

# OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 6 May 2009

The Council met at Eleven o'clock

## MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

DR THE HONOURABLE MARGARET NG

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

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

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

THE HONOURABLE LEUNG YIU-CHUNG

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

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

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

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

THE HONOURABLE VINCENT FANG KANG, S.B.S., J.P.

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

DR THE HONOURABLE JOSEPH LEE KOK-LONG, J.P.

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

THE HONOURABLE ANDREW LEUNG KWAN-YUEN, S.B.S., J.P.

THE HONOURABLE ALAN LEONG KAH-KIT, S.C.

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE CHEUNG HOK-MING, S.B.S., J.P.

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

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

THE HONOURABLE CHIM PUI-CHUNG

PROF THE HONOURABLE PATRICK LAU SAU-SHING, S.B.S., J.P.

THE HONOURABLE KAM NAI-WAI, M.H.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE STARRY LEE WAI-KING

DR THE HONOURABLE LAM TAI-FAI, B.B.S., J.P.

THE HONOURABLE CHAN HAK-KAN

THE HONOURABLE PAUL CHAN MO-PO, M.H., J.P.

THE HONOURABLE CHAN KIN-POR, J.P.

THE HONOURABLE TANYA CHAN

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG SING-CHI

THE HONOURABLE WONG KWOK-KIN, B.B.S.

THE HONOURABLE WONG YUK-MAN

THE HONOURABLE IP WAI-MING, M.H.

THE HONOURABLE IP KWOK-HIM, G.B.S., J.P.

THE HONOURABLE MRS REGINA IP LAU SUK-YEE, G.B.S., J.P.

DR THE HONOURABLE PAN PEY-CHYOU

THE HONOURABLE PAUL TSE WAI-CHUN

DR THE HONOURABLE SAMSON TAM WAI-HO, J.P.

**MEMBERS ABSENT:**

THE HONOURABLE WONG YUNG-KAN, S.B.S., J.P.

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

**PUBLIC OFFICERS ATTENDING:**

THE HONOURABLE MRS CARRIE LAM CHENG YUET-NGOR, J.P.  
THE FINANCIAL SECRETARY

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

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

THE HONOURABLE MATTHEW CHEUNG KIN-CHUNG, G.B.S., J.P.  
SECRETARY FOR LABOUR AND WELFARE

MS JULIA LEUNG FUNG-YEE, J.P.  
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

THE HONOURABLE EDWARD YAU TANG-WAH, J.P.  
SECRETARY FOR THE ENVIRONMENT

THE HONOURABLE MRS RITA LAU NG WAI-LAN, J.P.  
SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT

**CLERKS IN ATTENDANCE:**

MS PAULINE NG MAN-WAH, SECRETARY GENERAL

MRS VIVIAN KAM NG LAI-MAN, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY  
GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

**PRESIDENT** (in Cantonese): Will the Clerk please ring the bell to summon Members to the Chamber?

(After the summoning bell had been rung, a number of Members entered the Chamber)

### **TABLING OF PAPERS**

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Consular Relations (Additional Privileges and Immunities) (India) Order .....	73/2009
Administration of Estates by Consular Officers Ordinance (Variation of Schedule: India) Order .....	74/2009
Consular Conventions (Application of Section 3) (India) Order .....	75/2009
Consular Relations (Additional Privileges and Immunities) (Italy) Order .....	76/2009
Administration of Estates by Consular Officers Ordinance (Variation of Schedule: New Zealand) Order .....	77/2009
Consular Conventions (Application of Section 3) (New Zealand) Order .....	78/2009
Consular Relations (Additional Privileges and Immunities) (Russia) Order .....	79/2009
Administration of Estates by Consular Officers Ordinance (Variation of Schedule: Russia) Order .....	80/2009

Consular Conventions (Application of Section 3) (Russia) Order .....	81/2009
Inland Revenue (Double Taxation Relief and Prevention of Fiscal Evasion with respect to Taxes on Income) (Socialist Republic of Vietnam) Order .....	82/2009
Electronic Transactions Ordinance (Amendment of Schedule 3) Order 2009 .....	83/2009
Electronic Transactions (Exclusion) (Amendment) Order 2009 .....	84/2009
Port Control (Public Cargo Working Area) Order 2009.....	85/2009
Product Eco-responsibility Ordinance (Commencement) Notice.....	86/2009
Product Eco-responsibility (Plastic Shopping Bags) Regulation (Commencement) Notice .....	87/2009

## ORAL ANSWERS TO QUESTIONS

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

### **Financial Assistance for Unemployed Middle-class People**

1. **MR LEE CHEUK-YAN** (in Cantonese): *President, under the impact of the financial tsunami, the unemployment situation of various sectors in Hong Kong is deteriorating rapidly. Most middle-class people find it difficult to maintain their living once they lose their jobs. However, they are not eligible to apply for Comprehensive Social Security Assistance (CSSA) because the values of their assets exceed the prescribed limit. In this connection, will the Government inform this Council whether it will introduce interim measures, including temporarily relaxing the prescribed asset limit of the CSSA Scheme and setting up temporary loan schemes for the unemployed, so as to provide short-term financial*

*assistance for the unemployed middle-class people; if it will; of the details; if not, the reasons for that?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, the Government has been highly concerned about the difficult economic environment and employment situation triggered by the financial tsunami, and has been responding to the challenges proactively through a multi-pronged strategy.

In response to the economic recession and rising unemployment, the Government will give priority to various measures that could preserve jobs and support employment. Among the 62 000 job and internship opportunities introduced in the Budget, some of them require personnel with higher academic attainment and professional knowledge. Those positions will be suitable for the unemployed middle-class affected by the financial tsunami.

The key to preserving jobs is to restore economic stability so as to enable the development of businesses. Hence, the Government has also introduced measures with such effects. For example, in December last year, we set up the Special Loan Guarantee Scheme with a guarantee commitment of \$100 billion. The Government will provide a guarantee of up to 70% for loans approved by participating lending institutions. The Scheme has so far benefited 5 700 businesses which altogether employ more than 106 000 people. The measure therefore has a positive effect on preserving jobs.

As regards employment support, the Labour Department (LD) provides comprehensive employment services to all job seekers, including the middle class. In the face of rising unemployment caused by the financial tsunami, the LD will adopt a more proactive approach in providing employment assistance to employees who have lost their jobs in redundancy or closure exercises. Furthermore, \$400 million has been earmarked for the LD to enhance and integrate its various employment and training programmes.

On welfare services, we also aim to provide a series of comprehensive services ranging from family welfare to services for young people and the elderly so as to cater for the needs of different segments of the community. People in need, be they middle-class or grassroots, could benefit from such services. We realize that some people in the community, including the middle class, may



encounter emotional or family problems as a result of the recent financial turmoil. As such, we have taken prompt action to strengthen our support for them. For example, the Social Welfare Department has in 2008-2009 provided additional funding of \$2.17 million to the Multi-purpose Crisis Intervention and Support Centre of the Tung Wah Group of Hospitals and the Family Crisis Support Centre of Caritas-Hong Kong to set up two 24-hour Financial Crisis Emotional Support Hotlines. These hotlines provide 24-hour emotional support services. More than 7 000 calls have been received since the launching of the hotlines. About 22% of these calls, including those from the middle-class, require follow-up services.

Besides, to address the needs of people and their families affected by the financial tsunami, the Community Investment and Inclusion Fund Committee has adopted the theme of "power of resilience in times of adversity" for the next round of applications, with a view to encouraging interested organizations to put forward innovative proposals which can help middle-class people and their families cope with adversity and enhance their support network.

Mr LEE Cheuk-yan has asked whether the asset test for the CSSA could be temporarily relaxed so as to assist the unemployed middle-class. I would like to point out that the CSSA serves as a safety net of last resort which aims to provide financial assistance to those in need, including the unemployed, to meet their basic needs. To ensure that the CSSA is only provided to those in need, the applicants must pass the asset test. Since the CSSA is a non-contributory social security scheme involving a very substantial amount of public funds, we must ensure that this safety net is sustainable. That said, there is flexibility in the operation of the CSSA Scheme. According to the prevailing requirements, the value of an owner-occupied residential property is disregarded in the asset test in cases where any member of an applicant's household is old, disabled or medically certified to be in ill-health. As for other applicants, although the value of their owner-occupied residential property is not disregarded, there is a grace period of not more than 12 months before their property is taken into account in the asset test.

As for the proposal of setting up temporary loan schemes for the unemployed, the Government does not have any plan for this at present. In fact, the external economic environment keeps changing and requires close monitoring.

After assessing more accurately the latest overall economic situation in the middle of this year, the Government may introduce targeted measures commensurate with the prevailing needs.

**MR LEE CHEUK-YAN** (in Cantonese): *I wonder if the Secretary has ever tried bungee jumping. Bungee jumpers are in fact terribly scared at the moment when they jump, thinking that they will fall to death when they are actually saved by the bungee cord and rebound. Why do I ask him such a question? Because I do not want to ask whether he has ever tried jumping off a building, as this is something we should never encourage. However, that is exactly what the unemployed people are feeling right now, and the scariest part is the fear of being thrown into a bottomless abyss, and the fright of a free fall has driven them crazy. Therefore, the aim of providing assistance for the unemployed is relieving people from the frustrating process of applying for the CSSA. President, under the existing CSSA Scheme, one will be eligible for CSSA only when he falls almost to the point of death.*

*President, a CSSA applicant will be offered assistance if the value of his assets does not exceed \$40,000 or \$50,000, but for an applicant with assets at that level, he will definitely experience the fright of a fall, and will be scared to death and driven crazy. I would like to tell the Secretary that my wish is for the Government to consider providing another safety net in the interim, so that earlier relief will be offered to those in need without waiting until the moment when they are about to fall to death. The asset limits currently in force are very stringent, with a prescribed limit of about \$50,000 for a four-person household, while the Hong Kong Confederation of Trade Unions has always requested that the limit be set at \$150,000, so as to provide a genuine safety net for those in need. Will the Secretary accede to our request? President, as a matter of fact, only some 30 000 persons among the current 170 000 to 180 000 unemployed persons are CSSA recipients, and it has long been the case that only a mere 25% at most of the unemployed persons are eligible for CSSA payment, while the remaining 75% are left to struggle along.*

*Does the Secretary agree that the existing measures are too outdated? It comes to my attention today that "bureaucracy kills" has become a very popular expression lately. I do not want to say so, but for sure, bureacracy is*

*cold-blooded in essence. Will the Secretary implement some immediate measures to help the unemployed? In particular, providing them with a second safety net?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, I have already stated clearly in the main reply that employment service is the first and foremost support we offer to the unemployed. Indeed we all know that support services offered by the LD have been strengthened this year. Since many middle-class people are seeking jobs or retraining opportunities, the number of training places has been increased and this is what we all know. Some 143 000 training places are provided by the Employees Retraining Board this year, and with the enhanced employment programmes, it is hoped that more job vacancies will be offered by more employers. This is an important message that we must take note of.

Secondly, as I have already stated in the main reply, if unemployed persons are unfortunately confronted with financial difficulties, they may not be eligible for the CSSA since middle-class people are often excluded from the CSSA Scheme if they are owner-occupiers of any residential flats. In this connection, I have stated clearly today that there will be a grace period of not more than 12 months as long as the flat is an owner-occupied residential property. For those cases where any member of an applicant's household is an elderly person aged above 60, disabled or medically certified to be in ill-health, the value of an owner-occupied residential property will even be fully discounted in the asset test. In other words, there is already a certain degree of flexibility in the operation of the existing CSSA Scheme. I hope Mr LEE would understand that the CSSA Scheme is a non-contributory social security scheme. In order to make the CSSA Scheme sustainable, prudence must be exercised in the use of public money, thus necessitating the asset test.

As for the middle-class people not applying for CSSA, we have also provided other channels of support for them. For example, as far as emotional support is concerned, counseling hotlines are put in place to advise them and help them solve their problems. Furthermore, the current Food Assistance Service Projects are also available to cater for their short-term needs. Food banks will offer food assistance to them if necessary, and some middle-class people do approach such institutions for assistance occasionally.

**MR LEE CHEUK-YAN** (in Cantonese): *President, the Secretary has not answered .....*

**PRESIDENT** (in Cantonese): Which part in your supplementary has not been answered?

**MR LEE CHEUK-YAN** (in Cantonese): *I asked him if a second safety net is in place, but he has just repeated what he has said in the main reply. Will the Government consider providing a second safety net? This is the focus of my supplementary question.*

**PRESIDENT** (in Cantonese): I believe the Secretary has already answered your question. Secretary, do you have anything to add?

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, I have nothing more to add, and have clearly stated our position.

**MR ABRAHAM SHEK** (in Cantonese): *On hearing the Secretary's reply to the supplementary raised by Mr LEE Cheuk-yan, it appears to me that the unemployed will be saved, but this is actually not the case. Situation in the construction sector is particularly acute, with the unemployment rate rising every day to the current level of 8.6%. The Secretary pointed out in the third paragraph of the main reply that the Special Loan Guarantee Scheme has benefited 5 700 businesses which altogether employ nearly 100 000 people. May I ask the Secretary how he comes up with the figure of 100 000 people? Is it an actual figure or a fictitious one?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, the figure is derived from the information gathered by the relevant Bureau responsible for running the scheme. The figure of 100 000 people is calculated from the number of employees as reported by the participating businesses. It is derived from the information we gathered in the process.

**MR PAUL CHAN** (in Cantonese): *President, in his reply to the main question from Mr LEE Cheuk-yan, the Secretary pointed out that the Government has no plan to set up any temporary loan schemes for the unemployed at present. Although the Secretary does not have any plan for this, may I ask if any study has been conducted in this respect? The suggestion has been a subject of debate in this Council and Members are strongly in favour of introducing temporary loan schemes as a relief measure to assist the unemployed. If the Government has not conducted any study in this regard, what are the reasons for that? If it has done so, what are the difficulties encountered? Why does not the Government has any plan for this?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): *President, I have clearly stated in the main reply that we are aware of the suggestion put forward by the public and Members of this Council, but the Government does not have any plan for this at present. I have mentioned in the main reply that we will closely monitor the situation. The Financial Secretary has also stated in the Budget that we will keep the changes in economic environment in view, and determine the targeted measures to be introduced after assessing more accurately the latest situation in the middle of this year. However, I have to say frankly and honestly at the present stage that we have no plan to do so for the time being.*

**MR PAUL CHAN** (in Cantonese): *I am asking if any study has been conducted in this respect.*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): *We have not conducted any in-depth study so far in this regard.*

**MR WONG YUK-MAN** (in Cantonese): *President, the Government's attitude is blatantly simple: to do nothing to those in mortal danger. The measures mentioned in the main reply are only ones currently in place. Some of them are irrelevant to the subject under discussion and it is hardly convincing to put them together to form a main reply. For example, about the guarantee commitment of \$100 billion used to preserve jobs, what is the amount of loans approved so far? The Secretary said that 5 700 businesses have been benefited, but what kinds of*

*business are they engaged in? He said that as the 5 700 businesses have altogether employed 106 000 people, jobs have been preserved. Nevertheless, this is not what we are talking about. We are asking the Government how it can assist the unemployed. The Secretary has failed to answer this question, hasn't he? We are not talking about unemployment assistance either, but are asking the Government if it has any plan to provide short-term loans to the unemployed. The Secretary is only repeating the current initiatives but buddy, such initiatives together with the measures in place, including the provision of social welfare or the setting up of telephone hotlines, are totally irrelevant to the issue. Since those who are about to make a suicidal jump off a building, facing a break-up of family or confronted with the problem of domestic violence would turn to the Family Crisis Support Centre for help, additional funding is provided by the Secretary to the organization, so that those who are about to make a suicidal jump or those who have beaten his wife up .....*

**PRESIDENT** (in Cantonese): Mr WONG Yuk-man, please ask your supplementary question.

**MR WONG YUK-MAN** (in Cantonese): ..... can seek assistance from the hotline. Are we going to interpret the matter in that way?

**PRESIDENT** (in Cantonese): Please ask your supplementary question.

**MR WONG YUK-MAN** (in Cantonese): *The Secretary has simply failed to answer the question. My supplementary question is: the Secretary has to give us a specific answer and explain why the Government has not set up such schemes? Why the suggestion has not been taken into consideration? Is it true that the Government would not take the matter serious until someone is at death's door, and will try to do something only when all of us have become really "poor guys"?*

**PRESIDENT** (in Cantonese): Mr WONG Yuk-man, please resume your seat if you have finished. Secretary, please answer.

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, I would like to thank Mr WONG for his question. We fully understand his concerns and we also care a lot about the unemployed middle-class people, that is why we have adopted a multi-pronged strategy to .....

**MR WONG YUK-MAN** (in Cantonese): *What is the point of giving us all those figures? The existing measures adopted by the Government have nothing to do with the main question. How can the Government make such false, hyperbolic and empty talk? You are basically answering in a perfunctory manner.*

**PRESIDENT** (in Cantonese): Mr WONG Yuk-man, please observe the Rules of Procedure. You have to raise your hand first to indicate your intention to speak before standing up to make your speech. Secretary, please answer.

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): I have stated very clearly in the main reply and have to reiterate once again that although we do not have any plan at present for the setting up of loan schemes as suggested for the unemployed, we will keep the changes of economic environment in view. As clearly stated by the Financial Secretary, after assessing more accurately the latest economic situation in the middle of this year, we will introduce targeted measures commensurate with the prevailing needs. This is my very clear response.

**MS LI FUNG-YING** (in Cantonese): *President, the setting up of loan schemes for the unemployed will provide financial relief to low-income people or help them tide over their financial difficulties, and it is regrettable that the Government has no plan to do so for the time being. Nevertheless, I think Government's taxation measures, on the other hand, may provide assistance to low-income people. The Commissioner of Inland Revenue have pointed out a few days before that there is an increasing number of taxpayers applying for holding over of provisional taxes, and the Inland Revenue Department (IRD) will, in the light of the situation, make arrangements this year to accept applications in this regard from taxpayers who estimate that their income this year would be less than 90% of that of last year due to losing and changing of jobs. President, it is*

*disappointing that the Administration has failed to make any arrangements in terms of taxation for those in the working class who manage to preserve their jobs but have suffered a cut in their earnings amid the financial tsunami. I understand that the Secretary has to discuss the issue with the Special Administrative Region (SAR) Government, but may I ask the Secretary if consideration will be given to allowing the holding over of provisional taxes for taxpayers with a monthly salary of less than \$40,000? Not only will the low-income people be benefited from the measure, the administrative costs incurred by the IRD will also be reduced. Will the Secretary discuss the issue with the SAR Government?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, I thank Ms LI for the suggestion, which will certainly be conveyed to the Financial Secretary. Let me reiterate that the last sentence in the main reply is very important as it represents a commitment from the Financial Secretary that specific measures will be introduced after assessing the situation in the middle of this year. The Financial Secretary has already made it very clear that a second round of measures will definitely be introduced if necessary, but we have to assess the situation before introducing any targeted measures.

**MR CHEUNG KWOK-CHE** (in Cantonese): *President, the Secretary has repeatedly said that we will have a clearer picture in the middle of this year. Appropriate measures will be introduced in the middle of this year if the economic situation is still acute by then. May I ask the Secretary if the appropriate measures mentioned include the loan schemes for the unemployed we have mentioned just now?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, we will not rule out any possibility at the present stage. However, I have to give an honest answer to Members' questions on our plan for this at present and tell them frankly that we do not have such a plan for the time being. The Government will surely assess developments in the next few months from a comprehensive and macro point of view, and decide what targeted measures should be introduced. If circumstances warranted, measures will be implemented accordingly.



**PRESIDENT** (in Cantonese): Mr CHEUNG, which part in your supplementary has not been answered?

**MR CHEUNG KWOK-CHE** (in Cantonese): *President, the Secretary said that they do not have such a plan for the time being and will consider doing so if the economic situation is still acute in the middle of this year. In this way, actions will be delayed for half a year .....*

**PRESIDENT** (in Cantonese): This is your opinion.

**MR CHEUNG KWOK-CHE** (in Cantonese): *Therefore, I would like to ask: if the Secretary does not consider today the provision of loan schemes for the unemployed, how can prompt actions be taken tomorrow?*

**PRESIDENT** (in Cantonese): This is at variance with the supplementary question you asked just now. You are asking the Secretary if the measures to be introduced in the middle of this year include assistance measures for the unemployed, and I think he has already answered your question.

**MR ALBERT HO** (in Cantonese): *Judging from the Secretary's response today to the serious unemployment problem brought about by the financial tsunami, we will be able to understand his attitude towards the issue. It is an imminent problem, like a fire singeing our eyebrows, and a lot of people are in deep distress but still, he responds to the issue in such a manner. Hence, we should be able to understand why, in an accident occurring in a sheltered workshop in Hung Hom yesterday, it have taken so long for the departments concerned to plan for the repair and maintenance of a faulty gate, even though the gate has been reported defective for several months and there is the risk of its collapsing, and appropriate measures have never been taken until someone is crushed to death by the falling gate. This is indeed a bitter lesson for us to learn.*

*The Secretary stated in the main reply that a further assessment of the relevant data will be required to see if there are any changes in the economic*

*environment. I wonder what kind of changes he is anticipating as the situation is really worsening now. Figures reveal that the number of unemployed persons is on the rise and I wonder if the Secretary considers that such figures will drop in the middle of this year. Is it true that the impact brought about by the financial tsunami is diminishing? I do not think so. Therefore, my supplementary question is very simple, President. Will the Secretary tell me what kind of data will be needed to justify the introduction of unemployment relief or unemployment assistance schemes, loan schemes in particular? What kind of data he is looking for? This is the first point. The question that follows is: when will the schemes be implemented if the relevant data is available? I wonder if we have to study such schemes for two to three years before introducing them, and then another two years for their actual implementation, which makes it a total of five more years for us to have some assistance schemes for the unemployed.*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, we may recall that the Financial Secretary has stated clearly in his speech during the third reading of the Appropriation Bill 2009 that due considerations will be given to a host of economic indicators before arriving at any decision in the middle of this year (that is the month of June). The host of indicators includes not only local economic environment, but certainly also unemployment situation, as well as the overall external trade developments, business environment and so on. All these are comprehensive and macro indicators to be considered before he can decide what targeted measures should be introduced.

Mr HO, I would like to emphasize that we have been implementing a number of measures since the end of last year, and will gradually put in place some of the measures announced in the Budget. The "Operation Building Bright" campaign is a simple example to illustrate my point, as we all know that the funding for the campaign was already granted last week. Furthermore, 19 projects will gradually be commissioned and these projects will definitely produce some necessary effects, though immediate results may not be seen. As we all know, there is a process to go through before the implementation of any measures and we are now working at a faster pace. As every single job is important to us, efforts will continue to be devoted in this regard.

**MR ALBERT HO** (in Cantonese): *If a decision is made after the study, how long we need to wait for its implementation? Do we have to wait for another three to five years?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, if we decide to introduce any measures in June (that is in the middle of this year), we would like to have them implemented as soon as possible without waiting for a excessively long time, because a long lead time will not be conducive to providing relief to the unemployment problem.

**PRESIDENT** (in Cantonese): It is very obvious that Members are deeply concerned about the issue. There are still six Members waiting to ask their supplementary questions, but as we have spent more than 21 minutes on this question, Members have to follow up the issue in other forums. Second question.

### **Home Safety**

2. **MR TOMMY CHEUNG** (in Cantonese): *President, in mid April, a toddler mistakenly drank kerosene stored in a beverage bottle at home and had to be admitted to the intensive care unit of a hospital for treatment. Furthermore, in recent years, accidents involving children left unattended at home were reported from time to time, reflecting that some families do not have a high level of home safety awareness. In this connection, will the Government inform this Council:*

- (a) *of the number of reports received in each of the past three years of home safety incidents involving children, and the resultant casualties;*
- (b) *which government department is responsible for the publicity work to promote public awareness of home safety, of the publicity methods and channels used, and whether they include the use of television announcements in the public interest; and*

- (c) *of the amount of resources deployed by the Government to carry out the aforesaid publicity work in each of the past three years; and whether it has any plan to provide additional resources?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, the Government has always attached great importance to promoting the awareness of home safety and publicity work in this regard. A number of policy bureaux and departments also strive to raise the public's awareness of home safety as it relates to their respective areas of responsibilities. I will now respond to the question raised by Mr Tommy CHEUNG on the Administration's behalf.

- (a) The Administration does not have the information requested in part (a) of the question. Although the Immigration Department and the Hospital Authority (HA) also have statistics on deaths or injuries of persons aged 14 or below, there is no breakdown on whether the deaths or injuries were caused by accidents at home. The police do not have the requested statistics either.
- (b) As I have just mentioned, various policy bureaux and departments are committed to promoting the awareness of home safety in relation to their respective areas of responsibilities. For instance, the Electrical and Mechanical Services Department (EMSD) is responsible for promoting household electrical and gas safety, the Fire Services Department (FSD) is responsible for promoting fire safety, the Department of Health (DH) is responsible for promoting injury prevention at home, and so on. They use different methods and channels to promote home safety and educate the public, such as printing posters, pamphlets, promotional leaflets, safety handbooks and guidelines; producing compact discs and educational materials; organizing exhibitions and activities; uploading household safety information and online interactive games onto their departmental websites, producing television announcements in the public interest, and so on. Let me quote some examples:
- (i) each year, the EMSD collaborates with the relevant sectors to organize the large-scale "E&M Safety Campaign". This campaign is one of the largest public education programmes on electrical and mechanical as well as gas safety in Hong

Kong, and includes activities such as carnival, school drama, drawing competition, on-line quiz, and so on.

- (ii) the Education Bureau also encourages co-operation between schools and parents in promoting the awareness of home safety. It has always supported the Committee on Home-School Co-operation's participation in the home safety activities organized by community groups, and encourages the Federation of Parent-Teacher Associations and Parent Teacher Associations in various districts to organize seminars on home issues, such as the seminar on "Perception on Different Hazards in Food" co-organized with the Centre for Food Safety, so as to inform parents and children of the importance of home safety.

Besides, home safety education is embedded in the different Key Learning Areas and subjects in the existing school curriculum, for example, General Studies for Primary Schools, as well as Home Economics, Science, Chemistry and Physics in secondary schools, and so on. This is to help students develop an awareness of home safety and thereby prevent home accidents, and to teach them to take appropriate action when accidents occur. The Education Bureau will, from time to time, revise the school curriculum, organize professional development programmes for teachers and develop learning and teaching resources having regard to the prevailing circumstances and needs of our society.

- (iii) The DH's Family Health Service distributes promotional leaflets to parents through the Maternal and Child Health Centres, teaching them how to prevent home accidents common to children aged five or below. On the other hand, to secure the home safety of children, members of the public can also obtain education materials on general home safety issues, such as how to eliminate home hazards one by one, how to store medicine properly and treat choking caused by fish bones, and so on, through the Health Education Centre of the DH's Central Health Education Unit, its 24-hour Health Education Hotline, as well as the DH's websites.

- (iv) The FSD organizes household fire prevention publicity activities regularly, including large-scale ones such as the "Fire Safety, We Care" campaign held last October. The campaign attracted more than 700 participants and was broadcast on TV to an audience of over one million people simultaneously.
  - (v) The police also conduct from time to time regional promotional activities in relation to home safety. For instance, it organized a carnival with the theme of "Healthy Development for Our Children" in March this year in collaboration with the Caritas Medical Centre and the Hong Kong Family Welfare Society for the public housing estates in Sham Shui Po District. The aim is to raise parents' awareness of home safety in this respect.
- (c) Promoting home safety is an ongoing effort of the policy bureaux and departments concerned. We do not have breakdowns on the resources spent on the promotional work mentioned above. Relevant departments will, as necessary, continue to pursue publicity and public education in their individual areas of responsibilities for the sake of promoting home safety.

**MR TOMMY CHEUNG** (in Cantonese): *President, I am not aware that this Secretary has been designated to answer the question. However, from the reply and the fact that this Secretary answers the question, we can see why there is such a big problem. Secretary, you will ask what my question is. In addition to expressing my strong dissatisfaction with the Government, I want to tell the Secretary that the negligence on the part of you and the Government as a whole was actually more severe than that on the part of parents.*

*The supplementary question I want to ask now is: how many more children will have to die or get seriously injured before the Government would face these problems squarely, and start collecting data and co-ordinating various departments to do more in promoting home safety education among parents, especially those of newborn babies, so that they are aware of how to protect their children at home and prevent them from getting injured?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, I would like to thank Mr CHEUNG for his question. We are very concerned about this issue, so different departments and policy bureaux have also been addressing these problems in relation to their respective policy areas. Just now, Mr CHEUNG asked how we reached out to parents of newborn babies. My main reply has given an account of it. At the DH's Maternal and Child Health Centres, staff will get in touch with parents as soon as they bring their children aged five or below to the centres for examination and body weight measurement. They will remind them to pay attention to home safety in particular, in addition to health. Fire prevention is an important topic. Moreover, ways of handling electric appliances, plugs, and so on also fall within the scope of home safety. Therefore, different departments are continuously disseminating information on these home safety hazards.

**MR TOMMY CHEUNG** (in Cantonese): *The Secretary has not answered my question. Actually, my main question asked about issues regarding kerosene and bottled kerosene in the first place, but the Secretary's reply does not provide any relevant answer. President, when I asked my question just now, you had come back to preside at the meeting. He has responded at some length, but has not mentioned what work each department has done, nor has he provided even a figure. The supplementary question I asked just now is: how many more children will have to die and get seriously injured before the Administration would strive to improve the public's safety knowledge of this area in a prudent, dedicated and focused manner?*

**PRESIDENT** (in Cantonese): Mr CHEUNG, your supplementary question has expressed your dissatisfaction with the measures adopted by the Government. I believe you are not asking the Secretary to tell you the relevant figures, are you?

**MR TOMMY CHEUNG** (in Cantonese): *This is the follow-up question I want to ask. If he says that he will only do something when there are more deaths of children, it will be another story.*

**PRESIDENT** (in Cantonese): I will see if the Secretary has anything to add.

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, I would like to emphasize that the Government indeed cares much about home accidents, particularly those involving young children. As Mr CHEUNG has mentioned the issue of kerosene just now, I would like to reiterate that, firstly, the Government has a responsibility to publicize messages on home safety, educate the public and raise their awareness in this respect, so that they will know how to handle such problems and will not feel scared or panic should they encounter them. Nevertheless, the most important aspect of home safety is that parents need to take the lead. It has to be everyone's shared responsibility, and work cannot be done by the Government alone. As it is impossible for the Government to guarantee a safe home environment for everyone, parents will have to take the lead to work on it.

On the point of parents taking the lead, when the kerosene incident mentioned earlier by a Honourable Member took place, an adult was in fact at home. The accident occurred only because the kerosene was placed under a bed. As far as I know, an elderly person was at home when the accident took place. It just happened that the two children were playing under the bed. Regarding such situations, I have to tell everyone that dangerous objects should be kept out of children's reach by, for example, placing them at high places.

Besides, medicine should also be locked away. The child who had drunk potassium cyanide took the bottle containing potassium cyanide from his mother's handbag and drank it. His mother was at home when this happened. It is evident that these problems are not all related to children being left unattended at home. The Government will definitely disseminate the correct home safety messages, so that the public will know how they can ensure that children will not touch or have access to dangerous objects. It is very important to bear in mind that children, in particular those who are young, playful and curious, will swallow anything and try whatever they have got. Hence, the service targets of our child health centres are mothers of young children aged 0 to five.

In addition, as far as education is concerned, it can be seen that we have even incorporated the relevant knowledge into the school curriculum by adopting a soft-sell approach, hoping that when primary and secondary students, big brothers and sisters are back home, they will also be aware that their younger brothers and sisters should not have access to those dangerous objects, and they may also share such knowledge with their parents.



**DR LEUNG KA-LAU** (in Cantonese): *President, actually, I do not intend to raise any supplementary question. Yet, when looking at the reply given by the Secretary, I am startled. Many of my colleagues practising paediatric medicine have complained that, upon the segregation of the areas of "Health" and "Welfare" formerly under the purview of one policy bureau, the Government has failed completely to implement policies as pledged.*

*I am startled when looking at (a) of the Secretary's main reply. I think he must have been tricked by the HA. How come the HA does not have the relevant data? If my recollection is correct, there are over 10 000 cases of injuries caused by home accidents every year. It is obvious that there is a complete lack of communication between the Labour and Welfare Bureau and the Food and Health Bureau.*

*In the past, in addition to the Paediatric Foundation, many concern groups on children's health also recommended that a task committee on children's welfare should be set up by the Government to co-ordinate matters relating to children's welfare in different departments. I would like to ask if the Government has followed up this matter?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Thank you, Dr LEUNG. Firstly, I would like to clarify one point, that is, I have co-ordinated with the HA and the relevant policy bureaux — and my reply is prepared after consolidating the information from all the relevant policy bureaux and departments. I must clarify that I have not made all these up. The HA has kept statistics on deaths or injuries of persons aged 14 or below, but it has not provided any breakdown to specify what cases are related to home accidents. It has kept statistics and is aware of the number of children admitted into the hospitals. However, it has not stated the causes of the accidents. As it is not set out as explicitly as that, we cannot present the figures in a misleading manner and take them as statistics on home accidents.

Secondly, we actually work as one on children's welfare without segregation. We are working together. Even though it may sound as if many departments are involved, we share the common goal to get the message across to the public and raise their awareness. Therefore, on children's welfare or whatsoever, we are working together with concerted effort.

**DR LEUNG KA-LAU** (in Cantonese): *I would like to provide some information*  
.....

**PRESIDENT** (in Cantonese): Dr LEUNG, you may just point out which part of your supplementary question has not been answered by the Secretary. It is not the time for you to provide information.

**MS CYD HO** (in Cantonese): *President, it is indeed very difficult for us to accept that there is no such statistics as even the Police Force can trace with a super computer the origin of the short message that triggered the Bank of East Asia bank run three days after the incident occurred. In fact, all you need is to install a very simple software function, namely "String searching", which will enable you to get the statistics instantly. The non-availability of such statistics reflects that the Government has not attached any importance to children's welfare. Even though the subject in question concerns children's right to survival, little importance has been attached to it.*

*President, the Government has done a lot of promotion work, but is there any system to measure its effectiveness, including a system to keep records on the causes of children's admission into hospitals, or even on the causes of deaths of children who died of domestic violence? How can the Secretary effectively safeguard children's rights when promotion work is done without any follow-up?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, this topic mainly surrounds home safety. I believe that it is totally different from matters relating to domestic violence. President, perhaps I should focus on giving explanations on home safety issues. Our messages are disseminated through different departments. In my main reply, I have quoted a series of examples, ranging from the FSD, the EMSD to the DH and the HA which are responsible for health matters, as well as the Education Bureau, as we are also devoting efforts on the educational front. Ms HO, if we are to measure the effectiveness concerned, it will be difficult for us to indicate it by simply quoting a figure. As there is not a breakdown on the statistics, it will be difficult to tell the number of children admitted into the hospitals because of home accidents. Nevertheless, as Honourable Members have offered valuable opinions in this

regard, I agree to relay them to the relevant policy bureaux to see if consideration can be given to start collecting the relevant data, and examine whether it is feasible to do so. This is the most important basis.

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

### **Regulation of Octopus Payment System**

3. **MR ANDREW CHENG** (in Cantonese): *President, in recent years, Octopus, a contactless smartcard payment system, is widely used, but incidents of faulty deductions by the system concerned still occur from time to time. In this connection, will the Government inform this Council:*

- (a) *whether it knows the number of Octopus cards and the number of products with Octopus functions in circulation as at the end of March this year; the total amount of deposits involved, and the interest income generated annually by such deposits;*
- (b) *whether it knows the number of reports of faulty deductions last year and, among them, the respective numbers of cases involving the transport and retailing sectors; the causes for the faulty deductions, as well as the number of such cases involving system failures; and*
- (c) *given the growing popularity of Octopus, what measures the Government has to regulate the system to ensure that incidents of faulty deductions due to system failures have been minimized; and apart from the Code of Practice for Multi-Purpose Stored Value Card Operation (the Code) drawn up by the Hong Kong Monetary Authority (HKMA), whether the Government will consider adopting further measures to regulate the system?*

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

- (a) According to the information provided by Octopus Holdings Limited (OCL), as at end March 2009, there were more than 19 million

Octopus Cards and products with Octopus function in circulation. Of these, more than 80% were on-loan Octopus Cards, while the rest were sold products with Octopus function.

The HK\$50 deposit for the on-loan Octopus Card is refundable. When cardholders return their Octopus Cards, OCL will refund the deposit to them after deducting the relevant administrative charge, if any, in accordance with the established procedure.

As at end 2008, the total Octopus Card deposits held by OCL amounted to HK\$682 million. OCL does not have separate information on the amount of interest income derived from the Octopus Card deposits alone.

- (b) During the period from 1 April 2008 to 31 March 2009, the HKMA received only one customer complaint against OCL through referral by the 1823 Call Centre of the Government. The case concerned the amount deducted by a ticketing machine of Mass Transit Railway.

According to the information provided by OCL, during the abovementioned period, OCL received and handled 681 complaint cases relating to wrong charges by Octopus, of which 182 were transport-related and the remaining 499 cases were non-transport related. The wrong charges mainly arose from transactions not properly executed by service providers or cardholders during the transaction process, for example, the contact time of the Octopus Card with the card reader was too short, or the Octopus payment instructions were not followed properly. According to OCL, all of the affected cardholders have been fully refunded.

- (c) Regarding the monitoring of OCL's daily operations, including the safety and stability of the Octopus system, the HKMA adopts the same supervisory approach as that applied to other authorized institutions, including on-site examinations, off-site reviews, prudential meetings and co-operation with external auditors. OCL

is also required to provide the HKMA with statistical information in relation to the usage of Octopus Cards on a regular basis.

In addition to the regulatory requirements under the Banking Ordinance, OCL is required to comply with the Code. The Code requires OCL to put in place appropriate management control measures and procedures to ensure the safety and efficiency of the Octopus system. The HKMA will continue to monitor OCL's compliance with the Code.

The HKMA pays a great deal of attention to the safety and soundness of the Octopus system having regard to its widespread use for retail payment. Following the failed EPS add-value incident in 2007, the HKMA has appointed an Advisor pursuant to the Banking Ordinance to advise OCL on its affairs with a view to strengthening OCL's risk management and internal control over the operation of the Octopus system, as well as enhancing the protection of consumer interests, such as by promoting cardholders' awareness of their rights and responsibilities and increasing the availability of facilities for cardholders to check their transaction records. The HKMA has been monitoring the progress and considered that OCL has appropriately implemented the relevant recommendations. The HKMA considers that the current regulation of OCL is adequate and has no plan to adopt further measures at this stage. However, the HKMA will continue to monitor developments and take appropriate follow-up actions if necessary.

In regulating transport services, the Government requires the major transport organizations to put in place robust control and auditing mechanisms so as to maintain a reliable payment collection system. The Government will, when necessary, request the relevant transport organizations to implement improvement measures.

**MR ANDREW CHENG** (in Cantonese): *President, in part (b) of my main question, I asked about the causes for the faulty deductions, as well as the number of cases involving system failures. President, I can note from the main reply, that is, the second last paragraph on page two of the main reply, that the*

*Secretary has basically not answered the question at all. She has not answered how many cases involved system failures but has just said "for example, the contact time of the Octopus Card with the card reader was too short, or the Octopus payment instructions were not followed properly". It would therefore be desirable if the Secretary can provide the relevant information today, but definitely she has to provide further information in writing because she has not answered my question at all.*

*President, part (c) of the main reply points out that facilities for cardholders to check their transaction records will be increased. Given that OCL is currently holding a huge amount of deposits of some \$680 million, will the Government require OCL to provide completely free record-checking services? At present, cardholders can only check 10 records free of charge and are required to pay if they want to check the information of over 10 records. Given that OCL has held deposits of over \$600 million, why is it calculating with cardholders by requiring them to pay charges in order to check the information of over 10 records?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): The 600-odd cases relating to wrong charges by OCL were all due to man-made mistakes rather than system failures, and hence we consider the system adequate. The situation has improved since the incident that happened sometime ago. Therefore, as stated in the main reply, the majority of the cases arose because cardholders did not wait for the "beep" sound from the system before removing their cards from the card reader, thereby leading to faulty deductions. Moreover, if there are concessions for transfers and if no such concessions are shown after card reading, faulty deductions will also occur. According to OCL, all these are man-made.

Regarding the deposits which amount to over \$600 million, \$30 out of the \$50 deposit for each Octopus card is in fact the production cost. As to whether OCL can enhance their services so that cardholders can check all records free of charge under any circumstances, this will have cost implications. As the question of costs has to be considered, completely free services for checking all records cannot be provided.

**MR WONG KWOK-HING** (in Cantonese): *According to part (a) of the main reply, OCL has held a total amount of deposits of over \$600 million which generates interest income. Yet OCL does not have separate information in this regard. Therefore, should the Government consider providing separate information on the amount of interest income, as well as ploughing such interest into benefiting the public? Even if refunds cannot be arranged for each card, is it possible to set up a separate account so that such interest can be returned to the public in the future?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Currently, the accounting system of requiring authorized institutions to provide information does not include the provision of separate information on interest in respect of a particular type of asset such as these deposits. That is the reason why OCL does not have the separate information. As regards the question of Mr WONG on whether interest can be ploughed back, I have tried to explain this just now. Maybe I now reiterate that according to OCL, \$30 out of the \$50 deposit is the production cost. In fact, cardholders may sometimes outspend the stored value, that is, negative balances exist. The remaining \$20 will then be used for such cash flow purposes. Of course OCL has to balance costs or operating expenses in various aspects before making a decision.

**PRESIDENT** (in Cantonese): Has your supplementary question not been answered?

**MR WONG KWOK-HING** (in Cantonese): *Yes, President. The Secretary has not answered whether a separate account will be set up to plough the interest back to benefit the public.*

**PRESIDENT** (in Cantonese): I believe the Secretary has already made the answer. Let me see if the Secretary still has anything to add.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, I have nothing to add.

**MR ANDREW CHENG** (in Cantonese): *President, I wish to follow up. I hope that the Secretary was prudent in answering the first part of my supplementary question just now. I asked how many cases involved system failures. She stood up and replied "no". President, in the Octopus EPS add-value incident in 2007, it was, according to my memory and understanding, definitely system failures which caused problems in Octopus add-value transactions. President, I therefore asked her just now to give a further reply in writing. She stood up and replied that the incident happened in 2007. But is it the case that none of the 681 cases that occurred during the period from 1 April 2008 to 31 March 2009 involved system failures? In this regard, I hope the Bureau can provide a written reply to clarify how many cases involved human and technical problems.*

*Furthermore, President, if I have your permission, I would like to ask about the Code as well. Part (c) of the main reply mentions that apart from the regulation under the Banking Ordinance, there is still a Code. But the Code is simply a code with no legal effect. If OCL is to be further regulated, will the HKMA or the Government formally include the Code as part of the legislation to make it legally binding, so that OCL will be under more statutory regulation to protect public interest?*

**PRESIDENT** (in Cantonese): Members, you can only ask one supplementary question at one time. Therefore, I construe the first part of the supplementary question raised by Mr Andrew CHENG as that he opines that the Secretary has not completely answered the supplementary question he previously asked and therefore the supplementary question he now puts is: is it necessary to translate the Code into legislation? Secretary, please reply.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Just as Mr CHENG said, the Code is for voluntary adoption. However, we in fact regulate OCL as an authorized institution under the Banking Ordinance. Mr CHENG has accurately said that system failures occurred in 2007. At that time, the case was handled in accordance with the Banking Ordinance by commissioning an advisor and an auditor to look into the situation of OCL. According to a report subsequently submitted, the HKMA would continue to monitor OCL to see if it had implemented the recommendations of the report. Therefore, the Banking Ordinance has also conferred statutory



powers on the HKMA, so that in the event of any systematic problems that affect the rights of consumers as well as the safe and efficient operation of the whole system, the HKMA has sufficient authority to intervene in the incident, and propose and implement new measures to ensure safety. We therefore consider the existing legislation together with the Code sufficient.

**MR WONG KWOK-HING** (in Cantonese): *President, Section 12.4 of the Code states that "system operators, card issuers and merchant acquirers should ensure the appropriate degree of confidentiality of all cardholder and transaction information." Based on this provision, would the Government explain the meaning of the so-called "appropriate degree of confidentiality"? Do the confidential contents belong to cardholders or OCL? If they belong to cardholders, why can't cardholders check more than 10 records? Moreover, is OCL allowed to transfer these confidential contents to other business establishments? The core of this supplementary question is that how can the confidential contents be possessed by individuals while privacy can be protected at the same time?*

**PRESIDENT** (in Cantonese): Mr WONG Kwok-hing, the main question is about wrong deductions when cardholders use their Octopus cards. I cannot see the relation between this supplementary question and the main question.

**MR WONG KWOK-HING** (in Cantonese): *President, wrong deductions also involve issues of access to information and confidential contents which will concern the Code, and therefore I raise this supplementary question which is related to Section 12.4 of the Code.*

**PRESIDENT** (in Cantonese): Mr WONG, I think the contents you raise about the Code are not related to the main question because the latter is about how to handle the problem of faulty deductions.

