



DAILY INFORMATION BULLETIN

ISSUED BY GOVERNMENT INFORMATION SERVICES
BEACONSFIELD HOUSE, HONG KONG. TEL.: 2842 8777

Wednesday, July 12, 1995

<u>Contents</u>	<u>Page No.</u>
Statement on the Sex Discrimination Ordinance	1
Charges for disposal of polluting waste approved	1
Fees at public cargo working areas to be revised	3
Destruction of 20,000 pirated music CDs	3
Quality Education	5
Air Quality Report for June	5
New Peak Post Office	7
Two NT Lots to let	7
Hong Kong Monetary Authority money market operations	8

Statement on the Sex Discrimination Ordinance

Two amendments to the Sex Discrimination Bill passed by the Legislative Council on June 29 were inadvertently omitted from the text of the Sex Discrimination Ordinance published in the Government Gazette on July 7.

Commenting on the incident, a government spokesman said today (Wednesday) that the omissions were caused by an unfortunate clerical error.

"Legal advice has been obtained and action is now in hand to seek the Governor's assent to the complete text of the Bill passed by LegCo on June 29.

"We shall arrange for this to be gazetted as soon as the Governor's assent has been obtained", the spokesman said.

"The Administration will work together with the LegCo Secretariat to review and tighten up the administrative arrangements for the gazetting of Bills passed by LegCo in order to prevent similar incidents occurring in the future," he added.

End/Wednesday, July 12, 1995

Charges for disposal of polluting waste approved

The Governor-in-Council has approved the charges payable and the procedures for the disposal of wastes containing oil or noxious chemicals from ocean-going ships at the Chemical Waste Treatment Centre, a Government spokesman said today (Wednesday).

The Merchant Shipping (Prevention and Control of Pollution)(Charges for Discharge of Polluting Waste) Regulation 1995 which prescribes the charges and procedures will take effect on August 1, 1995.

Under the International Convention for the Prevention of Pollution from Ships 1973 as amended by the 1978 Protocol (MARPOL Convention), ships are restricted from discharging wastes containing oil or noxious chemicals (MARPOL wastes) into the sea.

Administrations are required to ensure that adequate reception facilities are available for the disposal of MARPOL wastes.

Hong Kong's Chemical Waste Treatment Centre has provided the reception service since April 1993.

To promote the pollution prevention objective, ocean-going ships are currently disposing of MARPOL wastes through the centre free of charge.

"The initial free service has met the objective. In keeping with the polluter pays principle, it is appropriate for ship operators to contribute to the cost of waste treatment and a fee should be imposed on ocean-going ships for the use of the centre.

"Being generators of operating wastes, ships have an obligation to contribute to the disposal, treatment and collection costs. There is no reason for the public to shoulder all the costs; some parts should come under commercial overheads," the spokesman said.

The charging scheme for ocean-going ships comprises two components: collection and treatment; and should recover about 20 per cent of the variable operating costs of the centre in respect of MARPOL waste treatment and all the associated administrative costs.

The charges are set to be comparable to those charged by some major ports, and have excluded the fixed operating costs of the Chemical Waste Treatment Centre in respect of MARPOL waste treatment.

"The fixed operating costs of the Chemical Waste Treatment Centre representing about 13 per cent of the total operating costs, is to be borne by the Government," the spokesman said.

Upon the implementation of the charging scheme, ship operators are not expected to risk prosecution by avoiding proper discharge and dumping MARPOL wastes indiscriminately into the sea.

The spokesman said: "It is not a compulsory requirement for ships to use the centre. There are third party operators which may offer collection services."

The Director of Marine, who is the authority administering the charging scheme, has the statutory power to deal with illegal discharge of MARPOL wastes from ships, and will step up enforcement efforts should this become a problem.

The spokesman said it was unlikely that the charging scheme would lead to a serious worsening of marine environment.

End/Wednesday, July 12, 1995

Fees at public cargo working areas to be revised

The Government will revise fees for the services provided at the public cargo handling areas (PCWAs) from November 4, a Government spokesman said today (Wednesday).

The new fees, an increase of 20 per cent across the board, are contained in the Port Control (Cargo Working Areas) (Amendment) Regulation 1995 to be gazetted this Friday (July 14). The fees are set at a level to remove gradually government subsidy for the commercial activities and to seek to achieve a target return.

If translated into money terms, the increase will represent an average increase of \$21 or 1.3 per cent in operating cost per day in the case of a lorry.

In the case of a lighter, the average daily increase will be about \$60 or 1.6 per cent of the overall cost.

"Cargo handling operations at the PCWAs are commercial in nature and there is no reasons the operators should receive public subsidy," the spokesman said.

End/Wednesday, July 12, 1995

Destruction of 20,000 pirated music CDs

The acting Commissioner of Customs and Excise, Mr Lawrence Li, will this (Wednesday) afternoon preside at the destruction of 20,000 pirated music compact discs (CDs) forfeited by orders of the court.

The CDs to be destroyed are samples of pirated and infringing goods seized by Customs last year under the Copyright Ordinance.

Up to June this year, officers of the Customs Intellectual Property Investigation Bureau (IPIB) conducted 692 raids against copyright piracy.

During these raids, 102,954 pirated music CDs, 101,087 CD-Roms and 14,154 video CDs were seized with a total retail value of about \$11.55 million.

As a result of these enforcement actions, 630 persons were arrested, of whom 206 (33 per cent) were children aged 17 or under.

All these young offenders were arrested for selling pirated music CDs. They constituted 54 per cent of all arrests (383) made this year with respect to music CD piracy.

For the purpose of deterring copyright offences, the Copyright (Amendment) Ordinance 1995 was enacted on May 26, 1995, whereby the maximum penalties for copyright infringement crimes have been substantially increased.

Under the Copyright (Amendment) Ordinance 1995, the new maximum penalty for conviction on indictment for possession of pirated articles for the purposes of trade and business is a fine of \$25,000 per infringing copy and imprisonment for two years for first-time offenders, and a fine of \$50,000 per infringing copy and imprisonment for four years for repeated offenders.

Parents and children are reminded that copyright piracy is a serious crime which attracts heavy penalties.

Teenage students are strongly advised to make good use of their leisure time during the summer vacation and to keep away from illicit pirated music CDs, CD-Roms and video CDs and indeed, any other crimes.

Representatives of the music industry have been invited to participate in the destruction of the forfeited CDs.

Members of the media are welcome to cover the ceremony which will be held at the Customs and Excise Service Senior Officers' Mess, ninth floor, Rumsey Street Multi-Storey Carpark Building, 2 Rumsey Street, Central, Hong Kong.

End/Wednesday, July 12, 1995

Quality Education

* * * * *

Quality is one of the primary policy targets for education in this and the next decades, the Director of Education, Mr W K Lam said today (Wednesday).

Speaking at the graduation ceremony of St Mary's Canossian College, Mr Lam said: "Quality is the prime word in the 1990s for our education services.

"The will and the dedication on the part of the school leadership to strive for excellence is a key to quality education.

"Having satisfied the number targets, it is high time that we should now all focus on the quest for quality."

Mr Lam congratulated St Mary's Canossian College in leading her students to strive for excellence throughout the past decades

He praised the school for having rightly emphasised the importance of personality development and in serving the community as quality education meant much for than the teaching academic knowledge.

End/Wednesday, July 12, 1995

Air Quality Report for June

* * * * *

The Environmental Protection Department today (Wednesday) released the air quality information for June.

The purpose of the announcement was to keep the public informed of the air quality levels in the territory and to explain the measurements.

The announcement contains monitoring results from Mong Kok, Central/Western and Kwai Chung, which represent three important land use types in the territory:

- * locations close to road traffic in built-up urban areas,
- * combined commercial and residential districts, and

* districts close to industrial areas.

The reported air pollutants include sulphur dioxide (SO₂), nitrogen dioxide (NO₂), total suspended particulates (TSP) which comprise all sizes of dust particles, and the respirable fraction of the dust (RSP). All these pollutants can affect respiratory health in sufficient concentration.

The levels of all pollutants at the three sites were low in June, with no exceedances of the 24-hour Air Quality Objectives.

There was rain on most days of the month which washed sulphur dioxide, nitrogen dioxide and dust from the atmosphere, as well as dampened road surfaces and thereby preventing the release of surface dust.

Winds were from the South China Sea most of the time and brought in cleaner marine air. Also, wind speeds were relatively high, causing local emissions to be blown away.

The gases and particles described originated from various sources. SO₂ is mostly produced when fuels that contain sulphur are burned. NO₂ is formed during combustion by the combination of nitrogen and oxygen, and by the atmospheric oxidation of nitric oxide (NO), also a product of combustion.

Vehicle exhaust is an important source of NO and NO₂ in terms of impact on local air quality. It is also a major source of airborne particulate matter, especially the smaller respirable particles.

Diesel-engined vehicles such as taxis, public light buses, passenger coaches, franchised buses and light and heavy goods vehicles are the greatest contributor of particulate matter. Other sources include industry, furnaces and boilers, construction activities, the sea and the soil.

It is worth noting that while the weather and climate always affect the concentrations of pollutants in the air, the only sure way of reducing the levels is to reduce emissions from the man-made sources. Note to Editors:

For further information on this air quality report, please contact Mr S W Pang on 2594 6413.

End/Wednesday, July 12, 1995

New Peak Post Office

The new Peak Post Office, located at Flat 6, Level 3, 128 Peak Road, will open at 9.30 am on Monday (July 17).

The Postmaster General, Mr Mike Pagliari, said today (Wednesday) that this would replace the existing post office at Shop No. UG2 of the Upper Peak Tram Terminus which would close for business at 1 pm on Saturday (July 15).

The hours of business and telephone number of the new office will be the same as those of the existing office.

A special handback service will be available at the new Peak Post Office on Monday (July 17).

Unregistered covers with full postage prepaid, which are prepared privately and bear the superscription "First Day Cover" and a local address, will be accepted over the counter, impressed with the normal post office datestamp and handed back.

End/Wednesday, July 12, 1995

Two NT Lots to let

The Lands Department is inviting tenders for the short-term tenancies of two pieces of government land in the New Territories.

The first lot, located in Tin Shui Wai Area 14, Yuen Long, having an area of 4,650 square metres, is to be used as a fee-paying public car park. The tenancy is for 18 months, renewable quarterly.

Covering an area of 3,000 square metre, the second lot is located in Wu Shan Road, Area 44, Tuen Mun, for storing containers.

The tenancy is for nine months, renewable quarterly.

Closing date for submission of tenders for the two lots are at noon on July 28.

Tender forms, tender notice and conditions may be obtained from the District Lands Offices, Yuen Long and Tuen Mun, the District Lands Offices, Kowloon, 10th floor, Yau Ma Tei Car Park Building, 250 Shanghai Street, Kowloon and the Lands Department, 14th floor, Murray Building, Garden Road.

Tender plans can also be inspected at these offices.

End/Wednesday, July 12, 1995.

Hong Kong Monetary Authority money market operations

* * * * *

	\$ million	Time (hours)	Cumulative change (\$million)
	-----	-----	-----
Opening balance in the account	1,565	0930	+955
Closing balance in the account	2,222	1000	+955
Change attributable to :		1100	+736
Money market activity	+737	1200	+740
LAF today	-80	1500	+738
		1600	+737

LAF rate 4.25% bid/6.25% offer TWI 119.1 *+0.1* 12.7.95

Hong Kong Monetary Authority

EF bills		EF notes				
Terms	Yield	Term	Issue	Coupon	Price	Yield
1 week	5.56	2 years	2705	6.40	101.18	5.79
1 month	5.50	3 years	3804	6.90	102.28	6.09
3 months	5.51	5 years	5006	6.60	99.87	6.74
6 months	5.52	5 years	M501	7.90	103.16	7.24
12 months	5.55					

Total turnover of EF bills and notes - \$18,645 million

Closed July 12, 1995

End/Wednesday, July 12, 1995



TRC/PRO

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SUPPLEMENT

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<u>Contents</u>	<u>Page No.</u>
<u>Legislative Council meeting :</u>	
Governor's response to the no confidence motion	1
Rule of law: core policy of Government :.....	1
Chief Secretary on vote of no confidence in Governor of HK	3
Transcript of CS's media session	10
Rule of law in good shape	11
AG on vote of no confidence in the Governor of HK	14
Chief Secretary's statement on China visit	22
CS's question-and-answer session in LegCo	24
Employment (Amendment)(No 2) and (No 3) Bill 1995	26

/Provisional Airport

<u>Contents</u>	<u>Page No.</u>
Provisional Airport Authority Annual Report	28
Wills (Amendment) Bill 1994: second reading	29
Wills (Amendment) Bill 1994: committee stage	31
Intestates' Estates (Amendment) Bill 1994: second reading	31
Intestates' Estates (Amendment) Bill 1994: committee stage	32
Intestates' Estates (Amendment) Bill 1994: new clauses	33
Inheritance Bill: second reading	34
Inheritance Bill: committee stage	35
Inheritance Bill: new clauses	36
Merchant Shipping (Liner Conferences) Bill	37
Electoral Provisions Bill 1995	38
Securities (Insider Dealing) (Amendment) Bill 1995	39
MTRC and KCRC's localisation policy	40
Quality control of industrial protective equipment	42
Damage to marine ecology by dredging works	44

/Old age

<u>Contents</u>	<u>Page No.</u>
Old age allowance	47
Fixed penalty tickets	49
Proposed licensing examination for medical graduates	52
Job vacancy statistics	53
Staff wastage in ICAC	55
Heavy workload on extra-curricular activity co-ordinators	62
Inflation rates	63
Operational hours of South East NT landfill	65
Waiting time for first consultation in specialists' clinics	66
Request for info from IRD on drug trafficking suspects	67
International covenants on human rights	68
Factors to determine sites for schools	69
Vehicles taken to scrapping yards	70
Waiting list for public housing	73
Police procedure on open fire	75
Purchase of electricity from Daya Bay	76
Helicopter accidents	78

Governor's response to the no confidence motion

* * * * *

In response to media enquiries on the no confidence motion in LegCo tonight, a spokesman for the Governor, the Rt Hon Christopher Patten, said:

"We are naturally pleased at the outcome of the debate. But for us, the big vote continues to be the one on the Court of Final Appeal Bill later this month which is so vital to Hong Kong and to the confidence of the world's investors in our future.

"We will continue to work flat out to get the best possible result on this major issue."

End/Wednesday, July 12, 1995

Rule of law: core policy of Government

* * * * *

The Chief Secretary, the Hon Anson Chan, urged Members of the Legislative Council today (Wednesday) to consider seriously the damaging consequences for Hong Kong if the legislature declared that it had no faith in the Administration's commitment to the rule of law. She made clear that she saw no case for Members to support the motion.

In her robust response to the motion on "Vote of No Confidence in the Governor of Hong Kong" debated at LegCo today, Mrs Chan said she had the strongest objections to the motion, both personally and on behalf of the Administration, and that the proposed amendment was also unacceptable.

"This motion is an attack on all the efforts that this Council, the civil service and the community have made over the last three years to create a secure future for our people through safeguarding the rule of law," she said. She pointed out that the motion is counter-productive in sending the wrong message to both the local and international community.

"It undermines the partnership between this Council, the civil service and the community as a whole, which has achieved so much over the last three years.

"It casts aside all the efforts that Hong Kong has made, especially over the last three years, to secure our future on the firm foundations of the rule of law.

"It encourages needless anxiety and apprehension among our overseas business partners and thus threatens our future economic prosperity."

Mrs Chan said the motion had also dismissed the significant contribution made by the Governor in directing the entire process of reform in safeguarding the rule of law and in removing the legal restrictions on freedom of expression.

"It is under his leadership that the civil service has worked to introduce and to implement the extensive reform programmes."

She pointed out that the Governor has also made a personal contribution to the authority of the Legislative Council.

