 2002 be amended -

(a) in paragraph (5) -

- (i) by deleting "Secretary for the Environment, Transport and Works" wherever it appears and substituting "Secretary for the Environment";
- (ii) in subparagraph (b)(ii), by deleting "*Secretary for the Environment, Transport and Works*" and substituting "*Secretary for the Environment*";

- (b) in paragraph (6), by deleting "Secretary for the Environment, Transport and Works" wherever it appears and substituting "Secretary for Transport and Works";
- (c) in paragraph (7), by deleting "Secretary for the Environment, Transport and Works" wherever it appears and substituting "Secretary for Transport and Works";
- (d) in Schedule 5, in the heading, by deleting "SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS" and substituting "SECRETARY FOR THE ENVIRONMENT";
- (e) in Schedule 6, in the heading, by deleting "SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS" and substituting "SECRETARY FOR TRANSPORT AND WORKS";
- (f) in Schedule 7, in the heading, by deleting "SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS" and substituting "SECRETARY FOR TRANSPORT AND WORKS"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Miss Cyd HO to the Secretary for Constitutional Affairs' motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

PRESIDENT (in Cantonese): I think the question is not agreed by a majority respectively of each of the two groups of Members, that is, those returned by

functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the amendment negated.

PRESIDENT (in Cantonese): Mr SIN Chung-kai, you may move your amendment.

MR SIN CHUNG-KAI (in Cantonese): Madam President, I move that the Secretary for Constitutional Affairs' motion be amended, as set out in the paper circularized to Members.

Mr SIN Chung-kai moved the following amendment:

"That the motion to be moved by the Secretary for Constitutional Affairs under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) at the Legislative Council meeting of 19 June 2002 be amended -

(a) in paragraph (8) -

(i) in subparagraphs (a) and (b)(i), by deleting "Secretary for Financial Services and the Treasury" and substituting "Financial Secretary";

(ii) by deleting subparagraph (b)(vi) and substituting -

"(vi) the Exchanges (Special Levy) Ordinance (Cap. 351) be amended -

(A) in section 2, by repealing the definition of "Secretary" and substituting -

"Secretary" (財政司司長) means the Financial Secretary;"

(B) in the provisions specified in item 6 of Schedule 8, by repealing "財經事務局局長" wherever it appears and substituting "財政司司長";";

- (iii) in subparagraph (b)(vii), by deleting "局長" and substituting "財政司司長";
- (b) in paragraph (9) -
 - (i) by deleting "Secretary for Financial Services and the Treasury" wherever it appears and substituting "Financial Secretary";
 - (ii) by adding -
 - "(c) the Interpretation and General Clauses Ordinance (Cap. 1) be amended, in section 3, in the definition of "Financial Secretary" , by repealing "and the Secretary for the Treasury";";
- (c) in Schedule 8, in the heading, by deleting "SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY" and substituting "FINANCIAL SECRETARY";
- (d) in Schedule 9 -
 - (i) in the heading, by deleting "SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY" and substituting "FINANCIAL SECRETARY";
 - (ii) by deleting item 1."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr SIN Chung-kai to the Secretary for Constitutional Affairs' motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr SIN Chung-kai rose to claim a division.

PRESIDENT (in Cantonese): Mr SIN Chung-kai has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Mr CHEUNG Man-kwong, Mr Bernard CHAN, Mr SIN Chung-kai and Mr LAW Chi-kwong 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 CHAN Kwok-keung, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Miss LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted against the amendment.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi and Mr Frederick FUNG voted for the amendment.

Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr Andrew WONG, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Mr TAM Yiu-chung, Dr TANG Siu-tong, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Mr MA Fung-kwok voted against the amendment.

Miss Cyd HO, Miss Emily LAU and Ms Audrey EU 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, four were in favour of the amendment and 22 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 27 were present, 10 were in favour of the amendment, 13 against it and three 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 call upon the Secretary for Constitutional Affairs to reply.

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, first of all, I am very grateful to Members for their speeches made in support of the Government's resolution and against the amendments proposed by the seven Members. To tie in with the implementation of the accountability system for principal officials (accountability system) on 1 July, I hope Members will vote in favour of the resolution moved by the Government to transfer the statutory functions of certain incumbent Bureaux Secretaries to the Directors of Bureaux under the accountability system responsible for the same policy portfolios upon the reorganization of Policy Bureaux.