**MR WONG KWOK-HING** (in Cantonese): *President, if the Code is to be made statutory in the future, just as what other Members said, then the question I asked*

*just now can be dealt with. However, as the existing Code is only for voluntary compliance by the card-issuing company, the question of how to regulate the confidentiality of contents is involved.*

**PRESIDENT** (in Cantonese): Mr WONG Kwok-hing, we have listened to your views. You have your own observations. But regarding the current legal position of the Code you mentioned just now, I believe the Secretary has already explained it very clearly and so I think you should not ask this supplementary question.

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

### **Assistance for Bankrupts**

4. **MR ALAN LEONG** (in Cantonese): *President, I have learnt that with the recent economic downturn in Hong Kong, the numbers of applications for bankruptcy as well as loan default cases have been rising continuously. In this regard, will the Government inform this Council:*

- (a) *as debtors have to pay the Official Receiver's Office an administrative fee of approximately \$9,000 upon filing a petition for bankruptcy, and many applicants are unemployed persons or recipients of Comprehensive Social Security Assistance who generally cannot afford the fee, whether the authorities will exempt such persons from paying the fee or allow them to pay the fee by instalment; if they will not, of the reasons for that;*
- (b) *as the authorities indicated in their response to a question raised by a Member of this Council on 11th February this year that the Constitutional and Mainland Affairs Bureau was following up on the recommendations of the Law Reform Commission's (LRC) Report on Stalking and would consider the feasibility of introducing legislative proposals, of the progress of the study; if the outcome of the study indicates that the recommendations of the Report cannot effectively regulate the illegal practices employed by debt collection agencies,*

*whether the authorities will reconsider adopting the recommendations of the LRC report on The Regulation of Debt Collection Practices published in 2002; if they will not, of the reasons for that; and*

- (c) *as under the existing legislation, a person who was discharged from bankruptcy years ago still has to repay his debts with the provident fund he receives upon retirement, and that a High Court judge pointed out in a decision made in the middle of last year that such an arrangement was harsh and considered that the Government should review and amend the existing legislation to extend retirement protection to such persons upon their retirement, whether the authorities will accept the suggestion to amend the law and revise the arrangement; if they will not, of the reasons for that?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese):

- (a) With regard to fees, according to rule 52 of the Bankruptcy Rules, a debtor applying for bankruptcy shall, before filing the bankruptcy petition with the High Court, deposit with the Official Receiver an amount of \$8,650 for the fees and expenses to be incurred in processing the bankruptcy case. Under the Bankruptcy Rules, the Official Receiver is not empowered under the relevant legislation to exempt the statutory fee or accept payment by instalments, hence the debtor has to pay the deposit in one go.

The level of deposit is set with reference to the range of expenses involved in processing a bankruptcy case, including the cost of publishing the bankruptcy notices in the Gazette and in newspapers, conducting case investigation (for example, conducting searches in the Land Registry and Companies Registry, requesting financial information from the bankrupt's bank(s)), printing and postage and so on, as well as manpower expenses. These expenses are all paid out from the deposit.

The cost of applying for bankruptcy should be borne by debtors themselves, and the need for subsidy by public money should be

avoided as far as possible. We do not have any plan to change this arrangement.

- (b) The nuisance caused to the public by improper debt collection practices is a matter of concern to the Administration. At present, a number of statutory provisions are already in place to combat illegal debt collection practices of debt collection agencies. The police will continue to robustly enforce the law, and have adopted various measures to enhance the effectiveness of enforcement actions in order to combat illegal debt collection activities in a proactive manner.

The Constitutional and Mainland Affairs Bureau is studying the recommendations of the LRC Report on Stalking. The recommendations are applicable to different forms of stalking behaviour, including harassment in relation to debt collection activities. As the LRC's recommendations involve complex considerations on various fronts (such as protection of personal privacy and press freedom), and have attracted diverse views from individuals and groups in the community, the Administration has to consider them carefully. The Constitutional and Mainland Affairs Bureau is consulting relevant bureaux and departments, and will assess the LRC's recommendations in the light of the latest development of anti-stalking legislation overseas. It will also consider how the relevant parties could be consulted on the LRC recommendations, with a view to reaching a consensus within the community on the way forward having regard to the need to balance the legitimate interests of all parties concerned. The Constitutional and Mainland Affairs Bureau will report to the Panel on Constitutional Affairs of the Legislative Council after mapping out the proposed way forward.

Security Bureau will continue to closely monitor developments and, having regard to the result of the Constitutional and Mainland Affairs Bureau's study of the Report on Stalking, consider whether there is a need to take any further actions and adopt other measures or regulatory means in support in order to enhance actions against improper debt collection practices.

- (c) Regarding the case cited in the main question, as the bankrupt has already lodged an appeal against the judgment delivered by the High Court earlier and the appeal has been scheduled for hearing on 2 July 2009, it would not be appropriate for the Administration to comment on the judgment or the relevant arrangement at this stage.

**MR ALAN LEONG** (in Cantonese): *President, I want to discuss with the Secretary the last paragraph in part (a) of her main reply, which mentioned that "the cost of applying for bankruptcy should be borne by debtors themselves". What is the rationale behind such a conclusion? What is the Government's thinking on that policy? Is there no room at all for conducting a study to alleviate the burden of debtors in this regard?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): The major thinking is that, as application for bankruptcy is a debtor's personal decision, he should bear all the administrative costs so incurred. Therefore, the major thinking is to avoid subsidization by public money.

**DR MARGARET NG** (in Cantonese): *President, regarding the case cited in part (c) of the main reply, I really hope that government officials would not use sub-judice frequently as an excuse to decline to look into issues of public concern.*

*What I would like to ask the Bureau to further explain is that since the main reply mentioned that under existing legislation, a person who was discharged from bankruptcy years ago still has to repay his debts with his pension, as such, whether the implication of this legislation is the policy objective already set by the Bureau long time ago, that is, there is indeed such a policy objective? If so, do they think it is worthy to review that policy objective? If not, what kind of policy should be formulated? It is because this is related to whether the retirees can make use of their pension.*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, as far as policy objective is concerned, may be I just elaborate on the Mandatory Provident Fund (MPF). Section 16 of the

Mandatory Provident Fund Schemes Ordinance seeks to protect scheme members that, under MPF Schemes, the benefits arising from mandatory contributions will not be vested with trustees in bankruptcy. That is to say, MPF contributions will not be vested with others as a result of the contributor's application for bankruptcy, and the contributor is not required to repay his debts by his contribution even after a bankruptcy order has been discharged.

As for the various Occupational Retirement Schemes, that is, the schemes under ORSO, since they are voluntary contributions and have different trustees of their own, therefore, the protection provided under each and every provision might be different. Hence, insofar as these private voluntary schemes are concerned, the Government will not consider stipulating by legislation as to whether the contributions will be vested with others. However, according to the legislative intent of MPF as well as the provision of the legislation, MPF contributions shall not be vested with trustees in bankruptcy.

**PRESIDENT** (in Cantonese): Has your supplementary question not been answered?

**DR MARGARET NG** (in Cantonese): *No. The existing legislation mentioned in the main question does not mean MPF of course, as it will not give rise to litigation at all. Even if it does refer to private terms or private contracts, it still will not give rise to litigation. Hence, the existing legislation mentioned in my supplementary question is the legislation which is considered to have grey areas, and for such legislation, what policy objectives does the Government have? President, it will not affect the Court's judgment because sometimes, even the policy objective is A, but since there may be grey areas in the provisions, the Court might not be able to see the effect from the relevant provisions, hence it will not obstruct the Court to rule on the case.*

**PRESIDENT** (in Cantonese): Secretary, please would you answer Dr NG's follow-up question?

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): The appeal case concerned should await judgment by the Court. We will reconsider the case after the Court has delivered its judgment.

**DR MARGARET NG** (in Cantonese): *President, I am asking about policy objective, that is, the policy objective behind the existing legislation, not about that case.*

**PRESIDENT** (in Cantonese): Secretary, can you elaborate on the current policy objectives?

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): The case in question relates to the provident fund of a subsidized school and the Court is now examining the coverage of the relevant provisions. It is therefore not appropriate for me to make any comments here. After the Court has clarified which party should be vested with the benefits and delivered its judgment, we will conduct a review accordingly.

**DR MARGARET NG** (in Cantonese): *Will the Bureau clarify whether this means that it does not know its own policy objectives until the Court makes the ruling.*

**PRESIDENT** (in Cantonese): Dr NG, you can only repeat the part of your supplementary question that has not been answered by the Government. Secretary, Dr NG is asking about the current policy objectives, and in this regard, do you have anything to add?

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Subsidized schools follow MPF practices too. Therefore, the relevant policy objective is that the fund will not be vested with others as a result of bankruptcy.

**MR PAUL CHAN** (in Chinese): *President, the Administration indicated in its main reply that the cost of applying for bankruptcy should be borne by debtors themselves, and I can understand that. However, given that many people seeking bankruptcy are poor and blank, and even though they do not have the \$9,000 at that time, in order to apply for bankruptcy, they will have to borrow that \$9,000 while knowing well that they are not able to repay the money. He is breaking the law by doing so. Please may I ask if the Administration would consider amending the law to empower the Official Receiver to accept debtors' payment of the fee by instalments where appropriate?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): *As I said just now, the principle is to avoid the need of subsidy by public money. Members asked just now whether the payment can be made by instalments, so as to facilitate the applicant to pay the money, yet we have to strike a balance as to whether the mechanism will be abused.*

**MR RONNY TONG** (in Cantonese): *This is rather ironical, as only people with money can apply for bankruptcy, while those without money cannot. It is really hard to imagine. President, I do not know whether the Secretary understands that the bankruptcy process in fact seeks to ensure that debtor's assets will be distributed to creditors in an orderly as well as fair manner. Therefore, its paramount aim is to protect creditors rather than debtors. Generally speaking, under such process, the cost for bankruptcy, including the fee for bankruptcy executors, is the first charge in bankruptcy. That is, the relevant charges are to be paid before the proceeds from disposing the remaining assets is fairly distributed among the creditors. Therefore, the proposal put forth by Mr CHAN just now is against the law, as it cannot favour the Official Receiver's Office specifically at the expense of other creditors.*

*May I ask the Secretary that, given the principle is to render fair protection to creditors and the cost of bankruptcy is normally a first charge, then why the \$8,650 application fee cannot be dealt with by the same principle and be regarded as a first charge? Why can it not be dealt that way but has to be paid in cash by the applicant out of his own pocket before he is allowed to make the application? This is completely against the principles that I have said just now.*



**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): In fact, the cost of \$8,650 just reflects the idea of first charge mentioned by Members just now. That is, the payment is to be made first to meet the costs incurred in processing the application for bankruptcy. As a matter of fact, this \$8,650 is not sufficient to pay for various charges and manpower expenses. Therefore, it has to go back to the principle that, if legislative amendment is to be made, whether these debtors filing for bankruptcy should be subsidized by public money?

**PRESIDENT** (in Cantonese): Which part of your supplementary question has not been answered?

**MR RONNY TONG** (in Cantonese): *President, as it is mentioned in the main reply that the fee is to be paid in one go, I trust that it is referring to cash, and my supplementary question is, why the debtor is not allowed to make use of the first charge and have the payment borne by his assets, so that he needs not pay the \$8,650 in cash out of his own pocket before he can apply for bankruptcy? President, this is my supplementary question.*

*Many debtors have no cash but may have properties. It is just that the properties might be under mortgage and hence cannot be sold. This should be the most important principle in dealing with bankruptcy applications.*

**PRESIDENT** (in Cantonese): I think your supplementary question has been very clear. Secretary, do you have anything to add?

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): I have nothing to add.

**MR JAMES TO** (in Cantonese): *President, having bankruptcy arrangement in place is actually because it is the essence of capitalism to encourage people to take risk, while providing them with a chance to start a new life and*

*"turn-around", so that they can make continuous efforts to revive the economy and engage in that activity for the benefit of the whole community.*

*President, I hope the Secretary understands that, if a person does not have the \$8,000 or so — of course, he might still be able to prolong his feeble existence — then he is breaking the law if he goes to borrow. It is because if he borrows while knowing well that he is going bankrupt, even though the purpose of such borrowing is solely for paying the cost of bankruptcy, it might still be against the law. Therefore, will the Government consider reviewing the current situation in the light of the following: the social costs so arising (including law-enforcing or debt-tracing); encouraging the use of bankruptcy available under capitalism to "turn-around"; knowing well before going bankrupt that he has insufficient cash and borrowing that sum of money might be against the law; the amount of money involved; the amount of money to be borne by public money; and the possibility of the mechanism being abused. Otherwise, that type of cases will just pile up and the costs incurred will have to be borne by the Government and the community. Will the Government conduct a review in this regard?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): At present, we are also reviewing the level of fees under the circumstances where the use of public money will be avoided and the review is expected to be completed by the middle of the next year.

**MR PAUL TSE** (in Cantonese): *I very much agree with what some of my colleagues has just said about the principles of bankruptcy. Having considered that the present situation concerns those people who have nowhere to turn to and are compelled to apply for this mechanism, I therefore do not think that the situation can be solved by the general "user pays" principle, especially when Mr James TO has mentioned just now, if this mechanism does not provide a safety valve in this regard for those people with that kind of need, the debt-tracing activities will then waste a lot of police manpower at most of the time. In this regard, I hope the Government can make a review again so that its policy will not be so rigid.*

*As for fee charges, apart from the \$8,000 or so, the Court will only charge \$1,045, and the costs for publishing notices in the Gazette and in newspapers are \$383 and \$190 respectively. In other words, there is room for fee reduction and I know specifically that at present, many assignments of the Official Receiver's Office have been contracted out and the relevant charges are quite inexpensive. By the way, I declare here that my law firm also handles this kind of trust work and our charge is \$500 per case. Under this circumstance, the fees can in fact be reduced significantly. Therefore, I would like to ask the Administration again whether it will review if there is room for reducing the fees in the light of what Mr James TO has just said, and implement the exemption and instalment mechanisms where necessary?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): It is correct that after deducting administrative fee and manpower expenses, the remaining balance of the \$8,600 will be returned to creditors. As to whether there will definitely be room for fee reduction, it will depend on the review. The review is still underway and overall figures are not yet available, but rough estimates indicate that the amount will not be sufficient to meet all expenses in most cases. We are in a better position to report to Members upon completion of a comprehensive review on costs.

**PRESIDENT** (in Cantonese): This Council has spent more than 21 minutes on this question. Question No. 5.

### **Regulation of Means of Publicity Used by Private Health Care Institutions and Residential Care Homes for Elderly**

5. **DR JOSEPH LEE** (in Cantonese): *President, it has been reported that some private residential care homes for the elderly (RCHEs) advertise that they will apply, on behalf of elderly residents, for Comprehensive Social Security Assistance (CSSA) free of charge, which may mislead the public into thinking that applications for CSSA will definitely be successful with the assistance of the RCHEs concerned, or that the payment of a fee is originally required for CSSA applications. Regarding the means of publicity used by private health care institutions and RCHEs, will the Government inform this Council:*

- (a) *of the respective numbers of complaints received by the Consumer Council, Social Welfare Department (SWD) and other relevant government departments in each of the past five years involving the use of exaggerated and faulty means of publicity by private health care institutions and RCHEs;*
- (b) *whether at present, there are guidelines or codes regulating the means of publicity used by private health care institutions and RCHEs as well as the contents of such publicity, so as to prevent the public from being misled; if there are, of the details; if not, the reasons for that; and*
- (c) *whether the Government will review and amend the Residential Care Homes (Elderly Persons) Ordinance to strengthen the regulation of the means of publicity used by RCHEs; if it will, of the details; if not, the reasons for that?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, I will reply to the three parts of Dr Joseph LEE's question individually.

- (a) In respect of RCHEs, the SWD received a total of three complaints about the promotional practices of private RCHEs in the past five years. Two of the complaints involved the provision of deceptive promotional information by the RCHEs which misled the public to believe that the two RCHEs were respectively run by a non-governmental organization and participating in the Enhanced Bought Place Scheme. The remaining complaint involved an RCHE which used the wording "government-registered" in its promotional materials while its application for RCHE licence by the SWD was still being processed. On learning about such cases, the SWD had immediately conducted investigation and examined the promotional materials of the concerned RCHEs to ensure the authenticity of the contents of the materials. On the SWD's advice, the concerned RCHEs had immediately corrected or deleted from the promotional materials the information that was not entirely factual or was inaccurate so as to avoid misleading the public. Besides, the

Consumer Council has not received any complaints against the use of misleading representation by RCHEs in the past five years.

As regards private health care institutions registered under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance, the Department of Health (DH) and the Consumer Council have not received any complaints against the use of misleading representation by these institutions in the past five years.

- (b) Generally speaking, the SWD does not intervene in the normal business operation of RCHEs, including their promotional and publicity activities. Nevertheless, the Code of Practice for Residential Care Homes (Elderly Persons) (the CoP for RCHEs) compiled in accordance with the Residential Care Homes (Elderly Persons) Ordinance stipulated that RCHEs should explain clearly their rules (including home fee and other charges) upon admission of elders. Fees that are refundable to residents on leaving the RCHEs should also be stated clearly. If an RCHE is found in breach of the relevant rules stipulated in the CoP for RCHEs, the SWD will issue advice or warning letter to the concerned RCHE based on the severity of the case, and request it to take remedial or improvement actions. For RCHEs engaging in unscrupulous promotional or business practices, the Director of Social Welfare (DSW) may issue remedial directions under section 19 of the Residential Care Homes (Elderly Persons) Ordinance. The SWD may consider prosecution if the RCHEs fail to comply with the directions within the specified period.

To enhance the transparency of information on RCHEs, the SWD has uploaded information of all RCHEs onto its website to enhance the knowledge of service users and the public. The uploaded information includes the name, address, types and number of places, licence period and licensing conditions of all licensed RCHEs, letters issued by the SWD to RCHEs and RCHEs that were successfully prosecuted. In addition, the SWD has compiled a pamphlet entitled "Tips to Select a Suitable RCHE" which lists out the key points to note when choosing RCHEs.

Regarding private health care institutions registered under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance, they should comply with the Code of Practice for Private Hospitals, Nursing Homes and Maternity Homes (the Code) issued by the DH. The Code sets out the standards of good practices for private health care institutions to adopt in order to provide quality care for patients. Compliance with the requirements under the Code is a condition for the registration and re-registration of private health care institutions. These requirements include the need for a private health care institution to state the nature and purpose of its work, and to ensure that services provided are of quality and appropriate to the needs of patients, protection of the rights of patients and their right to know, preparation of a schedule of charges available for reference at the admission office, setting out charges with respect to each item, and establishing a mechanism for handling complaints, and so on. These requirements aim to protect patients from being affected by unscrupulous business practices or operations.

In addition, the Code of Professional Conduct for the Guidance of Registered Medical Practitioners issued by the Hong Kong Medical Council also states that doctors who have established any kind of financial or professional relationship with private health care organizations (including those who use the facilities of or accept patients referred by such organizations) must exercise due diligence to ensure that the concerned organizations do not advertise in contravention of the principles and rules applicable to individual doctors.

- (c) The Residential Care Homes (Elderly Persons) Ordinance was fully implemented in June 1996, under which RCHEs are monitored through the licensing system managed by the DSW to ensure that their services are up to a satisfactory level. It is specified in both the Residential Care Homes (Elderly Persons) Regulation and the CoP for RCHEs that RCHEs should attain a certain standard before they will be issued with licences for operation. The standard covers various aspects, including the area of floor space for each resident, location and design of RCHEs, safety and fire precaution measures,

staffing, management, health and care services, nutrition and diet, cleanliness and sanitation facilities, and provision of social and recreational services, and so on.

Under section 22 of the Residential Care Homes (Elderly Persons) Ordinance, the DSW may issue from time to time codes of practice setting out principles, procedures, guidelines and standards for the operation, keeping or management of RCHEs. Since the enactment of the Residential Care Homes (Elderly Persons) Ordinance, the SWD has now and again issued guidelines on individual topics for RCHEs to follow and updated the CoP for RCHEs with a view to providing better protection for elderly residents in RCHEs.

The inspectors of the SWD's Licensing Office of Residential Care Homes for the Elderly (LORCHE) conduct inspections on RCHEs. The number of inspections (including regular and unannounced inspections) on each RCHE is on average seven times a year. The purpose of inspecting RCHEs is to monitor the quality of their services and to provide advice to the operators so as to assist and urge them to improve services, thereby ensuring the RCHEs' compliance with the requirements. As regards the promotional practices of RCHEs, LORCHE will, during inspections, pay attention to information provided by the RCHEs, and check whether the information is accurate and fully reflects the reality with a view to protecting the service users.

**DR JOSEPH LEE** (in Cantonese): *President, the Secretary's reply is very complete. It seems there are many regulations and codes which require RCHEs to provide quality services. In the last paragraph of part (c) of the main reply, the Secretary said that an average of seven inspections a year would be able to ensure RCHEs' services. As far as I understand it, nowadays, a number of RCHEs, especially private RCHEs, often do not really meet the health care staffing standard. They only adopt some "nominal" methods. For instance, at present, it is stipulated that a RCHE should have one nurse to sixty patients or residents. The nurse may only be "nominal", that is, there are two RCHEs operating at the same time and the same person is "nominal" as a serving nurse*

*in these two RCHEs. May I ask the Secretary whether this situation has been found very common during inspections, and how will the Bureau deal with it?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, thank Dr LEE for his question. Our inspections are very serious. As I have just mentioned, the number of inspections conducted by nurses and staff of LORCHE on each RCHE is on average seven times a year. Some are regular inspections and some are ad hoc ones. Inspections are sometimes conducted on Saturdays and Sundays to ensure sufficient manpower in RCHEs. Dr LEE is right in saying that manpower is extremely important. We also have clear standards and norms. If a RCHE cannot meet the staffing standard, we will give it advice and warning. Upon the giving of advice and warning and if the RCHE is still unable to meet the standard, we will take action. But so far, in many circumstances, we could tackle the problems straightaway.

**DR PAN PEY-CHYOU** (in Cantonese): *President, as mentioned by Dr Joseph LEE, the Secretary's reply is, in fact, very high-sounding. But, in reality, we can see that many private RCHEs vary widely in standard. Some RCHEs employ a large number of foreign helpers, who basically cannot even understand the local language. Secondly, there is a situation of taking advantage of the loopholes in law. For example, in order to reduce the number of residents for the purpose of circumventing the regulation of the legislation, a RCHE may have two names, but actually it is operated by the same owner. In this regard, what monitoring measures does the Bureau have to prevent them from taking advantage of the loopholes in the law?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, regarding the question raised by Dr PAN, I also share one point of his views that there are 574 private RCHEs in Hong Kong and they vary in standard. This is an obvious fact. As the good and the bad are intermingled, it is difficult to treat them as the same. However, as for the rigidity of inspections, we will not make any compromise, as this is very important and concerns the comfortable accommodation for the elderly. Firstly, on the staffing aspect, I would like to clarify one point. Dr PAN said that many are foreign nationals, instead of local people. Some RCHEs have encountered the difficulty of manpower shortage when recruiting staff, especially care workers, cleaners and so on. As a result, they do import some foreign workers, but many are from mainland China.



Secondly, we also require that RCHEs should comply with the required standards in applying for the licences — even if a RCHE has two names, we treat one place as one operating unit. It has to meet our stringent standards and we have a dozen of standards — these standards have to be met before the licences are issued. We will not issue licences casually.

**PRESIDENT** (in Cantonese): Dr PAN, which part of your supplementary question has not been answered?

**DR PAN PEY-CHYOU** (in Cantonese): *The Secretary has not answered the my question of what policies the Bureau has put in place to prevent the situation of some RCHEs taking advantage of the loopholes in the law — such as the practice of one RCHE having two names.*

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

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, if one RCHE is operating under two names, we will thoroughly investigate. If Dr PAN can provide us with information after the meeting, I would be happy to follow up this issue. If one RCHE has got two names, we have to seriously look into the issue. I may contact Dr PAN after the meeting to further understand this matter.

**PRESIDENT** (in Cantonese): Last question seeking an oral reply.

### **Promoting Cruise Travelling on Hong Kong-based Cruise Liners**

6. **MR JEFFREY LAM** (in Cantonese): *President, the Chief Executive announced on 18 April that the mainland authorities will allow mainland group tour travellers to travel to Taiwan via Hong Kong on Hong Kong-based cruise liners, and are now studying the pilot implementation of this arrangement in four ports, namely Shanghai, Tianjin, Qingdao and Dalian. In this connection, will the Government inform this Council:*

- (a) *whether it knows the respective numbers of Hong Kong-based cruise liners, the respective person-times of cruise travellers boarding and unboarding in Hong Kong and the number of Mainlanders among them, in 2007, 2008 and the first quarter of this year;*
- (b) *how the authorities will promote cruise travelling on Hong Kong-based cruise liners, so as to establish Hong Kong's position as a cruise hub; and*
- (c) *how the authorities will co-operate with the municipal governments of the aforesaid four ports in the promotion plan to attract and facilitate mainland travellers to travel by cruise; and when the relevant promotion plan is expected to be implemented?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, our reply is set out below:

- (a) Apart from the local cruise vessels stationed in Hong Kong, depending on market strategies and demand, cruise operators usually deploy cruise vessels to run different itineraries during different periods of the year. Cruise vessels homeporting in Hong Kong with itineraries that have destinations included Costa Allegra, Superstar Libra and Superstar Aquarius for 2007 and Costa Allegra, Rhapsody of the Seas, Superstar Libra, Superstar Aquarius and Superstar Virgo for 2008. According to the information provided by the cruise operator, Costa Allegra homeported in Hong Kong in the first quarter of 2009, and Costa Classica will homeport in Hong Kong in the second and fourth quarters of 2009.

In 2007 and 2008, the cruise passenger throughput for cruises with destinations (excluding those on cruise vessels visiting Hong Kong as a port-of-call) was about 100 000 and 340 000 respectively. Among them, mainland visitors accounted for about 30 000 and 90 000 respectively. For 2008, including the passengers of cruise vessels visiting Hong Kong as a port-of-call, the passenger throughput would be over 420 000.

The Hong Kong Tourism Board (HKTB) is consolidating the statistics for the first quarter of 2009, and will release them in due course.

- (b) With our advantageous geographical location, deep natural harbour and world-class infrastructure and tourism facilities, Hong Kong is well-positioned to become a regional cruise hub, attracting cruise vessels to homeport here. We will continue to enhance our hardware and software so as to develop Hong Kong into a leading cruise hub in the region.

In terms of hardware, we are pressing ahead with the new cruise terminal. To ensure that the first berth will commence operation in mid-2013, we will soon apply for funding approval from the Legislative Council for the site formation works to start by the end of this year. Given the scale of the works, the current timetable is already much compressed. Nonetheless, the works departments would continue to review the progress of construction with a view to expediting the programme.

Apart from the construction of the new cruise terminal, development of software is equally important. Only with well-developed software can Hong Kong attract cruise vessels to homeport here and tourists to visit Hong Kong by cruise.

Through the Advisory Committee on Cruise Industry and other channels, Tourism Commission (TC) would continue to work with HKTB and the industry to jointly formulate strategies to strengthen Hong Kong's position as a cruise hub in Asia-Pacific. The major tasks include:

- (i) drawing up manpower training plans, increasing on-the-job training opportunities, and encouraging young people to join the cruise industry. Through the Government's Skills Upgrading Scheme and Travel Industry Council of Hong Kong, training courses related to cruise tourism, including "Introductory course on cruise travel", "Practical skills in servicing cruise travellers" and "Cruise selling training course", and so on, will be offered in the course of the year.

We will also develop cruise-related courses under the Employees Retraining Scheme. It is estimated that the abovementioned courses will provide no less than 200 training places at the initial stage. Thereafter, the number of training places can be adjusted to meet the needs of the cruise market;

- (ii) formulating and implementing promotion plans for overseas market, including participation in international cruise fora such as the Seatrade Cruise Shipping Convention in Miami, the United States, and arranging the local travel trade to visit major cruise markets to enhance Hong Kong's position as a must-visit port and develop a platform for industry co-operation;
  - (iii) strengthening connections with neighbouring coastal provinces and establishing an information exchange platform to develop a diversified range of unique cruise itineraries and promote cruise tourism. HKTB launched a cruise tourism website entitled "Cruise South China" early this year. The website, with information on berthing facilities as well as tourist attractions in Hong Kong and four neighbouring provinces and cities including Guangdong, Guangxi, Hainan and Fujian, facilitates cruise operators in developing cruise itineraries and pre- and post-cruise land excursions; and
  - (iv) arranging various hospitality activities for cruise vessels visiting Hong Kong with the aim of enriching passengers' experience in Hong Kong.
- (c) We welcome the measure adopted by the mainland authorities to allow mainland tour groups to travel to Taiwan through Hong Kong by taking cruise vessels homeporting here. This should attract cruise operators to deploy more vessels to homeport in Hong Kong, and enhance Hong Kong's position as the cruise hub in Asia-Pacific.

The TC has discussed with the China National Tourism Administration (CNTA) the implementation details of the new measure announced by the Central Government in the first instance. Our first and foremost task is to encourage the local travel trade and

cruise operators to work with the mainland designated agents operating group tours to Taiwan to develop products including cruises from Hong Kong to Taiwan, and launch such itineraries as soon as possible. The HKTB will also arrange publicity in the Mainland to tie in with the new products.

As regards cruise services from the Mainland to Taiwan via Hong Kong, the CNTA indicated that mainland ports would first need to work on the supporting facilities, such as the Customs, Immigration and Health Quarantine services. In the meantime, cruise operators can liaise with the mainland authorities to develop such itineraries. The Government will also continue to liaise with the relevant authorities to facilitate the early implementation of the measure.

**MR JEFFREY LAM** (in Cantonese): *President, the Secretary said in the main reply that in 2008 there were a number of cruise vessels homeporting in Hong Kong, but only Costa Allegra homeported in Hong Kong in the first quarter of 2009, and Costa Classica will homeport here in the second and fourth quarters of 2009. However, four cruise vessels which homeported in Hong Kong last year are yet on the list so far this year, namely Rhapsody of the Seas, Superstar Libra, Superstar Aquarius and Superstar Virgo. I am a bit worried as it appears that the figure this year will be less than that of last year. I wonder what measures the Secretary will take to attract more cruise vessels homeporting in Hong Kong?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, I thank Mr LAM for bringing up this question. In fact, I have already made a lengthy reply in the main reply to elaborate on how to develop Hong Kong as a homeport with the aid of hardware and software so as to attract cruise vessels to Hong Kong. I want to emphasize once again that Hong Kong has a lot of favourable conditions, including the Customs, Immigration and Health Quarantine services and the supporting tourism facilities in Hong Kong, to maintain its competitiveness and attraction. In addition, Hong Kong can provide the travellers with speedy, convenient, efficient and courteous Customs, Immigration and Health Quarantine services. All these are our advantages, which will leave the cruise operators who have berthed their cruise vessels and

used the services in Hong Kong a good impression and confidence for their planning of cruise itineraries and products. I think we need to continue to make efforts to improve all these so as to attract these cruise operators to homeport in Hong Kong. Apart from what I have said just now and in the main reply, it is also very important for us to carry out promotion, which is an essential work undertaken by HKTB as well, including the promotion of the itineraries, and to make a greater effort to identify the source of target clients. I believe the prospect for the development of our cruise tourism will be very promising.

**DR PHILIP WONG** (in Cantonese): *I know there is a lack of berthing facilities in Hong Kong for large cruise vessels, and I also know the Government has arranged some interim measures before the completion of the new cruise terminal. Have the cruise operators been consulted in this process? What views have they provided actually?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, indeed as what Dr WONG said, in addition to taking forward at full speed the project, actually there will also be other facilities in place to facilitate the berthing of cruise vessels before the completion of the Kai Tak Cruise Terminal. Of course, we understand that it is not the best arrangement for cruise vessels to berth at container terminals or mid-stream, but the displacement of modern cruise vessels is fairly huge as indicated by the current international trend. For example, any cruise vessel like *Queen Mary* which has a displacement of over 70 000 tonnes and a gross tonnage of over 140 000 will be unable to berth at the local cruise terminals on arrival at Sydney and Singapore given its size. Therefore, according to the existing plan for the Kai Tak Cruise Terminal, it will be designed to berth the largest cruise vessels of the highest class with a gross displacement tonnage of more than 200 000. We will, of course, work out the appropriate arrangements with cruise operators before the completion of this project, and the co-ordination in this respect is in progress very smoothly. We will check in advance whether the berthing places are available well before cruise operators arrange itineraries to Hong Kong and, if not, take complementary measures for mid-stream berthing.

We also had an experience last year, in which we conducted an opinion survey through the HKTB on the travellers of a cruise vessel that had berthed in

Hong Kong, and the findings showed more than 80% of the travellers were satisfied with our feeder services. This is also a common and acceptable arrangement around the world. Of course, we ultimately hope that Hong Kong will have the capacity and cruise terminal facilities so that cruise vessels with the largest displacement can come to Hong Kong and berth at our terminal.

**MR ANDREW LEUNG** (in Cantonese): *The Secretary has mentioned the manpower training in item (b)(i) of the main reply, but the authorities will provide training only through the Employees Retraining Board and the Travel Industry Council of Hong Kong, both of which are not formal training institutions. President, I have to declare that I am the Chairman of the Vocational Training Council (VTC). The VTC actually provides training for the tourism, service and catering industries, and so on, and even has a Maritime Services Training Institute. These courses together will provide the young people with a lot of opportunities. Will the Government consider approaching the VTC and offering plans and adequate funding so that the VTC can organize these courses?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): I much welcome Mr Andrew LEUNG's suggestion. In fact, we also hope to engage as many experienced persons as possible to organize new courses for our training programmes. In this regard, we will follow up this matter with the VTC later.

**MR CHIM PUI-CHUNG** (in Cantonese): *President, regarding the cruise industry, the Government's position is simply based on the wisdom of hindsight as the international cruise tourism has already been developed for 10 years. My supplementary question is that the Secretary has explained very clearly the issues on the berthing of cruise vessels in Hong Kong just now, but what is the Government's attitude towards some betting, that is gambling activities, on cruise vessels? If a cruise vessel enters the waters of Hong Kong, does it still enjoy the benefits of the international conditions to which it is bound, or is it subject to the policies adopted in Hong Kong?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Hong Kong is a place that has great respect for law. We may do what we like as long as the law does not expressly provide otherwise. However, Mr CHIM, as regards the development of cruise tourism, we have in fact seen from the development over the past 10 odd years that the development of cruise services in Europe and the United States or in the Mediterranean is more developed and mature. The information we currently obtain in the market also indicates that the cruise market in the Asia-Pacific region is an emerging one, the development of which can be accelerated. So we believe that if we make a greater effort in this respect, the prospect will be very promising. Therefore I feel that the development of our cruise industry, including the Kai Tak project, is a timely one. Moreover, according to a consultancy study, the room for development in this area is still very great. Of course, this will require the corresponding market force to supplement each other, so that we will have these hardware and software in place to develop Hong Kong as a cruise hub.

**MR CHIM PUI-CHUNG** (in Cantonese): *The focus of my supplementary question is on whether cruise vessels with betting facilities can still have gambling activities after it has entered into Hong Kong.*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, a simple answer to Mr CHIM's question is that actually it is legal for them to do this.

**MRS SOPHIE LEUNG** (in Cantonese): *The Secretary has said in part (b) of the main reply that the development of software is of utmost importance, but there are only four items in part (b), namely (i), (ii), (iii) and (iv), none of which has indicated how software can really be developed, that is how we can enhance promotion for the tourist attractions in Hong Kong. Last Saturday I visited Macao, and there even the "pork chop buns" are greatly promoted. Of course not these would I want to promote. President, I have to declare interests that I am a volunteer worker at the Nan Lin Garden of Chi Lin Nunnery, where I feel there is potential to be developed to meet the international standard. Currently among the people visiting the Nan Lin Garden every month, at least over 10% are*



*international travellers who have shown great appreciation for this scenic spot, but we just treat it as an ordinary park. In addition to the development of software mentioned in these four items (i), (ii), (iii) and (iv), I think we also have to add item (v), which is to genuinely develop software for Hong Kong, and review the potential of every type of software. President, may I ask if the Secretary holds such view too?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): In fact, regarding the promotion of cruise tourism, apart from the itinerary itself, that is the on-board experience, arrangements for land excursions after the cruise vessel has been berthed will normally be made to match it, so we also need to develop and promote the land excursions. We should work on these two areas together and will not ignore it. Thank you very much for Mrs LEUNG's view and we will follow up the matter.

**MR FRED LI** (in Cantonese): *President, the Secretary pointed out in the main reply that cruise vessels homeporting in Hong Kong in 2008 included Superstar Libra, Superstar Aquarius and Superstar Virgo. As I understand, these vessels belong to Star Cruises, which is a Singaporean company. Singapore has been vigorously developing itself as a cruise hub in the region. With such large cruise company that owns not just these few cruise liners but other vessels as well, Singapore is embarking on this task very intently. Secretary, as there is currently not even a standard cruise hub in Hong Kong, how can we win the match with a late start and compete with Singapore to be the leading cruise hub in the Asia-Pacific region? What capacity do we have to surpass Singapore and do a good job for it?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, first of all, it is something about the information. In fact, the headquarters of Star Cruises is listed in Hong Kong, which is thus a Hong Kong company. Of course, we now see that apart from Singapore, a number of provinces on the Mainland are also pushing forward the development of cruise services, and so competition exists. Exactly because of this, at least we have to maintain and strive to enhance our competitiveness. In this regard, I believe we

have the conditions required for competition. However, the market is the final and most important determining factor. How can we explore the market and know clearly the ultimate preference of the travellers? How can we determine the source of clients for launching our promotion? For this, we have to rely on the industry. Of course, the Government will fully assist in the promotion, especially in terms of hardware. Moreover, as far as the resources are concerned, the HKTB will be responsible for carrying out the promotion, and I believe these few areas are indispensable.

**PRESIDENT** (in Cantonese): We have spent almost 22 minutes on this question. Since the Secretary's main reply just now has taken a bit longer, I will allow one more supplementary question from the Members. As for the remaining five Members who are waiting to ask their questions, I will not be able to allow them to do so.

**MS MIRIAM LAU** (in Cantonese): *As Hong Kong does not have a standard cruise terminal, a lot of cruise vessels will have to berth at container terminals or mid-stream when they arrive at Hong Kong. We have even heard that some cruise vessels passed Hong Kong without entering it as no berth is available or we are unable to provide suitable facilities. I am very glad to hear from the Secretary just now that the authorities will consider providing suitable berths in other places for these cruise vessels in the days ahead until the completion of our new terminal. However, there are still many years to come, and so we hope that the Secretary will make a greater effort in this regard.*

*President, my supplementary question is that actually I hope the Secretary can provide us with some information. For the past three years, how many cruise vessels had to berth at container terminals or mid-stream? More importantly, how many cruise vessels passed Hong Kong without entering it because there were no proper facilities in Hong Kong? In addition, what measures will the Secretary take in the consideration of providing better facilities for cruise vessels to attract those which passed Hong Kong without entering it in the past to come and berth in Hong Kong from now until the time we have a standard terminal?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, I think I may have to give a written reply to Ms LAU's supplementary question about the relevant figures as I have to go back and sort them out. (Appendix 1)

Regarding other things that we have to do as suggested by Ms LAU, I hope to continue to review whether our measures are adequate and make complementary arrangements in a safe and reliable manner in collaboration with the industry. Up to now, despite that we may not have enough berthing places for these cruise vessels, we will conduct the review and follow up with the cruise operators every time we make such arrangements to see if they are satisfied with these arrangements actually. The responses we gathered were very good. We can also arrange privileged services under special circumstances — this will be carried out by the HKTB, especially in the provision of some on-shore hospitality programmes and free information about some scenic spots, and so on, all of which will help us foster a good impression for the travellers of cruise vessels. We will continue to do all these.

**MS MIRIAM LAU** (in Cantonese): *President, the Secretary has not responded to my question with the right focus. My question is what measures the Government will take to attract, in particular, the cruise vessels which passed Hong Kong without entering it in the past to come and berth in Hong Kong now. Will the Government adopt these measures?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): We will. Actually, we will follow up the matter regarding the overall arrangement for the berthing of cruise vessels. We will also follow up the reasons why they do not come to Hong Kong. Upon knowing and understanding the reasons, we will have focus to consider how to attract them to Hong Kong.

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

**WRITTEN ANSWERS TO QUESTIONS****Public Consultation for 2009-2010 Budget**

7. **MR VINCENT FANG** (in Chinese): *President, during the period when he was drafting the 2009-2010 Budget, the Financial Secretary invited the public to express their views through repeatedly broadcasting a series of publicity messages (PM) on various electronic media and placing advertisements on newspapers. Some members of the business sector have pointed out that the frequent broadcast of the publicity footages concerned on television during prime time not only wasted a large amount of public resources but also took up the time slots for commercial promotion. Furthermore, as the Financial Secretary had, in such messages, turned down all the requests of the public by claiming that they were not in compliance with economic principles, it was doubtful if the Government was serious about consulting the public. In this connection, will the Government inform this Council:*

- (a) of the total expenditure (including sponsorship) on the aforesaid PM and newspaper advertisements, the number of times and duration for which such PM were broadcast on various electronic media, as well as the number of pages of such newspaper advertisements;*
- (b) whether the free time slots provided by electronic media to the Government for broadcasting "announcements in the public interest" (APIs) were used for the aforesaid PM; of the criteria for the utilization of such time slots (including how the subjects were selected); of the numbers of subjects publicized in such time slots in the past 12 months and their respective broadcast time, as well as the time and percentage taken up by the aforesaid PM relating to the Budget; and*
- (c) whether the overall coordination and planning of the above PM and newspaper advertisements had been outsourced to public relations firms; if so, of the expenditure involved; if not, which government department was responsible for the work concerned?*

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

- (a) Every year, the Financial Secretary launches a public consultation exercise prior to the release of the Budget. To this end, the Government organizes publicity activities to enhance the public's understanding about the Budget preparation process and encourage them to express views during the consultation period. The 2009-2010 public consultation exercise attracted some 6 750 submissions, which are about six times of those received for the 2008-2009 consultation.

To promote the 2009-2010 public consultation exercise, 10 TV APIs and 12 radio APIs at a cost of HK\$400,000 have been produced. A well-known local cartoonist was also commissioned to produce a cartoon booklet ("Tomorrow — Future for Today") carrying the consultation message. A total of 30 000 copies were printed at a cost of \$337,000. The booklets were distributed primarily to secondary school students.

The Budget TV and radio APIs were broadcast from 1 December 2008 to 15 February 2009 on five local TV stations with a total of 41 channels and three radio stations with a total of 12 channels. The TV APIs was broadcast 6 371 times, an average of about two times a day on each channel. The radio APIs was broadcast 1 760 times, an average of about two times a day on each channel. The Government has not taken out any newspaper advertisement for the consultation exercise.

- (b) "According to the Broadcasting Ordinance and the licence conditions of domestic free TV programme services and sound broadcasting services, an air time of not more than one minute per clock hour should be allocated to broadcast free APIs by the SAR Government. At the same time, according to the licence conditions, the Broadcasting Authority (BA) has also directed that domestic pay-TV service operators must allocate air time of up to one minute per every two clock hours for the free broadcast of APIs."

According to guidelines laid down by the BA, APIs should carry messages that are in the public interest and relate to issues of public concern.

For the past 12 months, a total of 230 560 minutes of free airtime have been allocated by TV stations, and a total of 103 660 minutes of free airtime have been allocated by radio stations to broadcast government APIs. During the period, some 390 TV APIs and around 450 radio APIs were broadcast on over 70 topics, covering such issues as anti-drugs, health and hygiene, road safety, social welfare, labour relations, employment, occupational safety, environmental protection and policy consultation exercises.

A total of 3 185.5 minutes of TV airtime was allocated to publicize the public consultation on the Budget, representing 1.38% of the total free airtime allocated over the past 12 months. A total of 880 minutes was allocated for radio APIs on the same subject, representing 0.85% of the total free airtime allocated over the past 12 months.

- (c) The publicity of the Budget was planned and executed by the Financial Secretary's Office with the Information Services Department's assistance. No public relations firm had been commissioned to provide strategy formulation, co-ordination and consultancy services in relation to the Budget.