"He was the first Governor in our history to step down from the Presidency and allow Members to elect their own President.

"He is the only Governor to accept a duty to appear before this Council regularly and to answer directly questions of Honourable Members.

"He has found new ways to discharge the Administration's duty of frankness, both to this Council and to the community."

Mrs Chan said the efforts made by LegCo and the Administration since 1992 demonstrated "in a very concrete way Hong Kong's determination to protect its way of life and to meet the challenges of the future".

The rule of law, firmly embedded in Hong Kong's community, is a result of the diligent work of the Legislative Council in scrutinising and approving a host of legislation to protect individual rights and freedom of expression.

The Chief Secretary appealed to Members to reject both the motion and the proposed amendment which, if supported by the Council, would do very real damage to the best interests of Hong Kong.

End/Wednesday, July 12, 1995

Chief Secretary on vote of no confidence in Governor of HK

Following is the speech by the Chief Secretary, the Hon Anson Chan, in the Legislative Council motion debate today (Wednesday) on the vote of no confidence in the Governor of Hong Kong:

Mr President,

I should like to make it plain from the outset that I have the strongest objections to this motion, both personally and on behalf of the Administration. Let me also make it clear that the proposed amendment is unacceptable. I appreciate the courtesy of the Honourable Member in seeking to depersonalise the original motion. However, I must totally reject the allegation that we have acted in breach of the Joint Declaration. On the contrary, it has been amongst our highest priorities to promote Hong Kong's well-being through the faithful implementation of the Joint Declaration.

Let me turn now to the original motion. This motion is not really about confidence in the Administration and the Governor. Nor is it part of the normal dialogue of goodwill and common sense between the Administration and the Legislative Council which the community is entitled to expect. This motion is an attack on all the efforts that this Council, the civil service and the community have made over the last three years to create a secure future for our people through safeguarding the rule of law.

We should begin by looking at the principles involved. For the Government of Hong Kong, the rule of law is not a text-book phrase or a debating slogan. The rule of law is a core policy, which is at the heart of so much of our work. The Administration's dedication to the rule of law was spelled out in the clearest terms when the Governor addressed this Council on 5 October last year. I cannot hope to improve on the words he used on that occasion. Let me quote these words:

"The rule of law is essential for Hong Kong's future. It begins with individuals and their right to seek the protection of the Courts, in which justice is administered by impartial judges. It protects the freedom of individuals to manage their affairs without fear of arbitrary interference by the Government or the improper influence of the rich and powerful. Its starting point is the individual but it encompasses the whole of society. For the business community in particular, the rule of law is crucial. Without it, there is no protection against corruption, nepotism or expropriation. Only under the rule of law are businessmen guaranteed the level playing field and the competitive environment which they need."

I believe that these views are shared by this Council and by the entire community. Certainly, I can speak for the civil service in declaring that we regard the rule of law as the bedrock of our Hong Kong way of life.

How have we implemented this policy in practice? Let me start with this Council. In September this year, Hong Kong will have its first, fully-elected legislature. We can take considerable satisfaction in how far we have come since the 1991 elections in safeguarding the rule of law through ensuring a legislature which can command the respect of our community and the confidence of the outside world. Members need no reminder that this constitutional milestone has been reached only after major efforts both on the part of this Council and of the Administration.

- Thanks to the Council's co-operation last year, we have completed a heavy legislative programme to replace the Appointed and Official Members and to establish a broader and more transparent system of elections.
- Thanks to our voter registration campaigns, we now have two-and-a-half million registered voters. In the functional constituencies, the number of voters has increased fifteen times compared with 1991.

After putting in place the constitutional building blocks, the Administration has returned to this Council with an ambitious legislative programme to protect individuals against unfair treatment. Altogether some forty items of legislation have been introduced during the last three sessions, whose purpose is to enhance the protection of individual rights. For example, with this Council's co-operation,

- we are working together to outlaw discrimination on grounds of sex or disability,
- we are providing additional resources to make justice more accessible to the community at large, both through increasing the scope of legal aid and through reducing waiting times for the law courts, and
- we are working together to safeguard the individual's right to privacy of personal data.
- we have brought forward proposals to remove legal restrictions on press freedom, and

- we have introduced a Bill establishing a Court of Final Appeal to ensure that in 1997, we have credible and effective arrangements to replace the Privy Council. A great deal has been said about this matter already and there will be a further opportunity to debate the proposals when the second reading of the Bill is resumed later in this session.

- Furthermore, we have reviewed comprehensively the Laws of Hong Kong in the light of the Bill of Rights. We are committed to ensuring that our laws meet international standards of human rights in accordance with the International Covenant on Civil and Political Rights.

Members of this Council have had their own views on the best way to take these issues forward. We have had vigorous and protracted debate to try and reach consensus but we have not always been able to accept Members' views. Despite the often serious divisions of opinion, I believe that, over these many months, Honourable Members and officials alike have shared the same conviction. We all believe that respect for the rule of law must include respect for the individual rights of everyone, particularly of the vulnerable and disadvantaged members of our community. Where we have differed has been over the most realistic ways in which to reach our common goal.

But the Administration's commitment to the rule of law has not been confined to constitutional and legislative proposals brought before this Council. We see the rule of law and its application in a much wider context. For the Administration, our starting point is the belief that the rule of law flourishes best where the community knows its rights when dealing with government departments. Since 1992, the Administration has applied this rule to its own performance, as we have invested heavily in providing more professional, accountable and responsive government. For example,

- We have drawn up Performance Pledges for every government department serving the public directly, defining the standards which the public can expect and explaining how to complain when these are not met.

- We have published Policy Commitments which set out goals, outline current programmes and present new initiatives for the entire range of government activities.

- We have published an annual Progress Report which describes candidly the shortcomings, as well as the successes, of the more than 500 initiatives and undertakings introduced in the last three Policy Addresses.
- We have introduced a Code on Access to Information, to set a new benchmark for government accountability.
- We have increased the powers of the Commissioner for Administrative Complaints so that the public's grievances are independently investigated.

The reforms introduced since 1992 represent a comprehensive legal and administrative programme, which demonstrates in a very concrete way Hong Kong's determination to protect its way of life and to meet the challenges of the future. In managing this reform programme, the Administration has relied on a successful partnership which brings together the community, the civil service and this Council.

- First, our community has demonstrated a clear sense of the importance of the rule of law and displayed consistent support for our proposals.
- Secondly, the civil service has been willing to rise to the challenges created by the reforms and to improve the quality of its own performance.
- Thirdly, this Council has worked conscientiously with the Administration in debating our reform proposals and enacting laws which will meet our people's aspirations under the unique circumstances which govern both our constitutional development and our political future.

In all this, Members of this Council have made a special contribution. And I have been robust, both locally and abroad, in my defence of the Council and of the way in which it has performed since 1991. Its Members play a vital role in our Hong Kong system. You oversee our spending programmes amend our legislative proposals. You monitor the Administration's activities and criticise our lapses. Without this contribution from Members, our standards of government would not be so high and the quality of our public services would not meet the requirements of our First-World community. In short, the co-operation of Members with the Administration has been a key factor in the successful Hong Kong partnership.

Because this partnership has worked so well, Hong Kong has been able to allay much of the inevitable doubt and worry about the change in sovereignty and our ability to maintain Hong Kong's separate systems after 1997. The people of Hong Kong have shown considerable faith in their ability to cope with the challenges of 1997. They have continued to set their sights on the prospects for a better Hong Kong,

- better education and career opportunities for their children,
- better homes and living standards for their families, and
- better public services for all who need them.

The business community has shown its faith in Hong Kong's ability to provide the most attractive business environment in this part of the world, an environment in which honest government and an impartial judiciary are key ingredients. And this confidence has brought its own substantial rewards both before and since 1992.

- In particular, we have been able to take the fullest advantage of the Chinese economy's growth, allowing our GDP to increase by 5% a year in real terms.
- We have also enjoyed buoyant government revenue, enabling us to improve our social services, invest heavily in the infrastructure, cut taxes and boost our fiscal reserves.

Given this background, the motion now under debate rejects the sort of partnership to which I have referred.

- It presents a grossly distorted view of the Administration and its relationship with this Council.
- It devalues the efforts, both of the civil service and of Council Members over the last three years to secure our future based on the rule of law.
- And finally, it calls into question the very basis of business as well as political confidence in our future.

I must also draw Members' attention to the wider audience which the motion addresses, the audience overseas. In particular,

- The motion invites the outside world to believe that the Administration of Hong Kong has reneged on its obligations, thereby forfeiting the confidence of this Council.

- Consequently, the motion encourages the international community, our trading and investment partners, to question Hong Kong's future, to doubt whether the rule of law will survive.

I ask all Honourable Members to consider carefully the serious consequences for Hong Kong if the motion succeeds. And I must note that both from the speech of the Honourable Member moving the motion in the first place and the question raised by another Honourable Member subsequently raised a serious doubt as to whether members appreciate that the reference to the damage of rule of law cannot be narrowly confined to the Court of Final Appeal. It must be taken in its full sense, that is in the proper context which I have attempted to outline in this speech so far. If our legislature declares that it has no faith in the Administration's commitment to the rule of law, that this Council has lost confidence in Hong Kong's future,

- can we expect the world's traders to continue to regard Hong Kong as the premier business location in the Asia region?
- can we expect international investors to be comfortable about holding Hong Kong assets?
- can we expect multinational corporations to maintain their regional headquarters here?

And if business is adversely affected, I must point out it is the ordinary men and women of Hong Kong who will suffer.

I want now to take up the reference in the main motion to the Governor. Throughout the entire process of reform, the Administration's efforts have been directed by the Governor. It is under his leadership that the civil service has worked to introduce and to implement the extensive programmes which I have described. In addition, the Governor has made a very personal contribution to the authority of this Council.

- He was the first Governor in our history to step down from the Presidency of this legislature and allow Honourable Members to select their own President.

- He is the only Governor to accept a duty to appear before this Council regularly and to answer directly the questions of Honourable Members.
- No less important, he has found new ways to discharge the Administration's duty of frankness, both to this Council and to the community.

Early in my speech today, I quoted his description of the rule of law as a core policy for the administration. I have described our efforts to implement that policy through a partnership involving this Council, the civil service and the community. The Governor has promoted that partnership in two vital ways: first, through his personal commitment to the rule of law and, second, through the respect which he has shown for this Council and its work.

Let me sum up in plain terms, the overwhelming case against this motion.

- It undermines the partnership between this Council, the civil service and the community as a whole, which has achieved so much over the last three years.
- It casts aside all the efforts that Hong Kong has made, especially over the last three years, to secure our future on the firm foundations of the rule of law.
- It encourages needless anxiety and apprehension amongst our overseas business partners and thus threatens our future economic prosperity.

I urge Honourable Members strongly to reject both this motion and the proposed amendment. I can see no possible benefit to the people of Hong Kong from voting in their favour. On the contrary I can foresee very real damage to the best interests of Hong Kong if the motion - or the proposed amendment - were supported by this Council.

End/Wednesday, July 12, 1995

Transcript of CS's media session

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The following is a transcript of the Chief Secretary, Mrs Anson Chan's media session after a LegCo motion debate today (Wednesday):

Chief Secretary: I am very pleased with the outcome of the voting on the motion of vote of no confidence in the Governor. I think the resounding defeat of this motion indicates that the council does recognise the efforts that the administration, under the leadership of the Governor, have made in recent years both to safeguard the rule of law, to safeguard our way of life and to work for the faithful implementation of the Joint Declaration and the Basic Law. We have made considerable efforts in the past three years. These efforts will continue, I can assure you, in the remaining years of transition.

Question: ... As you did manage to defeat this motion by a two one margin do you now feel you no longer have to pay much heed to what these people had said?

Chief Secretary: No, we pay every attention to the views of the Legislative Council irrespective of their political leanings. I have set out in great detail in my speech how we have co-operated with the council in the past and we intend to continue this co-operation in the remaining years of transition.

Question: Regarding specifically there are criticisms for the Governor, do you feel... been ignored?

Chief Secretary: I referred to the resounding defeat of the motion of no confidence in the Governor. I think that's ample evidence.

Question: Why didn't the Governor come down and defend himself?

Chief Secretary: The Governor, as I said, is the head of the administration. The Governor is not a member of the Legislative Council and it is entirely natural that the Attorney General and myself should represent the administration as a whole in speaking in this motion. It involves not just the Governor, but as I said earlier, it involves the entire civil service, all 180,000 civil servants.

End/Wednesday, July 12, 1995

Rule of law in good shape

* * * * *

Rule of law is about fundamental principles which the Hong Kong Government zealously promotes and enhances, and the Government's track record over the past three years on reinforcing and preserving the rule of law has been beyond reproach, the Attorney General, the Hon Jeremy Mathews, told the Legislative Council today (Wednesday).

Mr Mathews said the rule of law had been paramount in the vision for the future set out by the Governor. The motion in the Council calling for a no confidence vote on the Governor was founded on some bare assertions that were unsupported by any evidence, he said.

Speaking against the motion by the Hon Cheung Man-kwong and an amendment by the Hon Emily Lau, Mr Mathews set out three principles of the rule of law which shape and underpin the fabric of the society:

- * No one exercising power, from the Governor down, can do anything to affect the individual, his or her home, his or her property or his or her freedom, unless he can point to some specific provision of the law which authorises his action.
- * All persons are equal before the law. All persons, high or low, rich or poor, whatever their race, politics or religion, are subject to the law of Hong Kong administered by the courts.
- * Hong Kong's courts are independent of the executive. Throughout the years, decisions of the courts to protect the rights of individuals and to check abuse of the powers of the Government have exercised a profound influence.

In elaboration of the first principle, Mr Mathews pointed out that acts of the Government were subject to judicial safeguards.

He highlighted the safeguards: the power of arrest and detention before trial were subject to strict limits; the prosecution had to prove its case beyond reasonable doubt; the trial had to be public so that it could be seen that there was no injustice, the duty of the prosecution was not to strive to secure a conviction but to see that all the facts were placed fairly before the court so that the verdict would be just; and the discretionary powers exercised by the Government could be challenged through judicial review.

Mr Mathews set out the various areas where action had been taken by the Government to have the rule of law strengthened.

The Bill of Rights Ordinance, incorporating the provisions of the International Covenant on Civil and Political Rights as applied to Hong Kong was enacted, and recently several other measures to consolidate and strengthen its impact, and human rights protection generally, had been introduced.

Extra resources have been provided for the Judiciary to introduce specialist lists for cases involving the Bill of Rights, and legislation has been enacted, and the necessary resources provided, to enable the Director of Legal Aid to waive the means test in civil claims under the Bill of Rights Ordinance.

Together with the on-going exercise of reviewing legislation to ensure compliance with the Bill of Rights Ordinance, there is the review of legislation that may infringe freedom of expression, in particular, press freedom.

Other measures include the extension to Hong Kong of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; increased resources for human rights education; enactment of legislation against sex discrimination; establishment of an Equal Opportunities Commission; introduction of legislation against discrimination on the ground of disability, and in the area of data protection; and extension to Hong Kong of the Convention on the Rights of the Child.

All these measures and those mentioned by the Chief Secretary in the motion debate "indicate in the clearest possible terms that the Hong Kong Government is passionately committed to enhancing and promoting human rights protection ensuring the continuation of the rule of law in Hong Kong", Mr Mathews said.

Mr Mathews also answered criticisms against the Court of Final Appeal Bill that were raised by certain Members.

The suggestion that the agreement reached at the Joint Liaison Group last month was a "rotten deal", and that the Court of Final Appeal Bill would undermine the future rule of law in Hong Kong, were bizarre in the extreme.

"These suggestions are wholly irresponsible, having no foundation whatsoever in fact or evidence, are totally misleading and very damaging to confidence in Hong Kong's future," he said.