With the implementation of the accountability system, we hope to achieve six objectives as follows:

1. to enhance the accountability of principal officials for their respective policy portfolios;
2. to enable officials at all levels of the Government to better appreciate the aspirations of the community and better respond to the needs of the community;
3. to select the best and most suitable persons to work as principal official under the accountability system to serve the community and to enhance governance;
4. to enhance the co-operation between the Government and the Legislative Council;
5. to better co-ordinate the formulation and implementation of policies to ensure effective enforcement of policies and provision of quality services to the public; and
6. to maintain a permanent, professional, clean and politically neutral Civil Service.

Madam President, the Government understands that if we are to implement the accountability system successfully, it is necessary that we have the support of the Council and the public. Perhaps Members may have divergent views on the details and particulars of the arrangements under the system, yet I believe Members will all agree with the Government's objective to improve its administration. As such, I wholeheartedly hope that Members will lend the Government a hand to ensure the successful implementation of the new system.

I hereby implore Honourable Members to vote in favour of our resolution. Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Constitutional Affairs, as set out in the paper circularized to Members, 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)

Miss Emily LAU rose to claim a division.

PRESIDENT (in Cantonese): Miss Emily LAU has claimed a division. The division bell will ring for one minute.

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

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

Mr Kenneth TING, Mr James TIEN, Dr David CHU, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Mr NG Leung-sing, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Miss CHAN Yuen-han, Mr Bernard CHAN, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Mr YEUNG Yiu-chung, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Mr Ambrose LAU, Miss CHOY So-yuk, Mr Timothy FOK, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Abraham SHEK, Miss LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Dr LO Wing-lok, Mr Frederick FUNG, Mr IP Kwok-him, Mr LAU Ping-cheung and Mr MA Fung-kwok voted for the motion.

Miss Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Miss Margaret NG, Mr James TO, Mr CHEUNG Man-kwong, Mr LEUNG Yiu-chung, Mr SIN Chung-kai, Mr Andrew WONG, Dr YEUNG Sum, Mr LAU Chin-shek, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr LAW Chi-kwong, Mr Michael MAK, Mr Albert CHAN, Mr WONG Sing-chi and Ms Audrey EU voted against the motion.

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

THE PRESIDENT announced that there were 58 Members present, 36 were in favour of the motion and 21 against it. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

SUSPENSION OF MEETING

PRESIDENT (in Cantonese): Honourable Members, this is now 10.02 pm. I will now suspend the meeting until 9.30 am tomorrow.

Suspended accordingly at two minutes past Ten o'clock.

WRITTEN ANSWER**Written answer by the Secretary for Home Affairs to Dr TANG Siu-tong's supplementary question to Question 5**

No fee or charge is imposed on the customs or immigration clearance conducted for passengers arriving at or departing from Hong Kong (including those arriving or departing on board a casino vessel), since such services are essential boundary control measures for maintaining law and order in Hong Kong.

Casino vessels, as with other foreign vessels, are required to pay the following charges levied by the Marine Department for use of the port and its facilities under the Shipping and Port Control Regulations (Cap. 313 sub. leg. A):

- (a) Port facilities and light dues: HK\$57 per 100 tons or part thereof on each occasion of entry into the waters of Hong Kong;
- (b) Port clearance permit fee: HK\$97 per permit;
- (c) Buoy dues if they moor to government moorings:
 - (i) Class A Buoy: HK\$3,685 per day or part of a day;
 - (ii) Class B Buoy: HK\$2,455 per day or part of a day; and
- (d) Berthing fee if they berth at one of the Government Ferry Terminals (that is, China Ferry Terminal or Macau Ferry Terminal): HK\$1.50 per ton.

During the past 12 months (1 June 2002 - 31 May 2002), the above charge paid by the eight casino vessels based in Hong Kong amount to a total of \$21,303,694.