### **Day Care Centres for Elderly**

8. **MR LEUNG KWOK-HUNG** (in Chinese): *President, in reply to my question earlier, the Government advised that support had been provided to facilitate elderly people to age in the community, and as long as there was sufficient community care and support, elderly people who had long-term care needs could also age at home without the need to live in residential care homes for the elderly (RCHEs). However, I have learnt that while the enrolment rates of various day care centres for the elderly (D/Es) in the 2008-2009 financial year have reached 110%, the Government has neither provided sufficient funding for*

*the D/Es nor assisted them in acquiring more activity space to relieve the overcrowded situation. In this connection, will the Government inform this Council:*

- (a) of the number of elderly people in each District Council district currently waiting for day care services and the average waiting time; whether the Government will publish such information on the government web site for information of the public; if it will, when it will be implemented; if not, of the reasons for that and whether there are secrets behind it;*
- (b) whether it has regularly assessed if the number of existing D/Es in each district is sufficient to meet the demand; if so, who is responsible for conducting such assessments, of the criteria adopted and frequency of conducting the assessments, and whether the assessment outcome is recorded; if the assessment outcome indicates that there are insufficient D/Es, why the Government has not allocated sufficient resources to improve the present situation; if no assessment has been conducted, of the reasons for that and whether it has reviewed if there is maladministration;*
- (c) whether the Government will, in the next three years, allocate the premises of the several dozens of primary and secondary schools which have ceased operation to non-governmental organizations (NGOs) for operating D/Es, and fully subsidize the costs of the conversion works and operating costs concerned; if it will, when it will be implemented; if not, of the reasons for that;*
- (d) among the current D/E users and those in each of the past 10 years, of the respective numbers of demented elderly people and those suffering from severe level of impairment, and the respective percentages of the D/E places taken up by these two categories of elderly people; of the 10 D/Es which admitted the highest numbers of these two categories of service users in 2008-2009; whether the Government will set up centres specializing in providing services for demented elderly people; if it will, when they will be set up; if not, of the reasons for that;*

- (e) *of the respective ratios, as stipulated by the Government, of nurses, occupational therapists, physical therapists, social workers and personal care workers to the service places in each D/E; whether the Government will immediately allocate additional funds to improve such manpower ratios; and whether it will simplify the contents of the D/E schedule of accommodation (SoA) so as to relieve the heavy workload of social workers; if it will, when it will be implemented; if not, of the reasons for that; and*
- (f) *whether the additional elderly people taken in are covered in the current insurance policies taken out by the various D/Es; if so, whether they are fully protected under the insurance policies; if not, whether the Government will bear all the risks concerned; and whether it has assessed if the overcrowded situation in various D/Es at present has breached the Fire Services Ordinance (Cap. 95); if the assessment outcome is in the affirmative, of the solution to the problem?*

**SECRETARY FOR LABOUR AND WELFARE** (in Chinese): President, it is the wish of most elders to age in the community. At present, the Government is providing a range of subsidized community care services (including home-based care services and centre-based day care services for the elderly) to facilitate elders with long-term care needs to age in the community with which they are familiar.

Regarding day care services for the elderly, elders can choose between full-time or part-time services based on their own conditions and needs. As such, the Social Welfare Department (SWD) has set the registered enrolment rate (that is, the enrolment rate as mentioned in the question) of day care centres/units for the elderly (DEs/DCUs) at above 100%, with the average being 110%. This is to encourage the centres to fully utilize their resources to serve more elders. According to the statistics as at December 2008, the average daily enrolment rate of DEs/DCUs was about 90%. Currently, there are about 2 895 elders using day care services.



My reply to individual parts of the Honourable LEUNG Kwok-hung's question is as follows:

- (a) At present, the Standardized Care Need Assessment Management Office (Elderly Services) of the SWD is responsible for coordinating applications for subsidized community care services (including day care services), conducting assessments and allocating services. As at end March 2009, there were a total of 1 044 elders waiting for subsidized day care services. The waiting time of different districts varies but is less than 10 months in most districts, with an average of about 7.6 months.

The waiting time for day care services for the elderly varies under different circumstances. For instance, the waiting time will be directly affected by the number of places in individual DEs/DCUs made available through natural wastage, the number of waitlisted elders in the same district and the fact that some applicants may choose to wait for specific DEs/DCUs, and so on. Owing to the above factors, the number of waitlisted elders and waiting time of different districts often vary significantly.

- (b) The Labour and Welfare Bureau and the SWD assess from time to time the elders' demand for subsidized day care services, and have been allocating resources to increase the provision of day care services for the elderly. All relevant factors, including the existing service capacity in various districts, the number of waitlisted elders, the allocation of resources and the availability of suitable sites, and so on, will be taken into consideration.

As a matter of fact, the Government has been increasing the allocation of resources on day care services for the elderly in recent years, with a view to facilitating elders to age in the community. From 2007-2008 to 2008-2009, we have provided a total of 259 additional day care places for the elderly in Kwun Tong, Yuen Long, Eastern District, Shum Shui Po, Sha Tin, Tuen Mun and Kwai Tsing, bringing the total number of day care places to 2 234, representing an increase of 13%. Besides, the SWD will further provide 80

additional day care places for the elderly in 2009-2010 through redeployment of internal resources, bringing the total number to 2 314. These additional places will be provided in Tsuen Wan, Southern District, Shum Shui Po and Tai Po; and will provide 40 additional places in two DCUs attached to contract RCHEs from now till 2011-2012. Besides, the SWD has earmarked sites in six development projects for the construction of DCUs attached to contract RCHEs, with a view to further providing a total of 120 places.

- (c) The SWD will continue to identify suitable sites for the construction of DEs/DCUs throughout the territory, including exploring the feasibility of redeveloping primary and secondary school premises which have ceased operation, and in-situ expansion of existing DEs so as to serve more elders in need. However, we must point out that the factors pertaining to site selection for DEs/DCUs are different from those for general community facilities. Given that all the service users are frail elders, DEs/DCUs should be located on the ground floor or lower floors of a building in order to be easily accessible to the users. Should they be located on lower floors, they should not be at a height over 24 metres above ground and should be accessible by lifts. Proximity to open space or playground is also preferred. Besides, the SWD has specific requirements on the area of floor space and facilities of DEs/DCUs. As such, not all primary and secondary school premises that have ceased operation can be redeveloped into DEs.
  
- (d) The service targets of DEs/DCUs are frail elders of a moderate or severe impairment level, including those with cognitive impairment (for example, those suffering from dementia). As at end March 2009, there were 2 895 elders using day care services. Of these, 234 elders were assessed to be severely impaired under the standardized care need assessment, representing about 8% of the total number of day care service users. The SWD does not separately record the number of elders being severely impaired or demented in individual DEs/DCUs.

In respect of the care for demented elders, the SWD launched from 1999 to 2002 a 3-year pilot on "Day Care Centres for Demented Elders and Dementia Units in RCHEs". A consultancy study was commissioned to evaluate the effectiveness of the pilot and to put forward recommendations on the long-term mode of service operation. The consultancy report concluded that demented elders, like other frail elders with special care needs, should be served in an integrated manner whereby services are provided in a spectrum and in continuum to meet their care needs at different stages. To better integrate the dementia care services into the mainstream services, the SWD invited operators of DEs and that of the pilot day care centres for demented elders to participate in an in-situ expansion exercise in 2003. Under the in-situ expansion exercise, the SWD allocated additional resources to increase the number of places and strengthen the capability of the centres in caring for demented elders.

The SWD has also implemented various improvement measures in the past few years to provide better support for demented elders and their carers. These measures included increasing the manpower, equipment and supplies for the care of demented elders, for example, anti-wandering system and multi-sensory facilities, and so on. Moreover, day respite services were provided in all DEs to relieve the stress on carers.

DEs/DCUs in various districts are providing services for frail elders, including demented elders. The Government has no plan to set up DEs/DCUs designated for demented elders for the time being.

- (e) Under the Lump Sum Grant (LSG) Subvention mechanism, NGOs can, according to their actual service needs, flexibly deploy the subvention under LSG to employ suitable staff for providing services in DEs/DCUs. Also, the operators of DCUs attached to contract RCHEs can also flexibly deploy the contract sum to employ suitable staff for providing the services.

The SWD has also set a SoA for DEs/DCUs. SoA lists out the area of floor space and equipment required in DEs/DCUs in light of the

needs of the service users and those of staff members in respect of work, space and accommodation.

- (f) NGOs or operators of contract services are required to take out insurance policies for public liability and employees compensation, as well as any other insurance policies pertaining to their contracts or other items that are regarded as necessary by the operators throughout the entire service or contract period. The relevant insurance policies shall remain valid and be renewed upon expiry of the validity period.

NGOs or operators are responsible for providing the insurers with adequate and accurate information, and have to abide by the terms and conditions of the insurance policies.

DEs/DCUs premises shall comply with relevant fire safety legislations. The operators should take all reasonable steps to ensure a safe environment for their staff and service users; provide and effectively maintain fire service installations and other necessary safety equipment; enhance the awareness of their staff and service users on the emergency response procedures and conduct fire drills regularly.

As mentioned in (e) above, the SWD has set the SoA for DEs/DCUs. If the area of floor space of DEs/DCUs is below the standard set, the SWD will, subject to the availability of resources and suitable premises, consider reprovisioning the concerned DEs/DCUs.

### **Assistance for Mucopolysaccharidoses Patients**

9. **MR WONG YUK-MAN** (in Chinese): *President, according to the information provided by the Hong Kong Mucopolysaccharidoses and Rare Genetic Diseases Mutual Aid Group, there are more than 30 Mucopolysaccharidoses patients in Hong Kong at present. They consider that as the number of Mucopolysaccharidoses patients is small, their needs have all along been neglected by the Government. Most patients can live up to 20 odd*

*years only, and several of them are already in critical condition at present. Although the effective treatments for Mucopolysaccharidoses recently found in foreign countries have brought patients a hope for survival, the medical fee of over HK\$4 million a year has rendered the local patients helpless. In this connection, will the Government inform this Council:*

- (a) of the existing specific policies for assisting Mucopolysaccharidoses patients, and whether emergency measures are in place to support individual patients who are in critical condition; and*
- (b) given that at present, many countries and places (including Macao) provide Mucopolysaccharidoses patients with subsidies to pay for their treatments, why Hong Kong is not doing the same?*

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

- (a) There are over 50 types of rare genetic lysosomal diseases, which include Mucopolysaccharidoses, Fabry disease, Pompe disease and Gaucher disease. At present, there is no effective medical treatment for curing rare genetic diseases like Mucopolysaccharidoses. The Administration has been looking after the medical needs of patients with rare genetic disease. With a view to improving the quality of life and prolonging the lifespan of these patients, the Hospital Authority (HA) currently seek to alleviate patients' discomfort and treat the complications arising from the disease through the collaboration of healthcare staff from various specialties, such as paediatrics, orthopaedics, otorhinolaryngology, ophthalmology and respiratory medicine, along with genetic counseling, as well as the provision of appropriate drugs, surgery and rehabilitation programme. These services are covered by the standard fees of the HA.

Since 2008-2009, the Administration has provided additional annual recurrent funding of \$10 million to the HA to provide specific subsidized enzyme replacement therapy (ERT) to patients with rare genetic lysosomal diseases. Most of these drugs have only been on

the market for a relatively short period and their costs are extremely high. Also, the efficacy of these drugs has yet to be proved by sufficient scientific research data. As such, in regard to these drugs which have only preliminary medical evidence, the Administration has to carefully examine their efficacy as well as other possible effects on individual patients so as to assess whether it is suitable for the patient to be prescribed with the drugs and whether it is cost-effective and fair use of public money to subsidize their drug costs by public funding. The HA has set up an Expert Panel on ERT for Rare Genetic Lysosomal Diseases (Expert Panel) to formulate treatment guidelines for specific drugs and the assessment criteria for the use of these drugs on patients. The Expert Panel also makes assessment on the clinical conditions of individual patients, including Mucopolysaccharidoses patients, to determine on a case-by-case basis whether it is suitable for them to undergo the respective ERT in accordance with the criteria.

- (b) The Expert Panel under the HA will continue to assess applications to receive ERT from patients with rare genetic lysosomal diseases, including Mucopolysaccharidoses patients, so as to consider whether to provide individual patients with subsidized treatment. Meanwhile, the HA will provide timely support to patients according to their conditions and medical needs.

We need to point out that different countries adopt different practices on scientific evaluation, introduction of drug formularies, registration requirements, assessment of patients' applications for subsidies and the mode of subsidy of drugs for rare genetic diseases. As regards the provision of subsidized ERT to Mucopolysaccharidoses patients, there is no standardized approach among different countries. Due to differences in healthcare systems among different countries, it is not appropriate to make comparison among them.

**Assistance for Fishermen**

10. **MS CYD HO** (in Chinese): *President, will the Government inform this Council:*

- (a) *of the respective numbers of existing mud dredging and disposal areas in Hong Kong waters, together with a map showing the submarine facilities (including sewage pipes and natural gas pipelines) therein; and*
- (b) *whether it has assessed the impact of mud dredging and disposal operations and the aforesaid submarine facilities within Hong Kong waters on the fishing industry; whether there are measures to assist the affected fishermen operating in Hong Kong waters to switch to distant-water fishing?*

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

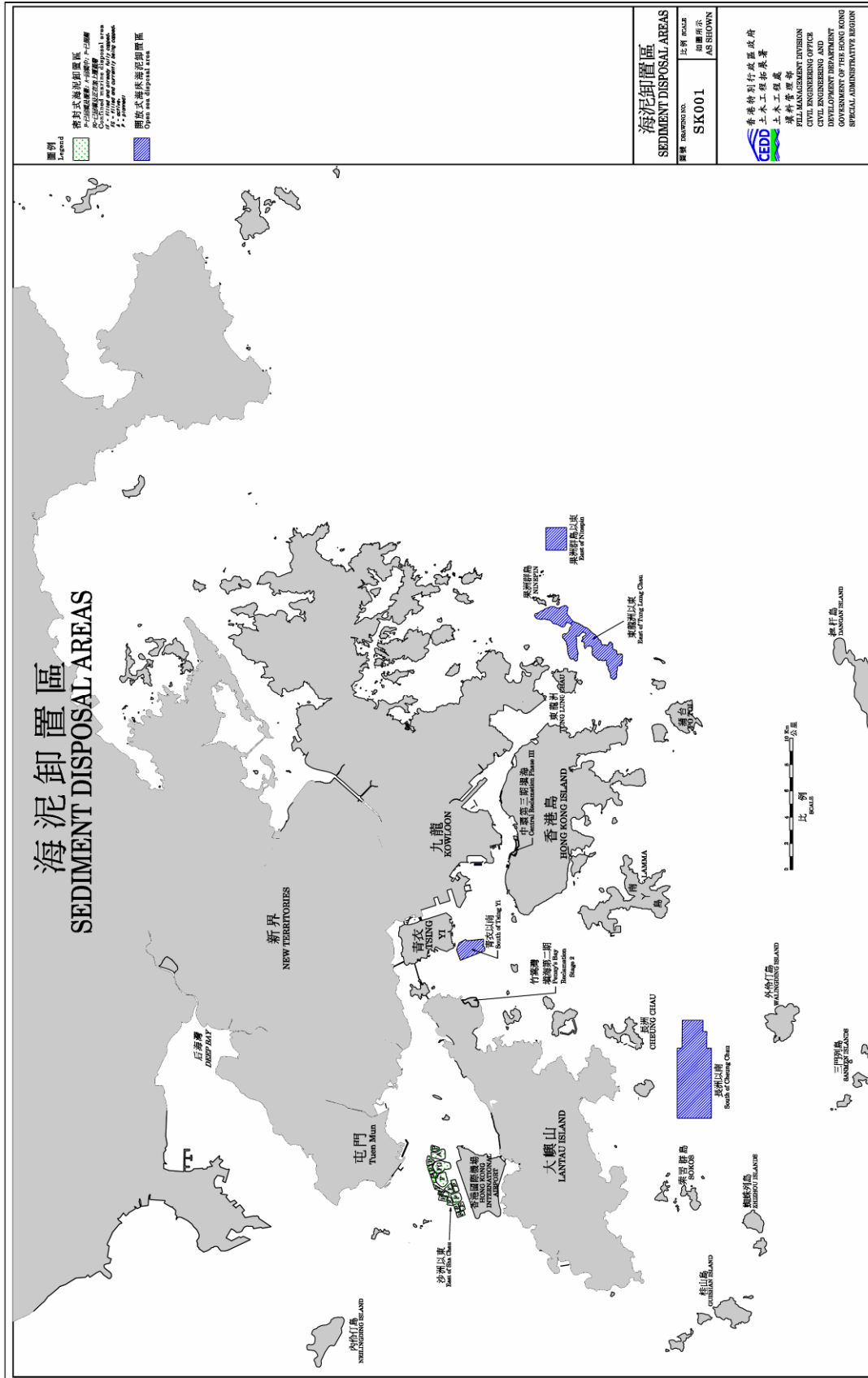
- (a) Regular dredging in Hong Kong waters and river channels is necessary to ensure unobstructed fairways and anchorages, and sufficient flood protection for river channels. At present, there are a total of four open sea disposal areas for uncontaminated mud in Hong Kong waters, located at South of Cheung Chau, East of Ninepin, East of Tung Lung Chau and South of Tsing Yi. There is also a confined marine disposal area for contaminated mud located at East of Sha Chau. The locations of sediment disposal areas in Hong Kong waters are shown at the Annex. Besides, the locations of various sediment disposal areas and submarine facilities including sewage pipelines and gas pipelines are also marked in the Hong Kong Nautical Charts published by the Marine Department for sale.
- (b) The Government exercises stringent control on marine works such as mud dredging and disposal. Under the Environmental Impact Assessment Ordinance (the EIA Ordinance), environmental impact assessment (EIA) is required for all marine dredging operations of designated projects in Hong Kong in order to provide in-depth assessment of the potential environmental impacts of the projects

and recommend mitigation measures and environmental monitoring programme. During the works, project proponents are required to implement the mitigation measures and environmental monitoring programme recommended in the EIA report. The Government will also closely monitor the progress of the projects. In addition, all marine disposal operations in Hong Kong waters require prior approval from the Environmental Protection Department and must be carried out in designated sediment disposal areas. The Government conducts environmental monitoring at all sediment disposal areas and the findings show that dumping at the sediment disposal areas has no adverse impact on the marine environment and ecology outside these areas. As for marine works such as the laying of submarine sewage pipelines and gas pipelines which are classified as designated projects under the EIA Ordinance, they are also subject to the regulation of the EIA Ordinance. The EIA includes an assessment on the potential environmental impacts (including impacts on the fisheries industry and fisheries resources) of the works and recommendations for improvement. During the works, project proponents are required to implement an appropriate environmental monitoring and audit programme. The existing EIA process requires project proponents to propose the best arrangements (including design), so as to minimize the impacts of the marine works on the marine environment, ecology, fisheries resources and fishing operations. As such, the existing mechanism is effective in ensuring adequate protection of Hong Kong's marine environment.

Currently, the Government provides support and assistance to fishermen wishing to venture into offshore fishing mainly in four areas, including provision of technical advice to fishermen on vessel construction, modification and other technical matters; arrangement of training courses on offshore fishing for fishermen and visits to overseas offshore fishing grounds; assistance in discussion with the relevant Mainland and foreign authorities on offshore fishing requirements and collaboration; and provision of low interest loans to fisherman for vessel modification or construction and acquisition of fishing gears through the "Fisheries Development Loan Fund" and "Fish Marketing Organization Loan Fund".



Annex



**Execution of Court Orders by Bailiffs**

11. **MR CHAN KIN-POR** (in Chinese): *President, I have recently received complaints from members of the public concerning the execution of court orders by bailiffs. In this connection, will the Government inform this Council:*

- (a) *of the number of attempts made by bailiffs to execute court orders and the success rate in the past three years; as well as the reasons involved in the unsuccessful cases;*
- (b) *whether the Government will consider reducing or waiving the fees charged to creditors when the bailiffs fail to execute court orders, so that they will be more willing to use the services concerned; and*
- (c) *whether last year, it had studied if there was a need to give bailiffs more power, so as to increase their success rates in executing court orders?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Chinese): *President, the Administration has consulted the Judiciary on the question and has received the following information and response:*

- (a) It is important to note that in the case of civil actions, the judgment creditor bears the responsibility of enforcing a judgment if it is not complied with. In the event that the judgment debtor does not pay in full or at all, the judgment creditor may enforce the judgment. As the judgment creditor is responsible for enforcing the judgment, he has to bear the costs of execution when he decides to execute the judgment. The Bailiff Office's responsibility is to carry out execution of the court judgment upon the judgment creditor's instructions.

The number of attempts made by bailiffs in executing court orders for the past three years and the outcome of such attempts are as follows:

	2006		2007		2008	
	<i>Attempts</i>	<i>Success Rates</i>	<i>Attempts</i>	<i>Success Rates</i>	<i>Attempts</i>	<i>Success Rates</i>
Warrant of Distress	6 261	40%	5 495	40%	5 528	36%
Writ of <i>Fieri Facias</i> , Magistrate's Warrants and others	9 001	13%	9 794	9%	9 370	12%
Writ of Possession	9 216	92%	7 991	93%	7 378	93%

It should be noted that in the cases of Warrant of Distress and Writ of *Fieri Facias*, the execution is successful where there are sufficient goods and chattels on the premises to justify a seizure, or if the judgment debtor concerned settles the debt on the spot or makes payment to the Bailiff Office. If the judgment debtor concerned is penniless, or has left on the premises goods and chattels of no or insufficient value to cover the execution expenses, or his whereabouts are unknown, the execution is classified as not successful. Whether the execution turns out to be successful or not depends on many factors which are beyond the control and responsibility of the Bailiff Office, including whether the debtor has sufficient means to repay the debt.

- (b) As pointed out in (a) above, the judgment creditor is responsible for enforcing the judgment and he has to bear the costs of execution when he decides to execute the judgment. The judgment creditor has to pay a deposit for the bailiff's travelling expenses and the cost of services incurred by the engagement of security guards (for ensuring the safe custody of goods and chattels seized after the execution). These costs may be recovered if the execution is successful and the payment of the judgment debtor or the proceeds of the sale of goods and chattels seized are sufficient to cover such expenses. In the case of unsuccessful attempts, the judgment creditor is still required to pay all the travelling expenses incurred. As for the fees of the security guards, only half of the daily rate of the security guard fees will be charged. Any unused portion of the deposit will be refunded.

- (c) The authority of the bailiff service is derived from section 38A of the High Court Ordinance (Cap. 4). The section already provides for bailiffs to effect orders for committal and for service and execution of the process of the High Court, in accordance with rules of court. Obstruction to the discharge of duties by bailiffs amounts to contempt of court and shall be liable on summary conviction to a fine at level 5 and to imprisonment for 12 months; or on conviction on indictment to imprisonment for two years.

As noted above, the success or otherwise of an execution depends on many factors which are beyond the control and responsibility of the Bailiff Office, such as whether belongings of the judgment debtor found at the location of execution would be of sufficient value. The Judiciary does not therefore consider that the success rate of execution of court orders could be enhanced simply by increasing bailiffs' powers and no study was conducted by the Judiciary in this regard last year.

### **Smoking Outside Office Buildings and Shopping Malls**

12. **MR LAU WONG-FAT** (in Chinese): *President, since the implementation of a total ban on smoking in workplaces and shopping malls, quite a number of smokers have moved to places near the entrances/exits of office buildings and malls to smoke. As a result, people entering or leaving such buildings have to pass through a virtual smoking area. At the meeting of this Council on 10 December 2008, I raised a question on the above situation, but it was not fully answered by the Government. In this connection, will the Government inform this Council whether:*

- (a) *it has assessed the impact of the above situation on passers-by; and*
- (b) *it will review the existing smoking ban with a view to finding a solution to this problem?*

**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President, the Government has adopted a progressive approach in implementing tobacco control policy. Over the years, it has made multi-pronged efforts encompassing

publicity, education, legislation, enforcement, taxation as well as promotion of smoking cessation to reduce the impact of passive smoking on the public and further safeguard public health. Following the passage of the amendment to the Smoking (Public Health) Ordinance (the Ordinance) by the Legislative Council in 2006, the statutory no-smoking areas have been expanded significantly to include all indoor public places and workplaces as well as many outdoor sitting-out areas since 1 January 2007. The fixed penalty system for smoking offences will be implemented in due course, and the Administration has also planned to designate public transport interchanges as statutory no-smoking areas.

We understand that after the expansion of no smoking areas, some smokers have gathered around and smoked at certain spots on the streets that are close to no smoking areas, such as places near the entrances/exits of office buildings and malls, and have affected some of the non-smoking passers-by. We are now evaluating the situation, as well as collecting relevant information and conducting research on the matter. This includes gauging public opinion and drawing reference from the experience and results of measures taken by other countries and places in tackling the issue of smokers clustering and smoking in the vicinity of no smoking areas. Meanwhile, we will continue to closely monitor the implementation of the tobacco control policy as well as the community's expectation and acceptance of our tobacco control measures. As in the past, the Government will take into account the actual circumstances and public expectations when considering the need to further expand the statutory no smoking areas or adopt other tobacco control measures to safeguard public health.

### **Premium Valuation Process**

13. **MR ABRAHAM SHEK** (in Chinese): *President, under the current land administration policy, where a lease modification confers an increase in land value, premium is payable on the part of the developer. To assess the amount of premium payable, the Lands Department (LandsD) will deduct the relevant projected development costs and the developer's profit (calculated as a certain percentage of the development costs) from the enhancement in land value. It is learnt that LandsD raised the percentage at the end of last year, and commencement of private development projects can thus be expected to be expedited, and it also helps create more job opportunities. In this connection, will the Government inform this Council:*

- (a) *what measures are in place to reduce further the differences between the Government and developers over premium amount, so as to reduce the time taken for the premium valuation process;*
- (b) *given that there are comments that the Government has failed to follow closely the latest property market trend in premium assessment, whether the authorities will regularly review the aforesaid profit percentage and make timely adjustment according to market conditions; and*
- (c) *given that there are comments that premium assessment currently undertaken by LandsD lacks transparency, whether the authorities will consider reviewing the relevant mechanism and introducing an expert determination mechanism, so as to enable more development projects to commence as early as possible?*

**SECRETARY FOR DEVELOPMENT** (in Chinese): President, I respond to your three-part question in one-go as follows:

As a general principle for premium assessment, land is assessed at full market value, taking into account the restrictions as imposed under the lease and other statutory provisions such as the relevant Outline Zoning Plans and Buildings Ordinance. The valuation is conducted by professional estate surveyors in the LandsD. When assessing the land value for land transactions, the professional estate surveyors in the LandsD take into account a number of cost and revenue aspects, including the prevailing sale price of the completed development, the development costs of the project, the development period and the profit margin. Professional estate surveyors in the LandsD and professional valuers in the private market adopt the same professional practices and both draw on the relevant market evidence in assessing land premium.

The LandsD's professional valuers are vigilant towards the market changes which may impact on the land premium assessment. In the light of the market situation, The LandsD has as from December 2008 increased the profit margin assumed in land premium assessment process by 10% as follows:

- (a) residential development — from 10% to 20%;
- (b) commercial/hotel development — from 15% to 25%; and
- (c) industrial development — from 20% to 30%.

The LandsD will continue to keep a close watch over the market situation to ensure that its land premium assessment will, as always, reflect a market value of the land involved.

The current assessment mechanism has already got a certain degree of transparency. If a developer disagrees with the amount of the premium as assessed by the LandsD, he may appeal against the premium on the basis of the procedures promulgated in the LandsD's Practice Notes. On receipt of such an appeal, the case officer in the LandsD may communicate with the developer or his agent on a non-committal and without prejudice basis and in this context may exchange views with the developer or his agent on matters relevant to the premium assessment including, among others, the relevant market transaction evidence. The developer and/or his agent may be invited to attend the LandsD's subsequent Valuation Conference meeting convened to consider the premium appeal for the purpose of elaborating on his appeal. If the developer disagrees with the amount of the revised premium determined by the LandsD based on his first appeal, he may submit subsequent appeals and the procedure for deciding on any such subsequent appeals is similar to that of the first appeal. In the case of the second appeal, the developer may opt to applying for a fast track procedure by submitting a counter-offer supported by justifications within a specified time limit. If such an application is approved, the LandsD will aim to issue its response to the counter offer within 24 working days. Such fast track procedure however will not be available to any such third appeal and subsequent appeals.

The arrangements for determining land premium as explained above have evolved from experience over the years, taking into account the views expressed by not only the property market, but also by other sectors of the community. The present arrangements, we believe, achieve the objective of providing a fair and reasonably quick and transparent professional premium assessment mechanism. We do not consider it appropriate nor necessary to introduce an expert determination mechanism outside the LandsD.

**Building Environmental Assessment Method**

14. **MISS TANYA CHAN** (in Chinese): *President, it has been reported that the HK-BEAM Society has commissioned an academic institution to conduct a review on the Building Environmental Assessment Method to study how the existing assessment criteria may be amended. In this connection, will the Government inform this Council:*

- (a) *whether it knows the details of the above review, including the objective, scope, framework and work schedule; when the Government will adopt the new assessment criteria upon completion of the review, and what procedures need to be gone through; whether the Government will conduct grading assessments on all newly-built government buildings in accordance with the new assessment criteria and require such buildings to reach the specified grades; if it will, of the details; if not, the reasons for that;*
- (b) *whether it will actively promote the adoption of the new assessment criteria by various public bodies and organizations in which the Government owns controlling stake (including the Hong Kong Housing Authority (HKHA), Hong Kong Housing Society, Urban Renewal Authority, West Kowloon Cultural District Authority and the MTR Corporation Limited) in conducting grading assessments on all newly-built buildings (including residential buildings, commercial buildings and public facilities); if it will, of the details; if not, the reasons for that; and*
- (c) *whether the Government will consider requiring all buildings (including residential and commercial ones), regardless of whether they are government or private buildings, in major new development areas (including Kai Tak Development Area and the river loop area of Shenzhen River) to be graded in accordance with the new assessment criteria and reach the specified grades; if it will, of the details; if not, the reasons for that; and whether the Government will consider encouraging various property developers to conduct grading assessments on the buildings constructed by them in accordance with the new assessment criteria; if it will, of the details; if not, the reasons for that?*



**SECRETARY FOR DEVELOPMENT** (in Chinese): President, the Government has been actively promoting green buildings. To further advance environmental protection and energy efficiency in government buildings, the Secretary for the Environment and I jointly issued a technical circular in April 2009 on implementing a set of target-based assessment criteria and framework for the environmental performance of government buildings in various aspects. All newly-built government buildings with construction floor areas of more than 10 000 sq m (hereinafter called "major government buildings") are required to be assessed by internationally or locally recognized environmental performance assessment methods such as the Hong Kong-Building Environmental Assessment Method (HK-BEAM) and the Leadership in Energy and Environmental Design Green Building Rating System (LEED). They must attain grades not lower than the second highest level under these assessment systems. Once the Hong Kong Green Building Council (HKGBC) is established in due course, assessments will be conducted under its assessment systems to be drawn up. The Architectural Services Department (ArchSD) and the HKHA have assessed the environmental performance of a number of their buildings against the HK-BEAM and found some of them were of the highest grade — the Platinum Level.

My reply to the three-part question is as follows:

- (a) In late April 2009, the HK-BEAM Society indicated in its emails to government departments such as the ArchSD, Electrical and Mechanical Services Department, Buildings Department and Environmental Protection Department that it had commissioned an academic institution to conduct an interim review on the HK-BEAM. A brief scope of the review and its time schedule were attached to its emails. Since the HK-BEAM Society is a private organization, we do not have the details of the review at hand at this stage. As mentioned above, we will include the HK-BEAM on our list when we select the appropriate environmental performance assessment system for major government buildings. Upon completion of the review, the new assessment criteria will also be one of our options.
- (b) We will share with the HKHA, subvented organizations and quasi-government corporations our working experience in promoting green government buildings, including the drawing up of the objectives as well as the assessment of the environmental

performance of government buildings. We expect the HKGBC to be established in due course will also play an important role in promoting green buildings and environmental performance assessment.

- (c) In new development areas, all major government buildings will undergo environmental performance assessment in accordance with the technical circular and the framework mentioned above. By this, we also hope to set an example for private developers and to encourage them to conduct environmental performance assessment on their buildings in the new development areas.

### **Mortality Rates of Patients and Turnover Rates of Health Care Staff in Public Hospitals**

15. **MR ALBERT HO** (in Chinese): *President, regarding the mortality rates of patients and turnover rates of healthcare staff in public hospitals under the Hospital Authority (HA), will the Government inform this Council whether it knows:*

- (a) *the respective mortality rates of patients and turnover rates of healthcare staff in various acute hospitals and in various hospital clusters last year; and*
- (b) *if HA has looked into the reasons for the higher mortality rates of patients in some acute hospitals and hospital clusters and put forward improvement proposals; if it has, of the details; if not, whether it will conduct a review?*

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

- (a) The mortality rates of in-patients and turnover rates of healthcare staff in various acute hospitals and hospital clusters under the HA in 2008-2009 are at Annex 1 and Annex 2 respectively.

- (b) The HA collects statistical data of various hospital clusters and hospitals, including data on mortality rates on a regular basis. There are variations among hospitals in terms of the scope of specialty services, the types of hospital beds and the distribution of the number of beds among specialties, while the demographic profile and age distribution of the people served also varied among them. All these factors can affect the mortality rates in the hospitals. It is not appropriate to make comparison solely on the mortality rates between individual clusters and hospitals and there is not necessarily any correlation between the mortality rates in individual clusters/hospitals and the turnover rates of healthcare staff.

At present, HA hospitals hold regular meetings to review death cases occurring in hospitals. Where necessary, individual death cases will be referred to the Coroner's Court for independent inquiry in accordance with the relevant legislation.

Annex 1

Mortality rates of in-patients and turnover rates of healthcare staff  
in various acute hospitals under the HA in 2008-2009

<i>Acute hospital</i>	<i>Mortality rate of in-patients</i>			<i>Turnover rate of healthcare staff</i>		
	<i>Number of in-patient discharges and deaths</i>	<i>Number of in-patient deaths</i>	<i>Mortality rate of in-patients (per 1 000 discharges and deaths)</i>	<i>Doctor</i>	<i>Nurse</i>	<i>Allied Health Staff</i>
Pamela Youde Nethersole Eastern Hospital	73 645	1 815	24.6	5.8%	5.4%	4.7%
Ruttonjee Hospital	20 877	1 320	63.2	6.4%	6.5%	0.7%
Queen Mary Hospital	73 204	1 392	19.0	5.4%	5.1%	2.5%
Queen Elizabeth Hospital	102 732	3 346	32.6	4.7%	5.3%	4.1%
United Christian Hospital	72 094	2 021	28.0	3.6%	3.2%	2.0%
Tseung Kwan O Hospital	20 770	618	29.8	7.5%	8.4%	5.0%

<i>Acute hospital</i>	<i>Mortality rate of in-patients</i>			<i>Turnover rate of healthcare staff</i>		
	<i>Number of in-patient discharges and deaths</i>	<i>Number of in-patient deaths</i>	<i>Mortality rate of in-patients (per 1 000 discharges and deaths)</i>	<i>Doctor</i>	<i>Nurse</i>	<i>Allied Health Staff</i>
Yan Chai Hospital	40 052	1 533	38.3	1.3%	3.9%	0.7%
Caritas Medical Centre	38 785	1 914	49.3	8.5%	3.4%	2.2%
Princess Margaret Hospital	72 866	2 422	33.2	4.5%	6.3%	3.1%
Kwong Wah Hospital	63 057	1 040	16.5	3.8%	3.9%	2.4%
North District Hospital	29 695	1 105	37.2	4.0%	5.8%	2.9%
Prince of Wales Hospital	77 216	1 743	22.6	7.4%	6.1%	1.6%
Alice Ho Miu Ling Nethersole Hospital	26 529	640	24.1	5.6%	4.3%	2.0%
Tuen Mun Hospital	92 894	3 411	36.7	4.1%	5.9%	1.8%
Pok Oi Hospital	12 077	499	41.3	7.0%	3.4%	0.0%

Note: The above figures do not cover cases of deaths that occurred in the Accident and Emergency Departments (AEDs) or upon arrival at the AEDs.

## Annex 2

Mortality rates of in-patients and turnover rates of healthcare staff  
in various hospital clusters under the HA in 2008-2009

<i>Cluster</i>	<i>Mortality rate of in-patients</i>			<i>Turnover rate of healthcare staff</i>		
	<i>Number of in-patient discharges and deaths</i>	<i>Number of in-patient deaths</i>	<i>Mortality rate of inpatients (per 1 000 discharges and deaths)</i>	<i>Doctor</i>	<i>Nurse</i>	<i>Allied Health Staff</i>
Hong Kong East Cluster	101 571	3 442	33.9	5.6%	5.4%	3.8%
Hong Kong West Cluster	94 630	2 969	31.4	5.0%	5.3%	2.3%
Kowloon Central Cluster	125 777	5 223	41.5	4.7%	4.5%	4.0%

Cluster	Mortality rate of in-patients			Turnover rate of healthcare staff		
	Number of in-patient discharges and deaths	Number of in-patient deaths	Mortality rate of inpatients (per 1 000 discharges and deaths)	Doctor	Nurse	Allied Health Staff
Kowloon East Cluster	98 812	3 414	34.6	4.3%	4.3%	2.5%
Kowloon West Cluster	230 434	8 046	34.9	4.7%	4.2%	2.5%
New Territories East Cluster	150 778	5 223	34.6	6.3%	4.9%	2.3%
New Territories West Cluster	107 584	3 910	36.3	4.3%	4.4%	1.7%
Total	909 586	32 227	35.4	5.0%	4.7%	2.7%

Note: The above figures do not cover cases of deaths that occurred in the AEDs or upon arrival at the AEDs.

### Advertising Spaces on External Walls of Government Properties

16. **DR DAVID LI:** *President, regarding the designated advertising spaces on the external walls of government properties, which are managed by the Government Property Agency, will the Government inform this Council of:*

- (a) *the total income from leasing such advertising spaces for the year ended 31 March 2009; and*
- (b) *the total number and gross area of such advertising spaces at present; and among them,*
  - (i) *the total number and gross area of those which have not been taken up for a period of 12 months or more as at 31 March 2009; and*
  - (ii) *the locations of those which measure 30 sq m or more in size each and have not been taken up for a period of three years or more as at 31 March 2009, and the reasons for their not being taken up?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY:**

President, our reply to the four parts of the question is as follows:

- (a) The total rental income generated from the leasing of the advertising spaces on the external walls of government premises for commercial advertising in the financial year 2008-2009 is about \$19 million.
- (b) There are eight advertising spaces on the external walls of government premises available for leasing for commercial advertising under the purview of the Government Property Agency as at 31 March 2009. The total display area of these advertising spaces is about 4 800 sq m.
  - (i) and (ii)

All the advertising spaces on the external walls of government premises available for leasing for commercial advertising under the purview of the Government Property Agency are leased out and occupied in the financial year 2008-2009.

**Publication of Annual Reports by Government Departments**

17. **MR PAUL TSE** (in Chinese): *President, will the Government inform this Council:*

- (a) *of the total expenditure on the production and printing of annual reports of various government departments, as well as the 10 government departments with the highest relevant expenditure and the respective amounts, in each of the past three years;*
- (b) *of the procedure for vetting and approving the aforesaid expenditure; whether there is any mechanism currently in place to regulate the aforesaid annual expenditure incurred by various government departments; if so, of the details of the mechanism; if not, whether it will set up such a mechanism expeditiously; and*

- (c) *whether last year, it had studied the adoption of greener methods to publish annual reports; if it had, of the details; if not, whether it will conduct such a study expeditiously?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): President, the total expenditure incurred by government departments in the production and printing of departmental annual reports in 2006-2007, 2007-2008 and 2008-2009 was \$5,209,734; \$5,192,131 and \$4,952,609 respectively. In this regard, the top 10 government departments and the expenditure involved in the past three years are set out in the Annex.

Some departments are required by law to produce and publish departmental annual reports. For others, heads of department will decide whether or not annual reports for their respective departments should be produced and printed. The cost will be borne by the individual departments following their established procedures for approval of funding.

The Director of Administration issued a circular in 2003 suggesting government departments to publish their annual reports on the Internet or using CD-ROMs, thereby minimizing the printing of hard copies and the use of paper. Annual reminders are sent to bureaux and departments.

Annex

The top 10 government departments and the expenditure involved in the production and printing of departmental annual reports in 2006-2007, 2007-2008 and 2008-2009:

2006-2007

	<i>Departments</i>	<i>Production cost</i>	<i>Printing cost</i>	<i>Total cost</i>
1.	Environmental Protection Department	\$664,060	\$143,838	\$807,898
2.	* Electrical and Mechanical Services Trading Fund	\$404,280	\$140,543	\$544,823
3.	* Post Office	\$336,100	\$89,800	\$425,900
4.	Water Supplies Department	\$332,100	\$90,699	\$422,799
5.	* Office of the Telecommunication Authority	\$327,000	\$54,000	\$381,000

	<i>Departments</i>	<i>Production cost</i>	<i>Printing cost</i>	<i>Total cost</i>
6.	Hong Kong Police Force	\$226,600	\$117,832	\$344,432
7.	Immigration Department	\$205,000	\$100,365	\$305,365
8.	Correctional Services Department	\$279,400	\$19,000	\$298,400
9.	* Independent Commission Against Corruption	\$46,380	\$189,826	\$236,206
10.	Electrical and Mechanical Services Department	\$168,000	\$46,300	\$214,300

## 2007-2008

	<i>Departments</i>	<i>Production cost</i>	<i>Printing cost</i>	<i>Total cost</i>
1.	* Electrical and Mechanical Services Trading Fund	\$384,810	\$135,069	\$519,879
2.	Water Supplies Department	\$347,300	\$111,018	\$458,318
3.	* Post Office	\$357,300	\$86,500	\$443,800
4.	Hong Kong Police Force	\$231,500	\$143,700	\$375,200
5.	* Office of the Telecommunication Authority	\$327,000	\$43,800	\$370,800
6.	Immigration Department	\$214,000	\$106,417	\$320,417
7.	Environmental Protection Department	\$277,344	\$0	\$277,344
8.	§ Customs and Excise Department	\$232,000	\$30,000	\$262,000
9.	Electrical and Mechanical Services Department	\$160,000	\$68,680	\$228,680
10.	* Independent Commission Against Corruption	\$41,200	\$174,803	\$216,003

## 2008-2009

	<i>Departments</i>	<i>Production cost</i>	<i>Printing cost</i>	<i>Total cost</i>
1.	* Post Office	\$442,750	\$87,150	\$529,900
2.	* Electrical and Mechanical Services Trading Fund	\$379,260	\$133,306	\$512,566
3.	Water Supplies Department	\$375,800	\$104,227	\$480,027
4.	Hong Kong Police Force	\$319,000	\$110,000	\$429,000
5.	Immigration Department	\$214,000	\$144,822	\$358,822
6.	Environmental Protection Department	\$357,688	\$0	\$357,688
7.	Electrical and Mechanical Services Department	\$237,950	\$56,000	\$293,950



	<i>Departments</i>	<i>Production cost</i>	<i>Printing cost</i>	<i>Total cost</i>
8.	* Office of the Telecommunication Authority	\$273,000	\$6,650	\$279,650
9.	* Independent Commission Against Corruption	\$29,350	\$182,711	\$212,061
10.	Correctional Services Department	\$143,000	\$64,000	\$207,000

Remarks:

\* Departments required by law to produce annual reports.

§ Customs and Excise Department produces departmental reports bi-annually. The cost incurred in 2007-2008 was the production expenses for the report for 2005 and 2006. The Department decided that from 2007 onwards they would only produce an electronic version of the annual report for uploading onto the departmental website.

### **Low-floor Buses**

18. **MR ALBERT CHAN** (in Chinese): *President, in May 2008, I raised a question in this Council regarding the issue that most of the bus trips to and from Tin Shui Wai were not serviced by wheelchair-accessible low-floor buses. It is learnt that as most of these trips are at present still not serviced by low-floor buses, wheelchair users often have to wait for more than 30 minutes for such buses. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of low-floor buses added to the fleets of various franchised bus companies since May 2008 and the respective rates of increase;*
- (b) *of the daily number of trips run by low-floor buses to and from Tin Shui Wai at present, and the percentage of such numbers in the total number of relevant bus trips; how such figures compare with those in May 2008; and*
- (c) *whether it will reconsider adding a clause to the future franchise agreements with the franchised bus companies, requiring them to retrofit in all in-service non-low-floor buses facilities to make it convenient for wheel-chaired passengers to board and alight; if it will, of the details; if not, the reasons for that?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Chinese): President,

- (a) The total number of wheelchair accessible low-floor buses of the franchised bus companies has increased 1.3% from 2 788 in end April 2008 to 2 824 in end March 2009. The number of low-floor buses of the franchised bus companies is outlined at the Annex.
- (b) In end April 2008, the total number of bus trips to and from Tin Shui Wai was about 3 310 per day, with some 2 380 trips or 72% operated by low-floor buses. At present, the total number of bus trips to and from Tin Shui Wai has increased to about 3 600 per day, with some 2 530 trips or 70% operated by low-floor buses. Compared with the situation in end April 2008, the number of trips operated by low-floor buses has increased by about 150 per day.
- (c) All franchised bus companies, except New Lantao Bus Company (1973) Limited (NLB), have agreed and implemented since 2001 that all new buses purchased as additional or replacement vehicles will be wheelchair accessible. The terrain constraints make it unsuitable for wheelchair accessible low-floor buses to ply along most of the NLB routes. NLB, however, has purchased and deployed wheelchair accessible low-floor buses to run on routes where the terrain permits. Under these arrangements, the franchised bus companies' fleets will gradually have more buses which are accessible to wheelchair users.

Annex

## Number of Low-floor Buses of Franchised Bus Companies

<i>Franchised Bus Companies</i>	<i>Number of Low-floor buses (total number of buses)</i>		<i>Increase in number</i>
	<i>April 2008</i>	<i>March 2009</i>	
Kowloon Motor Bus Co. (1933) Ltd.	1 882 (4 007)	1 874 <sup>(1)</sup> (3 909)	Note <sup>(1)</sup>
Citybus Ltd. (Hong Kong Island and cross harbour routes)	54 <sup>(2)</sup> (753)	54 <sup>(2)</sup> (752)	0

<i>Franchised Bus Companies</i>	<i>Number of Low-floor buses (total number of buses)</i>		<i>Increase in number</i>
	<i>April 2008</i>	<i>March 2009</i>	
Citybus Ltd. (Airport and North Lantau bus routes)	125 (171)	167 (171)	42
New World First Bus Services Ltd.	542 (695)	542 (684)	0
Long Win Bus Co. Ltd.	154 (157)	154 (157)	0
NLB	31 (102)	33 (104)	2
Total	2 788 (5 885)	2 824 (5 777)	36

Note:

- (1) In July 2008, Kowloon Motor Bus Co. (1933) Ltd. wrote off eight low-floor buses which were involved in earlier accidents.
- (2) Most buses of Citybus Ltd. (Hong Kong Island and cross harbour routes) were purchased before 1997 when low-floor buses were not available in the market. At present, the company will acquire wheelchair accessible models when purchasing new buses.