On the "four plus one" composition of the court, Mr Mathews pointed out that the assertion that it breached the Joint Declaration and the Basic Law was incorrect. The view that it was consistent with the Joint Declaration and the Basic Law was supported by a number of authoritative independent legal opinions, he said.

As to the establishment date of the court on July 1, 1997, Mr Mathews noted that the Administration had made no secret that it would have preferred to have it earlier, but Members were fully aware of the reasons why there had been a delay. If the Bill was enacted, a judicial vacuum would be avoided and no harm would be done to the future rule of law.

On the future appointment of CFA judges, Mr Mathews said the Governor made clear to the LegCo when he announced the CFA agreement on June 9 that the Government had obtained a clear statement from the Chinese side that the Chief Executive would only conduct the meeting of the Judicial Officers Recommendation Commission, and would take no part in making the recommendation.

He added: "And this would be a one-off transitional arrangement. Once the Chief Justice had been appointed, he would of course chair the JORC. On this basis, we accepted that the proposed arrangement was a practical one and did not breach the Basic Law."

In respect of "acts of state", Mr Mathews said neither the JLG agreement nor the Court of Final Appeal Bill in any way altered the jurisdiction of the court as provided for in the Basic Law. Furthermore, Article 19 of the Basic Law, which referred to acts of state "such as defence and foreign affairs", could be construed consistently with the common law.

No lawyer had ever denied the proposition that under the common law, there were acts of the government outside the areas of defence and foreign affairs that could not be challenged in court.

"On the contrary, the Hon Martin Lee himself expressly agreed in 1988 that there were under the common law acts outside the areas of defence and foreign affairs which are non-justiciable," Mr Mathews said.

"The Government in no way agrees that Article 19 has created any hole in the common law. If anyone else says that it has done so, then it is he, not the Government, that is running up the white flag over this issue," he said.

Mr Mathews noted that people in Hong Kong were justly proud to live in a free, prosperous, open and pluralistic society.

"However, the rule of law ultimately depends on the will of the courts, lawyers, government, and legislature, as well as the confidence of the community and the institutions.

"The confidence of the public should not be undermined by bold assertions and accusations based on no justifiable grounds," he said.

End/Wednesday, July 12, 1995

AG on vote of no confidence in the Governor of HK

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Following is the speech by the Attorney General, the Hon Jeremy Mathews, in the Legislative Council motion debate today (Wednesday) on the vote of no confidence in the Governor of Hong Kong:

Mr President,

I would like to join with the Chief Secretary and register the Administration's strongest objections to this motion and the amendment. I wish particularly to associate myself with the Chief Secretary's remarks concerning the Governor. He has time and again set out for us a vision for the future in his Policy Addresses, in his many appearances before this Council and in many other public occasions, a vision in which the rule of law has been paramount. That vision and his leadership have been a source of inspiration to all.

The original motion purports to be founded on some bare assertions put forward in the course of certain Honourable Members' speeches today - assertions which remain wholly unsupported by any evidence. Such extravagant language by certain Honourable Members renders a grave disservice not just to this Council but to the people of Hong Kong and puts at risk the legitimate interests of future generations.

INTRODUCTION

Mr President, much has been said about the rule of law, but let us be clear what we are talking about: we are talking about fundamental principles that shape and underpin the fabric of our society. They are principles which this Government zealously promotes and enhances. Indeed, over the past three years our track record on the reinforcement and preservation of the rule of law has been beyond reproach.

WHAT MEANS THE RULE OF LAW?

So what does the rule of law mean? I start by reminding honourable members that the common law underpins the principle of the rule of law which govern the way in which power is exercised every single day in this community. The first principle of the rule of law is that no-one, no-one exercising power, from the Governor down to the police constable on the beat or a clerical assistant, can do anything to affect the individual, his or her home, his or her property, his or her freedom, unless he can point to some specific provision in the law which authorises his action. If he fails to do that, he can be sued in the courts of Hong Kong and can be compelled to put right what he has done or to pay compensation for the wrong that he has done.

JUDICIAL AND EXTRAJUDICIAL REVIEW OF ADMINISTRATIVE ACTION

Acts of the Government are subject to judicial safeguards. Judges have always stood firm against the abuse of power. Nowhere is a principle more graphically illustrated than in the criminal law where the power of arrest and detention before trial are subject to strict limits. The prosecution must prove its case beyond reasonable doubt. The trial must be public so that it can be seen that there is no injustice. Those who prosecute do not strive to secure a conviction; their duty is to see that all the facts are placed fairly before the court so that the verdict will be just -- I emphasise that word -- not merely expedient.

The exercise by the Government of discretionary powers can be challenged by the people of Hong Kong through judicial review. So decisions made by immigration officers refusing entry to Hong Kong, Licensing Tribunals refusing liquor licences and the Building Authority rejecting plans for property development -- just to mention a few examples -- are all judicially reviewable. In 1993, there were 123 applications for judicial review and in 1994, there were 75 such applications. The ability and the readiness of the community to challenge Government decisions, awkward though that may be from time to time for the Government, is a right that we regard as of great importance in buttressing the rule of law. We would not have it done the other way.

EQUALITY BEFORE THE LAW

I turn now to the second principle of the rule of law which may be summarised as equality before the law. The principle was graphically brought home by arguably the greatest common judge of this century, Lord Denning in a major constitutional case when he said "Be you never so high, the law is above you." All persons, high or low, rich or poor, whatever their race, politics or religion, are subject to the law of Hong Kong administered by the courts.

INDEPENDENCE OF THE JUDICIARY

A third principle of the rule of law, namely, the independence of the judiciary, explains why Hong Kong remains a free, open and well-ordered society. Our courts are independent of the executive. Throughout the years, decisions of the courts to protect the rights of the individual and to check abuse of the powers of the Government have exercised a profound influence -- a phenomenon which I would term the judicial education of the public sector. Lawyers, public servants, law draftsmen, members of this Council and the media all work to preserve the fundamental features of the common law system. And Here I would like to pay tribute to the invaluable role played by this Council in preserving the rule of law by questioning the Government on the use of its powers and scrutinising Government bills so as to limit arbitrariness and executive discretion. Complementing this legislative tendency, laws are in practice drafted and enacted to preserve rather than extinguish individual rights, to ensure that proper compensation is paid to those whose property is taken away for public purposes, to promote fair dealing rather than peremptory behaviour, and to lay down specific and clear limits to governmental powers rather than to give discretionary or arbitrary powers that could readily be abused.

MEASURES TAKEN TO STRENGTHEN THE RULE OF LAW

Mr President, I now turn to set out the record of this Government on the rule of law. The Chief Secretary has already mentioned a number of areas where action has been taken to strengthen the rule of law. I wish to elaborate a little further on this aspect.

THE BILL OF RIGHTS

No one should underestimate the importance of the enactment of the Bill of Rights Ordinance to the protection of the rule of law in Hong Kong. The Ordinance incorporates into the law the provisions of the International Covenant on Civil and Political Rights as applied to Hong Kong. It provides the people of Hong Kong with protected rights and freedoms which they can and do assert against the Government if the need arises.

Recently, the Government has introduced several other measures to consolidate and strengthen the impact of the Bill of Rights Ordinance and human rights protection generally. For example, extra resources have been provided to the Judiciary to introduce specialist lists for cases involving the Bill of Rights. Legislation has very recently been enacted, and the necessary resources provided, to enable the Director of Legal Aid to waive the means test in civil claims under the Bill of Rights Ordinance.

Honourable members will need no reminding from me of the on-going exercise of reviewing legislation to ensure compliance with the Bill of Rights Ordinance. Since the enactment of the Ordinance four years ago in 1991, there have been 29 amending ordinances or regulations made for the purpose of bringing legislation into line with the Bill of Rights.

Other proposed amendments are currently being scrutinised by the Council, including bills to amend the Public Order Ordinance and the Places of Public Entertainment Ordinance.

Overlapping with the review of legislation in the light of the Bill of Rights Ordinance is the review of legislation that may infringe freedom of expression, in particular, press freedom. As a result of that review, amendments have been made or are about to be made to a wide range of ordinances and regulations including the following:-

- the Television Ordinance and Broadcasting Authority Ordinance;
- the Summary Offences Ordinance;
- the Places of Public Entertainment Ordinance;
- the Registration of Local Newspapers Regulations;
- the Judicial Proceedings (Regulation of Reports) Ordinance;
- the Defamation Ordinance;
- the Regulations made under the Emergency Regulations Ordinance.

Plans are being finalised in respect of the Official Secrets Acts and the Crimes Ordinance, among others. A bill is now before this Council providing safeguards in respect of the search and seizure of journalistic material. The bill is a further proof (if such be needed) of the Government's firm commitment to a free and vigorous press in Hong Kong.

OTHER HUMAN RIGHTS MEASURES

Other measures introduced by the Government to enhance human rights protection in Hong Kong include the following:-

- the extension to Hong Kong of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the domestic enactment of the Crimes (Torture) Ordinance;

- increasing the resources for human rights education by creating a dedicated team and allocating \$20 million for their work over three years starting in 1995-96: in this regard it is worth reminding ourselves that last November the United Nations Committee on Economic, Social and Cultural Rights pronounced Hong Kong to have done more than any other country in promoting public education and understanding of human rights;
- enacting legislation against sex discrimination, establishing an Equal Opportunities Commission and seeking to extend the Convention on the Elimination of All Forms of Discrimination Against Women;
- introducing legislation to prohibit discrimination on the ground of disability;
- extending to Hong Kong the Convention on the Rights of the Child;
- introducing legislation in the area of data protection.

I can go on Mr President. All of the measures that the Chief Secretary and I have mentioned indicate in the clearest possible terms that the Hong Kong Government is passionately committed to enhancing and promoting human rights protection ensuring the continuation of the rule of law in Hong Kong.

THE COURT OF FINAL APPEAL

Mr President, I would like now to turn to the Court of Final Appeal, a matter deliberately painted as one of controversy by certain members today. The suggestion that the agreement reached at the Joint Liaison Group last month was, as claimed earlier on, a "rotten deal", and that the Court of Final Appeal Bill will undermine the future rule of law in Hong Kong, are bizarre in the extreme. These suggestions are wholly irresponsible having no foundation whatsoever in fact or evidence, are totally misleading and very damaging to confidence in Hong Kong's future.

Since 1988, the Hong Kong and British Governments have been doing their utmost to ensure that a proper Court of Final Appeal will be established in Hong Kong, in such manner as to avoid a judicial vacuum after 1997. The whole purpose of doing this is, of course, to protect the rule of law in Hong Kong and to ensure the continuity of the legal system. The agreement reached last month makes it possible for our aims to be achieved, provided (of course) that this Council passes the Bill that is now before it.

The Council therefore has the power to buttress the future legal system with a Court of Final Appeal that, subject only to the Basic Law, has the same functions and jurisdiction as the Judicial Committee of the Privy Council. And to do so without creating any damaging judicial vacuum.

What are the objections that have been raised to the Bill or to the agreement?

COMPOSITION OF THE COURT

First, some members object to the proposed 4+1 composition of the court. It has been argued that the 4+1 formula breaches the Joint Declaration and the Basic Law. This assertion is not correct, and has been rejected by both British and Chinese Governments. Our view that the 4+1 composition is consistent with the Joint Declaration and the Basic Law is supported by a number of authoritative independent legal opinions.

Some members have criticised the JLG agreement providing for the 4+1 composition on the grounds that the court ought to have granted flexibility to invite more overseas judges if it wishes. We have not the slightest doubt that the 4+1 composition is a perfectly acceptable way of implementing the provisions in the Joint Declaration and the Basic Law that provide for judges from other common law jurisdictions to sit on the Court of Final Appeal. Nor is the rule of law in any way undermined by this composition.

A few members referred to the eight proposals put forward by the PWC Political Affairs sub-group, and criticised the Government in particular for accepting the proposal that the Chief Executive should chair the meeting of the Judicial Officers Recommendation Commission at which the recommendation would be made in respect of the first Chief Justice. As the Governor made clear to this Council when he announced the CFA agreement on 9 June, we obtained a clear statement from the Chinese side that the Chief Executive would only conduct this meeting of the JORC and would take no part in making the recommendation. And this would be a one-off transitional arrangement. Once the CJ had been appointed, he would of course chair the JORC. On this basis, we accepted that the proposed arrangement was a practical one and did not breach the Basic Law.

DELAYED COMMENCEMENT

Another provision in the Bill that has been criticised is that providing for the court to be established on 1 July 1997. The Administration makes no secret of the fact that it would have preferred to establish the court earlier than this. However, Members are fully aware of the reasons why there has been a delay over the establishment of the court.

The JLG agreement of last month provides for the establishment of the court on 1 July 1997, in such a way as to avoid a judicial vacuum. In other words, if the Bill is enacted, no harm will be done to the future rule of law.

ACTS OF STATE

I turn now to the provisions in the JLG agreement and Court of Final Appeal Bill in respect of acts of state. A lot of very damaging, and misleading, rhetoric has arisen out of these provisions. Mr President, there are so many red herrings the place is beginning to look like a fish market. Let me set the record straight.

First, neither the JLG agreement nor the Court of Final Appeal Bill in any way alters the jurisdiction of the court as provided for in the Basic Law. I have not heard a single lawyer deny this proposition. Therefore to say that the JLG agreement or the Bill has created any sort of problem is completely without foundation. To say that they have created a "hole in the common law" is, in my view, totally irresponsible.

Secondly, Article 19 of the Basic Law, which relates to acts of state, can be construed consistently with the common law. A great deal has been made -- more heat generated than light shed, I would suggest -- of the fact that Article 19 refers to acts of state "such as defence and foreign affairs". Yet, it cannot be doubted that, under the common law, there are acts of the government outside the areas of defence and foreign affairs that cannot be challenged in court. No lawyer has ever denied this proposition. On the contrary, the Hon Martin Lee himself expressly agreed in 1988 that there were under the common law acts outside the areas of defence and foreign affairs which are non-justiciable. The Government in no way agrees that Article 19 has created any hole in the common law. If anyone else says that it has done so, then it is he, not the Government, that is running up the white flag over this issue.

I repeat, however, that it is the Basic Law, not the JLG agreement, not the Court of Final Appeal Bill that will determine jurisdiction of the courts over acts of state. Nothing that the Hong Kong or British Government has done is in issue here, or has undermined the rule of law in any way.

Before I leave the Court of Final Appeal Bill, I would like to deal with a small further point: one Member point out that the Bar Association was opposed to the CFA Bill. But that member totally failed to mention that the Law Society fully supports the Bill. I cite this as yet another example of the one-sided and tendentious arguments put forward by some Honourable Members during this debate.

CONCLUSION

Mr President, let me end by re-stating the Government's opposition to the motion and the amendment. The rule of law lies at the very heart of our legal system and the legal institutions that have developed here. It plays a crucial role in securing our stability and prosperity, to the extent of rendering Hong Kong's fair and decent society the envy of many the world over. The Hong Kong Government, like the courts, the lawyers and this Council, has been striving to preserve the rule of law enjoyed by members of the public in Hong Kong. People in Hong Kong are justly proud to live in a free, prosperous, open and pluralistic society. However, the rule of law ultimately depends on the will of the courts, lawyers, government, and legislature, as well as the confidence of the community and the institutions. The confidence of the public should not be undermined by bold assertions and accusations based on no justifiable grounds.

Mr President, let me ask what this motion and amendment can offer the people of Hong Kong. The answer is NOTHING -- simply nothing. Moreover, the motion and the amendment are founded on premises that are wholly wrong. The future of our legal system will be very much the same, if not better, shape as the one in which we now take pride.

A few members painted a picture of the rule of law being swept away as if by some evil deluge of Biblical proportions at the stroke of midnight on 30 June 1997. Such dire predictions are unbecoming those Honourable Members of this Council and can in no way be justified as responsible behaviour by legislators looked up to as leaders of our community. Is this all that can be offered by certain Council members to the people of Hong Kong in this their supposed hour of need? Such a vision is a recipe for despair and offers no sustenance -- spiritual or otherwise -- for our society.