Annex II**CODE FOR ACCOUNTABLE OFFICIALS
UNDER THE ACCOUNTABILITY SYSTEM**

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CHAPTER1: INTRODUCTION

- 1.1. This Code applies to the Secretaries of Departments, Directors of Bureaux, and the Director of Chief Executive's Office under the accountability system (hereinafter referred to as "accountable officials").
- 1.2. The basic principles which accountable officials shall follow in the performance of their duties include the following:
- (1) Accountable officials must swear to uphold the Basic Law and swear allegiance to the Hong Kong Special Administrative Region (HKSAR) of the People's Republic of China.
 - (2) Accountable officials shall be dedicated to their duties and be responsible to the Government of the HKSAR.
 - (3) Accountable officials must uphold the rule of law, abide by the law, and protect the integrity of public office.
 - (4) Accountable officials shall act in the best interests of the HKSAR as a whole.
 - (5) Accountable officials shall be as open as possible about the decisions that they make and the actions that they take. They shall be accountable for their decisions.
 - (6) Accountable officials shall observe the highest standards of personal conduct and integrity at all times.
 - (7) Accountable officials shall ensure that no actual or potential conflict arises between their public duties and their private interests.
 - (8) Accountable officials shall at all times uphold and promote a permanent, honest, meritocratic, professional and politically neutral civil service.
 - (9) Accountable officials shall promote and support the above principles by leadership and example.
- 1.3. This Code does not specify every potential act or behaviour expected of accountable officials. Rather, it provides rules and principles for appropriate conduct under

certain circumstances. Where the circumstances are not prescribed, it is the responsibility of accountable officials to judge in accordance with the principles set out in this Code, how best to act in order to uphold the highest standards. In case of doubt, accountable officials shall seek the advice of the Chief Executive.

- 1.4. This Code shall be read in conjunction with legislation applicable to accountable officials. These include the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong) and the Official Secrets Ordinance (Chapter 521 of the Laws of Hong Kong).

CHAPTER 2: RESPONSIBILITIES

- 2.1. Accountable officials shall devote the whole of their time and attention to the discharge of their duties as accountable officials of the Government, and shall use their best endeavours to promote the interests of the Government.
- 2.2. Accountable officials are responsible for their respective portfolios designated to them by the Chief Executive and lead the executive departments within their respective portfolios. Accountable officials are responsible for formulating, explaining and defending government policies as well as canvassing support from the public and the Legislative Council. They are accountable to the Chief Executive for the success or failure of their policies.
- 2.3. Accountable officials shall be bound by and collectively responsible for the decisions taken by the Chief Executive in Council.

Responsibility in relation to the Legislative Council

- 2.4. Accountable officials shall note that under Article 64 of the Basic Law, the Government must abide by the law and be accountable to the Legislative Council: it shall implement laws passed by the Legislative Council and already in force; it shall present regular policy addresses to the Legislative Council; it shall answer questions raised by members of the Legislative Council; and it shall obtain approval from the Legislative Council for taxation and public expenditure.
 - 2.4.1 After the Legislative Council passes a motion of no confidence in relation to an accountable official, the accountable official concerned will be expected to offer his or her resignation to the Chief Executive.
- 2.5. Accountable officials shall give accurate and truthful information to the Legislative Council and correct any error at the earliest opportunity. Accountable officials who knowingly mislead the Legislative Council will be expected to offer their resignation to the Chief Executive.
- 2.6. Accountable officials will be designated under Article 62(6) of the Basic Law to attend meetings of the Legislative Council, its committees, subcommittees and panels and to speak on behalf of the Government. The immunities and privileges provided for in sections 3, 4, 5 and 6(2) of the Legislative Council (Powers and Privileges) Ordinance

(Chapter 382 of the Laws of Hong Kong) are extended to accountable officials when they attend meetings of the Legislative Council, its committees, subcommittees and panels.

- 2.7. Accountable officials have a duty to represent the Government and to transact business at meetings of the Legislative Council, and its committees, subcommittees and panels, e.g. to introduce bills or motions, address the Legislative Council, present papers, make statements, answer questions and take part in debates in respect of matters relating to their respective portfolios.
- 2.8. Accountable officials shall make arrangements to ensure that they would be available to attend meetings of the Legislative Council when matters relating to their respective portfolios are discussed.