### **Policy on Earth Burial in Gallant Garden**

19. **DR PRISCILLA LEUNG** (in Chinese): *President, at present, the remains of deceased civil servants who died on duty and had been buried for six years in Gallant Garden have to be exhumed for re-interment in permanent urn spaces or columbarium niches there after cremation. Yet, civil servants who died while performing exceptional bravery acts in their final duties may be given permanent earth burial in Gallant Garden. Some staff members of the disciplined services have recently relayed to me their views that such an arrangement labels civil servants who died on duty as brave and non-brave types. Moreover, the six-year exhumation arrangement not only shows no respect to the deceased but also reminds their relatives of their grief. In this connection, will the Government inform this Council:*

- (a) *of the number of earth burial spaces which have been taken up, as at the end of April this year, among the 110 earth burial spaces in Gallant Garden;*

- (b) *given that at present, the authorities have already stipulated the condition for civil servants to be buried in Gallant Garden (that is, they have died as a result of injuries received in the actual discharge of their duties, without their own serious and wilful misconduct, and on account of circumstances attributable to the nature of their duties), why the authorities still give different treatments to civil servants who died while performing bravery acts and other civil servants who also died on duty;*
- (c) *whether the costs for exhumation after six years of burial and relocation are at present borne by the Government or by the relatives concerned; and*
- (d) *whether it will consider abolishing the policy of differential treatments and allowing all civil servants who died on duty to be given permanent earth burial in Gallant Garden; if it will, when it will be implemented; if not, of the reasons for that?*

**SECRETARY FOR THE CIVIL SERVICE** (in Chinese): President, "Gallant Garden" is an area set aside by the Government in the Wo Hop Shek Public Cemetery in 1996 for the burial of civil servants who died on duty. It has earth burial spaces, urn spaces, and niches for remains after cremation.

A civil servant who died as a result of injuries received in the actual discharge of his duties and not due to his own serious and wilful fault is considered to have "died on duty". Upon confirmation by the head of department concerned that the deceased civil servant has died on duty and upon request from the family, the deceased civil servant is eligible to be buried in "Gallant Garden".

Due to limited land for earth burials, all earth burials in public cemeteries have been subject to the six-year exhumation policy since 1976. As "Gallant Garden" is part of the Wo Hop Shek Public Cemetery, the earth burials therein are also subject to the six-year exhumation policy. At the end of the six-year period, the remains of a deceased civil servant buried at "Gallant Garden" have to be exhumed for re-interment. The choices of location for re-interment of the remains include permanent urn spaces, or niches after cremation, provided in

"Gallant Garden". In September 2000, the Chief Executive-in-Council amended the six-year exhumation policy applicable to "Gallant Garden" by allowing permanent earth burials for those civil servants who died on duty while performing exceptional bravery acts in their final duties. An exceptional bravery act is deemed to be one that is recognized by the posthumous award of a bravery medal by the Chief Executive. As regards those citizens who died or were killed whilst performing exceptional acts of bravery and were posthumously awarded bravery medals, they are eligible for permanent earth burials in another burial ground set aside in the Wo Hop Shek Public Cemetery, named "Tribute Garden".

The consolidated replies to the questions are in the ensuing paragraphs:

- (a) as at end April 2009, 28 of the 110 earth burial spaces in "Gallant Garden" have been taken up; of these, 15 are permanent earth burials;
- (b) according to legal advice, allowing permanent earth burials in public cemetery for the remains of the civil servants who have died on duty, but not for the remains of other persons who have died on duty may constitute discrimination and may contravene Article 26 of the International Covenant on Civil and Political Rights and Article 22 of the Hong Kong Bill of Rights. In view of the need to strike the right balance between the earth burial policy and the scarcity of land for earth burials in Hong Kong, the provisions of the relevant International Covenant and Bill of Rights, and the feeling of the family members of the deceased civil servants who died on duty while performing exceptional bravery acts in their final duties, the Administration has decided that permanent earth burials in "Gallant Garden" are only applicable to those civil servants who died on duty while performing exceptional bravery acts. The Administration has no intention to change the existing policy; and
- (c) the family of a civil servant who died on duty will receive a funeral grant from the Government on a reimbursement basis. The existing upper limit for the funeral grant is \$55,500. If the remains are required to be exhumed and re-interred at the end of the six-year period, the relevant cost is borne by the family of the deceased. If

necessary, the department to which the deceased civil servant belonged while alive will provide assistance to the family of the deceased upon request to settle the cost in part or in full.

### **Implementation of Public Works Projects in the New Territories**

20. **MR CHEUNG HOK-MING** (in Chinese): *President, given that the Government is currently expediting the implementation of various major and minor public works projects in the New Territories, will the Government inform this Council of:*

- (a) the respective categories, names, locations and estimated expenditures of the public works projects and works feasibility studies which will be implemented in the next three years (with the use of a table);*
- (b) the respective numbers of indigenous villages, licensed domestic structures and tenants of short-term tenancies that will be affected by the projects in (a), as well as the total number of residents who will be affected; and*
- (c) the ways by which the Government will compensate and rehouse the indigenous villagers and other residents who will be affected by the projects in (a); the respective numbers of cases in the past three years of people affected by government projects raising objection to the projects or to the compensation and rehousing packages concerned, as well as how such cases were eventually settled?*

**SECRETARY FOR DEVELOPMENT** (in Chinese): President, the Government is committed to promoting Hong Kong's economic development through infrastructure development. This strategy has become all the more important amidst the current economic downturn. The Government has been pressing ahead with the implementation of large, medium, and small scale projects. The annual expenditure in capital works projects increased from \$20.5 billion in 2007-2008 to \$23.0 billion in 2008-2009. The expenditure in 2009-2010 will reach \$39.3 billion.

My reply to the three-part question is as follows:

- (a) In 2009-2010, some 80 works projects will commence construction, and 39 of them are in the New Territories (including the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, which is one of the ten major infrastructure projects). The total project estimates of these 39 projects are around \$80 billion, and the estimated expenditure in 2009-2010 in terms of cash flow is about \$1.9 billion. The project titles, costs, locations and estimated expenditures in 2009-2010 are detailed at Annex A.

Amongst the 39 works projects in the New Territories to commence construction this year, funding applications for 22 of them are pending submissions to the Legislative Council for approval. As such, the exact dates of commencement for these works projects cannot be ascertained until they have actually been approved.

As for the new projects scheduled to commence construction in 2010-2011 and 2011-2012, they are still at an early stage of implementation. Their progress will be affected by factors such as the statutory procedures for possible land acquisitions, administrative requirements as well as public objections, and so on. In view of the above, we cannot provide accurate information on the new works projects which will commence construction in 2010-2011 and 2011-2012 at this stage.

It is anticipated that 13 works studies will commence in 2009-2010, nine of which involve works in the New Territories (details at Annex B). They include three of the ten major infrastructure projects, namely the planning and design of the Hong Kong Section of the Hong Kong-Shenzhen Airport Rail Link; the review study and site investigation of the Hung Shui Kiu New Development Area; and the planning, feasibility study and site investigation of the Lok Ma Chau Loop. As for other projects scheduled to commence study in 2010-2011 and 2011-2012, they are still in the technical feasibility study stage. Subject to confirmation of their technical feasibility, we will prioritize these projects by taking into account factors including their justifications, urgency and cost-effectiveness, and so

on. At this stage, we do not have the exact dates of commencement for these projects.

- (b) Based on available information, the works projects mentioned in part (a) will affect a total of 30 indigenous villages and 211 temporary licensed structures and short-term tenancies, involving a total of about 1 405 inhabitants. The details are listed at Annex A and Annex B. These figures are only rough estimates. More accurate information can only be provided after land acquisition has begun for the works projects.
- (c) If land resumption is required for the works projects, the Government will make compensation to affected owners under the relevant ordinances and the existing policies. As far as owners of agricultural lands are concerned, the amount of compensation will be calculated on the basis of the registered area of the lot and the relevant *ex-gratia* compensation rate. As for owners of building lands, the amount of compensation will be assessed on the basis of valuation of the lot plus the relevant *ex-gratia* compensation. Registered owner of building lands who is eligible under the village removal policy will be offered: (i) a building allowance by the Government to the owner to build a resite village house on suitable agricultural land owned by him or on suitable government land; or (ii) an *ex-gratia* compensation equivalent to the market value of the village house. Regarding eligible residents affected, they will be allocated public rental housing or interim housing by the Housing Department under the existing policy. If the owner does not accept the *ex-gratia* compensation offered, he may submit a compensation claim under the relevant ordinances. If his compensation claim remains unresolved, he may refer to the claim to the Lands Tribunal for decision.

In the past three legislative sessions, the Government submitted some 280 projects to the Legislative Council for funding approval. Objections were received in respect of 40 projects after gazettal. We do not have statistics on of the number of cases of objections to the compensation and rehousing packages. On the other hand, among the works projects mentioned in part (a) above, objections



were received in respect of 11 of them after gazettal. Related works departments have held/will hold meetings with the objectors to understand their concerns and discuss with them possible mitigation measures with a view to addressing their concerns. The works departments will make appropriate modifications as far as practicable to the works so as to mitigate the impact to the inhabitants. If the objections remain unresolved despite efforts made by the works departments, the details of the objections will be submitted to the Chief Executive in Council for consideration. The Chief Executive in Council will give due consideration to all the grounds of the objections as well as such factors as the need and urgency of the works projects, and so on, and then decide whether or not to authorize them pursuant to the relevant ordinances in the public interest.

## Annex A

## Projects in the New Territories to commence construction in 2009-2010

<i>No.</i>	<i>Sub-head</i>	<i>Project title</i>	<i>Forecast expenditure in 2009-2010 (\$M)</i>	<i>Project cost (\$M)</i>	<i>Type</i>	<i>Location</i>	<i>Temporary Licensed Structures and Short Term Tenancies</i>	<i>Affected number of villagers</i>	<i>Affected indigenous villages</i>
1	3012NT	Conversion of aqua privies into flushing toilets — phase 6	3.0	235.2	Public Toilets	Various locations in New Territories and Outlying Islands	-	-	-
2	3013NB	Re-provisioning of Wo Hop Shek Crematorium	15.0	686.3	Crematorium	Wo Hop Shek Cemetery	-	-	-
3	3049RG	Public library and indoor recreation centre in Area 3, Yuen Long	50.0	875.0	Public library and indoor recreation centre	Area 3, Yuen Long	-	-	-
4	3053RG	Sports centre and community hall in Area 101, Tin Shui Wai	3.0	847.3	Recreational Facilities	Area 101, Tin Shui Wai	-	-	-

No.	Sub-head	Project title	Forecast expenditure in 2009-2010 (\$M)	Project cost (\$M)	Type	Location	Temporary Licensed Structures and Short Term Tenancies	Affected number of villagers	Affected indigenous villages
5	3264RS	Swimming pool complex in Area 1 (San Wai Court), Tuen Mun	45.0	791.4	Swimming Pool Complex	Area 1, Tuen Mun	-	-	-
6	4118CD	Drainage improvement in Northern New Territories — package B (remaining works)	5.8	57.9	Drainage works	Tsung Yuen of Sheung Shui	23	100	4
7	4235DS	Yuen Long and Kam Tin sewerage and sewage disposal	19.8	1,823.9	Sewerage works	Yuen Long and Kam Tin	3	-	10
8	4236DS	Tai Po sewage treatment works, stage 5 phase 2B	12.8	679.7	Sewage treatment	Tai Po sewage treatment works	-	-	-
9	4274DS	Yuen Long and Kam Tin sewerage, stage 3	14.0	368.8	Sewerage works	Yuen Long and Kam Tin	-	-	5
10	4329DS	Upgrading of Pillar Point sewage treatment works	52.1	1,420.3	Sewage treatment	Pillar Point sewage treatment works in Tuen Mun	-	-	-
11	4341DS	Harbour Area Treatment Scheme, stage 2A — construction of the sewage conveyance system and upgrading of Stonecutters Island sewage treatment works and preliminary treatment works	202.5	13,291.8	Sewage treatment and sewerage works	Northern and south-western Hong Kong Island and Stonecutters Island sewage treatment works	-	-	-
12	4346DS	Upgrading of Tuen Mun sewerage, phase 1	59.7	2,003.4	Sewerage works	Tuen Mun	-	-	-
13	4348DS	North District and Tolo Harbour sewerage, sewage treatment and disposal — regional sewerage works, part 1 — sewerage upgrade	19.8	842.7	Sewerage works	North District, Tai Po and Sha Tin	-	-	1

No.	Sub-head	Project title	Forecast expenditure in 2009-2010 (\$M)	Project cost (\$M)	Type	Location	Temporary Licensed Structures and Short Term Tenancies	Affected number of villagers	Affected indigenous villages
14	4353DS	Outlying Islands sewerage, stage 2 — upgrading of Mui Wo Village sewerage phase 2 and Mui Wo sewage treatment works	2.7	509.5	Sewage treatment and sewerage works	Mui Wo	-	-	1
15	4366DS	Kau Lung Hang sewerage — trunk sewers, pumping station and rising mains	16.6	103.2	Sewerage works	Kau Lung Hang	-	-	-
16	5729CL	Disposal of contaminated sediment — dredging, management and capping of sediment disposal facility at Sha Chau	44.8	770.9	Port works	Waters near Sha Chau, Tuen Mun	-	-	-
17	6028TC	Speed map panels in the New Territories	4.3	73.8	Traffic signs	Within the boundary of High Speed Roads in the New Territories	-	-	-
18	6053TR	Hong Kong Section of Guangzhou-Shenzhen-Hong Kong Express Rail Link — construction	125.6	42,239.4	Railway construction	Yau Tsim Mong, Sham Shui Po, Tsuen Wan, Kwai Tsing and Yuen Long	79	730	4
19	6158TB	Elevated walkway across Tong Ming Street and Tong Tak Street, Tseung Kwan O	2.1	105.2	Highway construction	Tseung Kwan O	-	-	-
20	6805TH	Retrofitting of noise barriers on Fanling Highway (MTR Fanling Station to Wo Hing Road)	36.8	302.9	Highway construction	North	-	-	-

No.	Sub-head	Project title	Forecast expenditure in 2009-2010 (\$M)	Project cost (\$M)	Type	Location	Temporary Licensed Structures and Short Term Tenancies	Affected number of villagers	Affected indigenous villages
21	6807TH	Retrofitting of noise barriers on Fanling Highway (Po Shek Wu Road to MTR Fanling Station)	92.1	762.0	Highway construction	North	-	-	-
22	6819TH	Traffic improvements to Tuen Mun Road Town Centre section	16.8	1,872.4	Highway construction	Tuen Mun Town Centre	2	-	-
23	6836TH	Improvement to Sham Tseng Interchange	4.3	134.5	Highway construction	Sham Tseng	-	-	-
24	6843TH	Widening of Tolo Highway between Island House Interchange and Tai Hang	493.7	4,486.9	Highway construction	Tai Po	8	29	-
25	7259RS	Cycle tracks connecting North West New Territories with North East New Territories	10.5	585.0	Roads and drainage	Ma On Shan, Sha Tin, Tai Po, Fanling and Sheung Shui	6	15	4
26	7705CL	Hang Hau Tsuen Channel at Lau Fau Shan	4.3	72.2	Flood control	Hang Hau Tsuen, Lau Fau Shan	30	140	-
27	7710CL	Hung Shui Kiu Development, stage 2 — widening of Tin Ha Road and Tan Kwai Tsuen Road	10.7	235.2	Roads and drainage	Tin Ha Road and Tan Kwai Tsuen Road (part)	5	18	-
28	7715CL	Tseung Kwan O further development — infrastructure works at Town Centre South and Tiu Keng Leng, Tseung Kwan O	60.1	563.3	Roads and drainage	Tseung Kwan O Town Centre South and Tiu Keng Leng	-	-	-
29	7716CL	Tseung Kwan O further development — infrastructure works for Tseung Kwan O stage I landfill site	14.4	236.5	Roads and drainage	Tseung Kwan O Stage I landfill site	-	-	-
30	7718CL	Ma On Shan Development — roads, drainage and sewerage works at Whitehead and Lok Wo Sha phase 1	52.1	219.7	Roads and drainage	Ma On Shan Whitehead and Lok Wo Sha	-	-	-

No.	Sub-head	Project title	Forecast expenditure in 2009-2010 (\$M)	Project cost (\$M)	Type	Location	Temporary Licensed Structures and Short Term Tenancies	Affected number of villagers	Affected indigenous villages
31	7811TH	Ping Ha Road improvement — remaining works (Ha Tsuen section)	37.4	137.0	Roads and drainage	Ping Ha Road (Ha Tsuen section), Yuen Long	-	-	-
32	9045WS	Salt water supply to Northwest New Territories — remaining works	29.1	808.4	Pumping station, service reservoir and mainlaying	Tuen Mun-Yuen Long Corridor, Tin Shui Wai and Yuen Long	-	-	-
33	9338WF	Mainlaying along Fanling Highway and near She Shan Tsuen — stage 1	2.6	52.6	Mainlaying	Fanling	-	-	-
34	8010EL	New Academic Building (HKUST)	98.0	704.5	Buildings	Sai Kung	-	-	-
35	8049EF	Student Amenity Centre (CUHK)	53.8	206.5	Buildings	Sha Tin	-	-	-
36	8052EF	Centralized general research lab complex (block 1) in Area 39 (CUHK)	45.0	497.5	Buildings	Sha Tin	-	-	-
37	8054EF	Two integrated teaching buildings (CUHK)	90.0	868.8	Buildings	Sha Tin	-	-	-
38	8001QW	Revitalising Historic Buildings Through Partnership Scheme — Old Tai O Police Station	13.5	70.2	Buildings	Lantau	-	-	-
39	8003QW	Revitalizing Historic Buildings Through Partnership Scheme — Fong Yuen Study Hall	0.5	8.7	Buildings	Ma Wan	-	-	-
			1,864.4	80,550.4			156	1 032	29

## Annex B

## Engineering consultancy in the New Territories to commence in 2009-2010

No.	Sub-head	Project title	Forecast expenditure in 2009-2010 (\$M)	Project cost (\$M)	Type	Location	Temporary Licensed Structures and Short Term Tenancies	Affected number of villagers	Affected indigenous villages
1	5014GB	Liantang/Heung Yuen Wai Boundary Control Point and associated works — investigation and preliminary design	15.5	89.0	Boundary facilities	Liantang/Heung Yuen Wai in the boundary of North-eastern New Territories	46	373	1
2	6054TR	Hong Kong Section of Hong Kong-Shenzhen Airport Rail Link — design	52.0	1,969.5	Civil engineering	Hong Kong International Airport to HKSAR boundary	-	-	-
3	6839TH	Hong Kong-Zhuhai-Macao Bridge Hong Kong Boundary Crossing Facilities — detailed design and site investigation	22.5	621.9	Roadworks (including reclamation, highway and boundary facilities)	Islands (Waters off Hong Kong International Airport northeast)	-	-	-
4	7733CL	Review studies on Hung Shui Kiu new development area — consultants' fees and site investigation	3.2	44.0	Feasibility study	North West New Territories	-	-	-
5	7735CL	Planning and engineering study on development of Lok Ma Chau Loop — consultants' fees and site investigation	4.7	34.8	Feasibility study	Lok Ma Chau Loop and adjacent areas	-	-	-
6	7826TH	Cross Bay Link, Tseung Kwan O — investigation and preliminary design	2.5	59.1	Roads and drainage	Tseung Kwan O Bay	-	-	-
7	7827TH	Tseung Kwan O-Lam Tin Tunnel — investigation and preliminary design	21.9	198.9	Roads and drainage	Tseung Kwan O, Lam Tin and Cha Kwo Ling	-	-	-
8	7842TH	Tsuen Wan Bypass, widening of Tsuen Wan Road between Tsuen Tsing Interchange and Kwai Tsing Interchange and associated junction improvement works — detailed design	2.1	38.0	Roadworks	Tsuen Wan	9	-	-

No.	Sub-head	Project title	Forecast expenditure in 2009-2010 (\$M)	Project cost (\$M)	Type	Location	Temporary Licensed Structures and Short Term Tenancies	Affected number of villagers	Affected indigenous villages
9	9334WF	Expansion of Tai Po water treatment works and ancillary raw water and fresh water transfer facilities	10.0	3,265.5	Waterworks	Tai Po, Kwai Tsing, Sham Shui Po and Kowloon City	-	-	-
Subtotal for Annex B			134.4	6,320.7			55	373	1
Subtotal for Annex A			1,864.4	80,550.4			156	1 032	29
Total			1,998.8	86,871.1			211	1 405	30

## BILLS

### First Reading of Bills

**PRESIDENT** (in Cantonese): Bills: First Reading.

### VOTING BY IMPRISONED PERSONS BILL

### MANDATORY PROVIDENT FUND SCHEMES (AMENDMENT) BILL 2009

### COPYRIGHT (AMENDMENT) BILL 2009

**CLERK** (in Cantonese): Voting by Imprisoned Persons Bill  
Mandatory Provident Fund Schemes (Amendment) Bill  
2009  
Copyright (Amendment) Bill 2009

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

### Second Reading of Bills

**PRESIDENT** (in Cantonese): Bills: Second Reading.

**VOTING BY IMPRISONED PERSONS BILL**

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I move the Second Reading of the Voting by Imprisoned Persons Bill (the Bill).

In December 2008, the High Court handed down a judgment on three judicial review cases on prisoners' voting right. The Court ruled that the existing across-the-board restrictions on prisoners' right to be registered as electors and to vote under the Legislative Council Ordinance were unconstitutional. Arrangements should be made to enable prisoners and remanded unconvicted persons to vote on the election day.

In order to take forward the Court's judgment on the judicial review cases, the Administration launched a public consultation exercise on prisoners' voting right from February to March 2009.

A majority of the views received during the consultation exercise considered that the right to vote is a fundamental political right and that prisoners should be given the right to be registered as electors and to vote regardless of the crimes they have committed.

There are also views that as persons convicted of election-related or bribery offences are already penalized for the offences they have committed by, for example, serving their sentences of imprisonment, the existing disqualification of those persons from being registered as electors and from voting is unfair as it imposes additional penalty on them.

We also note that in a large number of overseas countries including Austria, Sweden, Switzerland, Denmark, Ireland, Iceland, Finland, Canada, Japan, South Africa and Israel, there is no restriction on prisoners' voting right.

Having regard to the above considerations, we now introduce into the Legislative Council the Bill which amends the existing restrictions on prisoners' voting right.

The Bill aims to remove the existing disqualification of prisoners and persons convicted of election-related or bribery offences from being registered as electors and from voting under the Legislative Council Ordinance.



The Bill also provides for similar amendments to the relevant disqualification provisions under the Chief Executive Election Ordinance, the District Councils Ordinance and the Village Representative Election Ordinance.

Separately, the Electoral Affairs Commission together with the relevant law enforcement agencies are working out the practical voting arrangements for prisoners, remanded unconvicted persons and detainees and will introduce amendments to the relevant electoral regulations within this legislative session.

President, the relevant legislative amendments ensure that prisoners' voting right will be implemented under a consistent and integral legal framework with appropriate polling and security arrangements.

With these remarks, I would like to appeal to Members to support the Bill.

Thank you, President.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Voting by Imprisoned Persons Bill be read the Second time.

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

## **MANDATORY PROVIDENT FUND SCHEMES (AMENDMENT) BILL 2009**

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, I move the Second Reading of the Mandatory Provident Fund Schemes (Amendment) Bill 2009 (the Bill).

Since the implementation of the Mandatory Provident Fund (MPF) system in December 2002, it has provided an important means of retirement saving for the workforce in Hong Kong. As at the end of March this year, its accumulated total asset value has reached \$217.7 billion, which can help to enhance the future retirement protection of members of the public. The Mandatory Provident Fund Schemes Authority (MPFA) and the Government will review the operation of the

MPF system from time to time, so as to ensure that it serves the needs of the public.

The Bill seeks to increase employees' control over their MPF investment and to promote greater market competition. The Bill proposes that employees may transfer accrued benefits derived from their employee's mandatory contributions made during their current employment on "a lump-sum basis" to another MPF scheme of their own choice at least once per year.

Upon implementation, the proposal will allow employees access to a broader spectrum of MPF service providers, MPF schemes and funds for investment of mandatory contributions made by them. As a whole, the proposal will result in around 60% of MPF benefits being portable between trustees.

When determining the coverage of the proposal, the MPFA and the Government have taken into special consideration that the related measures should be as simple as possible, so as to avoid cumbersome procedures and to alleviate possible problems in implementation. Although we understand that some Members and associations hope these measures could be extended to include the transfer of contributions made by employers or employees' choice of their trustees for opening contribution accounts, but these proposals would seriously affect the implementation of the offsetting arrangement of Long Service Payment and Severance Payment as allowed under the current legislation, and would make it difficult for the MPFA to investigate default contribution cases and to enforce the law. After giving comprehensive consideration to the views expressed by all stakeholders, we are of the opinion that the current proposals of the Bill are more practicable. The Administration had briefed the Panel of Financial Affairs of the Legislative Council on the relevant legislative proposals in December last year and gained their support.

The Bill also seeks to make other relevant amendments to the Mandatory Provident Fund Schemes Ordinance and the Mandatory Provident Fund Schemes (General) Regulation, including, *inter alia*, renaming "preserved account" as "personal account", with a view to instilling a greater sense of ownership by the employees concerned. Taking into account that, in future, these accounts may also hold the accrued benefits of employees in their current employment, the Bill will suitably expand the definition of "personal account", and require the MPFA to establish a register to enable employees to ascertain the trustees with which they have personal accounts.

President, the Bill provides for a practicable proposal to increase employees' control over their MPF investment. The proposed arrangements have given due consideration to and balanced the views of various stakeholders, with a view to improving the MPF system in a pragmatic way.

I hope Members will support the Bill. Thank you, President.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Mandatory Provident Fund Schemes (Amendment) Bill 2009 be read the Second time.

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

## **COPYRIGHT (AMENDMENT) BILL 2009**

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, I move the Second Reading of the Copyright (Amendment) Bill 2009 (the Bill).

The major objective of the Bill is to give effect to the new provisions of business end-user copying and distribution offence added to the Copyright (Amendment) Ordinance 2007 (the Ordinance) by providing the numeric limits which will not constitute the above-mentioned offence.

Under the new provisions added in 2007, a person commits an offence if he, for the purpose of or in the course of any trade or business and on a regular or frequent basis, without the licence of the copyright owner, makes for distribution or distributes an infringing copy of a copyright work in a printed form contained in a book, a magazine, a periodical or a newspaper resulting in a financial loss to the copyright owner.

To ensure that the new criminal liability will not adversely affect classroom teaching, the Ordinance provides that liability will not apply to non-profit-making educational establishments, which include government schools, aided schools, tertiary institutions and community colleges and so on. The copying and distribution offence is mainly intended to combat significant infringements involving printed works. To avoid normal business operations being hampered

under the relevant provisions, the Administration, apart from providing for certain statutory defences, would prescribe the numeric limits within which the new criminal liability would not apply in respect of two types of printed works (one for newspapers, magazines and periodicals, and one for books and academic journals).

As it took time to formulate the numeric limits, the Legislative Council, when passing the Ordinance, accepted the Administration's proposal to incorporate the copying and distribution offence and the enabling provisions on the numeric limits into the Ordinance first, while the specific numeric limits would be prescribed in the subsidiary legislation to be made subsequently.

The Administration then discussed with the concerned stakeholders and agreed the numeric limits as follows: for newspapers, magazines, a number of not exceeding 500 A4-size pages of infringing copies within any 14-day period; and for books and academic periodicals, a total retail value of not exceeding \$6,000 within any 180-day period.

All along, it has been our policy intention to prescribe different numeric limits for different types of printed works, based on the number or the value of infringing copies. Nonetheless, in working on the draft regulation, the Department of Justice advised that the proposed formulation for numeric limits might be beyond the scope of the enabling provisions (that is, *ultra vires*). It involved some legal positions, such as the enabling provisions required that the numeric limits should refer to both the number and the value of infringing copies. It was not allowed to refer to either the number (such as the number of pages of infringing copies of newspapers, magazines and periodicals) or the value (such as the total retail value of books) only. The legal advice in this respect is set out in paragraph 6 of the relevant Legislative Council Brief.

After careful deliberation, we consider that the relevant provision, that is, section 119B of the Copyright Ordinance (the Ordinance), should be amended to address any possible *ultra vires* concern arising from the numeric limits. Therefore, we propose to amend the Ordinance and create a new schedule to provide the numeric limits which will not constitute the copying and distribution offence.

Meanwhile, as more time is required to roll out suitable licensing arrangements covering intranet distribution, and to consider the related numeric

limits, we propose another new schedule which provides that the copying and distribution offence will not apply to the act of intranet distribution in the meanwhile.

President, I have just made a brief account of the history leading to this legislative exercise and the major provisions of the Bill. Our proposed amendment to the Ordinance is mainly a technical one which will provide room for the Administration to prescribe the appropriate numeric limits. We have consulted the concerned sectors regarding this technical amendment and the calculation of the numeric limits. The Panel on Commerce and Industry (the Panel) was consulted twice in February and December 2008 respectively regarding the proposed formulations of the numeric limits. The Panel had no objection to our proposals.

In drawing up the numeric limits, we have strived to strike a reasonable balance between safeguarding the legitimate interests of the concerned copyright owners and avoiding normal operation of the business being hampered. Besides, to avoid anyone falling into the criminal net due to inadvertent breaches, we have attached particular importance to the operational certainty of the provisions in order that the numeric limits prescribed are comprehensible to general business end-users. For instance, we have adopted the formulation of counting the number of "A4" pages, instead of the "copyright works", as the unit for counting infringing products. This approach is to make the numeric limits clearer and more easily comprehensible. We hope for the early passage of the Bill to strengthen the copyrights protection system for printed works in Hong Kong.

Lastly, I would like to point out that the relevant criminal liability will not take immediate effect after the passage of the Bill. The Administration will launch publicity and education activities before appointing the commencement date of the enacted Bill, so that the business end-users will have sufficient time to comprehend and grasp the operation of the numeric limits.

With these remarks, President, I commend this Bill for Members' support.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Copyright (Amendment) Bill 2009 be read the Second time.

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

## **MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Members' motions. Two motions with no legislative effect. I have accepted the recommendations of the House Committee: that is, the movers of these motions each may speak, including reply, up to 15 minutes, and have another five minutes to speak on the amendments; the movers of amendments each may speak up to 10 minutes; and other Members each may speak up to seven minutes. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

**PRESIDENT** (in Cantonese): First motion: Demanding a comprehensive reform of the Hong Kong Monetary Authority.

I wish to remind Members that the Legislative Council has already authorized a subcommittee under the House Committee to study issues arising from Lehman Brothers-related minibonds and structured financial products.

According to Rule 31(2)(b) of the Rules of Procedure, the subject matter of any motions with no legislative effect moved by Members should not be substantially the same as that of the issues being studied by the said subcommittee. In my opinion, for the motion to be moved by Mr Albert CHAN and the amendments to be proposed to it by Members, the subject matter is to urge the Government to review and reform the Hong Kong Monetary Authority, as well as to re-instill public confidence in the financial system, and therefore does not contravene Rule 32(2)(b).

Nevertheless, I wish to remind Members that during this debate, they should avoid speaking on the issues being scrutinized by the said subcommittee. And also, according to the subcommittee's practice and procedure approved by the House Committee, all Members, including non-Subcommittee members, should refrain from making comments relating to the inquiry outside the proceedings.

**PRESIDENT** (in Cantonese): Members who wish to speak in the debate on the motion will please press the "Request to speak" button.

I now call upon Mr Albert CHAN to speak and move his motion.

### **DEMANDING A COMPREHENSIVE REFORM OF THE HONG KONG MONETARY AUTHORITY**

**MR ALBERT CHAN** (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed. This objective of this motion is to demand the Government to comprehensively reform the Hong Kong Monetary Authority (HKMA).

The HKMA needs to be reformed because many problems have emerged from its entity as a whole, and one of such problems is conflicting roles and functions. Let us look back on some history. Before 1993, the Exchange Fund and the supervisory work related to the Banking Ordinance are the responsibilities of two independent institutions. It was in 1993 that the Government merged the responsibilities under one roof.

Time flies and 16 years have lapsed. The performance of the HKMA is laid before our eyes. Many members of the public view the HKMA with both love and hate. The HKMA is vested with two separate responsibilities, and yet these two responsibilities are contradictory and in conflict with each other. One of these responsibilities is to manage the Exchange Fund as an investment instrument to make profits. Another responsibility is to supervise the banking industry, which involves many financial transaction issues. As the same institution is invested with both the responsibility to supervise the financial regime and the responsibility to make investment, it is both the player and the regulator. Given the contradictory features of these two types of responsibilities, they should be taken charge of by separate institutions.

As a matter of fact, the regional government and national government of many foreign countries have put these two responsibilities under two separate independent responsible bodies. With regard to Hong Kong's situation, in particular the present moment when the entire financial regime is getting increasingly complicated, it is rather obvious that in the face of the recent

financial tsunami, the HKMA could hardly regulate this regime and safeguard the interests of the general public. As such, it is necessary to re-structure the HKMA and separate those two types of responsibilities.

President, another major problem of the HKMA is inbreeding. Let us look at the composition of the HKMA. Under the chairmanship of the Financial Secretary, its members include Joseph YAM, Christopher CHENG Wai-chee, HE Guangbei, Henry FAN Hung-ling, Simon IP Sik-on, Thomas KWOK Ping-kwong, Vincent Cheng Hoi-chuen, Patrick Fung Yuk-bun, David SUN Tak-kei, Mr John CHAN Cho-chak, a professor from The Chinese University of Hong Kong, as well as a Chief Executive Officer Standard Chartered Bank. We can see that its composition comprises mainly representatives from the financial sector, which is totally ridiculous. The HKMA has a responsibility to supervise the banks in Hong Kong, and yet its members come mainly from the banking industry. The people responsible for formulating policies and performing supervisory duties are the one to be supervised. Besides, not a single member of the HKMA is a Member of the Legislative Council, there is simply no representative of public opinion. What is more, the majority of the so-called professionals have close links with the financial sector. It is indeed appropriate to say that the composition of the HKMA is a result of inbreeding.

The third problem with the HKMA is underhand transaction. It is particularly true as far as the appointment of senior executives is concerned, and even more so in the case of Joseph YAM. Many members of the public and media reports all consider that the succeeding Chief Executive of the HKMA are also appointed through underhand transaction among senior government officials. Given that this position involves an annual pay of almost 10 million dollars or millions of dollars, and that not only the interests of the people of Hong Kong but also the development prospect of Hong Kong's financial sector will be affected, rather than appointing a most-trusted follower to this high-paid position by way of underhand transaction, should an open recruitment exercise not be conducted worldwide to recruit the right person?

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

The fourth problem facing the HKMA is the lack of supervisory power. Just now the President mentioned that the Lehman Brothers incident should not



be discussed in this debate. Yet in both the financial tsunami this time and the previous financial turmoil, we can clearly see that the HKMA always lacks the necessary leadership ability to deal with financial crises. Deputy President, one very simple issue I have raised many times in this Council is related to the debt collection agencies, or banks hiring debt collection agencies to cause nuisance to members of the public. Despite the guidelines issued, many banks and credit card companies still keeps on causing nuisance to members of the public again and again, leaving them too frightened to go home. In this connection, however, the HKMA only symbolically issued some more guidelines and call on the banks to follow such guidelines, no punitive conditions or actions have ever been imposed. As regards the finance companies, the HKMA does not put them under supervision at all. Actually, the ones causing the most serious nuisance to the public are the finance companies which the HKMA does not supervise. The lives of the public are gravely affected by such companies.

The fifth problem with the HKMA is its inflating self-interest, and the most obvious example is the remuneration of its Chief Executive, which has risen from the initial six million odd dollars to this year's 11 million dollars. The remuneration of HKMA staff can keep on inflating without any monitoring. This is because the financial resources of the HKMA comes from the Exchange Fund and does not need to seek the approval of the Legislative Council. The HKMA could draw its annual expenditure from the Exchange Fund as it wishes, and the relevant decisions are made by its board of directors. This board of directors is just like a fraternity club, the members are well-acquainted with each other and transferring benefits within their small circle. Where necessary, they will give each other support, and keep their mouths shut when problem arises. Under such circumstances, the public interest and the rights and interests of individual members of the general public are never protected.

Compared to the countries with a large-scale financial regime, the remuneration of the HKMA's Chief Executive is three to six times higher than that of the similar executives of such countries. Deputy President, the difference is three to six times. From this we can see just how serious the problem is. The relevant executives in many places, say, the United States Federal Reserve Board Chairman, his remuneration amounts to only some 1.4 million dollars, while the President of the Bank of England earns some three million dollars. The remuneration of the President of the European Central Bank is also around three million odd dollars, while that of the President of the Bank of Canada

amounts to only two million odd dollars. The remuneration of the HKMA's Chief Executive which stands at four to five times that of the said central bank presidents is indeed exceedingly generous.

Another absurd issue is that the HKMA's Chief Executive does not have any specified tenure of office. Deputy President, the Chief Executive of such an important institution can remain incumbent for 17 years in row, simply because there is no specified tenure of office. In other countries, the tenure of office of the chief executive of their similar institutions is specified by law, which last for four years or five years. For some countries, it is specifically provided against two continuous tours of office. Take the President of the European Central Bank as an example, while the tenure of office of the post is eight years, it is clearly stated that no two continuous tours of offices will be allowed. But for the HKMA, it seems that the tenure of its chief executive is for life and will last until the incumbent resigns, or when a more trusted follower is identified, in which case he will be asked to leave. Hence, the entire structure is in lack of a system. This is a "rule by man" regime where senior executives keep flattering each other and transferring benefits to each other to survive.

The absurdity of the entire banking regime is best reflected in the way the HKMA supervises the banks. Deputy President, compared with the banks in other countries, the banks in Hong Kong make 50% more profits. Deputy President, I have done some simple research, and the research targets are the five major banks in Hong Kong — I have excluded the Hong Kong and Shanghai Banking Corporation (HSBC) from this research — namely, the Bank of East Asia, Hang Seng Bank, Bank of China (BOC), Wing Hang Bank and Dah Sing Bank. I have also conducted a study on five other major banks, including the Bank of America, Toronto Dominion Bank, Royal Bank of Canada, The Bank of Nova Scotia, as well as the Australia and New Zealand Banking Group Limited. The total asset value of the five banks in Hong Kong amounts to 4.7 billion dollars, whereas that of the five overseas banks stands at 31.8 billion dollars.

Regarding the profits made by banks as a percentage of their total asset values over the past 10 years, the average percentage of the five banks in Hong Kong is 1.24%, whereas that of the five overseas banks is 0.88%. In other words, the profits made by the banks in Hong Kong as a percentage of their total asset values over the past 10 years is 50% higher than that of the overseas banks. Is it not attributable to the fact that the Hong Kong Government is biased towards the operation of the banks through its banking system? The bad deeds of such

banks at district level are just numerous in number, and every now and then they would increase fees and charges. As regards the branches of such banks, in particular the branches located in public housing estates, they are closed down one after another. In this connection, the HSBC should really be shot to death. It should be "slapped on the face" and its eligibility to issue bank notes should be cancelled. Over the past dozen odd years, the HSBC has time and again closed down its branches. Just in New Territories West alone, more than a dozen branches have been closed down, leaving the public housing estate areas with no banking services. In the end, the BOC played the good guy role and opened up some branches there. Or perhaps the BOC did that because of social pressure or political pressure. Those large enterprises and large banking corporations have completely ignored the needs of the public. There are indeed numerous examples of the HKMA failing to fulfill its duty to supervise the banks.

Under such circumstances, if the Government does not carry out any comprehensive reform, and the Members of the Council (particularly the pan-democratic Members) do not support the call for reforms, even the Members have to be "slapped on the face". Things have clearly revealed the problems with the banking system, the banking policy and even the relevant legislation. The rights and interests of the general public are not under any protection. Many members of the public have complained about the interest rates charged by banks on loans, which could be among the range of 3% to 5%. Compared to many overseas places, the interest rates charged in Hong Kong is indeed taking an enormous lead. Nevertheless, the Government just keeps turning a blind eye to and shielding the HKMA.

Deputy President, the most important question at present is what would happen after the senior executive of the HKMA leave their offices. My greatest concern is that according to some hearsay, Joseph YAM will leave his office in September, and will probably work for Shanghai or China. Mr YAM does not have much ability, but his ability to betray Hong Kong is most remarkable. He might think this way: Now that Hong Kong does not need me, I will mess up Hong Kong. I have no idea what the existing rules are, and I hope that the Financial Secretary will give some response in this respect. What are the rules governing Joseph YAM after leaving office? The same issue regarding civil servants is currently under review, but the staff members of the HKMA are not civil servants. By then he may use our classified material to serve the Great China, to serve his great motherland at the expense of the interests of the people of Hong Kong. Upon being betrayed, the leading financial position of Hong

Kong may drop tremendously. In the end, the entire financial regime in Hong Kong and the people of Hong Kong as a whole will suffer.

Deputy President, I just hope Members can be alerted and realize the seriousness of the problem before us. It is because have read in the papers that several pan-democratic parties had indicated that they would not support this motion today. I hope they will clarify whether they will tolerate the non-stop inflation of the HKMA, the fact that the senior executives of the HKMA keep making use of their power to reap private benefits, as well as the fact that the HKMA keeps helping the banks to deprive the general public of their rights and interests. I just hope pan-democratic Members could have some self-reflection and respond to these questions and accusations.

**Mr Albert CHAN moved the following motion: (Translation)**

"That, as the Hong Kong Monetary Authority ("HKMA") has been seriously lacking transparency and accountability for many years and has failed to effectively monitor financial institutions, and its performance is disappointing, causing the development of the financial industry in Hong Kong to be at a standstill; moreover, the recent decision of the Central Government to develop Shanghai into another international financial centre in addition to Hong Kong will definitely further threaten Hong Kong's position as a financial centre, this Council therefore urges the Government to expeditiously conduct a comprehensive review of HKMA and implement reforms to restore public confidence in the financial system of Hong Kong; such reforms include:

- (a) expeditiously implementing a comprehensive reform of the staffing and organization of HKMA, formulating a clear accountability mechanism, and replacing the management whose performance was poor for many years;
- (b) assigning the responsibilities of developing the financial market and regulating the banking system, and managing the foreign exchange reserve to maintain the stability of Hong Kong dollars to two institutions respectively;
- (c) formulating a clear mechanism for the appointment of senior staff of the above two institutions, under which the management should

be recruited by open recruitment, and stipulating a definite contract period and devising reasonable remuneration packages to ensure that the remuneration of these staff will not be substantially higher than that of the Chief Executive; and

- (d) enhancing the transparency of personal investments made by senior staff of the above two institutions, requiring the key management staff to make public the details of all their investment items, and prohibiting the management of these institutions from making personal investments in the stock market."

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

**DEPUTY PRESIDENT** (in Cantonese): Three Members intend to move amendments to this motion. This Council will now proceed to a joint debate on the motion and the three amendments.

**DEPUTY PRESIDENT** (in Cantonese): I will call upon Mr James TO to speak first, to be followed by Mr WONG Yuk-man and Mr Ronny TONG; but no amendments are to be moved at this stage.

**MR JAMES TO** (in Cantonese): Deputy President, it is an appropriate time for Mr Albert CHAN to propose reforming the Hong Kong Monetary Authority (HKMA).

Deputy President, while we cannot write off all the achievements of the Hong Kong financial system and the monitoring of banks in the past, there are indeed many examples in foreign countries where the responsibilities of managing foreign exchange and monitoring banks rest with two institutions respectively. Perhaps due to the fact that Mr YAM has acted as the Chief Executive and leader of the HKMA for too long a time, and there is not a separate piece of legislation regulating this area, the society gradually harbours doubts and even has lots of concerns over his remuneration package and the Financial

Secretary's sole discretion in his appointment and dismissal, tenure of office, remuneration package, and so on.

Deputy President, we believe that comprehensive consideration has to be given to whether foreign exchange management and bank monitoring should be separated, in light of the scale and the system of Hong Kong. Another point that we have debated before is whether we should establish an independent financial ombudsman system, without which the overlap in roles thus caused will give rise to lots of conflicts. Of course, there are people saying that banks are afraid of the HKMA as it is assuming many different roles at the same time. Whenever the HKMA issues advisories and guidelines to these banks, they will be very careful for fear that the HKMA may give them hard time in many aspects. Purely from this point of view, it is rule of man rather than rule of law. I find this way of thinking totally unacceptable.