I for one totally reject such a doomsday scenario. The Government offers hope to the people of Hong Kong -- hope through action. Otherwise, the 180,000 members of the Civil Service including the 1,000 members of my Chambers would not have toiled so hard over the past three years to preserve and enhance the rule of law and so make this a better place for all of us in which to live for now and the future. We firmly believe that, through our labours, we have, far from damaging the rule of law, done much to preserve and enhance it. We shall continue to do so, for the benefit of the community and the generations to come. We totally reject the motion and the amendment presented today and urge Honourable Members to do the same.

End/Wednesday, July 12, 1995

Chief Secretary's statement on China visit

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Following is a speech by the Chief Secretary, the Hon Anson Chan, in the Legislative Council today (Wednesday) on her recent visit to China:

Mr President,

With your permission, I would like to make a statement on my recent visit to Peking.

The Governor and I have indicated on many previous occasions in the past our wish to discuss with Director Lu Ping issues relating to the transition of Hong Kong. Indeed, during his Question and Answer session on 27 April, the Governor informed this Council that he had extended an invitation to Director Lu to meet either him or, if that was not possible, the Chief Secretary during his visit to Hong Kong in May. Following that, I received an invitation from Director Lu to meet him over lunch in Zhuhai on 28 May. Unfortunately I was unable to accept the invitation because I was already committed to visit London. As Members are aware, I then made it clear in a public response that I welcomed the Director's invitation to meet him in China and that I had written to Director Lu stating that I looked forward to doing so when I returned from leave in July. These are all matters of public record.

It was whilst I was on leave last month that I received an invitation from the Hong Kong and Macau Affairs Office to visit Peking from 30 June to 3 July. I immediately informed the Governor, who approved the visit. While I was in Peking, I was able to meet with not only Director Lu Ping and his two deputy directors but also Vice-Premier Qian Qichen. I had a 90-minute discussion with Director Lu and met Vice Premier Qian for about 50 minutes. These discussions took place in a positive and friendly atmosphere. We exchanged views on a wide range of issues relating to the transition, including the economy, the civil service and co-operation with the Preparatory Committee and the Chief Executive (Designate) and his team.

I took the opportunity to outline civil servants' concerns and to stress the need for continuity in the Civil Service to ensure a smooth transition. Both Vice-Premier Qian and Director Lu were at pains to reassure me about the importance they attached to the civil service; their desire to see continuity within the civil service; and their wish for the majority of the civil servants to continue in office after 1997, subject of course to the provisions in the Joint Declaration and the Basic Law as regards the selection of the Chief Executive (Designate) and his responsibility for nominating principal officials. I very much welcomed these reassurances. I noted in particular that all my colleagues were committed to serving Hong Kong. I had a competent team in place and all policy secretaries were qualified to stay on after 1997. I also indicated my wish to continue to serve the people of Hong Kong after 1997.

Both Vice Premier Qian and Director Lu were interested in the Hong Kong economy and we discussed various aspects of the economy and prospects for the immediate future.

On transitional matters, we discussed briefly the establishment of the Preparatory Committee and the selection of the Chief Executive (Designate) who would nominate the principal officials. I referred to the commitment we had already made to cooperate fully with both the Preparatory Committee and with the Chief Executive (Designate) and his team once they were appointed. We agreed that there should be co-operation between the two sides on these transitional issues, although the form of co-operation will need to be discussed in detail.

I reaffirmed our readiness to continue to work closely with the Chinese side to complete all outstanding preparations to secure the full and faithful implementation of the Joint Declaration and the Basic Law. And both Vice Premier Qian and Director Lu assured me that the Chinese Government would do everything possible to ensure a smooth transition, and maintain confidence in Hong Kong.

At the end of the discussions, we agreed that there should be more contact between senior officials of both sides. Indeed, Director Lu and I agreed that we ourselves should be in regular contact. I came away from these meetings very encouraged about the prospects for more positive co-operation between the two sides. I see the visit as an important first step in enhancing mutual understanding and co-operation in the run-up to 1997. I hope that on the basis of this visit, it will be possible for us to establish a more trusting relationship which will be conducive to resolving issues of mutual concern.

I understand that some Members have expressed reservations that the visit was not announced in advance; and that this might generate misunderstandings on the part of the community. Let me assure Members that my meetings with Vice-Premier Qian and Director Lu were not negotiating sessions. The sole purpose of this visit was to provide an opportunity for us to get to know each other better and to open up a channel of communication to enhance contact between the two sides. There were no secret deals; no open deals; in short, no deals at all. Such contact is in fact long overdue. I believe the community feels that very strongly. Both the Governor and I are delighted that the visit has taken place. As I have already said, we hope that the visit will help in the process of greater co-operation between the two sides in the best interests of the people of Hong Kong.

The day after I returned from Peking, I briefed Members of the Executive Council and then gave details of the visit to the public through the media. I believe the most important thing is that the visit took place, and that it has achieved the purpose of opening up a channel of communication between the two sides. The visit has been warmly welcomed by the public and in particular by the civil service. Now that the ice has been broken, I certainly hope that there will be more visits to China, both at my level and at the level of policy secretaries and other senior officials and that such visits in future will be announced in the usual way.

End/Wednesday, July 12, 1995

CS's question-and-answer session in LegCo

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The following is a transcript of the question-and-answer session on the Chief Secretary, the Hon Anson Chan's visit to Beijing in the Legislative Council today (Wednesday):

Miriam Lau (through interpreter): I would like to ask the Chief Secretary when she was in Beijing, talking with the Chinese Government about the team designate and the civil service issues, have you ever mentioned to the Chinese Government Article 100 of the Basic Law, that is when the SAR Government is set up, various levels of the civil service, those who are in service in other words, would remain in service, have you ever reminded the Chinese Government of this article, that is according to Article 100 of the Basic Law, all public servants serving in Hong Kong Government could remain in employment. So, when they are to select the designate team, they don't really have a lot of room for manoeuvring.

Chief Secretary: Mr President, we discussed in general the establishment of the Preparatory Committee, the selection of the Chief Executive Designate and his responsibility for nominating principal officials. We did not go into details except to the extent that I have already stated in my statement.

Dr Conrad Lam (through interpreter): Mr President, I am glad that the Chief Secretary has been able to enhance the communication with the Chinese Government. I am sure all in Hong Kong will welcome that. The Chief Secretary told us just now that Director Lu said the Chinese Government would do its best to ensure a smooth transition. I wonder if you have followed on that point and asked about the setting up of the provisional legislature and whether that would affect a smooth transition in Hong Kong. It seems that LegCo became invisible. It seems that you didn't mention it in your statement.

President: I don't think I allow that within the terms of Standing Order 20.

Mr K K Fung: Mr President, I would like to ask the Chief Secretary this. She said she met Director Lu and Vice-Premier Qian and then they talked about the Preparatory Committee and possible future co-operation with that committee. Can you tell us whether you mentioned if civil servants are allowed to join the Preparatory Committee and what is the mode of co-operation?

Chief Secretary: Mr President, both sides agreed on the need for co-operation with the Preparatory Committee. As to the specific form of co-operation, these are of course matters which will have to be discussed in detail at a later stage through the proper forum.

Mr Fred Li (through interpreter): Mr President, of course we welcome the fact that the Chief Secretary has communication with Chinese officials. But I would like to ask Mrs Anson Chan this: before she went to Beijing, if she had informed the people of Hong Kong there would be such a visit would it be better that she gave only an explanation afterwards?

President: That doesn't really arise under Standing Order 20. Any more questions? Miss Emily Lau again?

Miss Emily Lau (through interpreter): Mr President, I would like to ask the Chief Secretary with regard to this secret visit. Did you raise it or did the Chinese side made that a condition before you would be allowed to go on the visit?

President: I won't allow that under Standing Order 20. Any more questions? Yes, Mr Eric Lee.

Eric Lee (through interpreter): Mr President, the Chief Secretary said, it might have been better if she had told the people earlier. But then she said in future there would be frequent contacts with the Chinese side. Have you discussed with Director Lu how you would conduct these future contacts?

Chief Secretary: Mr President, we do not discuss in detail the form that such regular contacts might take. But it was agreed by both sides that senior officials, particularly at policy secretary level, when they visit Beijing as part of the Sponsor Visitors Programme or indeed on other duties that they should make a point of calling on Mr Lu Ping and his deputies.

End/Wednesday, July 12, 1995

Employment (Amendment)(No 2) and (No 3) Bill 1995

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Following is the speech by the Secretary for Education and Manpower, Mr Michael Leung, at the resumption of second reading debate for Employment (Amendment)(No 2) Bill 1995 and the Employment (Amendment)(No 3) Bill 1995 in the Legislative Council today (Wednesday):

Mr President,

May I first of all begin by thanking Members who have given credit to the Administration in trying to reach a consensus on these two proposals. I fully appreciate these comments and hope this will set a pattern for future co-operation between us on labour issues and other issues.

I would like to speak on both bills in definition. On the No. 2 Bill, the Long Service Payment scheme was introduced in 1986 to provide financial protection to long-serving and elderly employees who were dismissed. Since it came to operation, the Scheme had been amended six times to take into account the changing needs of the labour market and developments of our economy. As Members recall, the last major amendment exercise was done in January this year, when a comprehensive and forward-looking package to increase both the length of reckonable service and the absolute payment ceiling within a definite timetable was devised and agreed. This was then followed by the increase in the monthly wage ceiling for calculating LSP through a resolution of this Council in June. These and all previous amendments were invariably made in accordance with the broad consensus between representatives of employers and employees in the Labour Advisory Board (LAB) --- a long established and well-tested forum for discussions of labour matters affecting both employers and employees. We are very pleased to see that in this case, this Council has supported the approach to consult the LAB first before coming back to this Council.

During the past three months, we have thoroughly consulted the LAB on the proposals in the Bill and the Board subsequently agreed a consensus on each of them.

First, on the qualifying years of service for eligibility for LSP on grounds of old age, the LAB has proposed to reduce the qualifying years of service from 10 to 5 while maintaining the retirement age at 65, as it would improve the financial protection for the elderly employees without adversely affecting labour supply by inducing pre-mature retirement.

Second, on the percentage reduction in the amount of LSP for employees under 45 years old and with less than 10 years of service, the LAB is against removing it right away as proposed, but has agreed to discuss this matter further. A review is underway and we will be seeking LAB's advice later in the year.

Third, on the proposal to grant LSP to those employees who resign after working for 10 years, the Board has rejected it, on the ground that it goes clearly against fundamental principle of the LSP scheme, which is to provide long-serving employees with financial protection in the event of dismissal, instead of providing employees with compensation upon resignation.

The LAB's consensus regarding each of the above proposals represents a fair balance between the interests of both employers and employees. As such, the Government will support Committee Stage Amendments.

I turn now to the important No 3 Bill. Paid maternity leave for pregnant female employees was first introduced together with employment protection under the Employment Ordinance in 1981. Like the Long Service Payment Scheme, further improvements were made to the relevant provisions in the ensuing years following the broad consensus reached between employer representatives and employees at the LAB. For this reason, the Administration again consulted the LAB on these proposals.

It has long been the Government's intention to improve the package of measures on maternity protection to bring them in line with the relevant International Labour Conventions. To this end, we have recently completed a comprehensive review on all the existing provisions for maternity protection, which include the qualifying service for unpaid maternity leave and for employment protection, arrangements regarding duration of maternity leave and penal damages for wrongful termination of pregnant employees. We have just consulted the LAB last month on a series of recommendations to improve them.

It was in the context of that consultation to these proposals that we sought the LAB's advice on the proposal to give full-pay maternity protection leave to pregnant female employees. The LAB agreed that the rate of maternity leave pay should be increased from two-thirds to four-fifths of the female employees' wages, instead of full-pay, after taking into account the interests of employees, the financial impact on employers, and practices in neighbouring countries. The Administration will support Committee Stage Amendment to the Bill which conforms with the advice reached by LAB.

Thank you.

End/Wednesday, July 12, 1995

Provisional Airport Authority Annual Report

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Following is the speech by the Financial Secretary, the Hon Sir Hamish Macleod, on the Provisional Airport Authority Annual Report in the Legislative Council today (Wednesday):

Mr President,

In accordance with section 10 of the Provisional Airport Authority Ordinance, the Annual Report and audited accounts of the Provisional Airport Authority for the year ending 31 March 1995 are tabled today. As in previous years, the Report contains a detailed review of the Authority's activities covering events up to June this year.

The Report details further intense activity by the Authority in the development of Hong Kong's new airport. Good progress has been made in construction, operational planning and negotiation with private sector investors on the provision of essential airport support services. I would like to take this opportunity to thank the Board, the management and the staff of the Authority for their very hard work over the year.

The year under review also saw a number of positive developments on the institutional arrangements under discussion between the British and the Chinese sides of the Airport Committee of the Sino-British Joint Liaison Group. These include the agreement reached on overall financing, the arrangement for the granting of the airport island to the Authority, the Airport Authority Bill and, recently, the very welcome agreement on the Financial Support Agreement for the airport and air cargo franchises.

The resumption of the Second Reading debate on the Airport Authority Bill is now scheduled for 19 July. I very much hope that the Bill will be supported by Members, which will mean that this Report will in fact be the last one issued by the provisional body. More importantly, with the enactment of the Airport Authority Ordinance, the Authority will be able to keep up the momentum of work.

Looking back, I recall that when I first took up the chairmanship of the Provisional Airport Authority in September 1991, Chek Lap Kok was only a 302-hectare granite outcrop with its tiny neighbour, Lam Chau, nearly two kilometres away. The Provisional Airport Authority then had a very modest staff establishment. We have moved a long way forward since then. With the formation of the airport island, the passenger terminal building rising steadily from its foundations and work commencing on the southern runway, the physical progress is there for all to see. At the same time, the Authority is building up its organisation and staff for the tasks ahead. The focus increasingly will shift from construction to operational and commercial planning.

It gives me mixed feelings to leave the helm of this major project at this juncture. I am glad that past uncertainties are behind us. Nevertheless, with a project of this size, the Authority will be facing more challenges ahead. I have no doubt that it will meet them admirably and will move full speed ahead to prepare for airport opening in April 1998.

End/Wednesday, July 12, 1995

Wills (Amendment) Bill 1994: second reading

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Following is the speech of the Secretary for Home Affairs, Mr Michael Suen, at the resumption of the second reading of the Wills (Amendment) Bill 1994 in the Legislative Council today (Wednesday):

Mr President,

I would like to thank Dr the Honourable Philip Wong Yu-hong, Convenor of the Bills Committee to study the Wills (Amendment) Bill 1994, Intestate's Estates (Amendment) Bill 1994 and Inheritance (Provision for Family and Dependents) Bill and the other Members of the Bills Committee for their work in scrutinising the three Bills. The dedicated efforts of the technical sub-committee of the Bills Committee under the chairmanship of the Honourable Ronald Arculli deserve particular mention. The meticulous work of the Sub-committee and the Committee Stage Amendments that have arisen from that work will ensure that the legislation is suitably adapted to Hong Kong's needs.

While society in Hong Kong has developed considerably during the last twenty years, our law of inheritance has remained largely unchanged. It was against this background that the Law Reform Commission in its report on the "Law of Wills, Intestate Succession and Provision for Deceased Persons' Families and Dependants" recommended changes to the law of inheritance. The changes recommended by the Law Reform Commission aim both to bring our inheritance law into line with current day community needs and expectations and to remove various anomalies that had come to light during its implementation. The three Bills that I am going to recommend to Members today, namely, the Wills (Amendment) Bill 1994, the Intestates' Estates (Amendment) Bill 1994 and the Inheritance (Provision for Family and Dependants) Bill, seek to implement the majority of the recommendations of the Law Reform Commission.