Responsibility in relation to civil servants

- 2.9. Accountable officials shall at all times uphold and promote a permanent, honest, meritocratic, professional and politically neutral civil service. In particular, accountable officials shall uphold and promote the core values of the civil service:
 - (a) commitment to the rule of law;
 - (b) honesty and integrity;
 - (c) accountability in government decisions and actions;
 - (d) political neutrality;
 - (e) impartiality in the execution of public functions; and
 - (f) dedication, professionalism and diligence in serving the community.
- 2.10. Accountable officials shall give fair consideration and due weight to honest and impartial advice from civil servants.
- 2.11. Accountable officials shall not require or influence civil servants directly or indirectly to act in any way which:
 - (a) is illegal, improper or in conflict with the core values of the civil service;
 - (b) is in breach of any Government Regulation including Civil Service Regulations;
 - (c) may involve possible maladministration;
 - (d) would conflict with their role as civil servants; or

- (e) would conflict with the principle of political neutrality.
- 2.12. The Chief Secretary for Administration is responsible to the Chief Executive for civil service policy and the management of the civil service. Accountable officials shall note that one of the major tasks of the Chief Secretary for Administration is to safeguard the core values of the civil service.
- 2.13. Accountable officials shall note that civil servants are appointed, managed and promoted in accordance with the principle of openness and fairness and with the prevailing rules and regulations applicable to the civil service.
- 2.14. Accountable officials shall note that civil servants are subject to the prevailing civil service disciplinary system, under which allegations of misconduct against individual civil servants are determined through an impartial process based on consideration of factual evidence.
- 2.15. Accountable officials shall note the independent role of the Public Service Commission in advising the Government on the appointment, promotion and discipline of civil servants.
- 2.16. Accountable officials shall cooperate fully with the Chief Secretary for Administration to follow up on complaints from civil servants that they have been asked to act in a manner which conflicts with their role as civil servants or with the core values of the civil service.

The role of the Controlling Officer

- 2.17. Accountable officials shall note that, subject to the regulations made and directions or instructions given by the Financial Secretary, controlling officers designated under the Public Finance Ordinance (Chapter 2 of the Laws of Hong Kong) are responsible and accountable for the expenditure of the bureaux and departments falling within their purview.
- 2.18. Accountable officials shall note that controlling officers are responsible for tendering appropriate advice to them on the safety, economy and advantage of public moneys and Government property. Accountable officials have a duty to give fair consideration and due weight to informed and impartial advice from the controlling officers.

- 2.19 Accountable officials shall note that controlling officers, if necessary, are responsible for submitting written report to the Director of Audit on the safety, economy and advantage of public moneys and Government property.

CHAPTER 3: OFFICIAL SECRETS AND SECURITY

- 3.1. Accountable officials shall note that they fall within the definition of "public servants" in the Official Secrets Ordinance (Chapter 521 of the Laws of Hong Kong) and must therefore abide by the provisions stated therein applicable to a "public servant".
- 3.2. Accountable officials shall not reveal the agenda, papers or proceedings of the Executive Council, or any document communicated to them or any matter coming to their knowledge in their capacities as members of the Executive Council. Discussion and deliberation at the Executive Council shall be kept in strict confidence. The internal process through which a decision has been made shall not be disclosed.
- 3.3. Accountable officials are required to take due care in the safe keeping of classified information entrusted to them. They shall bear in mind the general principle that dissemination of classified information shall be no wider than is required for the efficient conduct of the business at hand and shall be restricted to those who are authorised to have access to such information.

On stepping down from office

- 3.4. On stepping down from office, accountable officials shall hand over government documents in their possession and ensure that all drafts and personal copies of such documents have been properly disposed of.
- 3.5. Accountable officials shall note that all classified information, documents or other articles protected against disclosure by the Official Secrets Ordinance (Chapter 521 of the Laws of Hong Kong) which had come into their possession as a result of their appointment in the Government, remain covered by the Ordinance after their stepping down from office and may not be disclosed.
- 3.6. Accountable officials shall note that they are liable to be prosecuted under the Official Secrets Ordinance (Chapter 521 of the Laws of Hong Kong) if, either in Hong Kong or abroad, they communicate, either orally or in writing, including publication in a speech, lecture, radio or television broadcast or in the press or in book form or otherwise, to any unauthorised person any information falling within the purview of the Official Secrets Ordinance (Chapter 521 of the Laws of Hong Kong). The relevant provisions of the Official Secrets Ordinance continue to apply to accountable officials after they have stepped down from office.