There are many advantages of setting up a central bank or a bank monitoring system under an independent legislation. Firstly, unlike the current situation, the Financial Secretary will no longer have sole discretion in everything, which avoids unfair circumstances such as backroom deals and the so-called "stables". Recently, it has been hotly discussed that the Chief Executive of the HKMA will soon resign. Taking advantage of the situation, some people make a great variety of political gambits like commenting whether the Chief Executive of the HKMA should leave office, or even blackening his name as well as evaluating his merits and demerits. Different parties have been tugging at each other overtly and covertly, and some even claimed that they had foreseen which "stable" would make a certain person the future Chief Executive of the HKMA with the aim of rewarding him or offering him amnesty. Deputy President, while it is not a must for the central banks in foreign countries to conduct an open recruitment exercise to appoint their chief executives, and it also appears that such recruitment exercise is not the only way or even the mainstream way to recruit their chief executives, it is of great importance that we have to make the public believe that the whole recruitment process is free from cronyism.

Secondly, the HKMA nowadays is only required to withdraw funds from the Exchange Fund when necessary. In our opinion, the flat purchase incident earlier has actually demonstrated in full that, without an independent legislation, the HKMA appears to have an administrative explanation for every action it

takes, and the explanation can be extended indefinitely. I find it highly undesirable.

The tenure of office and the remuneration package are also areas of grave concern for the society. As even important post like that of the Chief Executive is subject to tenure of office, how can our central bank or even heads for monitoring banks who are one grade junior be exempted from such a requirement? Regarding the remuneration package, we believe that it should not be compared purely with those in private institutions given that it is a public post. It should be known that heads of central banks enjoy a very high honour. Some people argue that many central banks have to stand out and "kneel down on broken glass" to ask for apology in the face of the financial tsunami. Yet, in a nutshell, a central bank, especially the central bank head of such significant financial centre system, not only enjoys a considerably high honor, but also has great responsibilities. Therefore, I think that it should not be compared merely with those in private institutions. When compared with other central banks, the salary of the Chief Executive of the HKMA seems to be far too high and his salary is even much higher than that of the Chief Executive who has the greatest responsibility in the SAR, bringing into stark focus his excessively high remuneration.

Deputy President, let me talk about my amendment. Just as what Mr Albert CHAN and Mr WONG Yuk-man said, we have indeed set up a subcommittee to look into the issues arising from Lehman Brothers bonds. Therefore, if we pass the final verdict right now by drawing a conclusion in advance, not only will the public remain unconvinced, the witnesses currently summonsed will also have a feeling that the subcommittee established by the Legislative Council has drawn a conclusion beforehand, which is totally unfair. Nevertheless, if our conclusion is not affected by the Lehman Minibonds incident, we are unlikely to see any strong evidence for such conclusion for the time being. The Lehman Brothers saga may cause the public to question whether the prevailing system and even the HKMA's role in monitoring the non-deposit-taking and non-lending business are effective under the present structure and the legal framework. We have to discuss this in detail within the subcommittee. However, I definitely do not approve of drawing a conclusion right now.

Deputy President, finally, let us talk about the investment-related issues regarding the senior staff of the HKMA. After studying the stipulations of a

great number of central banks, we cannot find any requiring chief executives or senior staff of central banks to make public their investment items. We believe that he should report to the Chief Executive for record. Assuming that the future independent legislation is in place, he should be accountable to the Chief Executive and report to him for record, and the Chief Executive will in turn monitor and shoulder the ultimate political responsibility. In my opinion, this practice is the most suitable, in light of the overall constitutional setting. Of course, we remain of the view that if the whole setting is democratized, its system will be another story.

Taking an overview of this amendment, we neither agree with Mr Albert CHAN's premise, nor Mr WONG Yuk-man's statement, that is, the Chief Executive of the HKMA still receives such a high remuneration despite the loss recorded in the Exchange Fund. In our opinion, such being the case that the Financial Secretary makes his decision through the Committee under the existing system, the Financial Secretary or even the Chief Executive, rather than the one who receives the remuneration, should be held accountable if someone is to be held accountable according to what Mr WONG Yuk-man said. Our bold expression of views this time is not meant to cover up some previous problems of the HKMA like what Mr Albert CHAN said just now. On the contrary, we believe that a system should be set up prudently. We are not supporting the retention of somebody or raising any requests, but we think it is not fair to deny across the board the current financial stability of Hong Kong.

As shown in the news reports these few days, 19 banks underwent stress tests to see if they can continue their business or require any capital injection from the US government. Conversely, the banking stability of Hong Kong is still highly appreciated by Hong Kong people or international investors for the time being, and the banks in Hong Kong really do not need any capital injection from the Government. Although we can see that, recently, the Bank of China and other banks have requested capital injection from their headquarters in Beijing, the banking system and the banks in Hong Kong on the whole are stable, with a considerably high and stable ranking still. Hence, we cannot agree to the saying that there were serious problems with the work of monitoring in the past. We want to look forward and improve the system. The Democratic Party has prepared and published a detailed submission, and we are going forward in this direction.



**MR WONG YUK-MAN** (in Cantonese): Deputy President, my amendment today is to propose that "Recently Joseph YAM, Chief Executive of the HKMA, still had a substantial increase of 15% in remuneration despite the loss recorded in the Exchange Fund, such behaviour should be subject to strong condemnation, and Joseph YAM should also step down for this as he owes it to Hong Kong people". I have written a speech entitled "High-ranking officials without virtues do evil to the public", with the sub-heading being "Self-opinionated and unrestricted monetary Czar, please step down".

Mr Albert CHAN, my Party associate, has just commented on the reform of the HKMA in detail and I will only provide some supplementary information. As I remember, HKMA Chief Executive Joseph YAM was arrogant and overbearing when he answered Members' questions at the House Committee of the Legislative Council in late October. I could not stand it and spent seven minutes to criticize him. He said that he had foresight while banks had hindsight and the victims had really no sight in what would happen. I remember saying then, "You, with remuneration at national level, are internationally lazy. You sit there to have 10 million dollars a year in your bag while the victims sit there to wait for their corpse bag." The pictures accompanying these words have been uploaded to the YouTube. Deputy President, I can tell you that, as at today, a total of over 300 000 clicks have been recorded if the several different versions are combined. Of the messages left in respect of this video, 95% agree to Yuk-man's criticism of him. Hong Kong people are far from stupid.

In 2008, the annual pay of Joseph YAM increased by 15.4% to 11.933 million Hong Kong dollars. It is highly probable that he is the highest-paid public officer in human history. However, frankly speaking, I do not think he has his merit in stabilizing banks over the past dozen years, as stated by Mr TO Kun-sun. Hong Kong's banking system, my colleagues, is stable because we have a huge reserve. After the reunification, the Land Fund paid more than 200 billion dollars to merge with the Exchange Fund, didn't it? Last year, because of him, the Government suffered a loss of nearly 100 billion dollars. Is it worth giving him a pay of more than 10 million dollars? I tell you in the words of the most ordinary layman that Hong Kong people will not accept it, not to mention the victims who cry every day. With such great contrast, I want to ask, "Is it too much for the victims to bear?" You said, "I get the pay out of my right, whether you like it or not!" However, as a person, you should have some conscience and uprightness, shouldn't you?

A discourse from *The Travels of Lao Can* by LIU E is quite meaningful. Here, I read it to all of you. He says, "Every one knows that a corrupt official is

hateful, but most people may not know that an incorrupt official is particularly hateful, as the former, being well aware of his defects himself, dare not do evil flagrantly, but the latter, without a quest for money, has a mindset for great deeds and becomes self-opinionated. As such, he kills people in minor cases and harms the country in serious ones. I have seen numerous such cases with my own eyes". Of course, Joseph YAM is not a greedy official, as he does not take bribe money. Nor is he a corrupt one. He is different from HE Xen, who might be the greediest official in human history and whose wealth was equal to the expenditure of the government for six years at the times of QIAN Long. What an incredible amount! However, it does not matter, as there would definitely be retribution for him. Upon the death of QIAN Long, the prince succeeded the throne and then confiscated HE Xen's property.

Corrupt officials are hateful, as regarded so by everyone. Therefore, the Mainland is to sanction corruption offences at present. But surprisingly, incorrupt officials are particularly hateful. As LIU E said, incorrupt officials were those who were not greedy for money, but incapable and self-opinionated. A wrong policy may cause the Government to lose tens of billions of dollars, but he is not greedy for money. As such, some people have written articles, exploring the harm of corrupt officials to society. Is their harm to society greater than that of self-opinionated and indecisive incorrupt officials, like TUNG Chee-hwa? Such saying is really full of intelligence. Officials committing corruption involving several to ten million dollars will be imprisoned, as in the case of CHEN Shui-bian. How much money is involved? However, a wrong policy may cause a very great harm to the whole society. By quoting the sentence, I do not mean that Joseph YAM is, based on LIU E's criteria, an incorrupt official but worse than that, as he is insatiably greedy for money.

My Honourable colleagues please note what Joseph YAM said: "The Exchange Fund Advisory Committee and the Financial Secretary harbour me. Under the system, I deserve the pay. Does it upset you? Which aspect is illegal with me, Mr WONG Yuk-man?" However, all of you get the point when I quote the discourse of LIU E. He is more despicable than the incorrupt officials and even worse than the self-opinionated incorrupt officials described by LIU E.

Mr Albert CHAN has just set out a number of sins of the HKMA. Such sins or misconducts of the HKMA are not referred to those of Joseph YAM. However, is it right to let him lead and be in charge of the HKMA for more than ten years without a tenure limit? Who, you can use your common sense or think

with your knees to find out, can control him? In the Basic Law, the HKMA does not have a constitutional status. Is it right to let a person without a constitutional status – even the Audit Commission and the Customs and Excise Department have such status – in the Basic Law to receive a pay of 10 million dollars? Such being the case, he is not subject to accountability.

Mr James TO has just said, "The Financial Secretary is to be held accountable, if required". Which Financial Secretary dares to find fault with him, Mr TO? Under the existing system, who, from the then Financial Secretary Donald TSANG Yam-kuen, LEUNG Kam-chung and Henry TANG to the serving Financial Secretary TSANG Chun-wah, his former subordinate, dares to find fault with this monetary Czar? They dare to do nothing. The so-called system of being accountable to the Financial Secretary exists in name only and is actually a joke. Such a person, regardless of how capable he is, is useless. Even worse, his declaration on his investment, which Mr Albert CHAN has failed to mention, is not available on his website. It is useless to ask him, isn't it? The declaration forms submitted by our principle officials, under the accountability system, are as thick as a book, but this old chap has entirely.....nothing we can find, including his family members. He is absolutely subject to no restraints but he is in charge of the Exchange Fund entirely. His job is to consolidate the foundation of Hong Kong's monetary system, so that Hong Kong can continue to become an international financial centre. However, this person is after all self-opinionated and insatiably greedy. Faced with the financial tsunami and the serious loss recorded in the Exchange Fund last year, he shamelessly enjoys the pay increase. It suffices to use common sense and think with our brains. Out of a sense of justice, pan-democratic friends seem to say sternly: "With the investigation of the Lehman Brothers incident now underway, we cannot move him". In fact, all of us know that he is going to step down in September.

This amendment of mine will certainly not be passed, but I have to disgrace him, so that he cannot step down honourably. This, my pan-democratic friends, is a declaration of my political stance.

**MR RONNY TONG** (in Cantonese): Deputy President, the financial tsunami has brought about a new set of thinking on financial management in the whole world, and at the same time put an end to the theory of liberalization in the development of the financial sector. Even Alan Greenspan, a long-time advocate of free market economy had to freely admit that the ideology of *laissez-faire* development of the financial sector was flawed. Deputy President, it is beyond doubt that the idea of having a state-run central bank is becoming increasingly

more appealing when such new thinking prevails, particularly at a time of economic downturn, and interest in the professionalization of investment in national resources is gathering momentum.

Deputy President, the Hong Kong Monetary Authority (HKMA) was established on 1 April 1993 by merging the Office of the Exchange Fund with the Office of the Commissioner of Banking. Currently, the HKMA has to invest the Exchange Fund through financial institutions and rely on market activities to stabilize the Hong Kong dollars, and it has to monitor the investing institutions in the market as well. As such, there are conflicts to a certain extent between the functions and the roles of the HKMA.

Deputy President, when we look around us, we can see that the Singapore Government established the Government of Singapore Investment Corporation Pte Ltd. (GIC) early in 1981 and it has been tasked with the responsibility of managing Singapore's foreign reserves. The GIC currently manages up to US\$100 billion worth of foreign exchange investment. Our country also convened a National Finance Working Meeting on 19 January 2007 to study the establishment of a specialized agency to take charge of the management of some of the foreign reserves of our country. On 29 September of the same year, the preparatory work for the establishment of a state-run foreign exchange investment company was finally completed, and the China Investment Corporation was also formally established in Beijing. The registered capital of the company was US\$200 billion. Being one of the biggest Sovereign Wealth Funds in the world, it plays a pivotal role in the international financial investment market and has strong bargaining power.

Deputy President, in comparison, the HKMA of the Special Administrative Region (SAR) gives people an impression that it is neither fish nor fowl. In overseeing the management of Hong Kong's Exchange Fund and reserves which are worth over \$1 trillion (in fact, over \$1.5 trillion), the HKMA is in control of the lifeline of the finance and economy of Hong Kong, and yet it is an independent empire most grossly lack of transparency and systems. The HKMA performs basically two different functions, which include — as I have mentioned just now — firstly, supervising the banking system of the SAR; and secondly, making strategic investment with our Exchange Fund and reserves. In principle, conflicts exist to a certain extent in exercising these two functions and as a result, most of the strategic investment has to be made outside Hong Kong. Besides, the laws only govern the HKMA's supervisory power, and there is a total lack of legislation and transparency regarding the HKMA's investment activities. If we refer to the records of the HKMA, we can see that the HKMA in fact spent as

much as HK\$880 million in 2007 to engage the services of fund managers from outside, and what's more, bonuses received by "Chief Executive YAM" has not been included. Nevertheless, as most of the investment items and closing transactions are generally settled in the European and the United States markets, the local market is unable to benefit, and this has long been criticized by the local financial sector.

Deputy President, to think outside the box, why should we not make reference to the practice of Singapore or our Motherland and consider establishing a construction and investment bank for the SAR, so as to professionalize the management of the investment of our public resources? Such a measure will not only bring about improvements and systems to our financial management, it will also bring about a number of material benefits to the SAR. Deputy President, I hereby briefly introduce the benefits we envisage:

- (a) an investment bank can take on the role of a central bank completely, and enable the HKMA to focus its efforts on the important task of supervising the banking business, and thereby resolving thoroughly — as we have mentioned just now and as acknowledged by our colleagues — the conflicts which exist between these two functions of investment and supervision;
- (b) we may also implement systems for and professionalize the management of our sizeable investment, particularly in unifying the investment strategies and the management efforts concerned, and build up a strong economic force, so that an appropriate number of closing transactions can be transferred to Hong Kong for settlement, and thereby contributing to the development of the local financial sector, and at the same time further enhancing our position as an international financial centre;
- (c) there is currently a serious drain of excellent management personnel from our financial sector, and in establishing an investment bank, the Government may take the opportunity to halt the drain of excellent management personnel to overseas countries and at the same time reduce the unemployment rate in this sector; it may also serve as an impetus to continuously strengthen and nurture talents in this sector in the long run; and
- (d) in rescuing small and medium enterprises (SMEs), the establishment of a central investment bank will enable the Government to take

matters into its own hands, that is, reasonable amount of loans can be provided directly to SMEs or even other enterprises amidst economic turmoils, and thereby obviating the need for the Government to manage individual private banks as an underwriter in providing appropriate amounts of loans to ailing SMEs, and in so doing, be able to promote our economy directly in an effective and systematic manner. When our economy regains its resilience, more efforts can be made to further enhance our economic development in a comprehensive and systematic manner.

Deputy President, the establishment of a publicly-run central construction bank is certainly not an easy task. Nevertheless, with our rich human resources, professional standards and sizeable investment, it is a proposal which merits serious consideration, and a step vital for Hong Kong to be further developed into an international financial centre.

Deputy President, at this critical moment in time, only right timing and resolute policy decisions may really turn crises into opportunities and enable the economic and financial position of the SAR to improve in leaps and bounds. Therefore, we propose our amendment with a view to requesting the authorities to expeditiously carry out a study in this respect.

Deputy President, with the remaining time, I would like to state our position on Mr Albert CHAN's original motion and the amendment proposed by Mr WONG Yuk-man. Deputy President, I have to reiterate that — if we have failed to make our position clear — in fact, many parts of Mr Albert CHAN's original motion have the support of us and even other democratic political parties or groups. Proposals such as enhancing the transparency of and improving the systems concerning the HKMA also have our great support. Nevertheless, our major reservation lies in the fact that the original motion refers to the HKMA's disappointing performance and requests that the HKMA's management be completely replaced due to its poor performance in the past.

Deputy President, the problem we are facing is that an investigatory subcommittee of this Council is currently conducting an inquiry on the HKMA's performance in exercising one of its major functions. To assess how it has performed in the Lehman Brothers incident, we have to investigate according to the procedures concerned, so as to draw conclusions as appropriate. If its performance is alleged to be poor in a broad-brush manner at this stage, it may easily give Hong Kong people a false impression that we are pre-empting the

conclusion in this respect, that is, as we believe that the HKMA's performance in its major functions has been far from satisfactory, we then draw a number of unnecessary conclusions accordingly. Deputy President, the credibility of the Legislative Council and even that of the investigatory subcommittee may be undermined because of such misconception. Hence, we have considerable reservation in this respect and find it difficult to support the original motion.

As for the amendment proposed by Mr WONG Yuk-man, we would like to raise two points. Firstly, the annual salary or bonuses received by the Chief Executive of the HKMA is in fact an issue relating to the system concerned, or may even be an issue concerning the legislation or contracts. If we demand that he should step down on this ground, it may also be wrongly construed by the Hong Kong people as a "trumped-up" charge in that we are using his lucrative remuneration as an excuse to deal with the Lehman Brothers incident which is currently under our investigation. Frankly speaking, "Chief Executive YAM" is one of the subjects of our investigation, and under such sensitive circumstances, we have great reservation about using his lucrative remuneration as the ground to demand that he should step down. Therefore, we also find it difficult to support the amendment proposed by Mr WONG Yuk-man. Thank you, Deputy President.

**FINANCIAL SECRETARY** (in Cantonese): Deputy President, as the Financial Secretary is currently engaged in an overseas visit, I will be speaking on behalf of the Financial Secretary, and the content of speech has already been read by the Financial Secretary himself. Today, the Executive Director of the Hong Kong Monetary Authority (HKMA), Mr Christopher MUNN, and his colleagues are attending this motion debate with me to listen to the views expressed by Honourable Members on the work of the HKMA, as well as their views on the financial policy and the financial regime, so that they can report to the Financial Secretary later on.

The HKMA has been established for 16 years, during which Hong Kong was confronted with the challenges and turbulence posed by the global financial regime, and most serious of such were the two financial crises. The first crisis was the Asian financial crisis in the late 90's of the last century, during which the monetary regimes across Asia were gravely threatened by monetary speculation activities. As for the second crisis, it is of course the global financial crisis we are currently confronted with, as it has pushed some of the largest and most advanced financial regimes to the verge of collapse. Hence, it is understandable

that the Legislative Council would like to discuss the work and performance of the HKMA at this moment.

As reflected in the original motion and the amendments proposed to it, Honourable Members have divergent views on how the HKMA should restructure or whether it should adopt different approaches to perform the various functions and duties. I have listened carefully to the views expressed in Mr Albert CHAN's speech on his motion. I have also listened to respective views expressed by Mr WONG Yuk-man, Mr James TO and Mr Ronny TONG when they spoke on their proposed amendments. In today's debate, we will continue to listen carefully to the views to be raised by Honourable Members. Nevertheless, we find it very hard to give support to the original motion and the proposed amendments, as their contents are, to different extents, based on certain assumptions, and these assumptions are that the HKMA has failed to function effectively, or even that its performance is disappointing. Deputy President, the financial system is a subject of utmost importance to Hong Kong in maintaining both our position as an international financial centre and the effective operation of the Hong Kong economy as a whole. As such, it is appropriate that Honourable Members have the chance to conduct an objective discussion on the subject with reference to sufficient information. As a matter of fact, the global financial crisis was intensified in September last year, and both the Government and the HKMA have adopted a number of strategic measures to ensure the stability of Hong Kong's financial regime. The relevant efforts have won the support of the public and the recognition of the international community. Hence, I believe Honourable Members should make reference to the work performance of the HKMA over the past many years.

The HKMA was established in 1993 with the objective to help ensure that Hong Kong's monetary policy could be implemented continuously in a consistent and professional manner, so as to win the confidence of both the general public in Hong Kong and the international financial community. The HKMA is a result of the merger of the Office of the Exchange Fund with the Office of the Commissioner of Banking, and has a clear and concrete corporate image. Besides, it can adopt the different employment terms and conditions of the civil service to recruit and retain the quality personnel with appropriate experience and professional knowledge. The HKMA has four major policy objectives. Firstly, maintaining monetary stability within the framework of the Linked Exchange Rate System; secondly, providing a certain degree of protection for depositors, and promoting the overall stability and effective operation of the banking system; thirdly, promoting the development of Hong Kong's financial infrastructure,



thereby giving support to the Administration in maintaining Hong Kong position as an international financial centre; and fourthly, managing the Exchange Fund.

On monetary stability, the HKMA seeks to maintain monetary stability through the currency board arrangement, which offers support to the pegged exchange rate between Hong Kong Dollar and US Dollar. Over a period of time in the past, when many of the world's exchange-based mechanism were declared failure one after another, the currency board arrangement in place in Hong Kong has all along remained stable. This is attributable to the efforts of different parties, including the prudent management work of the HKMA in the past 16 years and its continuous efforts to enhance the currency board arrangement. Where necessary, the Government and the HKMA have also taken decisive measures to safeguard the currency board arrangement, and flexibly adjust the arrangement in keeping with the changes in the market. A large part of such work involves rather complicated technical details. As a matter of fact, the HKMA has all along maintained a good record of keeping the stability and integrity of Hong Kong's monetary system. This is fully recognized by both the market and the general public. If we look at the many small and open regions implementing the pegged exchange rate, not many of them can achieve such stability. I believe many Honourable Members can still remember that in 1998, Hong Kong was confronted with the well-calculated attack by some monetary speculation activities which posed a threat to the stability of the Hong Kong dollar and our financial regime. At that time the Government and the HKMA decided to take market actions to successfully defeat the cross-market manipulative activities. This measure had given rise to much controversy in both Hong Kong and the international community. However, taking into account the actual effectiveness of the measure and the prudent approach adopted by the HKMA to deal with the aftermath, I believe nobody would query the action any more.

After the Asian financial turmoil, the HKMA introduced seven technical measures to enhance the integrity and stability of the currency board arrangement. In addition, it has also implemented three other measures to enhance the transparency of the arrangement. In 2005, the HKMA implemented three enhancement measures in the light of the market situation, including introducing the Hong Kong dollar Convertibility Zone and Strong-side Convertibility Undertaking, so as to better enable the currency board arrangement to cope with the appreciation pressure confronting the Hong Kong dollar. To deal with the present international financial crisis, the HKMA has adopted some strong and effective preventive measures in the past few months. Through operating within the Convertibility Zone, extending the scope of eligible collateral for discount

window loans, and issuing more Exchange Fund Bills, the HKMA has timely injected liquidity into the banking regime.

Deputy President, the HKMA has conducted in-depth studies before coming up with the various measures referred to just now. The objective of such measures is to give clear assurance to the banks that they can have the necessary liquidity to alleviate the stressful situation of the interbank market, thereby making the banks more willing to offer loans to other banks or clients. The rest are preventive measures, including the 100% Deposit Guarantee and the Contingent Bank Capital Facility. These two measures have come into operation since October last year and will remain effective until the end of 2010. The purpose of such measures is to further enhance public confidence in the local banking system. Given that the stability and capital sufficiency of the local banking system is way higher than the relevant international standards, we do not expect any need to trigger off such arrangements. This is in great contrast to the situation in many regions, including places with the most advanced banking system in the world. Many of the banks in these regions have either closed down or been acquired by others. Some even required their respective governments to save them, and so doing will invoke an unprecedentedly substantial amount of taxpayers' money. Compared with the time before the HKMA was established, particularly the 80's in the last century when banking crises emerged quite frequently, the existing situation of Hong Kong's banking system is indeed a great improvement over the past.

The existing banking system of Hong Kong is stable and in good integrity. In addition to the efforts made by banks to manage their business in a prudent manner, the effective monitoring role play by the HKMA is also one important factor. Over the past 10 years, Hong Kong has experienced financial crises and economic recession, during which asset prices fluctuated substantially. During the six years between mid-1997 and mid-2003, Hong Kong's property prices have dropped 66%, and there were drastic fluctuations in stock prices as well. With the development in the international situation and the gradual relaxation of the rules governing interest rates, the competition between banking systems has become increasingly more intense. Besides, workings of business have become more complicated, and banks are exposed to more global risks. Given the degree of internationalization of Hong Kong's banking system, we must be highly vigilant in coping with the crisis before us.

All along, the HKMA has strived to provide a certain degree of guarantee for depositors and maintain the stability of the banking system. The concrete measures adopted by the HKMA include enhancing the regulatory standard to the

highest international level and adjusting flexibly the risk areas that require high priority treatment. Besides, the HKMA has also implemented some simple and yet effective risk control measures, such as implementing a 70% mortgage loan system, continuously conducting stress tests and contingency planning, as well as implementing effective protection measures. In addition, the HKMA has also explained clearly the "lender of last resort" policy and implemented deposit protection schemes. All these efforts involve many essential elements, including ensuring the establishment of a comprehensive and professional monitoring system, and adopting flexibly and in a forward-looking manner the best international standards in the light of the actual needs of Hong Kong. The professional standard demonstrated in the supervision work of the HKMA has won the recognition of the international community. In addition to the key role it plays in the Working Group on Banking Supervision under the Executives' Meeting of East Asia-Pacific Central Banks, the HKMA has also participated in two important sub-groups under the Basel Committee, namely the Capital Sub-group and the Liquidity Sub-group.

Deputy President, I do not intend and really should not comment on the subject a subcommittee of this Council is studying currently. Regarding the performance of the relevant monitoring authority in this respect, as Mr James TO said just now, we should not make our judgement hastily beforehand. However, I wish Honourable Members will understand that while the Lehman Brothers incident is certainly a subject of grave concern and we all deeply sympathize with the affected investors, when examining the details of this motion today, we must consider the monitoring work of the HKMA in a comprehensive manner and from all perspectives. The monitoring work, of course, includes the responsibility to provide protection for investors who have bought products from banks, so as to protect them from damages arising from mis-selling and other malpractices. As a matter of fact, preventing mis-selling and malpractices is one area of work the HKMA has been committed to in recent years. Nevertheless, the monitoring work conducted by the HKMA also includes a broader responsibility of safeguarding the interest of depositors and the stability of the entire banking system. Otherwise, should the banking system have any problems, all the people of Hong Kong would be gravely affected. Under the premise of keeping in line with the appropriate procedures, the HKMA is currently making its best efforts to handle expeditiously the complaints about the sale of Lehman Brothers products by banks. The HKMA has learned its lesson and thus implemented a number of recommendations to enhance supervision over and improve the selling procedures of banks. The HKMA will also work with the Subcommittee to Study Issues Arising from Lehman Brothers-related Minibonds and Structured Financial Products formed under the House Committee. On the other hand,

taking into account the reports submitted by the HKMA and the Securities and Futures Commission, we will review the overall monitoring arrangements regarding the sale of securities products by banks, including those institutional framework-related arrangements. In conducting this review, we will certainly listen carefully to the views expressed by the various sectors of the community and the Honourable Members of this Council.

It is mentioned in this motion that the Central Government has decided to develop Shanghai into the nation's financial centre, which would threaten the position of Hong Kong as a financial centre. In our view, the said decision is a positive development for our nation. With the magnitude of our nation, China could of course accommodate more than one financial centre. This is certainly a challenge for Hong Kong, and will motivate us to work doubly harder. We believe this will not mean competition for the two cities concerned. On the contrary, a complementary relationship will be developed between these two major cities, which is an opportunity to attract more business operations to move to China and the entire region. One of the government policies laid down in the Basic Law is to provide an appropriate economic and legal environment for the maintenance of the status of Hong Kong as an international financial centre. This is a responsibility which the entire SAR Government must fulfil. In this connection, the HKMA has all along been playing a key role in giving support to government policies, including developing payment, clearing and settlement systems, as well as encouraging the market to put forward various scheme, with a view to sharpening the international competitive edge of Hong Kong's financial services.

It is necessary for any international financial centre to possess efficient and reliable financial infrastructure with a good coverage. Over the past 10-odd years, the HKMA has strived persistently to develop Hong Kong's financial infrastructure with the objective of positioning Hong Kong as the major payment and clearing centre in Asia. The efforts made by the HKMA include setting up in Hong Kong a highly efficient Real Time Gross Settlement system for US dollar and Euro, as well as the more recent Real Time Gross Settlement system for RMB. All such efforts have attained good progress, and the HKMA will continue to work hard towards this direction. On the other hand, the HKMA has also been proactively promoting market development, putting in its best efforts to open up new business areas in Hong Kong and consolidating Hong Kong's position as an international financial centre. All these programmes mainly involve co-operating with mainland authorities in a number of financial projects, with a view to extending Hong Kong's RMB businesses, and implementing the specific scheme to promote the development of Islamic financial services in Hong

Kong. In addition, the HKMA has all along been participating actively in international forums to discuss the global financial system reform, which has becoming increasingly urgent since the outbreak of the Asian financial turmoil. Besides, the HKMA has also been playing a leading role in the region in enhancing monitoring and co-operation in the light of the financial stability of the region.

Deputy President, the statutory purpose of the Exchange Fund is to maintain the exchange rate of Hong Kong dollar and to maintain the stability and the integrity of the monetary and financial systems in Hong Kong. As such, the management of the Fund is governed by the specific objectives, which include the need to ensure that the entire Monetary Base at all times will be fully backed by highly liquid US dollar-denominated securities, and the need to ensure that sufficient liquidity will be available at any time for the purposes of maintaining monetary and financial stability. Given that the Exchange Fund is not an investment fund in nature, we believe that the Fund should not be evaluated solely on the basis of its annual investment return, neither should the performance of the HKMA be evaluated on such basis. Nevertheless, thanks to its prudent management, the Exchange Fund has recorded an average compound annual investment return of 6.1% since 1994. The accumulated profit (or the Exchange Fund's retained profit) has also increased by 280%.

The investment environment in 2008 was unusually turbulent. In this connection, the HKMA adopted conservative investment management strategies to manage the Exchange Fund, paying extra attention to risk management. As a result, the loss of the Exchange Fund could be maintained at a relatively lower level (-5.6%), and the Fund has thus avoided any of the risk exposure related to problematic institutions and assets. As a matter of fact, the loss recorded by the Exchange Fund is way less than the loss suffered by a number of funds of a similar nature.

As far as transparency and accountability are concerned, the Exchange Fund is governed by the accounting requirements applicable to listed companies, and this is not a common feature among the official reserve funds in other places of the world. Since 1999, the HKMA has participated in the International Monetary Fund's "Special Data Dissemination Standard", which requires central banks to extensively and frequently release its information. With regard to disclosing information on its overall operation, the HKMA has strived to follow the best international practice. Besides, it has also been implementing comprehensive public education programmes and producing various types of publications. The HKMA website is also used extensively by the public. The

HKMA has attached particular importance to ensuring that the information disclosure arrangements for its administrative expenditure are completely in line with those of the other central banks and similar institutions in Hong Kong. The HKMA will review such arrangements every year. Besides, it has also increased actively the amount of information for disclosure over the past years. We will keep reviewing the relevant arrangements to ensure that they remain in line with the best practice concerned.

The objective of the HKMA's governance arrangements is to ensure that the HKMA can make use of its resources in a flexible manner, and this is in line with the established governance principle of central banks. Under the Exchange Fund Ordinance, the HKMA has to report to the Financial Secretary and subject to monitoring by the Exchange Fund Advisory Committee (Advisory Committee) and its various ad hoc committees. Over the past few years, we have been continuously improving this system. For instance, the correspondence between the Financial Secretary and the Monetary Authority in June 2003 has clearly and transparently set out the respective responsibilities of the two parties in relation to monetary and financial matters. The Advisory Committee has formally established a Governance Subcommittee in 2004, comprising non-government members and non-banking sector members. The duties and functions of this Governance Subcommittee include advising the Financial Secretary on the remuneration and manpower resources policies of the HKMA, and on matters relating to the remuneration of HKMA employees. As a measure to enhance transparency, the HKMA will regularly brief the Panel on Financial Affairs of the Legislative Council on its general work situation. The annual budget of the HKMA will also be disclosed in its annual report.

Deputy President, the remuneration of the HKMA employees is determined with reference to the pay trend in Hong Kong and the salary levels of the financial sector. This mechanism is to ensure that the HKMA could recruit the right personnel equipped with the appropriate expertise and experience to achieve the HKMA's objectives, and that the HKMA could retain these staff. The remuneration packages offered by the HKMA have to be supervised by the Governance Subcommittee under the Advisory Committee. In conducting an annual remuneration review, the Governance Subcommittee will consider the study results submitted by an independent consultant, and will make evaluation in the light of the performance of the HKMA in the previous year. The remuneration packages (including floating salary rates and fixed salary rates) are determined according to the performance of the employees concerned. Here,

may I make some clarification regarding the remuneration increase of the Chief Executive of the HKMA referred to in Mr WONG Yuk-man's proposed amendment. The remuneration increase mentioned in Mr WONG's proposed amendment was in fact granted in 2008 with reference to the HKMA Chief Executive's performance in 2007. Just like any other employees of the HKMA, the floating salary rate of the Chief Executive of the HKMA has been reduced in 2009, which is this year. In addition to the management of the Exchange Fund, the Governance Subcommittee will also consider other factors in evaluating the performance of the HKMA.

Like all other public officers, the staff members of the HKMA also have to adhere to the most stringent ethics standards. Given that their work is of a sensitive nature, HKMA employees also need to abide by the requirements and restrictions relating to Declaration of Interests. The relevant requirements and restrictions are more stringent than the majority of those applicable to civil servants in many respects. And the relevant policy will also be reviewed regularly, taking into account the duties and functions of the HKMA, the general practices of public agencies, as well as the advice of the Independent Commission Against Corruption. The information disclosure arrangements for HKMA employees are largely the same as those applicable to officers of similar ranks and grades in the civil service.

Just now Mr Albert CHAN enquired about the post-employment arrangements for HKMA officials. The HKMA has laid down clear post-employment arrangements for its employees, including senior level executives. This is to ensure that any potential or actual conflict of interests will be dealt with properly, and such rules will be reviewed from time to time in the light of the HKMA's unique duties and functions. In addition, HKMA employees also have to abide by the confidentiality provisions under the Banking Ordinance. Staff members breaching such provisions will be liable to criminal penalty.

Deputy President, the Government keeps an open-minded attitude towards the future arrangements for the HKMA, as well as the overall supervision of the financial regime in Hong Kong. At present, there are already a number of reviews carrying out in Hong Kong and at the international level, and the results of these reviews may have effects on the subject we are discussing today. I have noted the many specific suggestions put forward in the amendments proposed to

the original motion. I, Mr MUNN and the colleagues from the HKMA will continue to listen carefully to the views expressed by Honourable Members.

Thank you, Deputy President.

**MR CHIM PUI-CHUNG** (in Cantonese): Deputy President, I speak today in support of the motion. We can see a word, which is "demand". It is just a "demand", not "asking it to do anything right away". Is it not right just to put forward a "demand"?

Moreover, it urges a comprehensive reform. These few words, "a comprehensive reform", may be changed to "a comprehensive review". "Review" means that we do not know what mistakes have been made, while "reform" means that we certainly know what mistakes there are.

Deputy President, I think the Hong Kong Monetary Authority (HKMA) has made six mistakes which are worth our suspicion. Of course, some of my remarks are probably what other Members have mentioned just now, but I have no reason to put other people's words in my mouth. It is impossible. In addition, I have to make it clear that, as for Mr Joseph YAM, I have no personal interests at all, as his pay is about \$10 million per year. What skills do I have? I have no qualification or intention to receive the same benefits as he does. Some people outside have misunderstood me that I must have opinions about him. That is not true. I just focus on the facts.

Deputy President, I have just said that the HKMA has made six mistakes, of which we are demanding a comprehensive review or reform. The six mistakes are: first, its power is too big. We understand that although the Financial Secretary has absolute power to monitor the Chief Executive of the HKMA, but among the four Financial Secretaries mentioned by Mr WONG Yuk-man earlier, which one dares to really monitor him? He stands high above the masses. His office is located above the 50<sup>th</sup> floor. He basically looks down upon all other officials in Hong Kong. This is the first point.

He once spent more than \$3 billion to buy office premises. As far as we know, the value of \$3 billion-odd premises at that time is equivalent to approximately \$10 billion to \$20 billion now. Of course, the outcome may not be absolutely wrong. However, such an act at that time is a crucial decision for developers as well as the HKMA. His actual power is indeed too big.



Furthermore, we can see from some of his speech that he believes he himself is in a prominent position. He is unconsciously too hardhearted. For instance, when investors lost a lot of money, he said, "It is the investors' own responsibility." Basically, a number of investors have been misled under different circumstances – Deputy President, I have not said that it is the Lehman Brothers incident. Please listen carefully.

His investment power is too big. Someone advised me, "CHIM Pui-chung, would you please avoid saying something too absurd?" I said, "Who dares to say that some people are not special financial agents of the United States?" If you say so, I will absolutely support you. Of course, such allegation may be too serious.

Secondly, Deputy President, his term of office is indefinite. As mentioned earlier, our Chief Executive may only serve for a maximum of two consecutive terms, but so far, Mr Joseph YAM has served as the Chief Executive for 16 years. He has requested the Government to reconfirm and extend his term of appointment for four years. That is 20 years in total. Of course, the Government will make an announcement in the middle of this month. Since the Chief Executive is subject to restrictions on time and term of office, why the HKMA's Chief Executive is not subject to any restrictions? I have repeated many times that this is the question of principles. When a person's power is too big and his term of office is too long, this would make his selfish desires excessively strong.

Thirdly, he does not attempt to make progress. We know that since the Hong Kong dollar is pegged to the US dollar, the grievances of the people can basically be seen. Apart from the appreciation of the Renminbi, an increase in the prices of other non-staple food has led to a gradual decline in many people's standard of living. He has no idea of this. In this regard, the SAR Government, of course, should also be held responsible. The Government can conduct a review thereof, and the outcome may not necessarily be delinking with the US dollar. We can see that Singapore is in the same case. I once called Mr YAM as "One-stroke YAM", as he basically used interest rate to force banks to do their work. At that time, the interest rate soared to over 200%, causing a retreat of all foreign banks. The foreign banks came to Hong Kong and, at first, they believed that Hong Kong was an international financial centre, but when the HKMA used this trick, most of them were basically unable to withstand. So, he does not attempt to make progress.

Fourthly, as we mentioned earlier, his remuneration has run out of control. Even though the Financial Secretary has just explained that the remuneration of the Chief Executive is based on the performance of last year, instead of that of this year, we can see that the difference is just around \$1 million. Why does he not readily follow the good advice, but take that all? As life of everyone outside has been so difficult, he may do something kind as well. Of course, this is his personal decision, but most importantly, it has reflected that the relevant committee has been lacking transparency, basically depriving members of the public of their right to know. So, with regard to this, as I mentioned earlier, can we ask for a review? Can we ask for a reform? If not, he might have to step down. Deputy President, he cannot go against such trend. Therefore, the major mistake is a lack of transparency in the relevant committee.

Fifthly, he is irresponsible. We understand that there are 19 banks participating in a kind of investment behavior recently. If policies of the Government have no deficiencies, why are these 19 banks all faced with problems? It should be just one to two or three to four at most. Therefore, the basic guidelines and regulatory approaches of the HKMA are not correct. It has to conduct a review by itself. At the same time, as the HKMA has taken many powers from the Securities and Futures Commission without properly using them, the public has expressed many negative criticisms about "two regulatory authorities for one industry".

Deputy President, the sixth point is self-righteousness. Joseph YAM believes that he himself has foresight in doing many things, but he should understand that these matters would be effective if they are helpful and useful to the public and the industry in Hong Kong as a whole. What his foresight has to do with other people? Of course, he has made an apology for this. However, his recent views about the second round and the third round of the financial tsunami have basically made a great impact on a number of banks, prompting banks to tighten their lending policy. In particular, small and middle enterprises have also been affected. However, we can see that the Hang Seng Index has gone up from 9 March to 11 344.58 now, an increase of 45%. What leading posture does he have to tell other people this is the second round or the third round? So, the recent H1N1 (*The buzzer sounded*) .....

**DEPUTY PRESIDENT** (in Cantonese): Your speaking time is up.

**DR DAVID LI:** Deputy President, the motion now before us would have this Council support the misguided view that the Hong Kong Monetary Authority (HKMA) has been seriously lacking transparency and accountability for many years: It has failed to effectively monitor financial institutions; and that it has caused the development of the financial industry in Hong Kong to be at a standstill.

It will be a sad day for Hong Kong if this Council endorses such inflammatory statements. These claims run counter to the facts. They are extremely damaging to Hong Kong's position as an international financial centre.

It would be the height of irresponsibility for this Council to follow the Honourable Albert CHAN down his misguided path.

Fact: The operation of the HKMA is highly transparent. Its Chief Executive and other senior executives regularly appear before this Council to brief Members on its activities, and on the economic environment.

Senior executives of the HKMA keep Members fully informed of important policy initiatives. Members are briefed and have an opportunity to comment before a policy is introduced; Members scrutinize any legislation required; and Members receive a report on the implementation experience. At any time, Members are free to raise questions and seek answers.

(THE PRESIDENT resumed the Chair)

Fact: The HKMA has an excellent track record in banking supervision.

Hong Kong has experienced two highly destabilizing financial crises within the past decade. Yet, all banks have remained healthy. Capital adequacy ratios are among the highest in the world.

Compare Hong Kong's experience to other regional banks during the Asian financial crisis; compare Hong Kong's experience to international banks during the financial tsunami. In marked contrast to the overseas experience, Hong Kong banks have continued to operate normally.

This is not dumb luck. This is the result of the highly effective supervisory policies of the HKMA.

Fact: The HKMA takes a proactive stand to strengthen the banking system, enhance competition and ensure better services to customers.

The HKMA has led Hong Kong to be a world leader in the implementation of the Basel II Capital Accord. Hong Kong banks have together invested hundreds of billions of dollars to introduce new computer systems, enhance risk management and upgrade their internal control systems. Internationally, Hong Kong is held up as a model of best practice for other jurisdictions to follow.

The HKMA led the effort to establish the Commercial Credit Reference Agency, overcoming divided views within the industry and the community at large to implement a system that has improved access to bank credit by small and medium enterprises.

The HKMA guided the initiative to enhance the consumer credit agency. As a result, consumers are now protected from taking on more debt than they can manage.

The HKMA steered the abolition of the interest rate agreement. This has enhanced competition within the banking industry and provided more choice to consumers.

The HKMA has also led numerous structural improvements, including the real time gross settlement systems, that have increased efficiency and made Hong Kong a more attractive place to do business.

Further, the HKMA has recently undertaken a comprehensive review of its role. This highly commendable initiative examined how the HKMA can best discharge its duties to promote the general stability and effective working of Hong Kong's banking system.

Fact: The HKMA has worked tirelessly to improve co-operation in banking and financial matters between Hong Kong and the Mainland.

This is a highly sensitive policy area, yet the HKMA has been successful in progressively extending the range of Renminbi and cross-boundary services that Hong Kong banks may offer to their clients.

Mr President, the collapse of Lehman Brothers brought great distress and suffering to all who had invested in Lehman Brothers-related financial products. I understand the frustration and sense of betrayal felt by many of my colleagues in this Council.

However, this incident must not be used to disparage an institution that has served Hong Kong extremely well, and that is a model for other regulators worldwide.

I must also, at this point, express my amazement at the logic behind the Honourable WONG Yuk-man's amendment.

Most investors in Hong Kong would be delighted to have weathered the worst global economic crisis in almost 80 years with a mere 5.6% fall in net worth.

The Chief Executive of the HKMA should be congratulated for the excellent performance of the Exchange Fund in 2008 in the face of extraordinary challenges.

In conclusion, the Honourable Albert CHAN's assertions have no basis in fact. As such, it is incumbent upon this Council to reject his misguided views. I call upon all Members to join me in voting down this motion.

Thank you, Mr President.

**DR PAN PEY-CHYOU** (in Cantonese): President, I believe many Hong Kong people will have a mixed feeling of love and hate when talking about the Hong Kong Monetary Authority (HKMA). Established in 1993, the HKMA is tasked with the key functions of maintaining currency stability and ensuring a healthy operation of the banking system. To achieve currency stability, the linked exchange rate system has to be safeguarded, in addition to sound management of the Exchange Fund and the monetary policy operations. For instance, since September 2003, market rumours about a possible revaluation of Renminbi and a massive influx of overseas hot money into Hong Kong have pushed up the exchange rate of Hong Kong dollar to a level exceeding HK\$7.8 to US\$1. At

that time, the HKMA made market interventions on a number of occasions. In November, it even made seven attempts to suppress the exchange rate of Hong Kong dollar to US dollar by using HK\$4.7 billion. In November 2007, it took market actions five times within one day to suppress the strong Hong Kong dollar by selling more than HK\$7.8 billion in order to defend the linked exchange rate. The HKMA has been protecting the linked exchange rate system, leaving no chance to international predators. As such, we must recognize that the HKMA has no doubt done a great job in defending the linked exchange rate.