The first of the three Bills is the Wills (Amendment) Bill 1994. As I mentioned when I introduced this Bill into this Council, its main aims are to relax the formalities for making wills and to give the court new powers to validate, interpret and rectify wills.

Members of the Bills Committee expressed concern over the proposed repeal of the provision of the Wills Ordinance that gives special treatment to a will of a Chinese testator written in Chinese. Currently, such wills are valid even if they are not executed in accordance with the formalities. Let me take this opportunity to reiterate that the proposed repeal aims to prevent abuse of the existing provision, which lacks a formal check on the authenticity of such wills. It is to be replaced by a general power of the court to admit to probate wills not executed in accordance with the formalities but which the court is nevertheless satisfied embody the testamentary intentions of the deceased. It should also be noted that the application provisions of the Bill provide for the validity of wills made before its commencement, including wills in Chinese of Chinese testators, to be unaffected by its enactment.

The Bill also gives effect in Hong Kong to relevant provisions of the Convention on International Wills. Pending ratification of this Convention by the UK, we have proposed and the Members of the Bills Committee agree that it is appropriate for Hong Kong to follow the UK in delaying commencement of the relevant provisions.

With these remarks, Mr President, I recommend the Wills (Amendment) Bill 1994 to Members.

End/Wednesday, July 12, 1995

Wills (Amendment) Bill 1994: committee stage

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Following is the speech by the Secretary for Home Affairs, Mr Michael Suen, at the committee stage of the Wills (Amendment) Bill 1994 in the Legislative Council today (Wednesday):

Mr Chairman,

I move that clause 4 be amended as set out in the paper circulated to Members.

Clause 4 provides for the repeal of sections 8, 11 and 12 of the Wills Ordinance on the grounds that they have become redundant as they are now part of the general law. Members of the Bills Committee however proposed to retain them because the relevant general law could change in the future, making it necessary to re-enact the sections concerned. It is therefore proposed that clause 4 be deleted.

Mr Chairman, I beg to move.

End/Wednesday, July 12, 1995

Intestates' Estates (Amendment) Bill 1994: second reading

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Following is the speech by the Secretary for Home Affairs, Mr Michael M Y Suen, in the resumption of the second reading debate of the Intestates' Estates (Amendment) Bill 1994 in the Legislative Council today (Wednesday):

Mr President,

As I indicated in the resumption of the second reading debate on the Wills (Amendment) Bill 1994, the Intestates' Estates (Amendment) Bill 1994 arises from the recommendations of the Law Reform Commission on reform of the law of inheritance in Hong Kong.

The main effect of the Bill is to improve the inheritance position of a surviving spouse of someone who has died intestate. For example, it provides for a surviving spouse to take the personal chattels absolutely, instead of the current right to require them to be appropriated in or towards satisfaction of the statutory sum to which he or she is entitled. The Bill also gives a surviving spouse the right to appropriate the intestate's interest in the matrimonial home in or towards satisfaction of his or her entitlement in the estate. In addition, the Bill increases substantially the amounts of the statutory legacies payable to a surviving spouse from the deceased's estate: from \$50,000 to \$500,000, where there is surviving issue; and from \$200,000 to \$1,000,000, where there are other surviving relatives but no issue. These figures were last revised in 1983 and have been considerably eroded by inflation since then.

When considering the Bill, Members of the Bills Committee suggested that the levels of the statutory legacies should be reviewed at regular intervals. We agree with this suggestion and propose to review the levels of the statutory legacies at intervals of no less than two years.

With these remarks, Mr President, I recommend the Intestates' Estates (Amendment) Bill 1994 to Members.

End/Wednesday, July 12, 1995

Intestates' Estates (Amendment) Bill 1994: committee stage

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Following is the speech by the Secretary for Home Affairs, Mr Michael M Y Suen, in moving the Committee Stage of the Intestates' Estates (Amendment) Bill 1994 in making Amendments to Clauses 5, 7, 10, 11, 14 and 15 in the Legislative Council today (Wednesday):

Mr Chairman,

I move that the clauses specified be amended as set out in the paper circulated to Members.

The amendment to clause 5 explicitly provides that "the net sum payable" under clause 6 of the Bill refers to the "statutory legacies" payable to a surviving spouse under clauses 4(3) and 4(4).

The change of wording to clause 7 is to ensure consistency of treatment between a surviving spouse and other beneficiaries in offsetting an interest in an intestate's estate acquired in the jurisdiction against an interest acquired in Hong Kong.

The amendments to clauses 10 and 11 provide for changes in Chinese versions of the words "representation" and "personal representatives".

The changes to clauses 14 and 15 aim to replace English paragraphs in the Chinese version of the Bill arising from the subsequent promulgation of the authentic Chinese versions of the Legitimacy Ordinance and Adoption Ordinance, which are referred to in the clauses concerned.

Mr Chairman, I beg to move.

End/Wednesday, July 12, 1995

Intestates' Estates (Amendment) Bill 1994: new clauses

Following is the speech of the Secretary for Home Affairs, Mr Michael Suen, at the committee stage of the Intestates' Estates (Amendment) Bill 1994 in the Legislative Council today (Wednesday):

Mr Chairman,

Addition of New Clauses

I move that the heading before new clause 15A, new clauses 15A and 15B as set out in the paper circulated to Members be read the second time.

These additions are consequential upon the repeal of section 11 of the Intestates' Estates Ordinance and section 75(1)(a) and (3) of the Probate and Administration Ordinance. Explicit references to these sections made in the New Territories Land (Exemption) Ordinance are removed to avoid referring to sections that have been repealed.

Mr Chairman, I beg to move.

End/Wednesday, July 12, 1995

Inheritance Bill: second reading

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Following is the speech of the Secretary for Home Affairs, Mr Michael Suen, at the resumption of the second reading of the Inheritance (Provision for Family and Dependents) Bill in the Legislative Council today (Wednesday):

Mr President,

The Inheritance (Provision for Family and Dependents) Bill is the last of the three Bills aimed at effecting a general reform of the law of inheritance based on recommendations of the Law Reform Commission. It is a stand alone Bill to replace the Deceased's Family Maintenance Ordinance. The Bill provides for the court to order reasonable financial provision from the estate of a deceased for certain classes of person on application. In effect, it provides a safety net for deserving persons who have not been properly provided for either in a will or under the law of intestacy.

The main effects of the Bill are to widen the scope of persons eligible to apply for financial provisions from a deceased's estate and to give the court greater powers in making orders for such financial provision. As regards the scope of persons eligible to apply to the court for financial provision from a deceased's estate, the main change compared with the Deceased's Family Maintenance Ordinance is the inclusion of a new class of persons who, although they are not close relatives of the deceased, were dependent either wholly or partly on him or her.

In considering the Bill, Members of the Bills Committee were concerned that the greatly increased scope of potential applicants coupled with the extended powers of the court could create undue difficulties in the settlement of estates. To meet this concern, Members proposed that certain categories of eligible applicants should be subject to a requirement of having been wholly or substantially maintained by the deceased prior to his or her death. The proposed requirement would apply to a former spouse, parents, an adult child other than one with a physical or mental disability, a brother or sister and any other person. Dr. the Honourable Philip Wong, the Chairman of the Bills Committee will move an amendment during the Committee Stage of this Bill to give effect to this proposal, which we have accepted.

With these remarks, Mr President, I recommend the Inheritance (Provision for Family and Dependents) Bill to Members.

End/Wednesday, July 12, 1995

Inheritance Bill: committee stage

Following is the speech by the Secretary for Home Affairs, Mr Michael Suen, at the committee stage of the Inheritance (Provision for Family and Dependents) Bill in the Legislative Council today (Wednesday):

Mr Chairman,

I move that the clauses specified be amended as set out in the paper circulated to Members.

The amendments to clause 5 provide for changes to clauses 5(4) and 5(5). The change to clause 5(4) is proposed further to the amendment to clause 3 of the Bill already passed by this Council. The change to clause 5(5) is a technical amendment, which replaces "and" with "or" when it first appears.

The amendments to clause 10 allow the court to take into account all the circumstances of a case in treating a death bed gift as part of the net estate of a deceased following an application under the Ordinance. For example, the court would be able to take account of any diminution in the value of gift following the death of the deceased.

The amendment to clause 11 provides for a new sub-section (5) which provides that the clause should only apply to those joint tenancies entered into after the commencement of the Bill. Under the general law, property under a joint tenancy automatically becomes the property of the other person on the death of one of the joint tenants. In other words, it is not normally part of the deceased's estate. Clause 11 provides for such property to be treated as part of the deceased's net estate for the purpose of the Ordinance. Members of the Bills Committee proposed that this should only apply to joint tenancies created after the commencement of the Bill as joint tenancies already in existence have not been made in the expectation that the property concerned would be so treated.

Clause 16 is amended at the suggestion of the Bills Committee to remove the time limit for an application under clause 3 of the Bill made by a former spouse of the deceased. This is proposed as under Hong Kong's circumstances it would not normally be possible to comply with the specified time limit.

The amendment to clause 14 deletes a redundant phrase from the Chinese version of the Bill.

The amendments to clauses 6, 11(1), 11(3), 22 and 26 provide for changes in the Chinese versions of the words "representation" and "property".

Mr Chairman, I beg to move.

End/Wednesday, July 12, 1995

Inheritance Bill: new clauses

Following is the speech of the Secretary for Home Affairs, Mr Michael Suen, at the committee stage of the Inheritance (Provision for Family and Dependents) Bill in the Legislative Council today (Wednesday):

Mr Chairman,

Addition of New Clauses

I move that the heading before new clause 27A, new clauses 27A, the heading before new clause 28A, new clauses 28A and 28B as set out in the paper circulated to Members be read the second time.

These new clauses are consequential on the repeal of the Deceased's Family Maintenance Ordinance. They change references to the Deceased's Family Maintenance Ordinance in other Ordinances to the Inheritance (Provision for Family and Dependents) Ordinance.

Mr Chairman, I beg to move.

End/Wednesday, July 12, 1995

Merchant Shipping (Liner Conferences) Bill

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Following is the speech by the acting Secretary for Economic Services, Mrs Elizabeth Bosher, at the committee stage of the Merchant Shipping (Liner Conferences) Bill in the Legislative Council today (Wednesday):

Mr President,

I move that the clauses specified be amended as set out in the paper circulated to Members.

Members will recall that the Merchant Shipping (Liner Conferences) Bill is part of our on-going exercise to localise UK legislation applying to Hong Kong so that the existing system of laws will continue after 1997. The Bill will implement in Hong Kong legislation the Convention on the Code of Conduct for Liner Conferences. The Code establishes rules designed to ensure a balance of interests between suppliers and users of liner shipping services; to avoid discrimination against shipowners and shippers of the foreign trade of any country; and to ensure transparency of information to interested parties.

All the proposed amendments are changes to the Chinese text to remove possible discrepancies in meaning between the two texts of the Bill.

Mr Chairman, the Merchant Shipping (Liner Conferences) Bill is the last major localisation exercise in respect of merchant shipping legislation. Subject to Members' approval today, we will substantially completed the localisation of the whole body of maritime law, barring some minor tidying up and adaptation work. This is a most significant achievement for shipping and is crucial to Hong Kong's economy. We are the world's eighth largest trading economy: some 90 per cent of that trade is handled through the port. We must ensure the present successful system of shipping regulation can continue beyond 1997, as enshrined in the Joint Declaration. This exercise will help achieve this.

It has been five years since the enactment of the first item of localised shipping legislation. Looking back, the process has been painstaking and at times arduous. I would like to take this opportunity to thank Members for their contribution to the completion of this programme.

Mr President, I beg to move.

End/Wednesday, July 12, 1995

Electoral Provisions Bill 1995

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Following is the speech by the Secretary for Constitutional Affairs, Mr Nicholas Ng, at the resumption of the second reading of the Electoral Provisions (Miscellaneous Amendments) Bill 1995 in the Legislative Council today (Wednesday):

Mr President,

I would like to take this opportunity to reiterate the government's position on the reduction of qualifying residential period for election candidates from ten years preceding nomination to three years.

The rationale for imposing some form of residential requirement on election candidates is to ensure that candidates will have good knowledge of Hong Kong. The qualifying period should be sufficiently short to meet the Bill of Rights requirement, but sufficiently long to ensure that candidates have adequate first-hand and up-to-date knowledge of local conditions. We believe that a qualifying period of three years immediately preceding the date of nomination strikes the right balance.

We have great reservation on proposals to further reduce the qualifying period to less than three years, for example, to 180 days as proposed by Mr Andrew Wong. Such proposals would create prospects for people who have only resided in Hong Kong for an extremely short period of time to become candidates and, if elected, to sit on our representative institutions. Obviously, it is highly questionable whether a person who has resided in Hong Kong for only 180 days, or even a year, will have acquired a thorough understanding of the community's needs and aspirations, as well as the many and varied complex issues it faces. Thorough enough, that is, to be able to represent the interests of his constituents, and to make important decisions affecting the long-term interests of Hong Kong. And we must remember that Hong Kong is a dynamic, sophisticated metropolitan which is rapidly changing and evolving.

Some people would say that if the electors want someone who has been in Hong Kong for only a few months to represent them, then so be it. Mr President, I beg to differ. Electors will, of course, have the final say on who their representatives are; this is what open and fair elections are all about. But any responsible governments anywhere are duty bound to prescribe some minimum qualifications for candidature, so as to protect the integrity of the electoral process and the overall interests of the community. In our present case, a qualifying residential period of three years is precisely to serve this purpose.

It is, of course, the case that the qualifying residential period for candidature vary from one jurisdiction to another. But we must be extremely careful in drawing any direct comparison between our own requirement, and those overseas. Circumstances differ from one place to another, and these must be taken into account when deciding on the appropriate qualifying period.

Mr President, for the above reasons, the three ex-officio Members will vote against Mr Andrew Wong's amendment to further reduce the qualifying residential period.

End/Wednesday, July 12, 1995

Securities (Insider Dealing) (Amendment) Bill 1995

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Following is the speech of the Secretary for Financial Services, Mr Michael Cartland, at the committee stage of the Securities (Insider Dealing) (Amendment) Bill 1995 in the Legislative Council today (Wednesday):

Mr Chairman,

Clause 9

I move that clause 9 be amended as set out in the paper circulated to Members.

I propose that clause 9 be amended so that persons who by their own acts or omissions caused or brought about the Tribunal to inquire into their conduct subsequent to the institution of an inquiry or during the course of that inquiry will not be entitled to an award of costs by the Insider Dealing Tribunal. This is an extension of the provision ready in the Bill which denies an award of cost to any person who, by his acts or omissions, caused or brought about the institution of the inquiry in the first place.

Mr Chairman, I beg to move.

New Clause 2A

Mr Chairman,

I move new clause 2A as set out in the paper circulated to Members be read the second time.

This is a minor editorial amendment to the Chinese text of section 4(1)(c) of the Ordinance which seeks to bring the Chinese text into line with the corresponding English text.

Mr Chairman, I beg to move.

Mr Chairman,

I move that new clause 2A be added to the Bill.

End/Wednesday, July 12, 1995

MTRC and KCRC's localisation policy

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Following is a question by Dr the Hon Samuel Wong Ping-wai and a reply by the Secretary for Transport, Mr Haider Barma, in the Legislative Council today (Wednesday):

Question:

In his reply to a LegCo question asked on 10 March 1993, the Secretary for Transport stated that the Mass transit Railway Corporation (MTRC) and the Kowloon Canton Railway Corporation had adopted a policy of localisation and that the two corporations had offered training programmes for their staff and drawn up succession plans to ensure that local talents were trained to meet the objectives of the corporations. The Secretary for Transport further stated that the two corporations would continue with this policy. In this connection, will the Government inform this Council whether it is aware of the progress which the MTRC has made in localising its senior management, particularly the salaried directors apart from its Chairman?