Evidence in court

- 3.7. Accountable officials may be called upon to answer to subpoenas to give oral evidence and/or to produce official documents in Court relating to their official duties. In cases where oral evidence or the production of official document is involved, the accountable official concerned shall assess whether there are any grounds for suggesting that the giving of such evidence or the production of the documents would cause damage to the proper functioning of the public service or would in any way be contrary to the public interest. The accountable official concerned shall seek advice from the Secretary for Justice in all such cases.

CHAPTER 4: INVOLVEMENT IN POLITICAL ACTIVITIES

- 4.1. Accountable officials shall note that as prescribed public officers defined in the Legislative Council Ordinance (Chapter 542 of the Laws of Hong Kong) and District Councils Ordinance (Chapter 547 of the Laws of Hong Kong), they are disqualified from being nominated as a candidate at an election of the Legislative Council or of a District Council, and from being elected as an elected member.
- 4.2. Accountable officials may participate in political organisations or bodies as members. Accountable officials, when taking part in activities organised by political organizations or bodies, shall observe the following rules and principles:
- (a) No actual or potential conflict of interest with the business of the Government and/or the official duties of the accountable officials shall arise in their participation in such activities.
 - (b) Accountable officials shall not sign or procure signatures to any public petition regarding the actions or proposals of the Government.
- 4.3. In case of doubt, accountable officials shall seek advice from the Chief Executive.

CHAPTER 5: PREVENTION OF CONFLICT OF INTEREST

- 5.1. Accountable officials shall avoid putting themselves in a position where they might arouse any suspicion of dishonesty, unfairness or conflict of interest.
- 5.2. Accountable officials shall observe the principles of fairness and impartiality in discharging their duties in their dealings with members of the public and with their staff.
- 5.3. Accountable officials shall refrain from handling cases with actual or potential conflict of interest.
- 5.4. Accountable officials shall report to the Chief Executive any private interests that might influence, or appear to influence, their judgment in the performance of their duties.

Declaration and handling of investments/interests

- 5.5 Given that the accountable officials will have access to highly sensitive information including commercially sensitive information, they shall declare any investments and interests for the purpose of securing public trust and confidence. The declaration requirement covers not only investments and interests held in the name of the accountable official, but also those held in the name of the accountable official's spouse, children and any other persons or companies but are actually acquired on the accountable official's account or in which the accountable official has a beneficial interest. The declaration will be made available for public inspection on request.
 - 5.5.1 Fresh declarations would have to be made annually. Between annual declarations, they would have to declare any investment transactions involving more than \$200,000.
- 5.6. If it appears to the Chief Executive at any time that there is or may be a conflict of interest between an accountable official's investments or interests and his official duties, the Chief Executive may require the accountable official to take any one or more of the following measures:
 - (a) to divest himself of all or any of the investments or interests;
 - (b) to refrain from acquiring or disposing of the investments or interests;
 - (c) to freeze any investment transaction for a specified period;

- (d) to place the investments or interests in a "blind trust";
- (e) to refrain from handling cases with actual or potential conflict of interest; and
- (f) to take other actions as directed by the Chief Executive.

Acceptance of advantages

- 5.7. Accountable officials shall note that as public servants employed by the Government, they are subject to the relevant provisions in the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong) and the Independent Commission Against Corruption Ordinance (Chapter 204 of the Laws of Hong Kong), and shall if necessary seek guidance from the Chief Executive as to the acceptance and retention of gifts, advantages or other benefits.
- 5.8. As a general rule, accountable officials shall avoid accepting any gift or hospitality which might or might reasonably appear to compromise their judgement or place them under an improper obligation. Although the acceptance of hospitality or free service is not prohibited, accountable officials shall take note of the following before accepting any such offer:
- (a) whether the acceptance of the hospitality or free service will lead to a conflict of interest with their official duties or place them in a position of obligation to the donor;
 - (b) whether the acceptance of the hospitality or free service will lead to embarrassment in the discharge of their functions; and
 - (c) whether the acceptance of the hospitality or free service will bring them or the public service into disrepute.
- 5.9. An accountable official shall not accept entertainment from any person if the entertainment is likely, for example by reason of its excessive nature, or of the relationship between the accountable official and the other person, or of the character of that person:
- (a) to lead to embarrassment of the accountable official in the discharge of his functions; or
 - (b) to bring the accountable official or the public service into disrepute.