The task of daily management of the Exchange Fund by the HKMA should not be taken lightly, either. As most financial assets of the Government are deposited with the Exchange Fund, the first duty of the HKMA in managing the Fund is to protect the fiscal reserves of the Government, and the second one is to achieve a stable return on the fiscal reserves. The average investment return of the Exchange Fund since 1994 is 7% per annum. For years, the HKMA has indeed brought stable and respectable returns as financial income for Hong Kong. One of the most well-known incidents for the HKMA is of course the onslaught of the 1998 financial turmoil, in which international predators short-sold the Hong Kong dollar, leading to a nosedive of the exchange rate of the currency against the US dollar. To fight back, the HKMA tightened credit facility and raised interbank interest rates, thus successfully repulsing the speculators.

Another important function of the HKMA is to regulate banks and authorized institutions and to ensure the safety and stability of the banking system. The HKMA has all along been highly competent in regulating the traditional business of banks and maintaining a healthy banking system. Thanks to sound supervision and regulation by the HKMA, our banking system can stand firm and operate as usual amid the 1998 financial turmoil despite a surge in negative equity cases, as well as under the impact of the current global financial tsunami. The contributions of the HKMA should not be discounted.

It is until after the passage of the Banking (Amendment) Bill 2000 that the seeds of the Lehman Brothers Incident have been sown. The Bill, which allows banks to sell financial securities products, has expanded the functions of the Monetary Authority who becomes responsible for regulating the non-deposit businesses of banks. Such a provision has rigidly fragmented the work of regulating the securities industry, with the Securities and Futures Commission and the HKMA taking up different regulatory roles. As the regulatory systems of the two institutions are different in terms of sophistication and strength of supervision, there exists the problem of regulation of one industry by two regulators. This has been criticized by the industry all along. The regulatory

problem of structured products has not been revealed until the recent collapse of the Lehman and related structured products. This also reflects that the two regulators handle the matter in different ways, leaving the victims who brought the Lehman products from banks at a loss what to do. We think there is a need to review the situation of having two regulators for one industry.

Furthermore, some people allege that the HKMA is not subject to any comprehensive statutory regulation and therefore call it an independent kingdom. In fact, the office of the Monetary Authority is created under the Exchange Fund (Amendment) Ordinance 1992, which empowers the Financial Secretary to appoint the Monetary Authority and allows the Financial Secretary to entrust him with authority to act. The law has not clearly defined the powers and responsibilities of the Monetary Authority. As time goes by, the powers of the Monetary Authority continue to grow and the business activities in which the HKMA intervenes are getting more and more. The function of the Exchange Fund Advisory Committee is to advise the Financial Secretary on the management of the Exchange Fund. However, its another role is to manage the daily operation of the HKMA, including issues such as the decision on emolument. Members of the Advisory Committee include a number of bank heads and these banks are exactly subjects of regulation by the HKMA. With such conflicting interests, how can the Advisory Committee exercise effective regulation on the daily operation of the HKMA?

In contrast, other public bodies such as the Mandatory Provident Fund Schemes Authority, the Vocational Training Council and the Hong Kong Housing Authority are all regulated by separate legislation, while only the HKMA is an exception. It is perhaps too lax for the HKMA, being a most important part of the financial system of the Hong Kong Special Administrative Region (HKSAR) Government, to be regulated by only a few provisions on the Exchange Fund. Besides, the high remuneration packages for senior staff of the HKMA have long been criticized by Hong Kong people. To cite an example, the annual pay of its Chief Executive is several times higher than those of the Chairman of the United States Federal Reserve Board and the President of the European Central Bank. Is it reasonable for an HKMA chief executive of the HKSAR to enjoy a remuneration package that is higher by several folds than those of the presidents of central banks who influence the world?

President, in conclusion, the work of the HKMA in many respects in the past deserves our approval. However, the lack of legislative control and unclear delineation of powers and responsibilities of the HKMA are matters in need of review. Therefore, the Hong Kong Federation of Trade Unions supports a

comprehensive review on the HKMA and a reform based on the result of such a review. Nevertheless, no rash action should be taken.

President, I so submit.

**MISS TANYA CHAN** (in Cantonese): President, we note well the contributions made by the Hong Kong Monetary Authority (HKMA), during the past decade or so, in stabilizing the Hong Kong monetary system, guarding Hong Kong's financial system and society from the impact of the financial turmoil, or helping us to cope with the impact. The achievements of the HKMA's management team during the 10-odd years, indeed, cannot be discounted. However, the Lehman controversy has almost reduced this hitherto reputable authority into a target of attack.

To be fair, we witness the performance of the HKMA over the past decade or so. I believe we can still remember that during the Asian financial turmoil in 1997, we finally managed to fight off the international speculators assaulting the Hong Kong dollar linked exchange rate system, despite the severity of the situation. Also, there was an average increase of 8.8% per annum in the Hong Kong foreign exchange reserves from HK\$568.7 billion in June 1997 to HK\$1,509.2 billion in February 2009. Of course, part of this amount came from the government surplus, but the investment-related incomes surely formed a significant part of it.

I understand well that since the outbreak of the Lehman Brothers saga, many people have lost confidence in the HKMA, especially in Mr Joseph YAM, the Chief Executive of the HKMA. Even Dr David LI mentioned just now ..... the sense of betrayal? Even so, we definitely cannot totally deny the great contributions made by the HKMA to Hong Kong over the past decade or so. I recall that in 1997, when I was working in an investment bank, a scene sank into my memory and has left me a deep impression till now. That is the change in the appearance of Mr Joseph YAM, the Chief Executive of the HKMA, within one week — I would describe it as "hair turning white overnight" — as we that during the financial turmoil, the international speculators were assaulting the stock market, the call-money market and the linked exchange rate on all fronts and by all means. Today, there are people asking others to step down with a bow or even to "get the sack" at every turn. Is this the most desirable way of doing things?



Besides, since the investigation work of the Legislative Council Lehman Subcommittee has not been completed, we are yet to reach a conclusion about the rights and wrongs. Is it fair to make a hasty decision right now? Moreover, in my belief, if someone is asked to be accountable when the time comes, that person will be bound to step down.

President, in my opinion, in order to reform the HKMA, what most requires attention may not be the management team led by Mr Joseph YAM, the Chief Executive of the HKMA, but the Exchange Fund Advisory Committee which oversees the whole HKMA's operation and is under the leadership of the Financial Secretary. This committee has the ultimate control over the remunerations of the management, the operation of the HKMA, or how our huge foreign exchange reserves are invested. It happens, however, that the transparency of this committee is very low.

Let me talk about the composition first. The members of the committee are all appointed by the Government. Yet, we are not very clear about the criteria by which the Government appoints these members. I hope that Mrs Carrie LAM, the Secretary for Development, will later give us a reply on behalf of the Financial Secretary and tell us what criteria our Government bases on when appointing the members of this committee. This at least gives us some confidence in this structure.

The Report No. 52 recently published by the Audit Commission has revealed a lot of areas for improvement in the corporate governance of many public bodies. In recent years, the public has a higher expectation towards these bodies. Therefore, I hope that the HKMA, being one of the most important statutory bodies in Hong Kong, can conduct a comprehensive internal review and make public the report. Only doing so can make the public feel that the HKMA is not an independent kingdom with a total lack of regulation.

I would now turn from governance to the remuneration issues. Many Honourable colleagues have mentioned just now how high the HKMA staff are paid. I believe that many people will be shocked if they leaf through the HKMA's annual report and find that the remuneration of "Chief Executive YAM" exceeds \$10 million per annum. Mrs Carrie LAM, the Secretary for Development acting as the Financial Secretary today, said that this was a matter in 2008. However, let us have a look. Despite that his variable pay may be adjusted downwards in the year 2009, we really hope that the investment

performance of the Exchange Fund can be listed as one of the considerations in determining his remuneration, because a loss of \$83.3 billion was recorded in the Exchange Fund investment in the first three quarters of the past year. Fortunately, bonds and other investments gained a profit of \$88.6 billion, but there was still a loss of \$74.9 billion for the whole year. Under such circumstances, I believe that should Mr YAM's remuneration remain unadjusted, the public will unlikely give their endorsement.

Again, when compared with those of other major central bank heads, the annual remuneration of "Chief Executive YAM" of over \$10 million is indeed substantially higher. The Governor of the Bank of England receives an annual remuneration of around £290,000 or about HK\$3.4 million, and US Federal Reserve Chairman Bernanke receives an annual remuneration of US\$190,000 or some HK\$1 million, not to mention that received by ZHOU Xiaochuan, the President of the People's Bank of China.

The Government once said that the remuneration of "Chief Executive YAM" was set at a high level to attract the elites from financial institutions in the private sectors. However, are the central banks in the US and the UK not facing this problem too? Why can they recruit talents to be the heads without paying a sky-high price? The Government may rest assured that, in my belief, many people have been eyeing the post of the Chief Executive of the HKMA, even for a reduced remuneration package. Of course, it is still unknown whether a talent can eventually be recruited for succession.

Some Honourable colleagues also suggested that the HKMA staff should not be allowed to invest. Frankly speaking, I think this requirement may be too harsh. While I understand that this suggestion aims to avoid abuse of office by the HKMA staff, I think that a proper system for declaration of interests should suffice.

President, the HKMA plays a very important role for Hong Kong as an international financial centre. In order to do a better job, it has to secure trust from the community. Today, Shanghai is fast catching up to challenge Hong Kong's position as a financial centre. We need to further improve and review our regulatory system as well as the whole institution, with a view to reinforcing our strength. I so submit. Thank you, President.

**MS AUDREY EU** (in Cantonese): President, my speech will not repeat the parts Mr James TO and Mr Ronny TONG have just mentioned; nevertheless, I want to raise questions on the post-termination arrangements binding senior staff of Hong Kong Monetary Authority (HKMA).

When speaking for the Chief Secretary, Secretary Carrie LAM said that there are rules to prevent real or potential conflict of interest and avoid undermining the public interest. In particular, I would like to look at what the rules are. President, we know that the current practice is ..... we know that there is a control regime binding the civil servants, depending on their ranking. Nonetheless, the Chief Executive of HKMA is not a civil servant. Therefore, let us guess, how long is his sanitization period compared with those of civil servants?

Speaking of the existing rules, why was Secretary Carrie LAM reluctant to tell us in details? Because it is a duration of six months only, far too short that every one of us will be shocked to hear it. For staff grading above senior manager or former staff leaving service of the HKMA, if he wishes to take up any outside employment within six months after leaving the service, he must first obtain prior approval from the Monetary Authority, that is, Chief Executive Joseph YAM, then he is allowed to take up employment in the private sector, in which he can engage in business on his own account, establish a company in partnership, become a director of a company and become an employee. If it is the Monetary Authority himself (that is, the Chief Executive Joseph YAM) who is going to leave..... we know that Chief Executive Joseph YAM will step down from his post in October, the sanitization period imposed on him also is six months; nonetheless, he is subject to prior permission by the Financial Secretary. When vetting the application, the Financial Secretary will take account of the advice of a panel formed by the Governance Sub-Committee of the Exchange Fund Advisory Committee. Who are on the membership of this panel? It comprises the Chairman and two members of the Governance Sub-Committee.

In addition, the Administration has also said — just as Secretary Carrie LAM has mentioned that the problem is not serious because in addition to the six-month sanitization period, there is an ultimate weapon, that is, the regulatory rule under section 120 of the Banking Ordinance. He is obliged to preserve secrecy and still bound by this provision even if he leaves the service.

In fact, the relevant subcommittee of the Legislative Council has recently discussed section 120, which is worded with a wide scope. We say that it is like a "blanket" which covers everything; nonetheless, it is not without loopholes in application. Because if it is applied in its original form, it is certainly inapplicable; if it is applied in an extracted form, it may not be able to fulfill the regulatory function as originally intended in section 120.

On the other hand, the so-called sanitization or control period of six months is also worth noting, as we may still remember Mr Norman CHAN joined the Standard Chartered as Vice-Chairman, Asia, in December 2005, only eight months after he left the HKMA in April the same year. Naturally, many Members questioned about this and opined that the duration of six-month sanitization period should be reviewed indeed.

We can imagine that Mr Norman CHAN, as the Deputy Chief Executive of HKMA, must have access to a lot of confidential information and have been deeply involved in various policies and measures formulated by the HKMA. However, the sanitization period lasts six months only. Consequently, the public, including many Members of this Council, cast doubt on the regime and consider that a review should be conducted afresh on this issue.

Of course, if we compare such an arrangement with those of the civil service system, there is a great difference between them. President, you may know that I am a member of the Review Committee chaired by Mr Ronald ARCULLI, which is responsible for reviewing the arrangements governing post-service employment of directorate civil servants. We have recently held a series of public consultations and received extensive views, among which I also share the same view — we have been prudently reviewing the arrangements governing post-service employment of the directorate civil servants; however, when we take a look at the arrangements or regulations governing post-service employment of directorate civil servants and those binding the accountability officials and the top executives of organizations like the HKMA — even though it is not a governmental organization, it is definitely a public institution funded by public money — we find marked differences between them. It is a practice rather inconsistent and unfair.

We may turn to the civilian directorate officers at D8 on the Directorate Pay Scale. A three-year sanitization period is imposed on the post-service

employment of such officers, while a two-year sanitization period is imposed on other civil servants. For civilian directorate officers at D4 on the Directorate Pay Scale, the sanitization period is a minimum span of 12 months even if they wish to take up unpaid work only, and six months for officers below D4 on the Directorate Pay Scale. If they wish to take up employment within the period, they have to apply for prior permission from the Civil Service Bureau. The Bureau will seek advice and decide on such applications after taking account of the advice of an independent Advisory Committee on Post-Service Employment of Civil Servants under the chairmanship of Mr Justice PANG Kin-kee.

Certainly, given the LEUNG Chin-man incident, we are conducting a review, while the Select Committee concerned has been also looking into the regulatory regime of post-service employment governing former directorate civil servants. As a matter of fact, this comparison shows a noticeable disproportion between the civilian directorate officers and staff (the Chief Executive in particular) of HKMA in terms of arrangements governing their post-service employment. Hence, I totally agree with the views many Members have just expressed that no matter how good the HKMA has done its work and in what areas it has achieved outstanding results, improvements need to be made to the regime of the HKMA, including the term of office or remuneration packages of its staff and the arrangements regarding post-service employment.

President, I so submit.

**MR CHAN KAM-LAM** (in Cantonese): President, since Hong Kong's reunification with China, the aspiration of the community for greater accountability of government officials and public organizations has been rising. Nevertheless, I believe that no one will agree to the criticisms that the Hong Kong Monetary Authority (HKMA) is totally good-for-nothing and incompetent in every aspect. To be fair, the HKMA's performance in regulating the banking sector and maintaining the stability of the financial and money markets has been remarkable over the last decade and beyond. Since its establishment, the HKMA has overhauled the regulatory system of Hong Kong's banking sector, laid down for it a perfectly sound professional foundation and incorporated the best international practices, including Basel II. During the Asian financial crisis and the outbreak of the atypical pneumonia, Hong Kong's economy went into recession for several years and property prices also plunged sharply. Important

measures implemented by the HKMA at the time, such as the 70% loan-to-value ratio guideline and the weight given to bank exposures have enabled the banking system to maintain sufficient levels of capital. These measures, coupled with the HKMA's stringent supervision on the whole banking sector, prevented over-expansion of the banking sector in Hong Kong, which was seen in Europe and the United States. Such measures are conducive to ensuring that the banks of Hong Kong maintain sufficient levels of capital. In late 2008, the average consolidated capital adequacy ratio of the banks in Hong Kong was close to 15%, which was higher than the lowest statutory requirement. All these are actual facts. It is widely known that most of the supervisory work undertaken by the HKMA is low-profile in nature, which is in essence, the very nature of supervisory work in the banking sector. Nevertheless, one very explicit point is that the HKMA has devoted a lot of efforts in identifying and resolving problems, preventing crises and implementing crisis management measures, and the results are prominent. Hence, contributions made by the HKMA to enable Hong Kong to enjoy its long-standing position as an international financial centre should not be overlooked. It was only after the occurrence of the Lehman Brothers incident in September last year that the market was strongly dissatisfied with the Government and front-line regulatory organizations in this respect, including efforts made by the HKMA to supervise the securities business of the banks. As such, there have also been strong requests from the community for improvements to be made by the relevant regulatory organizations as well as better transparency in their governance.

Recently, there have been changes in the objective circumstances and continuous unconfirmed news from the market about the departure of Mr Joseph YAM, the Chief Executive of the HKMA, in September this year. Besides, the Exchange Fund was "in the red" for the first time in 15 years and recorded an investment loss of around \$75 billion last year. However, Mr Joseph YAM's remuneration has not made the slightest adjustment in response to the market situation. Not to mention that there has not been any pay freeze or pay reduction, he was even offered a pay rise against the market situation. As a result, there comes an all-time high level of criticisms against the remuneration of the Chief Executive of the HKMA in the community.

President, in fact, the problem of continuous rise in the levels of remuneration of the management in public or quasi-public organizations of Hong Kong occurs not only in the HKMA but also in the MTR Corporation Limited (MTRCL), with strikingly similar situations where the SAR Government is the

major shareholder. Even though the profit of MTRCL dropped drastically by 45% in 2008, all its senior management staff were offered pay rises ranging from 27% to around 40%, and among them, Mr CHOW Chung-kong, the Chief Executive Officer was given the highest percentage of pay rise and his remuneration is as high as \$15.3 million, representing an increase of 39% compared to that of 2007.

In view of the drastic changes to the global financial setting and rising expectations in the community for better transparency in the HKMA's governance, it is essential for the Government to assess the timing and judge the situation, and take the opportunity of the upcoming personnel change to institutionalize matters regarding the senior management staff of the HKMA such as their selection, appointment periods, removal procedures and remuneration. It is therefore necessary to carry out a review on the role, function and governance structure of the HKMA, so as to maintain the public's confidence in the financial system of Hong Kong and fortify the status of Hong Kong as an international financial centre.

On the other hand, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) is also of the view that, after the lesson from the Lehman Brothers minibonds incident, the practice of "the regulation of the securities industry by two regulators", which has been adopted for years in Hong Kong, should also be reviewed. The report released in last July on the "Review of the Hong Kong Monetary Authority's Work on Banking Stability" led by Mr David CARSE also recommends that the relationship between the HKMA and Securities and Futures Commission be reviewed and their respective roles and approach be clarified. We suggest that the review should be launched in full scale.

As for the motions of today, the DAB is of the view that, regarding the HKMA, the proposal of "assigning the responsibilities of developing the financial market and regulating the banking system, and managing the foreign exchange reserve to maintain the stability of Hong Kong dollars to two institutions respectively" is related to changes to major policies and functional organization. Basically, the community has not held any detailed and in-depth discussion on these issues before, and better alternatives may come up during the discussions on these issues. The DAB therefore believes that it is the time to explore these issues and we will not support today's motions. Thank you, President.

**MR FREDERICK FUNG** (in Cantonese): President, from the subprime mortgage crisis to the bust of Lehman Brothers, this unprecedented financial tsunami has swept through the world. It shakes the stability of the entire financial system, and prompts the governments of many countries worldwide to adopt a series of extraordinary measures, including direct capital injection to the private sector and banks, nationalization of financial institutions and purging banks of toxic assets. The US Federal Reserve Board implemented the quantitative easing monetary policy even though there was no further room for cutting interest rates, and the result of which is regarded as "activating the printing machine to print money in abundance". One of the measures involves purchasing treasury bonds in an attempt to suppress long term interest rates at a low level. Through this effort, banks can resume credit borrowing, thereby restoring the normal operation of the economy. Besides, other economic stimulus packages employed in various countries are spending money like water in that thousands of billions of US dollars have been thrown in to lift the economy out of the current crisis.

President, the financial tsunami has not only allowed us to witness the collapse of the virtual economy and how the real economy has been heavily hit, but it has also made the governments worldwide come to realize how frail and weak the established financial regulatory system is, and how the *laissez-faire* economic policy, one of our sources of pride, was caught in its own trap by turning a blind eye to the excessive greed of financial institutions, which in turn gives rise to destructive consequences and costs each country a high price.

One of the important consensuses in the G12 Summit held last month was to reform the regulation of the financial system. This has indicated that the countries have fully understood where the problem lies — the regulatory system has to be reformed thoroughly. Otherwise, the crisis will repeat itself, making economy revival unlikely.

President, the situation in Hong Kong is no exception. Pursuing the *laissez-faire* economic policy similarly, the SAR Government is deploying too liberal a regulatory mechanism under the misconception that the public is capable of self-regulation and self-perfection. It thinks that banks in particular will avoid high-risk actions and non-compliance for the sake of their own interests. Unfortunately, things have gone contrary to what people think. Only after the "bust" of Lehman Brothers do people realize that our regulatory system has been



inherently inadequate and full of glaring loopholes, and the greed of the financial institutions has reached such pathological proportions that they will employ every means possible.

I still recall that at the beginning of the financial tsunami, the authorities often stressed that the financial system of Hong Kong was overall very stable, and would not be affected by disturbances outside. However, this is not totally true. Behind the stability so called by the authorities, the interests of small investors and depositors have to be sacrificed.

In fact, the sale of financial products by banks is not regulated by the Securities and Futures Commission (SFC) which is more independent comparatively. Quite the contrary, the HKMA has centralized all powers in that it not only has to preserve the stability of the financial system and ensure the financial soundness of banks, but also has to regulate the sale of financial products by banks. In fact, these two roles are conflicting with each other. As is generally known, after the abolition of the Interest Rate Agreement, banks joined the ranks of selling investment products one after another because this can help banks tap other sources of income, so that their finance can be made more robust with the book values. Of course, the HKMA was pleased to see such a situation and it even adopted a hands-free attitude and did not step up its supervision of the sales practices adopted by banks accordingly.

This inherently deficient monitoring model has reflected that this system did not put equal effort into protecting the interests of banks and those of customers, and the HKMA placed greater emphasis on the profits of banks than on the rights of customers. In fact, the International Monetary Fund once suggested that the SFC should have independent power in monitoring the securities industry. Unfortunately, the Government insisted on taking the power in monitoring daily the sale of securities by banks as well as that in investigating banks from the SFC and giving them to the HKMA by way of a MOU, thereby weakening the SFC's due power in supervision. Also, this model of two regulatory authorities for one industry sowed the seeds of the Lehman Minibonds incident.

President, what is more surprising is that, in a report published earlier by the HKMA on a review of its supervisory functions, it points out that "no fundamental deficiencies in the regulatory and supervisory framework have been

identified. But a number of enhancements can be made to the current framework to cope with the challenges ahead." This conclusion seems to reflect that the HKMA, which arrogates all powers to itself, has not learnt its lesson from the Lehman Minibonds incident. May I ask how the interests of consumers and investors can be protected in the future?

Therefore, the ADPL thinks that the first and foremost task is to reform the HKMA by putting things right and cutting the HKMA's privilege. In the short term, the powers of overseeing the securities dealing — whether conducted in banks or securities companies — should all be vested in the SFC. The HKMA should only be responsible for regulating the various items in the bank balance sheet such as loan and deposit, investment, capital adequacy ratio and liquidity ratio, as well as various risk exposures outside the balance sheet.

In the medium term, the authorities should consider the implementation of the "Twin-peak Approach", a supervisory model, by making reference to the practices adopted by Australia and the Netherlands. Simply put, the HKMA will no longer be responsible for regulation, but will only be responsible for the currency administration policy and stabilizing the whole financial system by fiscal means such as credit adjustment. Moreover, two different regulatory authorities should be established, with one responsible for regulating the operation of the financial industry especially the risk management within the industry, and the other responsible for protecting the investors' interests and regulating the competitive conduct among enterprises. ADPL considers that only by this model can independence be achieved and consumers' interests be catered for simultaneously, thereby avoiding any conflicts in the supervisory roles of regulatory authorities.

With these remarks, President, I support the amendments of Mr James TO and Mr Ronny TONG.

**MR TOMMY CHEUNG** (in Cantonese): President, as the financial tsunami swept across the globe, even though the Hong Kong Monetary Authority (HKMA) has managed to safeguard the banking system from a crisis, the inadequacy of its monitoring on the sale of financial products by the banks has been exposed. Besides, as the HKMA has been accountable only to the Financial Secretary, and is not monitored by the Legislative Council, the

remuneration of its senior management as well as its operational transparency and accountability have all along been subject to question. As such, the Liberal Party agrees that it is the time to carry out a review on the HKMA and introduce the necessary reforms.

Among the 11 229 complaints received by the Consumer Council regarding the Lehman Brothers incident, 90% are related to banks. The report on the investigation conducted by the HKMA also reveals that there are 238 non-compliance cases regarding the sale of financial products. These figures prove that the HKMA has placed too much emphasis on monitoring matters relating to the systems of the banks, and has turned a blind eye to improper practices adopted by the banks to sell "toxic bonds" of Lehman Brothers to the general public, and the HKMA should be held accountable in this respect. As the Legislative Council is currently conducting an investigation on the Lehman Brothers incident, it is advisable for us to wait until the investigation results are available, before any decision on the actual responsibility to be borne by the HKMA in this incident is made.

However, leaving aside the Lehman Brothers incident, it may appear to be an overstatement in saying that "the HKMA's performance has been unsatisfactory for years". After all, the HKMA has been "capable of fulfilling its duties" in stabilizing the exchange rate of the Hong Kong dollars and preventing systemic crises for the banks. A case in point is its intervention in the markets in 1998 to drive off unscrupulous speculators and stabilize the Hong Kong dollars. As the financial tsunami swept across the globe, governments in America and Europe were tired out in struggling on to rescue their banks, the fact that the banks in Hong Kong remained robust also indicates the efforts made by the HKMA to prevent systemic risks in the banking system. Therefore, even though the Liberal Party agrees that there should be a review on the functions and roles of the HKMA, we do not concur with the proposal of replacing the management of the HKMA at this stage.

On the other hand, both the Asian Financial Crisis and the recent financial tsunami have proved that, in order to maintain the stability of the exchange rate of the Hong Kong dollars and our financial stability, a huge foreign exchange reserve and a robust banking system are equally indispensable. Last year, in using the Exchange Fund to provide a 100% guarantee for bank deposits, the HKMA successfully stabilized the banking system and prevented the exchange

rate of the Hong Kong dollars from coming under attacks due to outflows of capital. This may serve to elucidate that the Hong Kong dollars can only be stable when stability of the banks is maintained.

The dual role currently assumed by the HKMA in managing the Exchange Fund and regulating the banking system enables it to prevent financial crises effectively by monitoring the banks, and make use of the Exchange Fund to carry out contingency actions expeditiously to maintain the stability of the exchange rate of the Hong Kong dollars when crises appear. Therefore, given the current financial crisis, we do not agree with any proposal to rashly "split up" the functions of the HKMA. Otherwise, it may only give rise to risks beyond our estimation and shake the markets' confidence in the Hong Kong dollars.

President, apart from the issue of the splitting of functions, matters relating to the potential candidates and tenure for the post of the Chief Executive of the HKMA are equally crucial to financial stability. It can well be illustrated by the fact that the issue relating to the retirement of "Chief Executive Yam" has sent a wave of volatility through the markets at an earlier time. Unfortunately, under the existing Exchange Fund Ordinance, there is not any provision on the tenure, retirement age as well as the appointment criteria and conditions of the Chief Executive of the HKMA. This is indeed a shortfall in the system.

Besides, even though the Liberal Party has stated in the past that we agreed to the provision of attractive and flexible remuneration to recruit staff of the HKMA, it is totally unconvincing for its senior management to receive lucrative remuneration without having to meet any criteria.

Taking Mr Joseph YAM as an example, his remuneration (salary plus bonus) was as high as \$11,930,000 in 2008, which was surprisingly, the sum total of the remuneration received by four major central bankers of areas including the US, the United Kingdom, Japan and the European Union. Nevertheless, there is an absence of any basis to support such a level of remuneration. As there has been hearsay recently about the retirement of "Chief Executive YAM" in this September, and in view of the fact that multinational companies are currently reducing the bonuses of their senior management one after the other, the authorities should take this opportunity to institutionalize and implement reforms on matters such as remuneration, tenure as well as other conditions of service.

Finally, as the senior management of the HKMA is responsible for managing a foreign exchange reserve of \$100 billion as well as supervising the whole banking sector, they frequently come across sensitive and confidential financial and market information. Therefore, in reviewing the conditions of service for the senior management of the HKMA, the authorities should set up a stringent mechanism for the senior management to declare their interest, so as to enhance the HKMA's credibility and the transparency regarding their personal investment.

President, the Liberal Party does not agree with the amendments proposed by Mr WONG Yuk-man as the pay rise received by "Chief Executive Yam" in 2008 has been determined according to his performance in 2007 instead of that in 2008. In using the loss recorded in the Exchange Fund in 2008 as the basis to "pick on" "Chief Executive YAM" for receiving a pay rise in 2008, these amendments have jumbled up the order of events, and are tantamount to imposing a retrospective penalty. In March this year, the HKMA announced a pay freeze and bonus cut for all its staff in 2009, so as to reflect the HKMA's performance in 2008, this may well be taken as an appropriate response. Although the Liberal Party agrees that the remuneration of the senior staff of the HKMA should be reviewed, it does not agree to the hurling of indiscriminate accusations.

Besides, the Liberal Party is also opposed to the amendments proposed by Mr Ronny TONG, as it is stipulated in the Basic Law that the Exchange Fund is used "primarily for regulating the exchange value of the Hong Kong dollar", and not as "capital for making financial gains". As such, no matter whether the Exchange Fund is managed by means of setting up an investment bank like the Lehman Brothers or a Sovereign Wealth Fund similar to the Temasek Holdings Pte Ltd of Singapore, it will be inappropriate. As for the proposal of having a Sovereign Wealth Fund or an investment bank to assume the role of a central bank, it is even unheard of. Mr Ronny TONG's amendments though creative, are somehow misplaced.

President, I so submit.

**MR CHAN KIN-POR** (in Cantonese): President, the motion and the amendments proposed by Members today are addressing issues related to the functions and the staffing structure of the Hong Kong Monetary Authority

(HKMA) respectively, and lots of comments and criticisms have been put forward. Also, Honourable colleagues who spoke have voiced many different points of view. Having worked in a bank for many years, I would like to take this opportunity to share my viewpoints with all of you.

Many Members pointed out that the work of the HKMA had been lacking transparency and accountability; some also alleged that there were many unreasonable aspects regarding the remunerations of the senior management as well as the staffing structure of the HKMA. Actually, public opinions have echoed similar views. For example, since many years ago, the public opinions have been directed at the excessively high remunerations of the HKMA's senior management. However, recently, there have been increasing criticisms on the lack of transparency of the HKMA's work. In my opinion, given such strong views from the outside, the Government certainly has the responsibility to look into the problems concerned in depth. If the problems are factual, it will have to make improvement recommendations; if the criticisms are untrue, it will then have to give the public a clear explanation.

However, even if the above accusation is factual, the work of the HKMA should not be discounted across the board, especially the efforts devoted by the HKMA in fighting against the financial tsunami and stabilizing the exchange rate of Hong Kong dollar. While many people criticize that there was inadequate monitoring on the part of the HKMA in the Lehman Brothers incident, not many note that the HKMA has, for many years, established a sound monitoring mechanism over the operation of banks to help Hong Kong fight against the financial tsunami successfully. In fact, there may be imperfections on the part of the HKMA in consumer protection which probably needs to be strengthened substantially, but it is inappropriate to align this problem with other work of the HKMA.

Ever since the outbreak of the financial tsunami, many banks in the United Kingdom, the United States, Europe and so on have been in trouble despite the perfectly well developed financial systems and the very strict monitoring work in these countries. In Hong Kong, on the contrary, though it is extremely susceptible to the international financial turmoil given that it is a highly open small economy and does not have its own independent monetary policy because of the linked exchange rate system, banks in Hong Kong are free from any problems. This does not mean that banks in Hong Kong did not have a hand in the toxic bonds of the United States, but means that the monitoring efforts devoted by the HKMA to the financial system are effective. These efforts include measures such as demanding banks to maintain sufficient liquidity and

capital, and asking banks regularly to submit financial returns in order to deter non-compliance of banks. As we know, if some banks of Hong Kong teeter on the verge of bankruptcy under the weight of heavy bad debts, there will be unthinkable consequences. Fortunately, this situation does not exist in Hong Kong.

As regards the issues relating to the Lehman Brothers incident, the Legislative Council subcommittee to investigate the Lehman Brothers incident is sparing no effort to carry out the investigation. I believe that the subcommittee will certainly find out where the problem lies. When the time comes, a fair judgment will be formed as to what responsibilities the HKMA must bear. Besides, as the financial tsunami has not completely subsided, the possibility of a second wave cannot yet be ruled out. Hence, it is indeed too early to perform a surgery on the HKMA at this stage, which may in consequence weaken the ability of Hong Kong to counteract the tsunami.

Overall speaking, notwithstanding that the HKMA has made significant contribution to the stability of the banking system of Hong Kong, it cannot merely sit and watch without resolving its problems. The Government must study in detail the various problems with the HKMA in order to address the doubts of the public. However, this should only be done pending, at least, the completion of the report on the investigation of the Lehman Brothers incident and the subsidence of the financial tsunami. Any drastic measures taken at this stage probably lack careful consideration and are unfair in every respect.

President, I so submit.

**MRS REGINA IP** (in Cantonese): President, first, I would like to thank Mr Albert CHAN for moving this motion debate today. Although I do not totally agree with the standpoint of the League of Social Democrats on the Hong Kong Monetary Authority (HKMA), I want to compliment Mr Albert CHAN for bringing up a sense of crisis in moving this motion.

As what Mr Albert CHAN has just said, the financial industry of Hong Kong is in fact facing a lot of crises. Mr CHAN has also mentioned the recent announcement by the Central Government about Shanghai becoming China's international financial centre. Certainly some people in the community may think that Shanghai cannot compare with Hong Kong because it lacks the sound legal system that exists in Hong Kong. However, many financial experts in fact hold different views. For instance, I have in hand an article by Prof Steven

CHEUNG talking about economics in April. The article points out that it is not necessary for Shanghai to wait until 2020 to become an international financial centre. So far as the Central Government can accomplish two tasks — first, to lift foreign exchange control; and second, to strengthen Renminbi (RMB), then Lujiazui of Shanghai will at once become an international financial centre that can challenge Wall Street. Not only is Hong Kong unable to fight, even Wall Street may not be able to fight with Shanghai.

Prof CHEUNG highlights a few points which deserve our contemplation. He says that sunrise comes one hour earlier in Shanghai than in Hong Kong. Though the two places are within the same time zone, Shanghai is at the leading edge as its stock market can open one hour earlier. Furthermore, the industrial development in the Yangtze River Delta is far better than the Pearl River Delta. In terms of financial talents, Prof CHEUNG also thinks that Shanghai has an advantage. In addition, he points out that the most important condition for becoming an international financial centre is currency. But the Hong Kong dollar does not have its own identity while it is very likely for RMB to become an international hard currency, enjoying the same status as the British pound in the past or the current US dollar. I note that Mrs LAM, the Financial Secretary, has mentioned that Hong Kong needs to complement with Shanghai. However, the way forward for Hong Kong is in fact not simply to complement, but also strengthen itself to become a supporting international financial centre.

In view of the big challenges ahead, I think the financial sector and the regulatory bodies should seriously look into the existing problems. Certainly I agree with what Mrs LAM and many other Members say that the HKMA does not only have Chief Executive Joseph YAM. His subordinates have indeed made much contribution in stabilizing the monetary system of Hong Kong. However, there are also areas that are below satisfaction. Just as what many Honourable colleagues have mentioned, why is there a term of office for the Chief Executive of the HKSAR while there is none for Chief Executive Joseph YAM? Even Mr Alan GREENSPAN had a term of office, which was something like seven years, and was subject to the endorsement of the Congress. Why can a person control the HKMA for as long as 16 years? An Honourable colleague has just mentioned that Chief Executive Joseph YAM has made a glorious achievement in beating predators away. But please don't forget — I see that Mrs LAM is smiling — as a former Administrative Officer, I would like to ask whether there is any Administrative Officer who can stay in the same post for



16 years. If one is allowed to stay in a post for 16 years, even he is no genius, he can become at least more than competent. Does it mean that a person who becomes more than competent for a post held for 16 years is a superman? I don't want to comment on such personal factors.

I think the biggest defect of the system is that it leads to a lack of successors. If a person is entrenched in a post for 16 years, he has not only accumulated the most expertise, but has also exclusively earned the personal ties with local or international financial institutions such as the International Monetary Fund or the World Bank. This is certainly inconducive to nurturing financial leaders of the next generation. I understand that it is difficult for the Government to table a bill on the HKMA for scrutiny by the Legislative Council under the current situation. But I think the Government should rectify the systematic defects on its own and strengthen the regulation on the term of office for the HKMA Chief Executive. The appointment system of the HKMA Chief Executive, as well as that of other senior staff together with their declarations on investment, should be transparent.

I heard from Mrs LAM just now that their declarations on investment can be in line with those of civil servants and even the Secretaries of Bureaux under the accountability system. In fact, one of my assistants has approached the HKMA recently to enquire about the investment information of its Chief Executive and senior staff. But it turned out that nothing could be obtained after one and a half hours. No information was available in the library or on the internet. Worse still, when he approached HKMA staff for enquiry, they were surprised why somebody would be concerned about such personal investment information. Such a lack of accountability is worthy of our criticism.

There is one more point that I would like the Government to pay attention. As mentioned in a recent news report, two more Administrative Officers of the SAR Government have left for non-governmental public organizations and one of them has joined the HKMA. Since the HKMA was established in 1993, I have counted that it has at least absorbed 11 to 12 brilliant local or foreign Administrative Officers and the drain is always one-way. The reason is that the HKMA offers generous remuneration. I think the SAR Government must pay particular attention to this point. It should also explore the way to address the drain of talents and strengthen moral education for civil servants. Though not everyone has a vision, I hope enhanced moral education can prevent the Administrative Officers from switching jobs simply out of the attraction of double pays. The Government should build up their sense of mission for society. Just like Mr Alan GREENSPAN, Mr Ben BERNANKE or the

Governor of the Bank of England of the United Kingdom, their posts in central banks have put them in great pressure but their pays are not high. Yet they must possess a sense of mission for society instead of always calculating their remuneration.

President, I will support the original motion of Mr Albert CHAN and the amendment of Mr James TO. But regarding the amendment proposed by Mr WONG Yuk-man, I will abstain from voting. Thank you, President.

**MR ALBERT HO** (in Cantonese): President, the very core of the motion debate moved by Mr Albert CHAN today is the hope for an overall assessment and review of the Hong Kong Monetary Authority (HKMA). This can be divided into two areas. The first one is to study the advantages and disadvantages of its existing system. The second one is to study the performance as well as the merits and demerits under the existing system. Let me start with the first area.

There are indeed many aspects regarding the existing system which have been criticized severely for years, but the Government has simply turned a deaf ear to this. I shall try not to repeat what has been said because many issues have been raised by Honourable colleagues already. First of all, significant as this institution is, it does not have a legal framework and a legal status. We can therefore see that while it has very great powers legally, it actually does not have a statutory system. The whole HKMA has turned into a one-man company and an independent kingdom. Upholding the rule of law, Hong Kong has gifted us with a tradition of the rule of law, which is a very distinct advantage over Shanghai. Unfortunately, the HKMA has brushed aside the rule of law and established the rule of man by adopting such management approach. This is unacceptable. I really find it hard to understand that many important decisions have been made by way of a MOU.

The second point is the lack of transparency. I do not need to talk about this point any more, as it has just been talked about repeatedly in aspects including appointment procedures, conditions, absence of an independent tenure and even departure arrangements. After knowing about these, people also find it hard to understand why they are that loose. However, one point I want to stress is its expenditure. Of course, the Legislative Council should not interfere with the investments in the Exchange Fund as most of them are strategies in safeguarding the currency stability. However, it is crystal clear that most of these come under public expenditure. For instance, the operating expenditure of the whole HKMA, including the billions of dollars — equivalent to over

\$10 billion nowadays — employed in 1998 to purchase an office, can nonetheless circumvent the Legislative Council. I think it not only pays no respect to the Legislative Council's constitutional power, but also contravenes the requirements of the Basic Law. While this is part of public expenditure basically, the HKMA can still act arbitrarily by drawing on the huge Exchange Fund in the absence of public monitoring.

The third point, which has been mentioned by Honourable colleagues, is the conflict between investors and regulators. Of course, the Government will say that major investments are not in Hong Kong but outside Hong Kong, as the Exchange Fund is used to secure the stability of Hong Kong dollar. As we all know, the market intervention in 1998 was to defend the peg rate. Even if this was regarded as an exceptional and necessary step, the Government at that time said that it was a one-off investment, and a one-off market intervention. Of course, the Government did not say so in such explicit way, but the meaning was very clear that that was an exceptional, one-off action, and that it would withdraw orderly from the market afterwards. I clearly heard about that at that time. However, in retrospect, the Government did not orderly withdraw from the market, as evidenced by the continued existence of the Tracker Fund. Secondly, it re-entered the market without a clear explanation, except for the so-called strategic investment in the stocks of HKEx. If it can now be done like this, the same thing can be done next time. The Government has not given a proper explanation. The Government has been severely criticized for wanting to straighten things out and keep people guessing at the same time. How can it do that? I hope that the Financial Secretary can offer an explanation later.

Besides, its advisory committee also lacks representation and recognition. In the past, most of its members were industry players who were regulated on the one hand and were required to help manage the HKMA on the other. Even though there is no more industry player in the present-day advisory committee, does it have sufficient representation and credibility? We express doubts about this.

Another area is related to performance. Of course, this area will trigger debates, like those Mr Albert CHAN has mentioned and with which I partly agree. However, I think that the HKMA's efforts in stabilizing the currency and consolidating the banking system over the past years should be worth affirmation on the whole. Very simple. We can see that since the recent outbreak of the financial tsunami, many banks have sought rescue and capital injection from the governments, but Hong Kong can tide over this predicament on the whole

without the extra backing of the Government. This certainly deserves praise. I also agree that we cannot be complacent because in the face of such strong competition, there are still many things to do. However, in my opinion, the serious deficiency in the HKMA is that as a regulator, it should not reckon that it is only required to regulate the operation of a bank and ensure its stability, because from the Banking Ordinance, I can clearly see that it also has a greater responsibility of ensuring its good operation. Moreover, let me read another point, that is, it shall ensure that it is carried on in a manner which is not detrimental, or likely to be detrimental, to the interests of depositors or potential depositors. This is section 7(2)(g) of the Banking Ordinance. What I want to emphasize is that the HKMA actually has the right to protect the interests of depositors, but that it did not share this view in the past with the notion that such issue should be handled by the commissioners for complaints or ombudsmen of financial services instead. This is wrong because the HKMA actually has the right of regulation. For example, very often, banks do not offer reasonable services, like shutting down branches in some remote places or charging exorbitant interests as in the recent Citibank incident. Furthermore, banks often force depositors to terminate their accounts without reasons. Actually, the HKMA has the right to interfere with these matters to ensure that banks will not do anything detrimental to their goodwill or the interests of depositors. Unfortunately, in my belief, the HKMA has neglected its duty by not doing so.

The final point is the exorbitant remuneration, and I need to say no more about this. Just now, the Secretary expressed grave concern over the HKMA's ability in attracting suitable talents. However, has any attempt been made? What are the bases for such concern? Given that a HKMA job is a public servant's job, I believe that the honour and the position itself will hold attraction for many. Therefore, I cannot accept this statement.

**MR JEFFREY LAM** (in Cantonese): President, the Hong Kong Monetary Authority (HKMA) has been established for 16 years so far. Its main functions include, *inter alia*, keeping the Hong Kong dollar stable, managing the investments of the Exchange Fund, ensuring the safety of Hong Kong's banking system and developing financial infrastructure. In the past, Hong Kong has experienced a lot of financial crises and the HKMA has successfully helped Hong Kong overcome various challenges. What attracts most comments is arguably the defeat of major international financial predators by the HKMA which was brave enough to buy stocks for the purpose of defending the Hong Kong dollar in

the Asian financial crisis in 1998 and recorded good profits for the Exchange Fund. This was a triumphant battle.

In addition, the HKMA has been very keen to keep the Hong Kong dollar stable. A weakness of the currency of Hong Kong and the financial sector is the inability to control the price or supply of the currency. Despite the repeated impacts of devaluation or appreciation on the Hong Kong dollar in the past, the HKMA has adhered to the Linked Exchange Rate System, ensuring the stability of the Hong Kong dollar. On the other hand, I have also seen that the HKMA is very keen to develop and promote the role of Hong Kong as an international financial centre. In the past, it has fought vigorously for the Central Government's approval for opening up and extending the scope of RMB business in Hong Kong, including the issue of RMB bonds and the establishment of a cross-boundary RMB clearing centre in Hong Kong, in addition to the establishment of a very good clearing and settlement platform as well as a financial infrastructure network. Last year, with the attack of the financial tsunami on the globe, a number of banks and financial institutions in Europe and the United States went bankrupt one after another and required a large-scale injection of fund by their governments. However, banks in Hong Kong remained sound and the HKMA introduced a 100 per cent deposit guarantee to consolidate the confidence of Hong Kong people. As regards the investment return of the Exchange Fund, the HKMA has always adopted a conservative investment strategy and has secured an average annual return of more than 6% since its establishment. Such performance should, in my view, score more than a passing mark.