Reply:

Mr President,

Apart from the Chairman of the MTRC, who is appointed by the Governor under Section 4 of the MTRC Ordinance, all other appointments are a matter for the Corporation itself to determine. In this respect, the Corporation now has a clear-cut policy of appointing suitably-qualified local candidates for vacancies which may arise. The Corporation will only resort to overseas recruitment when local candidates are not available. Indeed, in keeping with the principle of this policy, the MTRC has, since December 1993 offered totally equal terms to new employees, regardless of whether they are recruited locally or from overseas.

As regards progress in localising its top management the most significant step taken is that, as Honourable Members know, in April this year a local candidate was recruited and appointed to fill the position of the Chairman of the Corporation. Apart from the Chairman, it is a fact that at present only one of the seven Executive Directors, is a local appointee.

It should be noted that all the Executive Directors and by far the majority of the employees in managerial and professional posts have been engaged on permanent terms of service. Under the Corporation's localisation policy, expatriates who leave the service on retirement or for other reasons will be replaced as far as possible by locals who have the necessary qualifications and experience. In this respect, one of the expatriate Directors will be retiring in the middle of next year, and the Corporation's firm intention is to appoint a local replacement.

End/Wednesday, July 12, 1995

Quality control of industrial protective equipment

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Following is a question by the Hon Fred Li Wah-ming and a reply by the Secretary for Education and Manpower, Mr Michael Leung, in the Legislative Council today (Wednesday):

Question:

At present, workers can easily purchase industrial protective equipment such as dust masks, goggles, helmets and other items in the open market. However, the quality of such protective equipment is of uneven standard, and some of these items cannot even meet the required safety standards. In view of this, will the Government inform this Council :

- (a) whether it has conducted regular tests on the quality of various items of industrial protective equipment available in the open market to check if they meet the required safety standard; if so, what the details are; if not, why not?
- (b) what specific measures the Government has put in place to educate factory-owners, site contractors and workers on how to choose and use protective equipment which meets the required safety standard; and
- (c) what interim and long-term measures does the Government have to monitor both the manufacturers and the retailers, so as to curb the indiscriminate selling of protective equipment which does not meet the required safety standard?

Reply:

Mr President,

- (a) The Occupational Safety and Health Council (OSHC) commissions tests on industrial protective equipment to see if they meet specified safety standards. Recent examples of such tests are those on goggles, spectacles and face shields. The OSHC also has plans to conduct more tests on personal protective equipment.

- (b) The Labour Department promulgates approved personal protective equipment to protect the health and safety of workers and provides information and advice to factory proprietors, contractors and workers on approved and suitable equipment.

Under the Factories and Industrial Undertakings Ordinance, it is the duty of every factory proprietor and contractor to procure approved or suitable types of protective equipment for his employees and to provide information, training and supervision to them on the proper use of these equipment. The Labour Department has published a large number of pamphlets, leaflets, brochures and posters on the need, selection and use of such equipment.

The Labour Department's Industrial Safety Training Centre also organises safety training courses on various aspects of industrial safety including the proper use of protective equipment. The OSHC also organises training courses on personal protective equipment.

Besides the Information Services Department, the Labour Department and the OSHC run annual series of promotion and publicity activities on industrial safety. The proper use of personal protective equipment is always one of the important feature of these activities.

- (c) The Labour Department at present controls the purchase and use of sub-standard protective equipment at the user's end through enforcement of the Factories and Industrial Undertakings Ordinance. When a sub-standard personal protective equipment is found in use in an industrial undertaking or on a construction site, the proprietor or contractor concerned will be given appropriate advice and suitable warning and, if necessary, prosecuted for contravening the relevant regulations.

In the longer term, the vigorous enforcement of the Factories and Industrial Undertakings Ordinance, together with sustained promotion, publicity and educational campaigns on the use of proper protective equipment, should eliminate from the market those items of equipment which fall below required industrial safety standards.

Damage to marine ecology by dredging works

Following is a question by Rev the Hon Fung Chi-wood and a reply by the Secretary for Works, Mr James Blake, in the Legislative Council today (Wednesday):

Question:

In order to cope with the new airport project and other reclamation works, the Government has carried out large-scale dredging of sea sand in Hong Kong waters, and plans to continue with such operations. As such dredging works will cause tremendous damage to marine ecology, will the Government inform this Council :

- (a) of the volume of sea sand obtained from dredging since 1991 and the volume expected to be dredged in the coming few years; whether an assessment has been made on the damage caused by such operation to the marine ecology of Hong Kong? If so, what the results are?
- (b) of the details of purchasing sand from China at present, the progress made so far in dredging sea sand in Chinese territorial waters, and the cost of such sand in comparison with that dredged in Hong Kong waters;
- (c) whether consideration will be given to using construction wastes or earth excavated from the hillside as the filling material for reclamations, so as to reduce the damage done to marine ecology; and
- (d) why such reclamation works rely on sea sand dredged in local waters and not on other filling materials supplied locally or abroad?

Reply:

Mr President,

I would like to point out, first of all, that dredging of marine sand does not cause tremendous damage to the marine ecology, as alleged in the question. So far, we have dredged less than 2.5% of Hong Kong's seabed area, and there has generally been little overall effect on the marine ecosystem of Hong Kong. I will answer the four-part question as follows.

- (a) The estimated volume of marine sand dredged between 1992 and the end of 1995 is about 251 million cubic metres. The figures for 1991 are unavailable. This is approximately equivalent to the material available from 14 quarries each the size of the Anderson Road Quarry, scarring our visible hillsides. It is estimated that a total of 216 million cubic metres of marine sand will be required up to 2000. We plan to meet this future need by supply from Hong Kong and China.

The area of seabed that has been subjected to the impact of dredging and mud disposal, represents approximately less than 2.5% and 1.5% respectively of the total area of seabed within the borders of Hong Kong. All marine borrowing and disposal activities are subject to environmental impact assessments and strict controls. Seabed surveys have established that apart from the limited areas directly involved, the seabed ecosystem is essentially unaffected. For the areas actually subjected to dredging, these are restored to original seabed level by controlled mud dumping. Recolonisation starts almost straight away, and the newly deposited seabed mud supports an early stage ecosystem after a few months.

- (b) In the past two years some 12 million cubic metres of marine fill materials were obtained by contractors from sources outside Hong Kong. On 7 July this year, Members approved funds for the commencement of the Fill Management Study phase VI. One of the key elements of this study will be to continue the investigation of potential fill sources outside Hong Kong, and available for import into Hong Kong. Contractors importing marine sand from China are subject to license conditions, as well as needing to enter into commercial arrangements, involving suppliers and the Chinese authorities. The cost will vary with transportation distance, site conditions, operational constraints and market price fluctuations. The fact that imported fill is being increasingly used by contractors demonstrates that cost can be comparable or perhaps lower than equivalent sourcing from Hong Kong.
- (c) Suitable construction waste and land based fill is used for our reclamations. For example the reclamations at Aldrich Bay and Tseung Kwan O in part are currently being formed using material deposited by controlled public dumping. 40% of the platform for the new airport at Chek Lap Kok was formed from marine sand, and the balance from land excavation.

Land borrow activities on balance are environmentally much more stressful and visually intrusive to the community than marine borrow activities. Land borrow activities invariably involve blasting, and despite site controls the noise and dust pollution factors can be substantial. Marine transport by single vessels carrying 8,000 cubic metres of fill each trip, with minimal noise pollution, is much more preferable to transportation on land, which would require 1100 dump trucks impacting on our roads to transport the same volume.

Land sourcing of fill nevertheless is possible, with appropriate environmental pollution mitigation measures in place, as example by the success at Chek Lap Kok and elsewhere. We will continue to obtain land fill, subject to appropriate environmental controls and economic considerations.

- (d) In summary Mr President, the controlled use of our sea-bed for mud-disposal and to provide filling material for reclamation, is on balance an appropriate means of minimising environmental impact on the community at large. Economically it is also justified. I agree that we must not rely only on local waters, and we actively allow the use of imported filling material for any of our reclamation contracts. Land sourced fill can be imported or obtained locally, subject of course to strict environmental and quality control.

End/Wednesday, July 12, 1995

Old age allowance

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Following is a question by the Hon Andrew Wong and a reply by the Secretary for Health and Welfare, Mrs Katherine Fok, in the Legislative Council today (Wednesday):

Question:

At present, old age allowance applicants must have resided in the territory for at least 5 years within the period starting from 5 years immediately before the attainment of the qualifying age to the date of application, and absence from the territory during the 5-year period immediately before application must not exceed 280 days. According to cases handled by me, there have been some cases in which applications for the old age allowance made by senior citizens who have resided in the territory for decades were rejected simply because the applicants were intermittently absent from the territory for slightly more than 280 days during the 5-year period immediately prior to the date of application. In view of this, will the Government inform this Council:

- (a) of the total number of applications which were rejected by the Social Welfare Department in the past 5 years on the grounds that the residence requirement was not met;
- (b) of the reasons for using 280 days as the benchmark for residence calculation; and
- (c) whether the existing practice which lacks flexibility will be reviewed with a view to relaxing the 280-day limit for absence from the territory or changing the residency requirement to one which requires an applicant "to be an ordinary resident in Hong Kong" for 5 years prior to the date of application, so that each case can be dealt with on its own merits?

Reply:

Mr President,

The Old Age Allowance (OAA) is a non-means-tested and non-contributory payment to elderly persons aged 65 and above. To be eligible for it, applicants must have resided in Hong Kong for at least five years (1,825 days) between the age of 60 and the date of application.

The 280-day absence rule referred to in the question works in practice as follows. If an application is made at 65 years of age, the applicant will be permitted to have been out of Hong Kong for a maximum of 280 days in the immediately preceding five-year period (in other words, to have a total residence of no less than 1,545 days rather than the full 1,825 days). In practice, for first applications made after 65 years of age, e.g. at 70 years of age, the applicant has to demonstrate that he or she has been resident in Hong Kong for a total of 1,545 days since reaching the age of 60 years.

Prior to April 1994, records of applications for OAA were kept manually and it would be very difficult and time-consuming to identify those applications which were rejected for not meeting the residence requirement. Since April 1994, records of applications have been kept in the computerised Social Security Payment System. According to our computerised records, 1,238 applications were rejected in 1994/95 on the grounds that the residence requirement had not been met. This represents about 2% of the total number of the applications made.

The reason for selecting a clear benchmark for the absence rule, measured in days rather than a more subjective test of e.g. "ordinary residence", is clear. The determination of ordinary residence is a matter of fact and degree which must be tested in each individual case. This would require the exercise of judgment and discretion by the staff of Social Welfare Department in each individual case, which could lead to inconsistent standards and unfairness.

Having then accepted the need for a clear benchmark, it is, nevertheless, not possible to set the number of days involved in any logical or scientific way. The 280 days selected and now in force would allow a person to be out of Hong Kong for as long as 8 weeks every year for each of the 5 years concerned. It would seem excessive for an elderly person, unlikely to have any business commitments overseas, to be regularly away from Hong Kong for longer than this. Indeed, evidence shows that very few elderly people need to be away from Hong Kong for more than this as can be demonstrated by the fact that only 2% of applicants in 1994/95 failed to meet this test.

The test is there to ensure that those benefiting from this non-means-tested and non-contributory allowance are genuinely elderly citizens of Hong Kong - not persons visiting Hong Kong simply to take advantage of this allowance. Our residence requirements are already generous by international standards. For example, in Australia, Canada and New Zealand, the residence requirement for old age pensions is 10 years.

In view of these considerations, I can see no case for relaxing or reviewing the existing residential eligibility criteria for the Old Age Allowance.

End/Wednesday, July 12, 1995

Fixed penalty tickets

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Following is a question by the Hon Zachary Wong Wai-yin and a reply by the Secretary for Transport, Mr Haider Barma, in the Legislative Council today (Wednesday):

Question:

The Police have adopted, for sometime the measure of issuing Fixed Penalty Tickets without prior warning to the drivers of vehicles illegally parked and waiting in the Central and Tsim Sha Tsui districts. In this regard, will the Government inform this Council:

- (a) of the breakdown by month of the number of Fixed Penalty Tickets issued since the adoption of such a measure, together with the total number of motor vehicles which have been issued with more than one Fixed Penalty Ticket and the highest number of Fixed Penalty Tickets issued to the same vehicle; and
- (b) whether such a measure has achieved the result expected; if not, what further measures the Government will take to deter drivers from illegal parking and waiting?

Reply:

Mr President,

The issue of fixed penalty tickets for traffic offences is, understandably, a controversial subject. No one likes to receive such a ticket. The Police on the beat and traffic wardens have a very difficult job. But tough enforcement action is essential in busy districts. The instruction to the officers concerned is that they should take immediate action to issue fixed penalty tickets to the drivers of vehicles which are illegally parked or waiting in areas where this is likely to cause serious disruption to traffic. This includes Central and Tsim Sha Tsui. This practice has been followed since August 1993. On the other hand, for minor traffic offences committed in less busy areas, a more lenient approach is adopted with the drivers often first being given warnings.

Statistics on the total number of fixed penalty tickets issued for parking offences in Central and Tsim Sha Tsui have been provided to Members in the annex to the written version of my reply. The Police have not kept separate statistics on the numbers of fixed penalty tickets issued to the same vehicle, since such information is not required for operational reasons nor would such information be of any particular use.

The likelihood of receiving a fixed penalty ticket does act as a deterrent to the majority of motorists and the Police are satisfied that the practice of issuing tickets without prior warning has been effective in helping to keep the traffic moving in the busiest and most congested districts.

Mr President, Honourable Members may wish to note that we intend to review the level of fixed penalty fines later this year, to determine whether they are sufficient to maintain the deterrent effect. In addition, we are now considering the extension of no-stopping restrictions, including banning goods vehicles from loading and unloading during the daytime in busy areas, as further measures aimed on maximising road capacity and maintaining a free flow of traffic.

**Fixed Penalty Tickets Issued for
Parking Offences
in Central and Tsim Sha Tsui
from August 1993 to May 1995**

		<u>Central</u>	<u>Tsim Sha Tsui</u>
1993	August	8,024	9,499
	Sept	7,991	9,037
	Oct	8,934	9,367
	Nov	9,128	8,516
	Dec	8,250	8,465
1994	Jan	9,244	8,088
	Feb	6,720	6,094
	Mar	8,233	8,886
	Apr	9,196	8,094
	May	9,175	10,738
	Jun	7,793	8,069
	Jul	7,126	8,418
	Aug	8,205	8,795
	Sept	8,322	8,801
	Oct	8,495	9,907
	Nov	8,642	10,050
	Dec	8,222	10,607
1995	Jan	8,326	11,810
	Feb	7,309	9,638
	Mar	8,269	11,564
	Apr	6,551	11,603
	May	7,654	7,511

Proposed licensing examination for medical graduates

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Following is a question by Dr the Hon Conrad Lam and a written reply by the Secretary for Health and Welfare, Mrs Katherine Fok, in the Legislative Council today (Wednesday):

Question:

Regarding the Medical Council's proposal that medical graduates from the local universities have to sit and pass a Universal Licensing Examination after 1997 before they can practise medicine in the territory, will the Government inform this Council:

- (a) whether it is aware of the reasons and background of the Medical Council's proposals;
- (b) of the merits and demerits of the proposal; and
- (c) whether it knows if adequate consultation has been conducted by the Medical Council before proposing the change; if so, will the Government ask the Medical Council to provide details of the consultation process and its outcome; if not, why not?