Sponsored visits

- 5.10. An accountable official may receive an invitation from a foreign government to make a sponsored visit in his official capacity. If the accountable official considers it to be in the public interest to take up the invitation, the visit may be regarded as official and the accountable official should notify the secretariat of the Executive Council.
- 5.11. An accountable official may receive an invitation from an outside organization to make a sponsored visit in his official capacity. If he wishes to accept the invitation, he shall seek approval from the Chief Executive. If the Chief Executive considers this to be in the public interest and approval is given, there is no need for the accountable official to take leave to make the sponsored visit.
- 5.12. An accountable official may receive an invitation from a foreign government or an outside organization to make a sponsored visit in his private capacity and this may include free hotel accommodation, free passages or both. If he wishes to accept the invitation, he must seek approval from the Chief Executive.
- 5.13. If an accountable official wishes to accept a sponsored visit for his spouse, he must seek the approval of the Chief Executive.

Register of gifts etc.

- 5.14. Accountable officials shall note that they are to abide by the provisions of the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong) and shall if necessary seek guidance from the Chief Executive as to the acceptance and retention of gifts, advantages or other benefits. In addition, accountable officials are required to keep a register of any gift, advantage, payment, sponsorship (including financial sponsorships and sponsored visits) or any material benefit received by them or their spouses from any organization, person or government other than the Government which in any way relates to their office as accountable officials. The register will be made available for public inspection.

On stepping down from office

- 5.15. Within one year after stepping down from office, accountable officials shall seek the approval of a committee appointed for this purpose by the Chief Executive before taking up any employment or going into any business.
- 5.16. Within one year after stepping down from office, accountable officials are barred from representing any person in connection with any claim or negotiation with the Government and from lobbying the Government.

CHAPTER 6: OTHERS**Reporting of criminal offences and attempted bribes**

- 6.1. Accountable officials shall report to the appropriate authority all instances of crime, alleged crime including attempted bribery which they may come across in either their official or personal capacities. The appropriate authority is the Commissioner Against Corruption in the case of offences or alleged offences under the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong), the Independent Commission Against Corruption Ordinance (Chapter 204 of the Laws of Hong Kong) and the Elections (Corrupt and Illegal Conduct) Ordinance (Chapter 554 of the Laws of Hong Kong), and the Commissioner of Police in the case of other criminal offences.
- 6.2. Accountable officials are reminded that they have no discretion in deciding which cases to report.

Legal proceedings

- 6.3. Accountable officials may institute legal proceedings for defamation in connection with matters arising out of their official duties. They are required to notify the Chief Executive beforehand and must seek prior permission from the Chief Executive for the use of any Government information and the involvement of other officers to give evidence in the legal proceedings. Accountable officials instituting legal proceedings for defamation shall observe that the proposed legal action shall not bring the Government service into disrepute.
- 6.4. When an accountable official is served with a writ, or receives a letter threatening civil proceedings in which he or she may be named as a party in relation to any matters arising out of his employment or official duties, he must immediately inform the Chief Executive and the Secretary for Justice.
- 6.5. When an accountable official is involved in any criminal proceedings (whether arising out of his employment or official duties or otherwise), he must immediately inform the Chief Executive.
- 6.6. It is open to an accountable official injured by the wrongful act of a third party to institute proceedings against the third party.

- 6.7. In certain circumstances, the Government may provide legal representation to accountable officials. Each case will be considered on its merits by the Chief Executive but in general, assistance will be provided only if the matter arises out of or in the course of the performance by the accountable official of his official duties.
- 6.8. An accountable official who has been granted legal assistance and has subsequently been awarded costs is required to refund to the Government all or part of the costs awarded to offset the legal expenses incurred by the Government.