President, my purpose of citing the various cases above is to indicate that the achievements of the HKMA in many matters should not be ignored, but some aspects of its operation have to be improved. However, I do not agree to an abrupt requirement for a comprehensive reform of the HKMA or a split of some of its functions. Recently, many people have repeatedly speculated on the retention and removal of the Chief Executive of the HKMA, mainly because so far there has not yet been a piece of legislation specifying the governance structure as well as the appointment and removal of the management of the HKMA, and providing for the term of office of the Chief Executive. Matters relating to the appointment/removal and remuneration of the Monetary Authority are all decided by the Financial Secretary according to the power conferred by the Exchange Fund Ordinance. President, I understand that this can allow the

Government to have certain flexibility and autonomy, but this can also give rise to meaningless outside speculations easily. At present, financial markets in the world fluctuate greatly. Will these rumours affect the stability of Hong Kong's financial markets? From the perspective of the world, there is now legislation in some countries and regions providing for the term of office of the central bank governor. Is it possible for the Government to study and consider the approach of specifying the term of office and even the tenure limit of reappointment in the legislation?

Another practice which attracts criticism is the pay adjustment of the Chief Executive of the HKMA and many people have commented on the remuneration of the Chief Executive. The financial tsunami and the Lehman Brothers minibond incident occurred last year, but we can see that the remuneration and bonus of the Chief Executive last year amounted to 11.93 million dollars, increasing by 15% over the previous year. President, the remuneration of the staff and the Chief Executive of the HKMA are recommended by the Exchange Fund Advisory Committee Governance Sub-Committee based on the study on pay trends and pay levels in the financial sector conducted by independent consultants every year. To my understanding, the bonus of the Chief Executive was determined based on his performance in 2007. However, we are not fully aware whether there are other economic environment factors to be considered and how the bonus is calculated. The most important point is that at present there is not a criterion for members of the public to know how the remuneration and bonus of the Chief Executive are calculated. Which area of the Chief Executive's performance counts more? What are the justifications? Is it possible for the Government to consider drawing up a clearer and more transparent pay mechanism to be accountable to the public?

As to the declaration of interest, some information on the investments made by senior staff is not required to be fully made public. Other additional investments made by the Chief Executive of the HKMA are required to be declared to the Financial Secretary, while other senior staff members are only required to provide information and declare interest to the Chief Executive. I agree that some information involving privacy should not be made public, but it is also possible for the Government to study out a relatively perfect practice.

President, the HKMA is in charge of the Exchange Fund of more than 1,600 billion dollars and members of the public have high expectations of

transparency in governance and the accountability of the management. I hope that the Government can consider some suggestions of enhancing the governance of HKMA to promote the development of Hong Kong's financial sector.

President, I so submit.

**MR LEUNG YIU-CHUNG** (in Cantonese): President, I have just heard of much criticism and opposition made by a number of colleagues to Mr Albert CHAN's motion, mainly because the Hong Kong Monetary Authority (HKMA) has in the past 16 years established stability for Hong Kong as a financial centre and has, in particular, made much contribution to the safety of banks and the stability of the exchange rate. Therefore, in their view, at present it is not appropriate, nor is it an opportune time, to implement the reforms suggested by Mr Albert CHAN, especially during the current financial turmoil. However, President, I am of the view that by saying so, my colleagues might have misunderstood the meaning of Mr Albert CHAN's original motion.

Why did I say so? President, Mr Albert CHAN's original motion reads that "as HKMA has been seriously lacking transparency and accountability for many years and has failed to effectively monitor financial institutions, and its performance is disappointing, causing the development of the financial industry in Hong Kong to be at a standstill". Mr Albert CHAN mainly intends to point out the problems existing in the past, in the hope of bringing out a new prospect for the HKMA and Hong Kong's financial centre as well as assisting in the development of the financial industry, rather than, as mentioned by all of you, that when the financial industry is declining at present, doing so will only destroy the development of the whole financial industry in Hong Kong, which is not what Mr Albert CHAN means. As to his suggestion of implementing reforms, all of you are scared at hearing it, and when he urges that "a comprehensive reform" should be needed, all of you even feel uncomfortable. However, the reform is not suggested without a premise and a reason, and is far from an "earth shaking" one. It is a reform based on a review, as stated in the motion that "this Council therefore urges the Government to expeditiously conduct a comprehensive review of HKMA and implement reforms". That is to say, he does not advocate reforms for the sake of reform. Rather, reforms will only be implemented after problems are identified after the review. Thus, I think that all of you seem to have taken it out of context by mentioning his suggestion of implementing a comprehensive reform without regard to the meaning of the foregoing words that a review has to be conducted first.

On the other hand, the first task of the reforms is "implementing a comprehensive reform of the staffing and organization of HKMA, formulating a clear accountability mechanism, and replacing the management whose performance was poor for many years". You can see that the motion does not call for sanctioning or removing a staff member without reason, but depending on his or her performance, and even call for the establishment of a sounder and transparent accountability mechanism. Do all of you think that local public utilities need such a mechanism? If the answer is in the affirmative, why can we not support this demand of Mr Albert CHAN? Moreover, should the staff members or the management with poor performance be replaced? This, in my view, is a quite normal practice. Why can we not do so? I really do not understand and find it difficult to guess why my Honourable colleagues do not accept the views of Mr Albert CHAN.

In addition, concerning transparency and management accountability that many Honourable colleagues have just mentioned, this institution is to serve the public and, in particular, manages the local financial sector which is of a substantial scale. We all know that since the relocation of local industries to the North in the 1980s, there has not been much left in Hong Kong's economic development. Industries are few in numbers and finance is one of the relatively important industries. However, why do we not call for transparency and accountability in the management of such important industry? This, in my view, is disappointing. If Mr Albert CHAN's motion is not passed today, I will instead be worried that it will give the public a wrong message that transparency and accountability are not needed in the management of this industry. In the Hong Kong community today, we always have such expectations. Both transparency and accountability have to be enhanced regardless of the types of institutions, especially public utilities. Therefore, I hope that all of you understand this point and refrain from sending other people in the community a wrong message.

As to the contributions and faults of the HKMA in the past, all of us of course will mention the case of defeating major international financial predators in the Asian financial turmoil. However, Donald TSANG Yam-kuen has mentioned in the past that he was involved in it when he acted as the Financial Secretary, while all of you seem to regard it as the HKMA's sole contribution today, creating an impression that the then Financial Secretary had seemingly no involvement in it at all. I do not know which story is true and which is not, nor do I know how they did it then. However, should all credit go to the HKMA, while others made no contribution at all? In my view, we have to deal with this issue in a balanced way.



In fact, we consider it most important that the HKMA should not, like the Hong Kong Housing Authority (HKHA), develop into an independent kingdom subject to no interference from any one. This is what I am most worried about. We all know that the HKHA always gives people an impression that it is an independent kingdom, subject to no constraints. I think that both accountability and transparency are basic requirements, not to mention the regulation of this type of institution. If these requirements are not met, it will be very disappointing.

The responsibilities of the HKMA that all of you have just mentioned include the protection of depositors' interests. However, in the past several years, we have found that depositors' interests were not protected, and no assistance can be sought from the HKMA. For example, it is possible for branches of banks in many districts to close down or stop providing services at any time. When we request the banks to provide services for the elderly, allowing them to withdraw their CSSA payment or money without having to walk far, they often ignore such request completely on the grounds of business nature, refusing to provide the services concerned, and even impose service charges or fines from time to time. In my view, the HKMA fails to protect the interests of depositors at all and these problems have been in existence. A question on whether the HKMA has faults will receive an answer in the affirmative. Therefore, I opine that a review and reform of HKMA have to be conducted, and I support Mr Albert CHAN's original motion. I so submit.

**MR PAUL CHAN** (in Cantonese): President, I must admit that the collapse of the Lehman Brothers triggered by the financial tsunami last year has caused great financial losses to many people. Some victims have even lost all their savings and are under enormous psychological stress and the pressures of living. They are strongly dissatisfied with the work of the Hong Kong Monetary Authority (HKMA). In this regard, the Legislative Council has authorized the Subcommittee to Study Issues Arising from Lehman Brothers-related Minibonds and Structured Financial Products (the Subcommittee on Lehman Brothers) to conduct investigation by invoking the powers under the Legislative Council (Powers and Privileges) Ordinance. One of the objectives is to identify the root of the problem and room for improvement in the regulatory system. As the taking of evidence by the Subcommittee on Lehman Brothers is still underway, I, being a member of the Subcommittee, should not comment on this at the present

stage so as to avoid being named as prejudiced and arbitrary, thus affecting the credibility of the subsequent report prepared by the Subcommittee.

There are strong views within and outside the Legislative Council on the appointment and removal, term of office, terms of employment, remuneration and transparency in exercising powers of the Monetary Authority. I think the Government should conduct reviews and reforms immediately. It has been widely circulated that Joseph YAM, the Monetary Authority of the HKMA, will vacate his office in September this year. But so far the Government has never given an account on this. If the rumour is true, the above reform should be carried out without delay. The Government has the responsibility of eliminating the worries of the community so that the appointment of the new Monetary Authority can win the confidence and support from the community and can be free from the burden of the past.

Today, another part of the motion is about the performance of the HKMA. In this regard, I think an objective, comprehensive and fair evaluation should be conducted. The principal function of the HKMA under the Banking Ordinance is to promote the general stability and effective working of the banking system. Hence, there are four main aspects in evaluating the performance of the HKMA, which include (1) to maintain currency stability under the linked exchange rate system; (2) to manage the Exchange Fund; (3) to promote the safety and stability of the banking system; and (4) to maintain and develop Hong Kong's financial infrastructure.

Talking about the exchange rate, we must understand that Hong Kong is an externally-oriented economy. Its exchange rate, stock market, property market and even economy are susceptible to economic changes in the external environment. A stable exchange rate is of paramount importance to Hong Kong. In the past 20 years, despite the tremendous hardships in the financial market and the blow dealt by speculators, the exchange rate of Hong Kong has been kept rather stable. This has not come easily.

Banks, especially investment banks, are both the culprits and the biggest victims in the current financial tsunami. The five major investment banks in the United States were either shut down, taken over or transformed. The world's biggest commercial banks need fund injections from their governments in order to survive. Under the financial tsunami, the banks in Hong Kong perform very

well in terms of both assets quality, default rate of loans and capital adequacy ratio. The HKMA has in fact introduced a whole series of timely measures to stabilize the banking system of Hong Kong which help the banks in Hong Kong tide over the blows. Hong Kong is a rare exception among those advanced externally-oriented economies.

As regards the regulation on the financial market and the banking system, I think not only the HKMA is subject to review. The HKMA, together with the Securities and Futures Commission and other organizations concerned should be put under consideration so as to avoid achieving something at the expense of some others.

Mr David CARSE, a bank expert, attended the meeting of the Panel on Financial Affairs in January this year, at which I requested him to provide a supplementary information paper regarding the reform of Hong Kong's financial system. In the paper he subsequently provided in February, it is pointed out that there is no perfect regulatory model in the world. All the various options have their pros and cons, the balance between which can only be determined by the particular circumstances of each jurisdiction. He also points out that a change in the regulatory structure is a major decision which should not be rushed into. There is no immediate need for Hong Kong to undergo radical changes, which should be entered into only after detailed study.

President, I personally think that there will be merits to separate the existing two functions of the HKMA in regulating the banking system and managing the exchange reserves for the stability of the Hong Kong dollar and to have two different organs to handle the jobs. However, we should bear in mind that substantial changes in the regulatory structure will involve risks, not to mention the transition costs associated. Such risks will not only affect different trades in Hong Kong, but will also have impacts on all people. Being in the storm of the financial tsunami, any changes will not only rock Hong Kong people's confidence but also the confidence of overseas investors and regulators in Hong Kong's monetary system as well as the credibility of Hong Kong as a financial centre. I think we cannot take such a risk at the moment.

In view of the above reasons, though I think the financial regulatory regime of Hong Kong needs to be reviewed and there is room for improvement in the governance of the HKMA while the appointment, terms of employment and

accountability of the Monetary Authority have to be reviewed, I cannot support the original motion of Mr Albert CHAN and the amendments of other Members at this stage. President, I so submit.

**MR ABRAHAM SHEK:** President, I stand to speak against the original motion and the amendments under debate. Unlike the eloquence of my Honourable colleague, Dr David LI, who speaks with conviction, pride and no prejudice, and in blind faith for the support of the Hong Kong Monetary Authority (HKMA), I tend to speak from a different perspective with neither pride nor prejudice, and I urge the Government and the HKMA to take today's speeches to heart, to objectively look into the concerns of the people who have spoken and the concerns of the public.

There are several reasons for public concerns. Rather than an independent corporation, the HKMA is a legal person appointed by the Financial Secretary and works as an agency of the Government. It is beyond the Basic Law. It is accountable to the Financial Secretary rather than to the public, but it works for the public. The HKMA is granted various privileges. For instance, its budget does not require the approval of the Legislative Council; the Chief Executive of the HKMA has an indefinite tenure; senior staff of the HKMA enjoy enviable remuneration packages which even dwarf those of the Chief Executive and senior government officials, as well as those of heads of central banks overseas. Some people rightly or wrongly consider the HKMA as a *de facto* kingdom, unsupervised and unregulated by the Government. If this is not the truth, then the HKMA has a public relations problem — correct it and educate those critics.

President, the Government claims that such arrangements are justified by the peculiar functions and sensitive status of the HKMA, incomparable to other statutory bodies. However, the HKMA is Hong Kong's central banking institution. It is therefore reasonable for the Government to refer to the practices of central banks overseas, particularly on appointments, tenure, and the remuneration packages of the head and senior staff of the HKMA. Hong Kong is an international financial centre, after all.

Contrary to the heads of central banks in notable economies, the Chief Executive of the HKMA does not have a definite tenure. Section 5A(1) of the Exchange Fund Ordinance allows maximum flexibility for the Financial Secretary in determining the appropriate conditions under which the Monetary Authority is appointed. This contrasts with the fixed term of appointment for the Chairman of the Federal Reserve Board in the United States, which is four

years; for the Bank of England, it is five years; the European Central Bank, eight years; the Reserve Bank of Australia, seven years; and the Bank of Japan, five years. A definite tenure is deemed preferable, among other reasons, to ensure checks and balances. Perhaps the lesson of Italy can help us understand the importance of a limited tenure for this position. Before the stepping down of Antonio FAZIO, the Governor of the Bank of Italy between 1993 and 2005, the Governorship of the Bank of Italy was a lifetime appointment. Only when FAZIO was involved in a criminal case over suspected abuse of power in handling takeover bids for Italian banks did the Italian cabinet amend the tenure for the position to six years. From the perspective of governance, a clearly defined tenure is necessary to avoid position abuse. A responsible government like ours should patch any loopholes before they can develop into a problem. If the Government is to take precautions only after irreparable losses, such as those suffered by Italy, it will be a disservice to governance.

Moreover, since the Financial Secretary is in a position with a limited tenure himself, it is conceivable that when a new Financial Secretary replaces the old one, changes in preference and mindset will ensue, leading to alterations in the criteria and selection of the Chief Executive of the HKMA. If this is the case, will it not result in uncertainty and volatility of the position? This worry is not baseless as the current practice gives the Financial Secretary the highest flexibility in appointing the Chief Executive of the HKMA. Most importantly, the existing arrangement may give rise to political interference. Notable economies, including the EEC and the United States, have an independent central bank in the sense that they operate under rules designed to prevent political interference; the position of the head of the central bank does not change with the change of a political regime or the fate of political leaders. In contrast, our system is more susceptible to personal preferences.

While Joseph YAM, who has held the position for 16 years, possesses rarely found talents, the question is, will his successors be as capable as he is? I am sure he is, but, for the long-term benefit of Hong Kong, the Government should both prepare for the worst, and act to prevent the worst from happening. If the Government still considers that changing the existing mechanism is unnecessary, even as Mr YAM is almost counting down the days to retirement, we should call the Government to account for the lack of crisis preparedness, which is tantamount to turning a blind eye to the problem.

The finances of the HKMA is another attention-grabbing subject. Article 73 of the Basic Law gives the Legislative Council the authority to deliberate and approve the Government's budget, including that of statutory bodies. Oddly, the

HKMA is the only exception: Budget approval of the HKMA is handled by the Financial Secretary via the Exchange Fund. The appearance of the Chief Executive of the HKMA before the Panel on Financial Affairs of the Legislative Council three times a year to brief Members and to answer questions on the HKMA's work has never touched on this issue. Without details of how the HKMA spends its money, the Legislative Council's supervisory function is incapacitated.

Thank you, President.

**MR LEUNG KWOK-HUNG** (in Cantonese): President, Mr Albert CHAN, my colleague in the League of Social Democrats, moved the original motion, but I believe a few Members will support him.

I find it very strange if the Hong Kong Monetary Authority (HKMA) has been indeed lacking transparency and accountability, and has failed to effectively monitor financial institutions — what is meant by financial institutions? Financial institutions refer to banks. Of course, the HKMA has committed a serious dereliction of duty in the Lehman Brothers incident. Mr Joseph YAM bypassed the Legislative Council and shared the powers with the Securities and Futures Commission through a Memorandum. After sharing the powers, no unannounced inspections have been conducted, nor has the applicability been reviewed. By doing so, he is totally in line with the condemnation in the original motion. But, I do not understand why Members are not in favour of Mr Albert CHAN's original motion. After all, whether or not Mr Joseph YAM is wrong, his performance is poor and there are problems with the system?

I can see that this Council is utterly unreasonable. We can strongly condemn Joseph YAM on other occasions, but on this occasion, Members protect Joseph YAM at all costs. This is a strange phenomenon. Honestly speaking, this motion is basically non-binding. Even if it is passed to request Joseph YAM to step down, Joseph YAM can still shamelessly come to and address the Legislative Council.

Last time, I proposed a reduction in his remuneration, yet he shamelessly said that it is not decided by him, but by the Exchange Fund Advisory Committee. Who are the members of the Committee? He himself, of course, is a member; his direct supervisor, John TSANG, is a member too; Christopher CHENG is the Chairman of USI Holdings Limited and a rich man; and HE Guangbei. Recently, I was beaten up by his security guard during a

demonstration. HE Guangbei is a Beijing official, as well as the Vice Chairman and Chief Executive of the Bank of China (Hong Kong) Limited; Mr Henry FAN is more high-sounding, isn't he? He made CITIC Pacific at stake — has he resigned? He has also resigned as the Member of the Executive Council, hasn't he? That is good and to the immense satisfaction of the people. He has to leave, but Joseph YAM does not have to leave.

In addition, Mr Thomas KWOK and Mr Vincent CHENG are all rich people. Mr Vincent CHENG is the Director of the Hongkong and Shanghai Banking Corporation Limited; and Dr Patrick FUNG is from Wing Hang Bank; Prof Lawrence LAU can be regarded as a scholar. We do not know what he will do in the future, but this can without doubt be linked up with joining the Executive Council; Mr David SUN works in Ernst & Young; Mr John CHAN is a former official and now working in the Hong Kong Jockey Club; and Mr Benjamin HUNG is the Executive Director and Chief Executive Officer of Standard Chartered Bank (Hong Kong) Limited. Does it have credibility if this group of people decides whether his performance is good or not?

We can now see that the victims of the Lehman Brothers incident are voting on the street and saying that he performs badly. This Council is also of the view that he performs poorly. However, when casting their votes today, Members are of the opinion that he performs well. When casting their votes, they support that his performance is good and believe that he shall remain in office. In addition, they object to Mr Albert CHAN and say that the HKMA is not without transparency and accountability. They even say so. What do we actually cast the votes for? He also wants to leave and does not want to cling to his position, but we still cover him with gold foil.

What has Joseph YAM done? In respect of the linked exchange rate, ours is a fixed exchange rate, unless the Government wants to adjust it or he suggests the Government to adjust it. In Hong Kong, there are a substantial amount of foreign exchange reserves. When people sell US dollars and purchase Hong Kong dollars, we can use Hong Kong dollars to purchase US dollars, which is just a mutual exchange. This is a reverse thinking and very simple. It is just a hedge.

The stability of banks is contributed by him, but we have to understand that, as for business of the banks outside their normal scope of business, sale of bonds and insurance business regulated by him ..... the insurance business has not yet burst, but the performance of bonds is very poor. May I ask Honourable Members whether this can be considered as good performance? I also would

like to ask Honourable colleagues: Is it appropriate that such a person has committed a gigantic fraud through his subordinate, Andrew SHENG, by using a Memorandum of Understanding, but today the two do not have to bear any responsibility?

What do we have to monitor him? Alan GREENSPAN admitted his mistakes, although he apologized after his leaving. Robert RUBIN was a key staff of Goldman Sachs, so he saved Goldman Sachs but not other people, but sooner or later, it would be exposed. We are in this Council today, even a congress in the United States that takes advantage of other people everywhere, a market that tolerates Americans to control other people's market, or a congress that makes money by deregulating other markets ..... I have to speak in fairness that Alan GREENSPAN said he was wrong, and Robert RUBIN has to admit his mistakes sooner or later. Why did he only save Goldman Sachs? But, we are now flattering them. We have requested Mr Joseph YAM for documents of the management committee of financial institutions, but he has not provided.

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, I have reminded Members that in this debate .....

**MR LEUNG KWOK-HUNG** (in Cantonese): No, I am asking whether he will provide the documents? I have not mentioned "Lehman".

**PRESIDENT** (in Cantonese): Members should not make comments relating to the inquiry of the Subcommittee.

**MR LEUNG KWOK-HUNG** (in Cantonese): This is the actual fact, not confidential, buddy. What do you want me to do then? Do you want me to withdraw this remark?

**PRESIDENT** (in Cantonese): Members should not make any related comments outside the inquiry proceedings.

**MR LEUNG KWOK-HUNG** (in Cantonese): I put it this way then. This Council has invoked the Legislative Council (Powers and Privileges) Ordinance



to request Mr Joseph YAM for documents, but he has so many excuses. One of his reasons is that if he provides such documents, his relationship with bankers will be affected in the future. Under such circumstance, he will not be able to regulate the bankers. However, will a police say that he and a theft may have poor relationship, so he cannot catch the theft? Joseph YAM has to understand that although bankers pay him, the fellow elderly, money or provide him with insider information, so that he can disclose this to other people, but he cannot openly resist the monitoring of the Legislative Council towards him. I am of the opinion that Mr Joseph YAM must step down. Today, this Council does not urge him to step down, which is the hypocrisy of this Council. I call upon Members not to condemn him again in the future.

**DR RAYMOND HO** (in Cantonese): President, established in 1993, the Hong Kong Monetary Authority (HKMA) played a historically significant role during the transition period of Hong Kong's sovereignty transfer by ensuring the stability of Hong Kong dollar as well as the normal operation of our financial and banking systems.

Over the 12 years since the transfer of sovereignty, Hong Kong has undergone a number of crises, which included the Asian financial turmoil, the outbreak of the Severe Acute Respiratory Syndrome and the resultant economic downturn. In all these crises, the HKMA had performed its major functions and maintained the stability of Hong Kong dollar and our banking system. Last year, as a result of the financial tsunami which swept the whole world, many financial institutions in advanced economies, including international banks with good reputation, experienced difficulties of different scales, which necessitated intervention by their governments with the offer of substantial assistance. On the contrary, the financial and monetary systems in Hong Kong remained stable.

Nevertheless, the onset of financial tsunami has triggered the Lehman Brothers Minibonds incident, causing many people to question the supervisory ability of the HKMA. For this reason, Members of this Council have decided to set up the Subcommittee to Study Issues Arising from Lehman Brothers-related Minibonds and Structured Financial Products and, in the performance of its functions, the Subcommittee has been authorized by this Council to exercise the powers conferred by section 9(1) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382).

The main scope of the Subcommittee's study covers the current regulatory regime, the operation of regulatory framework, the approval and sale of Lehman Brothers-related minibonds and structured financial products, and the protection provided by the regime for the investors, whether the operations by the frontline banking staff involve violation of regulations, buy-back proposal made by the Government and so on. All these are within the scope of its study. The related hearings and study are still in progress, and it takes some time for the Subcommittee to complete the work and make recommendations. It is inappropriate for me, as the Chairman of the Subcommittee, to make personal comments on matters within the scope of its study, lest this may mislead the public by creating an impression that the Subcommittee has a pre-determined stance. I strongly believe that the Subcommittee will make a thorough analysis based on the facts established by the inquiry, and put forth constructive proposals to consolidate Hong Kong's financial system for the reference of the Government.

President, the financial markets have developed rapidly in recent years, and the related bank and investment products have also become very complex. Not to mention small depositors and investors, even some regulatory authorities or professional investors may not be able to have a full grasp of the operation and trend of financial markets. This problem is not only confined to Hong Kong as the regulatory regimes in some advanced economies have also failed to keep in line with the actual needs. This weakness is evidenced by the outbreak of the financial crisis.

To meet the future development needs of the financial industry, Hong Kong should make reviews and improvement accordingly as a matter of urgency, so as to ensure that our financial regulatory structure can respond to any market changes more promptly, perform its supervisory responsibility effectively and explore new scope for further development of Hong Kong's financial industry.

I hope that our future regulatory regime can make us to have sufficient confidence in the banking system, and further consolidate Hong Kong's position as an international financial centre.

Thank you, President. I so submit.

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

**MR KAM NAI-WAI** (in Cantonese): President, some Honourable colleagues just now mentioned the problems of victims of the Lehman Brothers products, but I heard the President says the debate today should not relate to the inquiry which we have put in place. We all know that victims of the Lehman Brothers products have been asking Joseph YAM to step down. If you ask me, I will tell you that I have also asked Joseph YAM to step down in previous demonstrations; nonetheless, since the President has made it clear that the debate today should not involve matters concern the ongoing inquiry into the Lehman Brothers incident by the Legislative Council, thus the Democratic Party thinks that asking Joseph YAM to step down for reasons beyond the Lehman Brothers incident may raise a question.

Just now, I heard "Long Hair", that is, Mr LEUNG Kwok-hung, gives a number of examples but these also relate to Joseph YAM's performance in the Lehman Brothers incident. In his original motion, the Honourable Albert CHAN points out the Hong Kong Monetary Authority (HKMA) "has failed to effectively monitor financial institutions, and its performance is disappointing". Besides the Lehman Brothers incident, would Mr Albert CHAN specify if there are any specific examples of how disappointing is the performance of the HKMA, and how does it cause the development of the financial industry in Hong Kong to be a standstill? I hope Mr Albert CHAN can elaborate.

In fact, we all know the existence of problems in the operation of the HKMA itself. We therefore bring up the necessity to introduce independent legislation on the operation of the HKMA. We know that the HKMA has been playing multiple roles as central bank, monitoring bank as well as the role we have been talking about — protecting the investors. If you ask me for comment, I think it is rather confused. The current regime needs to be reviewed, otherwise, how could Hong Kong sustain its status as an international financial center in our future development? The problems exist indeed.

I find it queer that some Honourable colleagues, like Mr Paul CHAN has just mentioned he shares the same view that the HKMA has problems but on the other hand, he does not support the amendment moved by Mr James TO of the Democratic Party. For this, I feel strange. In (b) of our amendment, we move to conduct study on assigning the responsibilities of developing the financial market and regulating the banking system, and managing the foreign exchange reserve to two institutions respectively. We all understand that in the times of financial turmoil, many people have become more cautious and avoided making any changes rash. In fact, we have conducted some studies, such as the independent legislation on the operation of the HKMA mentioned in our

amendment (a). We know that whenever we initiate legislation, we must go through the processes of discussing, consulting and legislating. Law cannot be made overnight. It takes at least three to four years to provide a HKMA law that can draw our attention.

For this reason, I hope all Honourable colleagues can think about: what are the problems in the operation of the HKMA itself? What I want to emphasize is that for the inquiry into the Lehman Brothers incident, I believe the public has already discussed about the HKMA; nevertheless, as a Member both of the Legislative Council and Subcommittee, if it is evident there is dereliction of duty on the part of the HKMA, I will ask without hesitation Joseph YAM to step down.

Hence, the Democratic Party views that without taking account of the Lehman Brothers incident in this case, the most appropriate approach for us at current stage is to review and study the entire regime for the sake of sustaining Hong Kong's status as an international financial center. It is particularly important. I so submit. Thank you, President.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr Albert CHAN, you may now speak on the three amendments. You have up to five minutes to speak.

**MR ALBERT CHAN** (in Cantonese): Regarding these three amendments, the Honourable Ronny TONG's amendment is conceptually different from my original motion as he suggests developing the Hong Kong Monetary Authority (HKMA) into two independent bodies. It is a fundamental change that I cannot support his proposal. As I pointed out in my earlier speech, an institution having two responsibilities is itself conflicting and contradictory. It is both law enforcer and law breaker. If the law breaker is not distinguished from the law enforcer, it will invoke many problems. The power of law enforcer will be definitely diminished, and therefore I cannot support Mr Ronny TONG's amendment. Besides, we may have a look at the part of independent investment bank mentioned in his amendment, he did not explain it in details just now. What is his concept actually? In what ways can these two responsibilities of the

HKMA be carried out by the investment bank he mentions? It remains in doubt indeed.

As for Mr WONG Yuk-man's amendment, President, I support him in principle because there are many problems with the HKMA, and overpaid remuneration package is one of those I have mentioned. Overpaid, lack of self-monitor ..... salary increment by "insiders" for "insiders". Many Honourable Members point out the HKMA is like a private social club that all members are "cronies sharing common interests" only. They are acquaintances, aren't they? They rub shoulders with one another, flatter one another. For this reason, even though Joseph YAM's salary increment is based on his performance in 2008, such increase in this period is unconvincible. Therefore, asking him to step down is absolutely reasonable.

I think there are serious problems with Mr James TO's views. First, Mr James TO deletes the premise of my motion. My premise includes implementing HKMA reforms and various recommendations; but none of them mention the Lehman Brothers incident as I deliberately avoid the words "Lehman Brothers". Honourable colleagues may note that in the content of my motion, no "Lehman" is mentioned. As I mentioned earlier — perhaps Mr KAM Nai-wai did not hear that — I give many proofs of HKMA's guilt: excessive profit, secret dealing, conducting black-box operation and shielding the banks. Nevertheless, Mr James TO deletes the whole premise, and consequently, it is unable to list various proofs of the banks' or financial industry's guilt. A moment ago I mentioned all the bank branches are closed. I do not understand why the Democratic Party has to delete my premise. There are many complaints from the district communities over the closure of branches by large banks, imposing administration fees and penalty charges for no reasons. For any late payments on installments, even if it is just a few days due, a penalty of 30% will be charged in addition to the installment payment amount due. There are many other stringent policies like these and I have them mentioned in my speech. Because of these stringent policies and unreasonableness, I blame the HKMA for its bias towards the banks whereas Mr David LI glorifies it. Therefore, Mr James HO's amendment to delete my premise is ignoring those various problems existing in the banks, particularly those exploitative measures, unreasonable fees and stringent policies, and so on, imposed on people. In my opinion, if he deletes the whole premise and lays the blame merely on the part of Lehman Brothers incident, he makes a serious mistake.

Mr James TO adds the Lehman Brothers incident into his amendment but opposes Mr WONG Yuk-man's amendment on the other hand. President, I

would like to point out that some people in the previous demonstration — I am discussing Mr WONG Yuk-man's amendment — have asked Joseph YAM to step down but now sheer to oppose it, that is schizo, two-faced, and "to say something and do otherwise". Asking Joseph YAM to step down when leading victims of the Lehman Brothers products in demonstrations, while opposing Mr WONG Yuk-man to ask Joseph YAM to step down in the Legislative Council meeting on the other hand, that is politically ignoble — an ignoble behaviour of a political party that should be condemned. Thus, please explain it to us why did they ask Joseph YAM to step down when leading the victims in the demonstrations but now oppose him to step down? It is indeed a serious problem in terms of political ethics.

President, for the three amendments in general, as I mentioned just now, the most "senseless" is that Mr James TO deletes the whole premise of my motion; and what he says about the declaration of interests is completely wrong. The information on declaration of interests by the HKMA staff has 29 pages which are available. Nevertheless, if you check it in the HKMA, sometimes you may not be able to find it. I checked it this morning and could only find the information on Joseph Yam up to 2006. The information since 2006 is not available, so the declaration is (*The buzzer sounded*) ..... an established procedure.

**PRESIDENT** (in Cantonese): Mr Albert CHAN, the speaking time is up.

**FINANCIAL SECRETARY** (in Cantonese): President, on behalf of the Financial Secretary, I would like to thank Honourable Members for the invaluable views they expressed today on the work of the Hong Kong Monetary Authority (HKMA), as well the review of the financial policy and financial regime.

In this debate today, a total of 22 Members have spoken on a series of issues, including the HKMA's roles and functions, structure and governance, as well as the financial supervisory structure and the scope of supervision. Many Honourable Members have mentioned the accountability and transparency of the HKMA, some have also spoken on issues such as the pay and conditions of service of HKMA's Chief Executive and senior staff. Regarding these, since the Government's views and other relevant information are already given in my first speech which lasted more than 20 minutes, please allow me not to repeat such details. Certainly, I do notice that Members' views and the views I expressed in

my first speech on the same subject differ considerably in some aspects, and that some Members have also put forward rather specific suggestions. As pointed out by Mr Abraham SHEK, the various remarks and comments made by Members are worth an objective analysis and attention by both the Government and the HKMA.

Although my actual scope of work does not belong to the financial stream of the HKSAR Government's accountability team, I can assure Honourable Members that I will reflect in person to the Financial Secretary the insightful views I learned from Members in these three hours. Besides, colleagues from the HKMA will also submit to the Financial Secretary a more detailed report on today's debate.

President, the financial system is one of the factors contributing to the Success of Hong Kong. It is essential that we keep on developing and strengthening Hong Kong's financial system, with a view to ensuring that Hong Kong still maintains its competitiveness and stability in the midst of this turbulent and uncertain global environment. The Administration's efforts to ensure effective monetary control are also very important. The Administration is committed to ensuring that the HKMA continues to perform its roles and functions effectively, and is equipped with the required flexibility to respond promptly to the rapidly changing circumstances and newly emerged risks.

An important part of good corporate governance is to continuously review the operation of an institution to ensure that the institution can effectively perform its roles and functions. This applies to the HKMA without exception. Moreover, currently, a number of financial regime reviews are going on not only in Hong Kong and other regions but even at international level, and each of these reviews may have some influence on the HKMA. These reviews also include those carried out in Hong Kong. For instance, the Government is currently studying the reports on the Lehman Brothers incident that the HKMA and the Securities and Futures Commission have respectively submitted to the Financial Secretary at the end of last year, as well as the Carse Report on banking stability submitted by the HKMA in July last year, so as to assess the influence of these reports on supervision and other issues. In considering the way forward, the Government will certainly take into account the various views raised by Members in this debate.

Thank you, President.

**MR JAMES TO** (in Cantonese): President, the speech I made was misunderstood. May I request to clarify it now?

**PRESIDENT** (in Cantonese): You may clarify the part of your speech misunderstood by other Members.

**MR JAMES TO** (in Cantonese): President, to put it simply, Mr Albert CHAN just said that I am — I do not know whether he was referring to me, but I think it is necessary to clarify, that is, he said asking Joseph YAM to step down when leading the demonstrations was an act of saying one thing but doing another. President, the part of my speech that was misunderstood is, during the inquiry of the Subcommittee, I do understand my own capacity, therefore I have never asked Joseph YAM to step down during any demonstrations .....

**PRESIDENT** (in Cantonese): Mr James TO, will you please sit down first. According to what Mr Albert CHAN said just now, I could not hear that the content of your speech was misunderstood. I believe that was only a subject of debate. However, in accordance with the Rules of Procedure, this debate should come to an end.

I now call upon you to move your amendment to the motion.

**MR JAMES TO** (in Cantonese): President, I move that Mr Albert CHAN's motion be amended.

**Mr James TO moved the following amendment: (Translation)**

"To delete ", as the Hong Kong Monetary Authority ('HKMA') has been seriously lacking transparency and accountability for many years and has failed to effectively monitor financial institutions, and its performance is disappointing, causing the development of the financial industry in Hong Kong to be at a standstill; moreover, the recent decision of the Central Government to develop Shanghai into another international financial centre in addition to Hong Kong will definitely further threaten Hong Kong's position as a financial centre" after "That" and substitute with "the Lehman Minibonds incident has caused the public to question whether the Hong Kong Monetary Authority ('HKMA') is effective in monitoring the



non-deposit-taking and non-lending businesses of banks"; to delete "expeditiously implementing a comprehensive reform of the staffing and organization of HKMA, formulating a clear accountability mechanism, and replacing the management whose performance was poor for many years" after "(a)" and substitute with "introducing independent legislation on the operation of HKMA to enhance its transparency and public accountability"; to add "studying" after "(b)"; to delete "the above two institutions" after "appointment of senior staff of" and substitute with "HKMA"; to add "and other means" after "open recruitment"; to delete "of these staff will not be substantially higher than that of the Chief Executive" after "ensure that the remuneration" and substitute with "is comparable to that of the governors of central banks in other advanced countries"; to delete "the above two institutions," after "personal investments made by senior staff of" and substitute with "HKMA, and"; to delete "make public the details of" after "requiring the key management staff to" and substitute with "report"; and to delete ", and prohibiting the management of these institutions from making personal investments in the stock market" immediately before the full stop and substitute with "to the Chief Executive for record and to update them regularly for monitoring"."

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

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

(Members raised their hands)

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

(Members raised their hands)

Mr IP Kwok-him rose to claim a division.

**PRESIDENT** (in Cantonese): Mr IP Kwok-him has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Dr Margaret NG, Mr CHEUNG Man-kwong and Mr CHEUNG Kwok-che voted for the amendment.

Dr David LI, Mrs Sophie LEUNG, Dr Philip WONG, Mr Abraham SHEK, Mr Jeffrey LAM and Mr Andrew LEUNG voted against the amendment.

Dr Raymond HO, Mr LAU Wong-fat, Ms Miriam LAU, Mr Tommy CHEUNG, Mr Vincent FANG, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Prof Patrick LAU, Mr Paul CHAN, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM abstained.

Geographical Constituencies:

Mr Albert HO, Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Miss Tanya CHAN, Mr WONG Sing-chi and Mrs Regina IP voted for the amendment.

Mr LEUNG Yiu-chung, Mr Albert CHAN, Mr LEUNG Kwok-hung and Mr WONG Yuk-man voted against the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan and Mr WONG Kwok-kin abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 25 were present, three were in favour of the amendment, six against it and 16 abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, 14 were in favour of the amendment, four against it and eight abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

**MS MIRIAM LAU** (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "a comprehensive reform of the Hong Kong Monetary Authority" or any amendments thereto, this Council do proceed to each of such divisions after the division bell has been rung for one minute.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms Miriam LAU be passed.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members who are present. I declare the motion passed.

I order that in the event of further divisions being claimed in respect of the motion on "a comprehensive reform of the Hong Kong Monetary Authority" or any amendments thereto, this Council do proceed to each of such divisions after the division bell has been rung for one minute.

**PRESIDENT** (in Cantonese): Mr WONG Yuk-man, you may move your amendment.

**MR WONG YUK-MAN** (in Cantonese): President, I move that Mr Albert CHAN's motion be amended.

**Mr WONG Yuk-man moved the following motion: (Translation)**

"To add "recently Joseph YAM, Chief Executive of HKMA, still had a substantial increase of 15% in remuneration despite the loss recorded in the Exchange Fund, such behaviour should be subject to strong condemnation, and Joseph YAM should also step down for this as he owes it to Hong Kong people; moreover, HKMA" after "many years and"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr WONG Yuk-man to Mr Albert CHAN's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Albert CHAN rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Albert CHAN has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Dr David LI, Mrs Sophie LEUNG, Dr Philip WONG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr CHAN, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Dr Samson TAM voted against the amendment.

Dr Raymond HO, Dr Margaret NG, Mr CHEUNG Man-kwong, Mr CHIM Pui-chung, Prof Patrick LAU, Mr CHEUNG Kwok-che and Mr Paul TSE abstained.

Geographical Constituencies:

Mr LEUNG Yiu-chung, Mr Albert CHAN, Mr LEUNG Kwok-hung and Mr WONG Yuk-man voted for the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan and Mr WONG Kwok-kin voted against the amendment.

Mr Albert HO, Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr TONG, Mr KAM Nai-wai, Ms Cyd HO, Miss Tanya CHAN, Dr LEUNG, Mr WONG Sing-chi and Mrs Regina IP abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 25 were present, 18 were against the amendment and seven abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, four were in favour of the amendment, eight against it and 15 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negated.

**PRESIDENT** (in Cantonese): Mr Ronny TONG, you may move your amendment.

**MR RONNY TONG** (in Cantonese): President, I move that Mr Albert CHAN's motion be amended.

**Mr Ronny TONG moved the following amendment: (Translation)**

"To delete "assigning the responsibilities of developing the financial market and regulating the banking system, and managing the foreign exchange reserve to maintain the stability of Hong Kong dollars to two

institutions respectively" after "(b)" and substitute with "studying the establishment of an independent investment bank to be specifically responsible for the investment of the foreign exchange reserve, stabilization of the Hong Kong dollar and the general functions of a central bank"; to delete "the above two institutions" after "appointment of senior staff of" and substitute with "HKMA"; to delete "the above two institutions" after "personal investments made by senior staff of" and substitute with "HKMA"; and to delete "of these institutions" after "the management"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Mr Ronny TONG's amendment to Mr Albert CHAN's motion be passed.

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

(Members raised their hands)

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

(Members raised their hands)

**PRESIDENT** (in Cantonese): I think the question is not agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the amendment negatived.

**PRESIDENT** (in Cantonese): Mr Albert CHAN, you may now reply and you have 2 minutes 52 seconds. This debate will come to a close after Mr Albert CHAN has replied.

**MR ALBERT CHAN** (in Cantonese): President, I thank the three Members for their amendments and the 18 Members who have spoken. President, financial market is indeed an important phase of the capitalist development in its later stage. The capital market as a whole will be further complicated by such a

development. As a matter of fact, financial market is no different from capitalism itself as "capital comes dripping from head to foot, from every pore, with blood and dirt" pointed out by Karl MARX more than a hundred years ago.

Financial market is the same, as Karl MARX further pointed out in his book *Capital*, "within the capitalist system, all methods for raising the social productivity of labour are brought about at the cost of individual labourers; all means for the development of production transform themselves into means of domination over, and exploitation of, the producers; they mutilate the labour into a fragment of a man." If Honourable colleagues would replace the word "labour" by "citizen", that is to replace "labour" by "small shareholder" in the financial market in a capitalist society, it would be the same, indeed. The entire structure is filled with exploitation, deceit, cheat, poverty and greed. Many people attribute the banking stability to the Hong Kong Monetary Authority (HKMA). In fact, the HKMA's policies have been heavily biased towards the banking sector; and therefore the banking sector in Hong Kong has generated 50% higher return on average assets and benefits than the other international banks overseas in the past 10 years.

Being favourably biased by the HKMA, the banking sector has been generating such high profits by exploiting and bullying the people. Mr David LI's bank has generated comparatively low profits of 0.88 only. In the past 10 years, some banks in Hong Kong have generated average profits of 2.0, which is double that of Mr David LI's bank. Honourable colleagues could note the HKMA's bias. If Honourable colleagues decide not to support this motion today, they would give a wrong message to the public while the HKMA would be conceited about its ability in helping the people. This motion aims to crumble the kingdom of the HKMA, so that the ordinary people and small investors will have reasonable protection and access to fairness, and will no longer be subjected to bullying and exploitation by the HKMA. I hope Honourable colleagues would look at the purpose of this motion clearly, and would not keep their conscience dormant because of the pressure and threat from the Government by not supporting such a forward-looking, principled and righteous motion, which seeks to reform the HKMA. I hope the Honourable colleagues would read thoroughly the wording of the original motion. Thank you.

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



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

(Members raised their hands)

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

(Members raised their hands)

Mr Albert CHAN rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Albert CHAN has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Mr CHIM Pui-chung, Mr CHEUNG Kwok-che and Mr Paul TSE voted for the motion.

Dr David LI, Mrs Sophie LEUNG, Dr Philip WONG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr Paul CHAN, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Dr Samson TAM voted against the motion.

Dr Raymond HO, Ms Margaret NG, Mr CHEUNG Man-kwong, Ms LI Fung-ying and Prof Patrick LAU abstained.

Geographical Constituencies:

Mr LEUNG Yiu-chung, Mr Albert CHAN, Mr LEUNG Kwok-hung, Ms Cyd HO, Mr WONG Yuk-man and Mrs Regina IP voted for the motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan and Mr WONG Kwok-kin voted against the motion.

Mr Albert HO, Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr Ronny TONG, Mr KAM Nai-wai, Miss Tanya CHAN, Dr Priscilla LEUNG and Mr WONG Sing-chi abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 26 were present, three were in favour of the motion, 18 against it and five abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, six were in favour of the motion, eight against it and 13 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negated.

**PRESIDENT** (in Cantonese): Second motion: Promoting green economy.

Members who wish to speak in the debate on the motion will please press the "Request to speak" button.