Reply:

- (a) The Chairman of the Medical Council has briefed the Government on the reasons and background of the Medical Council's proposal, which is that medical graduates of the two local universities should be given a grace period of five years, after which they would be required to sit for and pass the Licensing Examination before they could practise in Hong Kong.
- (b) The merits of requiring local graduates to sit for the Licensing Examination are:
 - (i) it would provide fair and equitable treatment for all medical graduates, irrespective of where they are trained; and

- (ii) it would enable an assessment be made on the professional standard and competence of an individual rather than the institution from which the individual graduated.

The demerits of the proposal are:

- (i) in conducting the Licensing Examination, local universities' expertise inevitably will be required. There would be a duplication of efforts and resources in organising both the Licensing Examination and the universities' own graduate examinations; and
 - (ii) it may be undesirable to require local medical graduates to sit for two examinations of comparable standard and to be assessed by the same group of examiners at the same time.
- (c) The two universities as well as the Medical Council have put forward their views in written submissions and in person to the Bills Committee to study the Medical Registration (Amendment) Bill 1995. The written submissions were dated 16 June 1995 (the Medical Council), 26 June 1995 (the University of Hong Kong) and 30 June 1995 (the Chinese University of Hong Kong). The Bills Committee saw representatives of the two universities on 3 July 1995 and the Chairman of the Medical Council on 6 July 1995.

End/Wednesday, July 12, 1995

Job vacancy statistics

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Following is a question by the Hon Martin Barrow and a written reply by the Secretary for Financial Services, Mr Michael Cartland, in the Legislative Council today (Wednesday):

Question:

Will the Government inform this Council:

- (a) why the job vacancy figures are published 3 months after the unemployment figures; and
- (b) whether it will take steps to produce the two sets of figures at the same time so that there is a better chance of reducing the mismatch?

Reply:

- (a) Job vacancy statistics as at the end of a quarter are released about three and a half months after the reference date. As for unemployment statistics, the provisional estimate of the overall unemployment rate for a three-month period is released about two weeks after the end of the period. However, compilation of the final estimates of unemployment together with more detailed breakdowns requires longer time, usually around three months after the period concerned.

Statistics on job vacancies and on unemployment are obtained from two different surveys. As such, the speeds at which statistics can be produced are bound to be different, depending on the specific survey mechanism involved and, more importantly, on whether respondents can promptly report their situation. For job vacancies, statistics are collected from business establishments through the Quarterly Survey of Employment and Vacancies (SEV). As the reference date is end of quarter, actual field work on the SEV cannot start before the end of that reference quarter. In addition, if the business establishments concerned fail to report their position by postal return, staff of the Census and Statistics Department will have to follow up through computer-assisted telephone interviewing, and if this is again unsuccessful, by field visits. This is no doubt a time - and resource - consuming process, considering that the sample for the SEV covers as many as 70 000 establishments in each quarter. The entire data collection process for the SEV takes about nine weeks to complete.

On the other hand, statistics on unemployment are currently collected from 13 500 households each quarter through the General Household Survey. As the enquiry is made by personal interviews on a continuous basis, the time required for data collection is generally much shorter.

- (b) The Census and Statistics Department always strives to shorten the time required for the production of statistics, as part of its on-going programme of improvement to the Department's statistical systems. For job vacancy statistics in particular, currently the Department is examining the possibility of streamlining the procedures on data editing and data processing. But even with this streamlining, the shortening of time is unlikely to be very significant. Prompt and accurate response from the business establishments surveyed is the crucial factor in this regard. In future surveys, the Department will continue to stress this need to all business establishments involved.

End/Wednesday, July 12, 1995

Staff wastage in ICAC

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Following is a question by the Hon Cheung Man-kwong and a written reply by the Chief Secretary, the Hon Anson Chan, in the Legislative Council today (Wednesday):

Question:

Regarding the staff wastage in the Independent Commission Against Corruption, will the Government inform this Council of:

- (a) a breakdown of the wastage position in each rank by number, percentage and reasons for leaving in each of the past three years;
- (b) the forecast of staff wastage for next year; and
- (c) the measures adopted by the Commission, which is an extremely sensitive and important agency, to prevent its operation from being affected by staff wastage?

Reply:

- (a) A break-down of the staff wastage in each rank by number, percentage and reasons for leaving in 1992-1994 is attached at Annexures A - C.
- (b) The forecast of staff wastage for 1995 and 1996 is at Annexures D & E.
- (c) Almost all ICAC staff (93%) are on contract terms. The Commission has therefore always had a steady turnover of staff. However, 51% of all grades have served the Commission for more than 10 years, and 11% have served for more than 20 years. There is at present no difficulty in recruiting. Staff morale generally is high. The Commission will continue to ensure that terms and conditions of service remain attractive.

Career development programmes and succession planning ensure that supervisory vacancies can be filled by promotion from within. Direct recruitment to supervisory ranks has only been a limited feature of ICAC recruitment policy in past years. However, if factors beyond the Commission's control were to cause staff to leave in greater numbers than could be replaced from within, direct recruitment at appropriate levels would be increased.

Staff Wastage Statistics 1992

Rank	Strength as at 31.12.92 (a)	No. of Departure (b)	% (b)/(a)	Reasons for Departure					
				Emigration	Further Education	Employment Elsewhere	Others (Personal Reasons)	Retirement	Termination/Dismissal
Directorate	14	3	21.4%				2	1	
SCACO	38	1	2.6%					1	
CACO(U)	103	8	7.8%	3	1	2		1	1
CACO(M/L)	329	31	9.4%	5	6	9	9		2
ACACO	205	15	7.3%	1	2	5	6	1	
Surveillance Grades	109	6	5.5%		2		4		
General & Support Grades	291	51	17.5%	5	3	17	21	2	3
Total	1089	115	10.6%	14	14	33	42	6	6

Note : SCACO = Senior Commission Against Corruption Officer
CACO(U) = Commission Against Corruption Officer (Upper)
CACO(M/L) = Commission Against Corruption Officer (Middle/Lower)
ACACO = Assistant Commission Against Corruption Officer

Staff Wastage Statistics 1993

Rank	Strength as at 31.12.93 (a)	No. of Departure (b)	% (b)/(a)	Reasons for Departure					
				Emigration	Further Education	Employment Elsewhere	Others (Personal Reasons)	Retirement	Termination/Dismissal
Directorate	15	3	20.0%			2		1	
SCACO	37	2	5.4%			1	1		
CACO(U)	102	5	4.9%	2		1	1	1	
CACO(M/L)	342	19	5.6%	3	2	7	4	1	2
ACACO	231	14	6.1%	2	1	3	7	1	
Surveillance Grades	104	6	5.8%	2	1	1	2		
General & Support Grades	284	28	9.9%	4		7	12	5	
Total	1115	77	6.9%	13	4	22	27	9	2

Note : SCACO = Senior Commission Against Corruption Officer
CACO(U) = Commission Against Corruption Officer (Upper)
CACO(M/L) = Commission Against Corruption Officer (Middle/Lower)
ACACO = Assistant Commission Against Corruption Officer

Staff Wastage Statistics 1994

Rank	Strength as at 31.12.94 (a)	No. of Departure (b)	% (b)/(a)	Reasons for Departure					
				Emigration	Further Education	Employment Elsewhere	Others (Personal Reasons)	Retirement	Termination/ Dismissal
Directorate	15	1	6.7%						1
SCACO	37	4	10.8%	1		2		1	
CACO(U)	103	10	9.7%	5		1	1	3	
CACO(M/L)	349	13	3.7%	3	1	3	4	2	
ACACO	251	24	9.6%	1	2	6	14		1
Surveillance Grades	107	1	0.9%				1		
General & Support Grades	296	27	9.1%	3		9	14	1	
Total	1158	80	6.9%	13	3	21	34	7	2

Note : SCACO = Senior Commission Against Corruption Officer
CACO(U) = Commission Against Corruption Officer (Upper)
CACO(M/L) = Commission Against Corruption Officer (Middle/Lower)
ACACO = Assistant Commission Against Corruption Officer

Forecast departures for 1995

<u>Rank</u>	<u>No. of Departure (position 30.6.95)</u>	<u>No. of known anticipated departures</u>	<u>Total</u>
Directorate	-	2	2
SCACO	1	2	3
CACO(U)	0	7	7
CACO(M/L)	5	9	14
ACACO	9	3	12
Surveillance grades	0	2	2
General & support grades	8	9	17
	<u>23</u>	<u>34</u>	<u>57</u>

Note : SCACO = Senior Commission Against Corruption Officer
 CACO(U) = Commission Against Corruption Officer (Upper)
 CACO(M/L) = Commission Against Corruption Officer (Middle/Lower)
 ACACO = Assistant Commission Against Corruption Officer

Forecast departures for 1996

<u>Rank</u>	<u>No. of Known anticipated departure</u>
Directorate	5
SCACO	2
CACO (U)	4
CACO (M/L)	6
ACACO	-
Surveillance grade	-
General & support grades	4
	<hr/>
	21

Note : SCACO = Senior Commission Against Corruption Officer
CACO(U) = Commission Against Corruption Officer (Upper)
CACO(M/L) = Commission Against Corruption Officer (Middle/Lower)
ACACO = Assistant Commission Against Corruption Officer

End/Wednesday, July 12, 1995

Heavy workload on extra-curricular activity co-ordinators

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Following is a question by the Hon Eric Li and a written reply by the Secretary for Education and Manpower, Mr Michael Leung, in the Legislative Council today (Wednesday):

Question:

A recent survey indicates that over 40% of the extra-curricular activity co-ordinators (ECACs) in secondary schools feel they are under heavy work pressure. Will the Government inform this Council whether:

- (a) consideration will be given to reducing the number of teaching periods per cycle for the ECACs and increasing the number of clerical staff in these schools to help the ECACs with the clerical work, so as to alleviate their heavy work pressure; if so, what the details are and when will such measures be implemented; and
- (b) the Government will adopt other improvement measures; if so, what those measures are and when will they implemented?

Reply:

Mr President,

- (a) Schools are given adequate staffing provision in accordance with the number of operating classes. The extra-curricular activities co-ordinator's post is a functional post similar to other functional posts such as subject panel chairmen. These functional posts carry a higher salary than normal teaching posts because the post holders are expected to carry higher responsibilities and heavier workload. School principals can deploy their own staff in the light of their own circumstances and requirements, for example, to reduce the number of teaching periods per cycle for the ECACs as necessary or to redeploy their clerical staff to assist the ECACs.
- (b) We consider the present staffing provision in schools to be generally adequate, and that the flexibility now given to school heads to deploy their staff is working effectively.

End/Wednesday, July 12, 1995

Inflation rates

Following is a question by the Hon Martin Barrow and a written reply by the Secretary for Financial Services, Mr Michael Cartland, in the Legislative Council today (Wednesday):

Question:

Regarding the Government's announcement that the inflation rate in 1995 will be 0.5% higher than originally forecast, will the Government inform this Council:

- (a) of the average and year-on-year actual/forecast inflation rates in 1994 and 1995 in respect of the following categories:

<u>Average</u>		<u>Year-on-Year</u>	
1994	1995	1994	1995
<u>Actual</u>	<u>Forecast</u>	<u>Actual</u>	<u>Forecast</u>

CPI "A"

CPI "B"

Composite

- (b) of the reasons for the differences between the average and year-on-year figures in each category; and
- (c) whether the indices and the weightings being used can correctly measure current consumption habits and whether the Government will carry out a review of the methodology?

Reply:

- (a) Currently, the Government produces a forecast on the Consumer Price Index (A) only. The actual average increase in the CPI(A), CPI(B) and Composite CPI in 1994, together with the forecast average increase in the CPI(A) in 1995, are given below :

	Forecast average increase in 1995	Actual average increase in 1994
CPI(A)	9.0%	8.1%
CPI(B)	-	8.6%
Composite CPI	-	8.8%

The increases in the CPIs on an annual average basis are basically the same as their year-on-year increases averaged over the respective twelve months.

- (b) The differential movements in the CPIs were mainly due to differences in the consumption patterns of the household expenditure groups and in the price movements of the respective components covered by the three indices. In 1994, consumers in the CPI(A) expenditure group benefited more from the slower increase in the prices of basic foodstuffs and other consumer goods imported from China, while consumers in the CPI(B) expenditure group were affected more by the accelerated increases in the prices of clothing and footwear and in housing rentals. As a result, both the CPI(B) and the Composite CPI showed faster increases than the CPI(A) in 1994.
- (c) The CPIs are compiled based on the average expenditure patterns of households ascertained from the 1989/90 Household Expenditure Survey (HES). Past experience shows that average household expenditure patterns change only gradually over time. So as at present they are not reckoned to be significantly out-dated for the purpose of CPI compilation.

Under the current practice, the household expenditure patterns and hence the weights for the CPIs are updated once every five years based on the results of a new round of HES. This practice is in line with the standards adopted in statistically advanced countries/territories.

The current round of the HES, which is the 1994/95 HES, has already been conducted for some months and is now proceeding to an advanced stage. It covers the expenditure patterns of households over the period from October 1994 to September 1995. When the summary results of this survey become available, the weights of the CPIs will be updated accordingly. The Government's plan is to publish a new series of CPIs with updated expenditure weights in April 1996.

Operational hours of South East NT landfill

Following is a question by the Hon Tam Yiu-chung and a written reply by the Secretary for Planning, Environment and Lands, Mr Bowen Leung, in the Legislative Council today (Wednesday):

Question:

Will the Government inform this Council whether it will, in response to the request of private waste collectors, postpone the closing time of the South East New Territories landfill from 10 pm to 2 am and designate an area near the landfill as a temporary parking place for refuse collection vehicles, so as to improve the environment?

Answer:

Mr President,

The South East New Territories (SENT) landfill is open for 15 hours a day, from 8 am to 11 pm. Of the 1,500 waste collection vehicles that visit the SENT landfill daily, only 6% arrive between 9 pm to 11 pm. These operational characteristics do not indicate a need, at present, to extend the opening hours to 2 am.

Apart from the level of demand, there are other issues which need to be considered before extending the operational hours of landfills, for example, the environmental impact of refuse collection vehicles travelling through populated areas after mid-night, additional traffic noise and other nuisances to local residents.

Parking spaces for vehicles in the Tseung Kwan O area are already reasonably well provided for by the existing 8 lots under short term tenancy (STT) for mixed vehicle parking. Another lot will be available by the end of 1995, thereby bringing the total amount of parking space to over 90,000 square metres. At present, there are no other areas near the SENT landfill which can be used as a temporary parking place for refuse collection vehicles. However the Administration will continue to consider the need for, and provision of, additional STT space for vehicle parking if suitable land in the area becomes available.

End/Wednesday, July 12, 1995

Waiting time for first consultation in specialists' clinics

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Following is a question by Dr the Hon Huang Chen-ya and a written reply by the Secretary for Health and Welfare, Mrs Katherine Fok, in the Legislative Council today (Wednesday):

Question:

Will the Government inform this Council:

- (a) what is the longest waiting time for a new patient to have his first consultation at each of the ear-nose-throat, dermatological and eye clinics under the management of the Hospital Authority (HA); and
- (b) what plans have been drawn up by the HA to improve the provision of such services?

Reply:

While ear-nose-throat clinics and eye clinics are managed by the Hospital Authority, dermatological clinics are operated by the Department of Health. The waiting time for first appointment at these clinics is provided below:

	Longest Waiting Time for First Appointment (Weeks)	Average Waiting Time for First Appointment (Weeks)
Ear-nose-throat clinics	12	4
Eye clinics	24	14.5
Dermatological clinics	12	8

The above statistics should be interpreted against the growing public demand for specialist medical treatment and an increased number of total attendance in the past few years. Reduction in waiting time has been achieved through immediate assessment to accord urgent cases with priority, introduction of a central telephone booking system to facilitate access by patients, offering patients the choice of obtaining earlier treatment in other less busy clinics, as well as planning and construction of new facilities to strengthen existing services.

End/Wednesday, July 12, 1995

Request for info from IRD on drug trafficking suspects

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Following is a question by the Hon Eric Li Ka-cheung and a written reply by the acting Secretary for Security, Mr Kenneth Woodhouse, in the Legislative Council today (Wednesday):

Question :

Under section 20 of the Drug Trafficking (Recovery of Proceeds) Ordinance, an authorised officer may, for the purpose of an investigation into drug trafficking, apply to the court for an order to require the Inland Revenue Department (IRD) to provide information on persons suspected of having benefited from drug trafficking. Will the Government inform this Council of the numbers of applications made to the court for the issue of court orders requiring IRD to provide information on persons suspected of drug trafficking and persons suspected of having benefited from drug trafficking respectively, as well as the number of prosecutions instituted on the basis of such information, in the last two years?

Reply:

Mr President,

During the two-year period from 1 July 1993 to 30 June 1995, the Police and the Customs made 107 applications to the court to obtain information from the Inland Revenue Department. It is impossible to break down this number into applications for court orders requiring the Department to provide information concerning persons suspected of drug trafficking on the one hand, and persons suspected of having benefited from drug trafficking on the other, because many of the applications were made for both purposes.

One prosecution for a money laundering offence was instituted during the same period with the assistance of information provided by the Inland Revenue Department. In addition, 11 successful confiscation applications were made as a result of this information.

End/Wednesday, July 12, 1995

International covenants on human rights

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Following is a question by the Hon Lee Cheuk-yan and a written reply by the Secretary for Home Affairs, Mr Michael Suen, in the Legislative Council today (Wednesday):

Question:

The International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights are extended to Hong Kong with certain reservations such as reservations of the right not to require the establishment of an elected Executive or Legislative Council in Hong Kong and to postpone the application of the provision concerning equal pay for equal work for men and women in the private sector, as well as the provisions which lay down the right of trade unions to set up national federations or confederations and to form or join international trade-union organisations. In this regard, will the Government inform this Council:

- (a) whether the Government intends to remove all such reservations in the two covenants mentioned above;
- (b) if the answer to (a) is the affirmative, whether the Government has any plan to hold discussions with the British and Chinese Governments on the removal of all such reservations applicable to Hong Kong; and (c) if the answer to (a) is the negative, what the reasons are?

Reply:

Mr President,

In Part XIII of Annex I to the Joint Declaration it is clearly stated that the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights as applied to Hong Kong shall remain in force. In our view, this envisages that reservations extant on 30 June 1997 will continue to apply. However, the continuation of our international rights and obligations arising under international agreements, including the nature of the reservations which will be applicable, are matters for discussion in the International Rights and Obligations Sub-group of the Joint Liaison Group.

There are no plans at present to remove reservations under the two covenants. Most of these are designed either to safeguard law and order and the economic interests of Hong Kong people, or reflect our present and future constitutional position.

End/Wednesday, July 12, 1995

Factors to determine sites for schools

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Following is a question by the Hon Emily Lau and a written reply by the Secretary for Planning, Environment and Lands, Mr Bowen Leung, in the Legislative Council today (Wednesday):

Question:

Many of the sites proposed by the Government for the construction of primary and secondary schools are located in areas which have serious noise problems. This has often resulted in the need to provide noise insulation in the schools concerned, thus increasing the costs as well as casting doubts whether the schools erected on these sites can provide a quiet learning environment for students. In this regard, will the Government inform this Council :

- (a) of the criteria for determining sites for the construction of schools in land use planning;
- (b) what factors will be considered in selecting suitable school sites and whether the existence of noise problems in the vicinity of a site is a decisive one; and
- (c) if the answer to the latter part of (b) is in the affirmative, why there are still schools built on sites in areas with noise problems?

Answer:

Mr President,

- (a) Sites for schools are identified according to the location guidelines set out in the Hong Kong Planning Standards and Guidelines. These guidelines provide for, among other things, school buildings to be located away from areas affected by significant noise sources, and if this is unavoidable, then appropriate noise abatement measures should be considered.

- (b) Factors to determine which sites are suitable for the building of schools include the demand for school places in the catchment area, its size, accessibility, compatibility with neighbouring institutions, cost of site formation, availability of public transport, noise problems, air pollution and the presence if any of hazardous installations. The weight to be given to the noise factor depends on its severity relative to other factors.
- (c) An environmental review is conducted before any new school project is finalised. If the Education Department, on balancing all the factors mentioned in (a) & (b) above, decides to accept a site affected by noise problems, effort will be made to mitigate the noise impact by design, layout, double-glazing and other related measures.

End/Wednesday, July 12, 1995

Vehicles taken to scrapping yards

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Following is a question by Dr the Hon Samuel Wong Ping-wai and a written reply by the Secretary for Transport, Mr Haider Barma, in the Legislative Council today (Wednesday):

Question:

Will the Government inform this Council of:

- (a) the respective numbers of private cars, taxis, vans and minibuses which were taken to vehicle scrapping yards in each of the past three years; and
- (b) the respective percentages, by weight, of the vehicles which were recycled in the stripping process and those which were subsequently discarded in the Government's landfills?

Reply:

Mr President,

- (a) The Transport Department has a contract with a scrap dealer for him to purchase vehicles from the two Government Vehicle Surrender Centres and the Police pounds, as well as those abandoned on Crown land. The contractor collected 2517 such vehicles in the year ending 30 June 1993, 2099 in 1994 and 1983 in 1995. Details are annexed. We have no information on the numbers of vehicles that are taken direct to private scrap dealers. However, 33,700 vehicles were deregistered in the year ending 30 June 1993, 32,400 in 1994 and 38,200 in 1995. A large proportion of these vehicles will have been scrapped.
- (b) No information is available on the percentage by weight of old motor vehicles recycled or disposed of in Government land fills. However, there is a commercial incentive for scrap dealers to maximise recycling and to minimise the amount of material that has to be taken to the land fills.

No. of Vehicles Collected by Government Contractor

<u>Category</u>	<u>Year ending</u> <u>30.6.93</u>	<u>Year ending</u> <u>30.6.94</u>	<u>Year ending</u> <u>30.6.95</u>
Private Car	1530	1262	1189
Goods Vehicle	400	296	254
Public Light Bus	10	6	5
Bus	3	2	6
Motorcycle	545	511	498
Vehicle Body (without engine)	26	9	9
Trailer	2	11	22
Special Purpose Vehicle	1	2	0
<u>Total</u>	<u>2517</u>	<u>2099</u>	<u>1983</u>

End/Wednesday, July 12, 1995

Waiting list for public housing

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Following is a question by the Hon Fung Kin-kee and a written reply by the Secretary for Housing, Mr Dominic S W Wong, in the Legislative Council today (Wednesday):

Question:

Regarding the households on the waiting list for public housing, will the Government inform this Council :

- (a) of the number of households on the waiting list for public housing for two years or more;
- (b) of the breakdown of such households by number of family members ranging from singleton household to those with more than ten family members; and
- (c) whether it will consider providing such households with rent allowance in view of the fact that these households are not given any other housing assistance whilst awaiting allocation of public housing units; if so, whether any timetable has been set for the implementation of such an arrangement; if not, why not?

Answer:

Mr President,

At the end of May 1995, there were 148,837 households on the General Waiting List for public rental housing. Of these, 108,528 were registered for two years or more. The breakdown by household size is given below :

<u>Household size</u> (Number of persons)	<u>Number of households</u>
1	14,208
2	23,820
3	27,985
4	27,543
5	10,825
6	3,079
7	755
8	225
9	59
10 or more	29
	<hr/>
Total	108,528

About 25% of these households are already living in subsidised public housing, while another 7% are accommodated in temporary housing areas.

The Government does not consider it appropriate to provide rent allowances to households on the General Waiting List. To do so would not only conflict with Government social policy in other areas such as social welfare, but would also be inconsistent with the main objectives of our housing policy, where our priorities are geared towards increasing flat supply and encouraging home ownership, with assistance being provided through various subsidised schemes. This policy has the effect of making more public rental housing flats available for allocation to eligible families on the General Waiting List, and therefore represents a more efficient use of resources than providing rent allowances. Moreover, such allowances would have very substantial recurrent financial implications of possibly about \$4 billion a year and other practical difficulties in implementation.

If a person on the General Waiting List is financially vulnerable, he should apply for financial assistance under the Comprehensive Social Security Assistance Scheme. If eligible, he will be paid both a standard rate to cover ordinary household expenditure and a special grant to cover rent. In granting public financial support to those in need, it would be inequitable to distinguish between those who may or may not be on the General Waiting List.

End/Wednesday, July 12, 1995

Police procedure on open fire

Following is a question by Dr the Hon Conrad Lam and a written reply by the acting Secretary for Security, Mr Kenneth Woodhouse, in the Legislative Council today (Wednesday):

Question:

Regarding the jury's return of a verdict of death by misadventure of a Korean hostage killed by a police officer in the shootout between the police and a gunman at Shum Wan, will the Government inform this Council:

- (a) whether the police officers concerned had followed the normal procedure in the handling of the above-mentioned incident; if so, why the hostage was shot dead by the police; if not, what was the cause of the error;
- (b) why the police was unable to identify the person who handcuffed the two persons killed in the incident; and whether the police will pursue the matter further; if not, why not; and
- (c) what measures the police will adopt to prevent the recurrence of similar mishaps?

Reply:

Mr President,

As regards part (a) of the question, internal investigations are underway in relation to the actions of the police officers involved in this case. The evidence presented at the recent Death Inquest will be taken into consideration by the investigating officers. It is too early to say whether any police officers are at fault or have breached police procedures.

As regards part (b) of the question, the purpose of the Death Inquest was to inquire into the cause and circumstances surrounding the death of the gunman and the Korean hostage; but not to investigate each and every detail of the incident. The question as to who handcuffed the two persons killed will be considered in any legal or disciplinary proceedings which might take place.

As regards part (c) of the question, the Police have pledged to conduct a full review of police policy and procedures and to address the recommendations made in connection with the Death Inquest. These recommendations include:

- (i) better and broader firearms training;
- (ii) tactical training for officers to deal with armed offender incidents;
- (iii) better training in radio communication; and
- (iv) possible use of certain chemical spray to temporarily disable or incapacitate a violent offender.

The Police hope to complete this review as soon as possible.

End/Wednesday, July 12, 1995

Purchase of electricity from Daya Bay

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Following is the question by the Hon Christine Loh Kung-wai and a written reply by the acting Secretary for Economic Services, Mrs Elizabeth Bosher, in the Legislative Council today (Wednesday):

Question:

According to the Secretary for Economic Service's reply to a question asked on 24 May 1995, about 64% of the electricity purchased by China Light and Power customers from the Guangdong Nuclear Power Station (GNPS) at Daya Bay is subject to a price cap. In this connection, will the Administration inform this Council:

- (a) how the price of the remaining 36% of electricity purchased from GNPS is fixed;

- (b) whether in the event of an unexpected shortfall of electricity produced at Daya Bay, the Guangdong Nuclear Power Joint Venture Company (GNPJVC) is allowed to set the price of these unprotected units of electricity at a rate which will allow the GNPJVC to recoup a minimum annual rate of return regardless of the price of these units as compared to the cost of electricity generated by coal-fire; and
- (c) how the public can be assured that all electricity purchased from GNPS is at a price below or comparable to the cost of producing electricity from spare capacity in Hong Kong?

Reply:

Mr President,

Under the terms of the joint venture contract, the Hong Kong Nuclear Investment Company Limited (HKNIC) is committed to purchasing 70% of the total output of the Guangdong Nuclear Power Station (GNPS) at Daya Bay. The nuclear electricity purchased by HKNIC is resold, without any mark-up, to its holding company, the China Light and Power Company Ltd. (CLP) for distribution to CLP customers. 30% of the total output is ear-marked for China.

64% of the electricity purchased by HKNIC (the "resale" quantity) is subject to a unit price not exceeding the notional cost of a unit of electricity generated by a coal fired station construction in Hong Kong and commissioned in 1991 (the coal-fired electricity price formula). There is no price cap for the remaining 36% (the "offtake" quantity) and this is charged at the actual unit price.

With this background, the answers to the specific questions are as follows:-

- (a) irrespective of the buyer, the actual unit price of nuclear electricity purchased from the GNPS is determined by dividing the total cost of generation plus permitted profit by the number of units sold.

Generation cost is defined in the joint venture contract. It includes all expenses relating to the production and operation of the nuclear power station.

Profit is also defined in the joint venture contract. It is expressed as a percentage return on average investors' funds and is performance related.

- (b) the Guangdong Nuclear Power Joint Venture Company (GNPJVC), which owns and operates the GNPS, cannot charge more for the "offtake" quantity than the actual unit price determined in accordance with the formula specified in the joint venture contract. In other words, the Company cannot recoup a minimum annual rate of return by increasing the offtake price. It should be noted that, in the event of lower than expected levels of production, both depreciation charges and profit (which are based on plant performance) will decrease, thereby lowering the unit price.

- (c) The coal-fired electricity price cap applies only to the 64% "resale" quantity.

End/Wednesday, July 12, 1995

Helicopter accidents

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Following is a question by the Hon Zachary Wong Wai-yin and a written reply by the acting Secretary for Economic Services, Mrs Elizabeth Bosher, in the Legislative Council today (Wednesday):

Question:

With regard to the two helicopter crashes which occurred within a short span of time recently, will the Government inform this Council:

- (a) of the total number of helicopter crashes which occurred in the territory over the past three years together with details about the dates, times, locations and causes of the crashes, as well as the helicopter models and the names of the manufacturers concerned;

- (b) of the existing legislation to monitor helicopter flights and their safety; and

- (c) what measures the Government has adopted to prevent the occurrence of such accidents, and whether the Government has taken action to step up those measures in order to ensure the safety of the public?

Answer:

Mr President,

- (a) There were three helicopter accidents in the territory during the past three years. Details of the incidents are as follows:

- (1) Date : 21 May 1992
Time : 1420 L
Location : Near Siu Lang Shui, Castle Peak, Hong Kong
Model : SA315B
Manufacturer: Aerospatiale
Causes : The prime cause of the accident was the snagging of the underslung load on a bush. Contributing factors were the operation of the helicopter close to or slightly above the maximum permitted weight limit as well as the transition from the hover to forward flight in a downwind direction.
- (2) Date : 9 June 1995
Time : 1130 L
Location : Approximately 7 km west south west of Sek Kong Airfield (Near Yuen Long)
Model : SA315B
Manufacturer: Aerospatiale
Causes : The Inspector's investigation is currently in progress.
- (3) Date : 29 June 1995
Time : 0910 L
Location : Approximately 8 km west of Sek Kong Airfield (Near Yuen Long)
Model : SA315B
Manufacturer: Aerospatiale
Causes : The Inspector's investigation is currently in progress.

- (b) The Air Navigation (Overseas Territories) Order 1977 provides the regulatory framework and standards governing the safe operation of aerodromes, aircraft, air traffic control, aircrew and other aspects of aerial work and public air transport.

This includes legislative requirements pertaining to helicopter operations. Part II of this Order relates to the issue of Air Operator's Certificates and Part V to the operation of aircraft, including helicopters.

Surveillance of helicopter operations is effected by requiring the operator to establish operating procedures in an operations manual. The Director of Civil Aviation is responsible for monitoring compliance with these procedures.

- (c) The three accidents are subject to investigation under the Hong Kong Civil Aviation (Investigation of Accidents) Regulations 1983. The purpose of these investigations is to establish the cause or causes of the accident, so as to avoid a recurrence of such incidents in the future. As a result of these investigations, safety recommendations are made and implemented.

In view of the two accidents which occurred recently, the Director of Civil Aviation has provisionally suspended the Air Operator's Certificate of the company responsible for the helicopter operations, pending due inquiry, with a view to ensuring that procedures are in place to prevent a recurrence.

End/Wednesday, July 12, 1995