**PRESIDENT** (in Cantonese): I now call upon Mr Alan LEONG to speak and move his motion.

## PROMOTING GREEN ECONOMY

**MR ALAN LEONG** (in Cantonese): President, the world is currently facing crises in fuel, food, and so on. These, coupled with the financial tsunami that took place at the end of last year, have left countries across the world in an economic environment which is possibly the worst since the Great Depression of the 1930s. In attending the United Nations Climate Change Conference held in December 2008, United Nations Secretary-General BAN Ki-moon urged countries to implement a "Green New Deal". In February this year, the United Nations Environment Programme published its report entitled "A Global Green New Deal", expressing the hope that countries will implement a "Green New Deal" in the coming two years.

The objectives of this report include reviving the world economy, creating employment opportunities and protecting vulnerable groups; reducing carbon dependency, ecosystem degradation and water scarcity; as well as ending extreme world poverty by 2025. The report also urges the G20 nations to spend at least 1% of their gross national product (GNP) to implement the relevant programmes. In its conclusion, the report stressed that "A Global Green New Deal is not just about creating a greener world economy." (And I quote) "It is about ensuring that the correct mix of economic policies, investments and incentives reduce carbon dependency, protect ecosystems and alleviate poverty while fostering economic recovery and creating jobs." (End of quote)

President, the United Nations hope that by promoting green economy, crises could be turned into opportunities. Countries across the world would then swing into action with a view to creating more job opportunities and reviving the economy. Last year, the European Union endorsed a €200 billion economic revitalization plan, amounting to 1.5% of their GNP. The European Union is currently implementing extensive energy saving plans and renewable energy sources plans, offering approximately one to two million new job opportunities. The total worth of the economic revitalization plan implemented in the United States amounts to US\$787 billion, about 1% of which is the total funding for the Environmental Protection Agency. As pointed out in the recommendations of the revitalization plan, if the United States Government appropriate US\$1 billion from its funding for the purpose, 30 000 job opportunities could be created every year. The Korean Government has also announced its "Green New Deal" plan in January 2009 with a funding of some US\$36 billion, or 3% of the country's

GNP. In this connection, the investment involving energy saving and green building is expected to create 180 000 job opportunities. Assuming that Hong Kong's gross domestic product stands at \$1,600 billion, the Government should at least inject \$16 billion to promote green economy, so as to respond to the calling of the United Nations.

President, as reflected in the actions taken by the said countries, environmental protection and the economy are not two totally unrelated social issues. On the contrary, integration of the two could achieve the result of killing two birds with one stone, reshaping the global environment on the one hand, and revitalizing the economy on the other. In the face of the new global trend in promoting green economy, the Government of the Special Administrative Region should not just stick to its old practices. Relying solely on its policy of "using the financial sector to save Hong Kong" just could hardly lead Hong Kong out of the gloom of economic downturn.

President, perhaps many people may have this query: given the small size of the territory, would green economy be viable in Hong Kong? Actually, President, Hong Kong is currently confronted with three major challenges.

Firstly, according to the data from the Census and Statistics Department, in January 2009, both the total exports and imports of Hong Kong have recorded a marked decrease, which stood at 21.8% and 27.1% respectively. Our economy really calls for a structural reform. It is all the more necessary for the Government to look for a new driving force in the midst of this financial tsunami, as the economy's four major pillars (tourism, finance, trade and professional services) are unable to support economic growth over a long term.

President, the second issue we are facing is that while 1998 to 2007 are the warmest 10 years on record, the average rise in temperature in Hong Kong was 1.2°C, double the average rise in global temperature. As for the rise in sea level, the average rate is 2.4 mm per year.

President, the third issue we are faced with is suspended particulate. Hong Kong's annual average level of suspended particulate exceeded that of the World Health Organization guideline by four times. While a total of 13 days in 1994 were of poor visibility, the figure has risen to 53 days in 2004. These 53 heavily polluted days are the result of local pollution. To overcome the said

challenges one by one indeed required really hard work. Rather than resolving them on a one-by-one basis, why not take a wise and effective measure to kill two birds with one stone. And this wise measure is exactly the "new green economy" we advocate.

President, from December last year to March this year, the Civic Party has actively worked with different green groups to explore the vision and direction of the new green economy. In order to aptly respond to the calling of the United Nations, the Civic Party wishes to turn Hong Kong "greener" in five areas, namely, energy for health, green buildings, sustainable transport, circular economy and resource productivity.

Firstly, regarding "energy for health", the Civic Party suggests the Government to allocate \$4.4 billion to implement an incentive scheme, under which each household would be issued \$2,000 green economy coupons. Such coupons are to be spent on installing renewable energy systems, such as solar-powered water heaters, integrated solar panels, as well as small-scale wind power generators. Besides, consequential amendments should be made to the relevant legislation to enable buildings to install such facilities.

In addition, the Government should implement a \$700 million "green street lighting scheme" to replace the existing 1 700 sets of traffic lights and 131 000 street lamps with LED lights, and to install solar-powered battery panel illumination system for the appropriate street lamps. This way, traffic lights are expected to save \$1 million on monthly electricity tariff, whereas energy-saving street lamps could save \$105 million on total electricity tariff.

The Government also has a responsibility to improve the existing procurement policy to give support to the energy efficient products market. Finally, the Government should also enhance the interconnection capacity of Hong Kong with the power grids in Southwest China, with a view to enhancing the supply of renewable energy. Given that the natural gas supply in Guangdong Province is becoming increasingly steady, Hong Kong should be able to increase the use of natural gas in electricity supply.

President, apart from "energy for health", the Civic Party considers that green building is a very good way to enhance energy efficiency and reduce carbon dioxide emission. Even though the Government has allocated \$450 million to the Environment and Conservation Fund to implement Buildings

Energy Efficiency Funding Schemes to encourage building owners to carry out energy-cum-carbon audits and conduct energy efficiency projects. In this connection, however, the Civic Party hopes that the authorities would increase the relevant funding amount to \$1 billion, with a view to helping residential, industrial and commercial buildings to enhance their energy efficiency at a faster pace.

At the same time, the Government should also provide each adult with \$200 compact fluorescent lamp coupons for buying compact fluorescent lamps to save energy. Besides, the sale of tungsten bulbs should also be banned by the end of 2010 at the latest. With a one-off appropriation of just \$1.1 billion, Hong Kong could expect to save \$3 billion on electricity tariff in three years' time.

In order to further extend the green community, President, the Government should allocate \$500 million to set up a "3-dimensional green town subsidy scheme" to promote urban greening, and to require all newly constructed buildings with rooftops of 1 000 sq m in size or larger to allocate at least 20% of such space for greening purposes.

Lastly, the Civic Party suggests that the Government should develop Kai Tak and West Kowloon Cultural District into low carbon areas, and employ renewable energy, district cooling systems, as well as combined cooling, heating and power systems to meet the needs of the development areas.

With regard to "circular economy", President, the Civic Party suggests the Government to use the plastic bag levy to set up a "domestic waste reduction scheme". The proposed scheme should include legislating for "charging waste by bag" before 2010, subsidizing the enhancement projects of waste reduction facilities, and safeguarding the living quality of low-income families. As regards the community level, the Civic Party suggests that the Government should introduce a district waste reduction ambassador scheme with a funding of \$540 million. Under this scheme, waste reduction promotion groups will be set up in each of the 18 administrative districts to assess the waste volume of each district, seek improvement, set waste reduction targets, and formulate enhancement plans for the waste recovery facilities.

President, the Government should take the lead in reforming the existing procurement policy on green products and give support to the further

development of the local green products market. Last but not least, the Civic Party suggests the Government to invest \$4 billion by 2012 to expedite the construction of an integrated waste treatment plant and to implement other compensation schemes for the districts concerned, so as compensate residents for their losses as a result of the construction of the waste treatment plant.

President, on behalf of the Civic Party I move this motion for debate today, and put forward some green economy suggestions for the Government's consideration. Other Members from the Civic Party will elaborate on other ideas in their speech.

**PRESIDENT** (in Cantonese): Mr Alan LEONG, please move your motion.

**MR ALAN LEONG** (in Cantonese): I move that the motion, as printed on the Agenda, be passed.

**Mr Alan LEONG moved the following motion: (Translation)**

"That this Council urges the Government to take the following specific actions to promote green economy, so that it will become an economic driver of Hong Kong's future development to create employment opportunities on the one hand, and at the same time reverse the trend of deterioration in the environment:

- (a) making reference to the recommendations in the global report released by the United Nations Environment Programme in February this year and the Central Government's scale of investment, allocating at least an additional HK\$30 billion in this and next year to develop green economy, and focusing efforts on five areas, namely energy for health, green buildings, sustainable transport, circular economy and resource productivity, to create more employment opportunities;
- (b) expeditiously upgrading Hong Kong's environmental quality standards for air, potable water, effluent discharge, energy and land use, so as to expand the markets for local green products and professional services and promote green trade;

- (c) assuming the role of leader in green economy to enhance the requirements of government departments for green procurement and implement such requirements within the current year; and
- (d) making optimal use of the existing foundation laid by scientific research on environmental protection to foster public and private investment in scientific research on green products, with a view to turning the achievements of Hong Kong's scientific research into commodities that are beneficial to the Earth."

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

**PRESIDENT** (in Cantonese): Four Members will move amendments to this motion. This Council will now proceed to a joint debate on the motion and the four amendments.

I will call upon Mr Andrew LEUNG to speak first, to be followed by Mr CHAN Hak-kan, Mr KAM Nai-wai and Dr Priscilla LEUNG; but no amendments are to be moved at this stage.

**MR ANDREW LEUNG** (in Cantonese): President, I am very grateful to Mr Alan LEONG for moving this motion today, so that we can speak on such an important subject in this Council.

President, before speaking on the motion, I would like to declare an interest. I am the Chairman of the Hong Kong Productivity Council. Over the past few years, the Productivity Council has done quite a lot of work in the field of green economy. And it still has many plans to give support to the industrial and commercial sectors in the future, with a view to helping Hong Kong and the relevant trades to work green.

Green economy and green production are what we keep hearing and talking about in these few years. Besides, the Financial Secretary has even mentioned in the budget that promoting investments and economic activities that protect the environment and save energy will put the overall economy on a more sustainable path. This new economic locomotive can create employment opportunities and



help the community and enterprises lower their energy and material costs, thereby sharpening directly Hong Kong's competitive edge, and building up a green community which the general public will be proud of.

For the local industries engaged in environmental protection business, green economy should focus not only on Hong Kong, but also the Pearl River Delta region in the vicinity. How to turn the environmental protection policies of our nation, Hong Kong and the rest of the world into industrial and commercial sectors' real term needs for environmental protection services poses both an opportunity and a challenge. Green industries employ advanced technologies to produce high value-added green products and develop pollution prevention and control technologies. Hong Kong has sufficient manpower and technologies to engage in the environmental protection industry. Rather than containing our professional manpower and technologies in Hong Kong, we should comprehensively mobilize the environmental protection industry in Hong Kong and give support to the relevant organizations working in co-operation with the Mainland (particularly the Pearl River Delta region), with a view to introducing technologies into the Mainland and entering the world market together.

In the past year, through the Hong Kong Productivity Council, the Special Administrative Region Government actively helped the Hong Kong businessman on the Mainland to implement cleaner production and update their environmental facilities and technologies, thereby helping enterprises to achieve the green production standard of the world's advanced countries. While the usage of Hong Kong's EcoPark has always been queried by the relevant trades, the green industrial park in Guangdong Province suitable for Hong Kong businesses to move in is developing at a rather slow pace. I and the Federation of Hong Kong Industries (FHKI) all hope that the governments of the two places can enhance their co-operation to expeditiously promote the construction of the industrial park, and even to consider ways to complement each other's work and achieve better division of work between themselves, so as to meet the needs of the enterprises in the Pearl River Delta region to restructure and upgrade to green production.

President, I would like to put forward three specific proposals for promoting green economy locally.

The first proposal is "to provide greater economic incentive and more encouragement to attract the transportation industry and the public to use electric vehicles". Over the past months, many Members have urged the Government to put forward some measures to support the use of electric vehicles by the public.

Prof Patrick LAU has even mentioned that he had already saved up enough money to buy a locally developed "MyCar". At that time, Secretary Edward YAU responded that using clean transportation means extensively could improve roadside air quality on the one hand, and initialize the development of the trade involving parts and components for electric vehicles on the other. Having said that, in the past three years, the entire territory has only 97 electric vehicles registered with the Transport Department, of which 19 were private cars. Compared with the 420 000 private cars in Hong Kong, this ratio is indeed regretfully minimal.

Members of the public have always been showing much interest in the green vehicles with low energy consumption, and the Government has also offered tax concession to encourage the public to switch to green vehicles. One good example is the hybrid cars. To promote the extensive use of these electric vehicles with zero-emission and low energy consumption, the Government should install more recharging facilities at carparks in the first place. Would it be possible for the multi-storey carparks managed by the Government to immediately launch such installation projects? Also, we also encourage The Link and other private carparks to install such facilities. I understand that "MyCar" uses three-phase power, and its battery can support a whole day's use after charging for one to two hours. The Government should collaborate with fuel companies and power companies in considering the possibility of installing recharging facilities at fuel stations, as well as the feasibility of setting up separate power charging stations.

Apart from private cars, minibuses also have electricity-powered models, and such minibuses are introduced into Hong Kong by the local minibus trade. From this we can see that the trade is really interested in switching to electric vehicles that are more environmentally friendly than liquefied petroleum gas vehicles. Nevertheless, during the trial period, the trade has already noticed many problems, including the fact that every recharging of the battery can only support a short continuous journey of only 50 km, and there are problems with battery recharging as well. The Government has only offered minibus owners a one-off grant of \$80,000 for each vehicle, but overlooked other essential matters, including its failure to proactively work with the trade to look into licensing and operational issues, thus causing the electric minibus scheme to achieve no concrete result. In order to promote the extensive use of electric minibuses, I urge the Government to actively offer its support in the following three aspects:

The first one is policy aspect. In addition to offering subsidy through environmental policies, the Government should formulate matching transport policies to complement the cause. It should also co-ordinate the efforts of the various government departments concerned to consider the role to be played by electric minibuses in its transport policies, as well as resolve the problems regarding the licensing control of electric minibuses.

The secondly aspect is financial viability. It is necessary for the Government to discuss with the trade the overall mode of operation of electric minibuses, and how the policies of the Government could tie in with such mode of operation.

The third one is technology aspect. The Government should proactively give support to technological research institutions (such as the Research and Development Centre for Automotive Parts and Accessory Systems) and the trade to develop technologies related to electric minibuses and electric vehicles, rather than relying on importing electric private vehicles made in Japan. Otherwise, Prof Patrick LAU and the general public who wish to use locally manufactured products will be very much disillusioned.

I have also suggested the Government "expeditiously introducing a financial assistance scheme to assist local property owners and enterprises in formulating energy-saving targets and undertaking initiatives to reduce carbon dioxide emissions". As a green pioneer, the Government should take the lead by formulating for government buildings and facilities a specific energy saving index and timetable. Under the premise of not affecting government expenditure, I urge the Government to consider adopting an Energy Performance Contracting Services approach to implement the energy saving projects of all government buildings. The savings achieved through energy saving should be ploughed back on energy saving projects, with a view to alleviating the Government's financial burden on the one hand, and promoting the development of the environmental technology industry on the other.

In addition, I also suggest that on the basis of the "Energy-cum-Carbon Audit" projects that owners of private buildings are subsidized to implement, the Government should formulate a subsidy scheme with a more comprehensive coverage, thereby providing assistance to local enterprises in carrying out work to reduce carbon dioxide emission, and complimenting those with remarkable results.

Enterprises are an important sector of the community, they should of course be encouraged to participate in energy saving and emission reduction. I suggest the authorities to consider setting up a project fund for energy saving and emission reduction to offer a 75% credit guarantee for the said energy saving projects, so that banks can be rest assured in providing loans to local enterprises for carrying out energy saving and emission reduction work. The Government may also consider issuing bonds to set up this fund. With the establishment of the fund, the pace of investment in environmental projects could be expedited, and naturally, more employment opportunities will be created. Besides, the development of the bond market in Hong Kong will also be promoted further, thereby consolidating Hong Kong position as a financial centre.

President, the last point raised in my amendment is related to the environmental services sector and the recycling industry. I particularly mention "organizing and increasing the assistance" for the local environmental services sector and recycling industry, as I and the FHKI believe that environmental protection and recycling services require lots of hard-working but not necessarily skilled workers, thus providing plenty of employment opportunities for the existing lower-skilled and mid-skilled workers in the labour market. In the future, the EcoPark will become an important operation base for the environmental, recovery and recycling industries. The authorities should consider setting up social enterprises to provide environmental and recovery services, and provide these enterprises with subsidy and appropriate complementary arrangements, so as to give full play to the effectiveness of the EcoPark.

I notice that the amendments proposed by Mr KAM Nai-wai mention the provision of tax concession and technical support to encourage the development of the waste recovery industry. I and the FHKI have already raised this point several years ago. Besides, I have also pointed out many times that our proposals in this respect cover not only waste collection and recovery, but also take into account the recycling industry. It is only in this way that the objective of recovery and recycling can be achieved.

President, from the proposed amendments we can see that promoting green economy is a consensus of Members. Mr Alan LEONG's original motion, together with the views put forward in my proposed amendments and that of the other three Members, is one way to draw on collective wisdom. I hope that the

Government will actively consider our views, and introduce relevant measures expeditiously.

I so submit.

**MR CHAN HAK-KAN** (in Cantonese): President, in the face of the financial tsunami, many countries have realized that future economic development can no longer rely on the financial industry alone, but has to be more diversified. Facing the issue of global warming, we hope to strike a balance between the ecological environment and the economic development. In such new circumstances and this new environment, promoting the development of "green economy" seems to be a new way out.

The United Nations Environment Programme advocates in a report released in February this year that governments all over the world should promote green economy, and hopes that the world can implement large-scale economic stimulus packages and policies through co-operation, so as to revive the economy in short term, reduce carbon dependency and mitigate ecosystem degradation, thereby laying a foundation for sustainable development. A number of studies have reached a similar conclusion that the return on promoting green economy and the number of jobs created will be far exceed the benefits derived merely from boosting consumerism.

In fact, the DAB has all along advocated that the Government should develop green economy and invest heavily in facilities which can improve the environment. I remember that as early as the last term of the Legislative Council (that is in 2006), we had already put forward the proposal on a "green budget" to the Government. Policies we have repeatedly mentioned today, such as replacing old vehicles with high emissions, improving the energy efficiency ratio, promoting the development of the recycling industry and strengthening the conservation of nature and greening work, were in fact raised two years ago. Based on the then conditions, we projected that approximately \$6 billion should be committed to implement all recommendations. At the same time, doing so would generate a net revenue of over \$3 billion for the Treasury and bring about social benefits amounting to \$20 billion to Hong Kong as a whole, which could indirectly improve the environment and benefit the public's quality of life and state of health. Therefore, we strongly support the initiatives to promote green

economy introduced by the Financial Secretary in this year's Budget. Although we do not object to Mr Alan LEONG's motion on allocating at least an additional \$30 billion in this year, but we are of the view that our focus should not be on the number, but on ensuring the Government has sufficient resources. Apart from resources, the Government should also promote the development of green economy in Hong Kong by various means, such as introducing tax incentives and other related policies.

As Mr Alan LEONG has just mentioned the concept of green economy, I am not going to repeat here. However, I am aware that one of the recommendations on promoting green economy is in fact related to putting more efforts in developing renewable energy. This is really an important topic for Hong Kong, as there is no natural energy or resources in Hong Kong. Everything has to rely on importation. To develop renewable energy is very environmental-friendly on the one hand, and on the other hand, this can help resolve the problem of energy resources in Hong Kong.

President, I propose in the amendment that making optimal use of the restored landfills to facilitate the production of renewable energy. On the face of it, it seems that the two have no connection, but the fact is just the opposite. Recently, I got in touch with a multinational solar thin film production enterprise, and carried out some research on installing solar energy panels at the existing eight restored landfills for power generation.

According to an estimate, this project can directly generate electricity of about 450 million kWh in a year, which is sufficient to supply electricity to 10 000 households for the whole year, while at the same time creating 2 000 job opportunities. And more importantly, compared with power generation by traditional power plants, it can reduce carbon dioxide emissions by 22 500 tonnes per year.

Of course, we have considered if we do this at all the eight landfills at one go, it may involve a large amount of investment. Therefore, we suggest that the Government may consider using one or two landfills as pilot sites first, and widely implement this after studying the benefits.

President, apart from solar power generation, a substantial volume of landfill gas emitted from some restored landfills can also be utilized as fuel or

used for the production of town gas. The Government should utilize these vacant landfills and consider how to develop renewable energy or the related industry.

President, in order to successfully promote the concept of green economy, more can in fact be done on consumer spending, as nowadays a number of people are willing to spend more money on buying environmental-friendly products. However, which products are actually green? Or, to what extent are these products claiming to be "green" environmental-friendly? At present, we can make an assessment only based on some very basic and limited information.

For many years, except the implementation of the Energy Efficiency Labelling Scheme for household appliances, there has been no major move to promote green consumption in Hong Kong. But, if we take an overview of our neighbouring regions, such as Japan, South Korea, Malaysia, Singapore, Thailand, and so on, they have already implemented their respective environmental labelling schemes.

In September 2003, the State Environmental Protection Agency also set up an Environmental Certification Centre, which has laid down the environmental technical standards and requirements for various products and has been responsible for conducting the related certification work. In Hong Kong, however, there is a lack of officially recognized labelling and certification systems, hence leaving the so-called green products without a clear definition.

In fact, there are still limitations on the development of green products in the local market, because the Government has not taken the lead in promoting the procurement of green products. Since 2000, although the Government has developed and adopted green specifications for a wide range of commonly used products, so as to ensure that they meet certain environmental standards, government departments still focus on prices when procuring these products. In a word, the lowest bidder wins. They do not accord special priority to green products. Therefore, government departments should in fact take the lead in using these green products under the principles of fairness and priority.

So, I would like to add this in my amendment. I hope the Government can respond by actively improving the Government's procurement guidelines and increasing the amount of green products procured. I believe this will facilitate the market development of green products. By then, the prices of these products

will probably be adjusted downwards, so as to encourage the public to buy more green products.

President, when talking about green economy, we may only think of the recycling industry, green buildings, and so on. Very few people will link green economy and the financial industry together. But as it turns out, green economy will also benefit the development of the financial industry, especially in terms of carbon emissions trading.

A new round of negotiations on reducing the global emissions of greenhouse gas will begin in Copenhagen at the end of this year to discuss the carbon emission agreement after the expiry of Kyoto Protocol in 2012. Following the assumption of office by the new United States President Barack OBAMA's, the United States is willing to return to the negotiating table. Therefore, we expect this round of negotiations on emission agreement can create more business opportunities. Moreover, emission trading has been regarded as a major means for reducing carbon emissions in the international community. The related trading scale is becoming bigger and bigger, with market value of the global trading reaching US\$10 billion, and is growing by folds.

In respect of Hong Kong, an emission trading agreement on four types of pollutants has been entered into with the Guangdong Provincial Government, but still there is no established emissions trading platform in China. As far as I am aware, the Hong Kong Exchanges and Clearing Limited has carried out a study on this topic, but it seems that no conclusion has yet been reached. If we look at the European Union, the United States and Australia, we will see that they have already agreed to or promoted the establishment of emissions trading platform. I believe that countries will co-operate with one another on this platform in the future, so that emissions reduction can be made more efficient.

President, Hong Kong should speed up its pace, actively consider the establishment of an emissions trading platform and provide training in relation to the related legislation for professional staff, with a view to developing Hong Kong into a major trading centre in the world and aligning us with other parts of the world. This can also contribute to the environmental protection efforts of our country.

President, I so submit. I support the original motion and all the amendments.



**MR KAM NAI-WAI** (in Cantonese): President, today we talk about green economy. It is in fact the second time that the topic on environmental protection has been put forward in this Session. The first time was the motion on low carbon economy moved by Ms Audrey EU. This proves that we are all very concerned about this green topic in the current Session of the Legislative Council. Nevertheless, let's have a look of how the Government does the job. Did it make enormous efforts and concrete commitment in the past? What exactly has it done on green economy?

An Honourable colleague has just mentioned the recommendation of the United Nations Environmental Programme of setting aside a percentage of the Gross National Product (GNP) by every country or region for green economy. Our Motherland has also allocated 10% to 12% on green investment in its economic stimulus package recently announced. In the new green economy package announced by South Korea, such percentage accounts for 3% of its GNP. The United States has similar packages, that is, to set aside a certain amount of resources from its GNP on green economy. For Hong Kong, however, has the Financial Secretary set a figure in his recent Budget? I thank Mr Alan LEONG for suggesting in today's motion that the Government allocate a concrete amount of at least \$30 billion in this and next year. This is a clear figure that Hong Kong people can see. The Government must set a clear figure as a commitment.

We have already cited a number of examples, such as the "MyCar" case, and I am not going to repeat them. Some green products companies have recently pointed out that they intend to develop some small-scale electricity generation projects using wind turbine but have been turned down by the Government in applying for manufacturing plants or applying for a place in the Science Park. From the "MyCar" case to the example I just cited, we can indeed see how much effort the Government has put into green economy. Today we have only Secretary Edward YAU of the Environment Bureau who comes and shows concern for this issue. Are all government departments and bureaux keen to develop this industry? Is the Government, including the Financial Secretary, willing to allocate more resources? This is questionable.

On promoting environmental protection industry, the Democratic Party is of the view that the Government must take up a leading role. Investors can only be attracted by measures such as government investments, low rents or tax concessions. We may even need to subsidize some of the products and introduce mandatory measures or policy changes in order to attract more different small and medium enterprises (SMEs) and businessmen to invest on green projects. In our amendment, we mention transport and suggest providing

subsidies for franchised buses. We have actually mentioned this for many times. Certainly the Secretary queries whether it is appropriate to subsidize the private sector to purchase buses. Everyone knows that replacing buses is not only conducive to sustainable transport, but will also help in the modification of old vehicles for the bus industry of Hong Kong. We have previously proposed that the Government should acquire pre-Euro and Euro I buses through subsidies which will in turn improve our air quality. I think the Government should not always emphasize that this is subsidizing the private sector. Its fund injection into the MTR Corporation to promote the construction of different railways is also made in hopes of improving our environment. The Government should in fact put forth more resources. I hope the Government can change its mentality in this aspect.

As regards the issue of electric vehicles, some Honourable colleagues have already mentioned it just now and so I will not repeat it. I want to point out that in addition to promoting electric vehicles, whether the Government can consider promoting the manufacture of electric vehicle batteries and allow the setting up of manufacturing plants in Hong Kong. If a manufacturing base for electric vehicles is set up here in Hong Kong, is it possible to provide "one-stop" services so that the manufacturing industry in this aspect can be vitalized and flourish in Hong Kong? I believe this is also an important part of green economy.

We mention the EcoPark in the amendment because we have received a lot of information indicating that the Government requires operators to pay deposits in the tendering exercise of the EcoPark which are not affordable to some SMEs. How are SMEs initiated to take part in environmental protection industry? I believe that the Government should review the leasing arrangements for the EcoPark. We also mention in the amendment that in leasing the EcoPark, we hope the Government can set low rents and make flexible arrangements so that not only large enterprises but also SMEs can take part in environmental protection industry.

As regards the development of the recycling industry, we talked about the waste recyclers in old districts at a meeting of the Panel on Environmental Affairs some time ago. The Assistant Director of the Environmental Protection Department (EPD) has advised that these waste recyclers do not create any problems and no complaints are received from residents. We indeed need these waste recyclers as a source of waste recycling. However, waste recyclers have actually received frequent complaints. By way of illustration, in the district with which I am more familiar, one of the waste recyclers operating on Tung Loi Lane has been prosecuted by the FEHD for over 20 times and warned for some 200

times within one year. The police have also made 16 prosecutions and issued 11 warnings for obstructing public areas. On that particular street, he has been prosecuted for over 1 000 times for blocking the traffic. Certainly the problems are not solely on this recycler but problems arise because of him. We do want these recyclers to exist in our community but one single recycler has already been involved in so many prosecutions, warnings, complaints. What should we do? We want them to exist but they are repeatedly prosecuted.

According to our information, on the list of recovery and recycling companies of the EPD, the number of registered private companies has reached 430. The actual number of recyclers may be more than this. Is it possible for the Government to establish a licensing system for recyclers, providing them the space for their operation and offering them tax concession and technical support? An Honourable colleague has mentioned just now that apart from recycling, consideration should also be given on how to reuse the material, making it a "one-stop" service.

I think we are rather backward. We often emphasize the need to make reference to the experience of Taipei but we have lagged far behind them. I hope the Secretary can make more efforts in this aspect. Later on I would also like to invite the Secretary to conduct a site visit to see how the recyclers operate and figure out how to vitalize the recycling industry. In fact, the recycling industry has made much contribution to the economy as many grassroots depend on it for a living. Hence, green economy will be of help in this aspect.

In conclusion, a number of Honourable colleagues have proposed amendments today in the hope of stimulating the mentality of the Government so that not just the Secretary for Environment will sit here. I hope the entire Government will take concerted efforts in promoting green economy and take an important step forward for the next generation. Thank you, President.

**DR PRISCILLA LEUNG** (in Cantonese): President, I am so glad today to have this opportunity to share with the Secretary my views on green economy. Incidentally, just now I could not get back in time to participate in the first round of voting on another motion because a group of Mei Foo residents — around several hundreds in number — are currently meeting with a developer in Central to voice their objection to the proposed development of "screen-like buildings" on a piece of granted land. I would like to tell the Secretary that I very much welcome the initiative announced in this year's budget that promoting green economy would be included in the Government's policy agenda for the future.

Nevertheless, when it comes to implementation, some details might just not fit in well sometimes. For instance, due to failure to remain in line with green economy or the recommendations of the Hong Kong Green Building Council, or due to objections from the residents concerned, some granted lands may incur lots of negotiations and conflicts with the relevant developers, and may even give rise to a lot of disputes. Here, I wish to make an advance notice. I hope the Government will proactively examine the lands which have already been granted to find out which ones may run against the direction of the new policies of this "express train" of green economy. I also hope that the Government will take precautions beforehand, so that the residents concerned do not have to make reference to the said budget to fight for their rights. Actually, I do believe that the general direction upheld by both the public at large and the Government is to develop less "screen-like" buildings as far as possible.

Here, I have to declare an interest. I am also the Chairperson of Green Council, and I have been taking the chair of this green group for more than nine years. Over the past nine years, I have worked very hard with many friends in the environmental protection sector, hoping that the Government would complement our efforts in terms of policies and administrative measures. After fighting for our cause for almost 10 years, we finally see some light of early dawn, making these friends of mine feel that the efforts we have put in over the years are not in vain.

The Financial Secretary talked about "green economy" in his budget, associating environmental trades with the sustainable development of the economy. This is no doubt a stride ahead, but by no means sufficient. In the proposals I made to the Financial Secretary on 17 December last year, I mentioned my hope that the Government would allocate funding for the promotion of "green procurement". In order to encourage enterprises to procure and consume green products, I suggest the Government to take the lead in practising green procurement, and at the same time allocate funding to offer an extra 10% provision to government departments practising green procurement. In addition, I also suggest that the Government should offer tax exemption and concession to encourage private enterprises to practise green procurement, switch to recycled papers and recycled materials, and so on.

President, it is my belief that green economy should engage the whole community. Given that green economy covers quite a number of subjects, I have selected green labelling, green procurement, as well as the "express train"

for implementing green economy, as the basis on which I put forward the proposal to establish an advisory committee on green economy.

At present, many people consider that Hong Kong is not putting in enough efforts to promote green procurement. Upon this basis, I wish to share my views with the Secretary. Actually, in 2000, the Green Council I referred to earlier on has for many times put forward suggestions to the Government that Hong Kong should implement green labelling. In the end, such an important responsibility was taken up by a non-government organization which worked with a local university to carry out professional research studies and put forward labelling schemes for different categories of products. In 2007, we joined hands with many international enterprises and organizations to take the lead in rallying the business sector and non-government organizations ..... in the hope of leading the Government ..... As I remember, the Secretary has also attended our function entitled "Hong Kong Green Purchasing Charter". We were very much encouraged at that time because 11 major enterprises were willing to support this programme. As such, I want to tell the Secretary that the thinking of the business sector is changing. For many years, I have been promoting green education among young children, secondary school students and the general public around us, and in the past nine years, I have also started promoting green awareness among the business sector, trying to convince them that environmental protection could indeed be a win-win approach which helps to raise profits and facilitate the exploration of more new products and new technologies. I think the business sector has opened up their eyes. I hope the Government will not act slower than the business sector in certain aspects. I hope the Government will allocate resources for green economy as far as possible.

In 2005, the Environmental Protection Department put forward a 10-year "Policy Framework for the Management of Municipal Solid Waste", requiring various government departments to practise green procurement. I am very much pleased with this policy of the Government. Having said that, I must keep a close watch on the progress of this policy to see whether it can really promote green economy in an effective manner. As a matter of fact, from many overseas data we can see that green procurement could indeed achieve a win-win result.

In Hong Kong, in implementing the notion of green procurement, private and public enterprises have to tackle three major difficulties. The first difficulty is insufficient supply of green products, the second one is how to determine the green requirements for different products, and the third one is whether the

products concerned could meet the established environmental standards and requirements. So long as we can overcome these three major difficulties, the Government should play the role of a driving force and take the lead with major enterprises in promoting green economy and the Green Building Council. To me, this is indeed a stride forward.

President, how are we going to implement the notion of green procurement?

To begin with, the Government should take the lead in encouraging the circulation of green products in the market, increasing the production level and product types. Besides, we should also promote the notions of "cleaner production" and "eco-design" to manufacturers and product developers. With the Government and major enterprises participating in green procurement, the relevant trades will be encouraged to manufacture green products. Naturally, manufacturers will turn their production lines into green production lines, and if we could give the products a label ..... hundreds of enterprises have agreed to spend a small sum of money to use our green label to tell customers that their products are environmentally friendly products. By doing so, they can actually increase the sale of their products. As such, I believe we could certainly intensify the efforts in this regard.

Secondly, we should strive to induce the financial sector and investment sector to put in more funds to develop and produce green products. One good example is the United States' Dow Jones Sustainability Index which the world's largest-scale investors make reference to. As a matter of fact, while only a few dozen Hong Kong companies were eligible for inclusion in the Dow Jones Sustainability Index five years ago, the figure has risen to almost 500 today. From this we can see that the business sector is indeed giving much support to this trend.

President, if we are to promote green procurement, green label would be a very useful tool. From the non-government organizations I hope the Government could now ..... or allocate more resources to increase the production level and research items to give support to these organizations which I believe are struggling hard in their business, so that they can keep fully in line with green economy. The majority of their products are eligible for green labels.

I have here a logo. The objective of the green label programme is to encourage consumers to purchase green products that are more recyclable, with less packaging, more durable and have a higher percentage of recycled materials. It also gives commendation to people who take the lead in and promote green consumption. Germany introduced a "Blue Angel" green labelling programme in 1977. The small organization I referred to earlier on just hopped on this "express train" in 2000. I hope the Government could allocate resources to give its full support in this connection. Furthermore, Asian countries like China, India, Japan, Korea, Singapore, Malaysia and Thailand have already introduced their own green labelling scheme. In making purchases, the governments of these countries will select products with the country's green label as the "first choices" on their green procurement list.

Thirdly, since January 2007, the Central Government has also required the use of products with "China's green label". And starting from January 2008, products with such a label are made the first choice for procurement. I hope Hong Kong can redouble its effort to catch up. Compared to the figures in 2002, the number of certified products in China in this regard has already increased by 10 folds in 2008.

At present, Hong Kong mainly relies on the community to push forward this labelling scheme. So far 11 categories of products have such certified labels, including electrical appliances, construction materials, other materials, packaging, and so on. I am not going into further details as I have already discussed with the Secretary for many times. For the remaining half minute or so, I wish to reiterate that upon introducing the green economy proposal, the Government will no longer confine the subject of green economy within the Green Building Council. Actually, I have personally put forward this proposal to the Chief Executive before, and he also mentioned that the Green Building Council was just a small part of the whole framework. Here, I would like to suggest anew to the Government that a consultation framework comprising the various strata and sectors of the community should be set up to enable the different trades and industries, including the Government, the industrial and commercial sector, small and medium enterprises (SMEs), the education circle, representatives from frontline workers, green groups, as well as other relevant professional organizations, to jointly offer advice to the Government. That way, the business sector, enterprises, SMEs and frontline works could work hard together to catch up with the progress of the world in this respect. (*The buzzer sounded*) ..... Thank you, President.

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, first of all, I would like to thank the Mr Alan LEONG for putting forward this motion debate on "promoting green economy". I am also grateful to Mr Andrew LEUNG, Mr CHAN Hak-kan, Mr KAM Nai-wai and Dr Priscilla LEUNG for their proposed amendments. From their speeches we can see that, as far as this subject is concerned, Members are heading towards the same direction and sharing the same ideas, which are in line with the Government's policies and measures in this respect.

Today in the year 2009, we are confronted with the grave challenges posed by the financial turmoil, and at the same time we also have to deal with the public's aspirations for a better environment and the trials arising from the changing climate. Countries of the world are striving hard to come up with plans to revive the economy, and that is why I believe this is the best time to consider anew whether the environmental policies we have been implementing could lead us to a sustainable future, and whether such policies could provide a new driving force for our economic development.

As a matter of fact, the governments across the world have realized the importance of this subject, and have conducted a lot of relevant discussions. Just now an Honourable Member referred to the "Global Green New Deal" announced by the United Nations Environment Programme in March this year. The objective of the Global Green New Deal is to identify some green opportunities in the midst of the current crises, with a view to giving impetus to the revival of the global economy, while at the same time laying the foundation for the long-term sustainable development of the economy. Actually, Hong Kong's efforts to develop and promote green economy have already started gradually in recent times, and even before the outbreak of the financial tsunami. As the Financial Secretary pointed out in the budget, a "green economy" will enhance Hong Kong's overall competitiveness as well as making it a more liveable city. The sustainable economic development of Hong Kong should be heading towards this direction. This is in line with and echoes the notions of constructing a green city and low-carbon economy advocated by the Chief Executive in his policy addresses in the past two years. In promoting the economic development of Hong Kong, we should at the same time grasp the new opportunities offered by the green economy, and improve our environment as well.



Regarding this motion debate, I understand that Honourable Members will offer their many views on some of the existing environmental policies, and may also provide more views on the work of the Government, the allocation of resources in this respect, and so on. I will be most happy to listen to such views. Perhaps let me raise a number of points before the debate begins, so that we can discuss and deliberate them together.

Firstly, when talking about green economy, many people would ask about the scope covered by green economy. Actually, the coverage of green economy is rather extensive, and includes not only the traditional environmental industries and trades that we are more familiar with. Briefly speaking, the operations of every trade and enterprise include some green factors. Hence, by focusing on how to reduce the consumption of natural energy resources to enhance energy efficiency and productivity, or to adopt the mode of operation or commercial decision most friendly to the environment, we would be able to identify where the green factors lie in the various trades and business operations. Besides, additional business and development opportunities would be created as well. I understand that later on in this motion debate, some Honourable Members will speak on how we can promote the development of the traditional recovery and recycling trades under the flag of green economy. These traditional trades are certainly of importance to Hong Kong in treating our municipal solid waste. However, as an international financial centre specializing in service industries, Hong Kong is aware that the international community is attaching increasing importance to the environment, and particularly the problems brought about by climate changes. The green economy-related energy efficiency services, the development and application of new technologies to improve the environment, as well as the extension and carbon emission trading under a clean development mechanism (CDM) are in fact some of the new opportunities offered by green economy. The business opportunities and employment opportunities so created will most probably exceed the scope and framework of the traditional environmental trades. This is exactly what Hong Kong needs when undergoing restructuring and reform amid the financial crisis.

Many national and local governments are advocating the development of green economy in recent years. And they are putting in even more efforts in this respect after the outbreak of the financial tsunami, hoping that it would drive the economy to revive and pick up its momentum again. Green economy has become a new economic driving force, and this is because most of the investments and technologies in environmental protection and energy saving are closely related to the adjustment and control of the operating cost (or the bottomline) of the relevant enterprises or trades. Let us take the Government of

the Special Administrative Region (SAR) as an example. Regarding the clean production and energy saving buildings schemes implemented last year and this year, these environmental projects and operation would always enable enterprises and users to reduce energy expenditure by at least a double-digit percentage figure, thereby sharpening their competitive edge. In addition to cost reduction, the new industries and business opportunities brought about by green economy are two areas we should not take lightly of. Recently, the Government has successfully strived to lower the threshold for Hong Kong-owned enterprises to participate in developing the Mainland's CDM, and this is one good example in this respect, involving substantial capital as well as technology transfer and development. Of all the CDM projects of the world, about one-third is developing on the Mainland. It would mean a lot to both the enterprises concerned and the development of Hong Kong into an economic, trade and investment centre if Hong Kong-owned enterprises could participate in such projects.

One point worth mentioning is that green economy is not only a pain-killer for the financial tsunami or economic downturn. Just now we talked about reducing cost through energy saving and emission reduction, and investing in environmental technologies to enhance the business opportunities and return for enterprises. These measures are in fact good ways to consolidate enterprises and to enhance the competitiveness of businesses and the economy as a whole. The vitality of green economy comes from the win-win momentum which could "achieve economic improvement, while facilitating improvement in the environment". In recent years, the SAR Government has been more committed to its environmental policies. Measures like improving air quality, energy saving and emission reduction, encouraging clean production, integrating clean energy mix, and so on, are geared towards the objective of achieving green development and benefiting the economy.

In the forthcoming debate, I believe quite a number of Honourable Members will mention the need for the Government to lead both the community and the market in promoting the development of green economy, and that the Government should invest more resources in this regard, give support to the environmental protection industries, and so on. Indeed, as far as the major direction of improving the environment and facilitate economic development is concerned, the Government surely has a responsibility to formulate clear objectives and put in resources to facilitate development. In recent years, we can see for ourselves that the Government has indeed devoted much determination, efforts and commitment into its environmental policies. Take the environment-friendly infrastructure as an example. In 2009-2010 alone, the

total funding for infrastructural projects we have sought has exceeded \$30 billion. With this sum and the government expenditure for implementing the various environmental policies, we hope that in general, a new momentum can be injected into the economy, which would create more than 17 000 jobs and hence many business opportunities.

When we look at the Mainland and the neighbouring regions, we can see that in order to deal with the challenges posed by the international financial crisis, the Central Government has introduced a number of measures to further enhance domestic demand, some of which cover also environmental protection efforts and projects. Counting the investments made by the Central government and the various regional authorities, the total investment of the Mainland in energy saving, emission reduction and eco-projects would amount to RMB 200 billion yuan. Take Guangdong Province alone as an example. Over the years, Hong Kong and Guangdong have established a sound foundation for co-operating on the environmental front. As far as clean production is concerned, in addition to the HK\$93 million matching subsidy fund provided by the SAR Government for the Hong Kong businessmen operating in the Pearl River Delta, the Guangdong Provincial Government and the various municipal governments have also put in no less than RMB 200 million yuan annually to provide subsidy for clean production. While it is definitely essential that the Government put in the said resources, but such resources by no means represent the whole of the support given by the Government to green economy. As suggested in the original motion and proposed amendments raised by Honourable Members, the Government has spare no effort in doing a lot of work in such areas as policy implementation, legislation, market exploration and regional co-operation.

In the past two years, together with this Council we have amended and made almost 10 pieces of environmental legislation, with a view to developing more expeditiously a set of laws and regulations that could improve the environment and develop Hong Kong into a greener city. Through enhancing monitoring of power plants and cross-boundary energy co-operation, we have strived to improve the clean energy mix used in Hong Kong. In addition, through government policies and subsidies, we have also directly and indirectly promoted the development of new environmental services and encouraged the import and development of new technologies and services in the fields of energy saving and emission reduction, with a view to creating new business opportunities. Nevertheless, in order for the green industries to take root in Hong Kong, relying solely on government subsidy or government promotional efforts can by no means achieve the purpose. Many environmental

technologies, services and operational know-how are changing rapidly with the times, and will give rise to plenty of new business opportunities as well. In a modern city with superb living quality like Hong Kong, if the Government and private enterprises could collaborate in grasping the global momentum and trend to improve the urban environment, we believe that we can open up new doors by way of cross-boundary co-operation to establish a broader green platform for new trades and industries as well as employment and business opportunities. We hope that enterprises can appreciate the new economic development trend and develop green products and services proactively and vigorously. Actually, the range of products and services involved could be very extensive, covering not only the general green consumer products but also eco-tours or even derivative financial products. All of these can breed new business opportunities. I also hope that with the public's rising aspirations for a better environment and quality living, more undeveloped new business opportunities could derive from the green concept.

President, this is my initial speech on the motion. I am most pleased to make a response after listening to the views raised by Honourable Members in the debate. Thank you, President.

**MR WONG KWOK-HING** (in Cantonese): President, the World Environment Day is less than one month away. Since 1972, the United Nations has designated 5 June to be the World Environment Day with a view to stimulating worldwide awareness of environmental protection. Today's motion debate "promoting green economy" is also an important initiative to deliver on environmental protection. While traditional economies have suffered a severe blow during the financial tsunami, green economy has gained greater development opportunities in these difficult times. This indeed merits due attention and promotion by the Government. Green economy can be developed from various aspects such as green transport, community greening and environmental protection industry.

I note that both the original motion and the amendments have mentioned the development of sustainable transport. Sustainable transport means the replacement of those high energy-consuming and highly polluting modes of transport in the past and the development of new environmentally-friendly transportation. Though the electric vehicles scheme is introduced in this year's Budget, the development of such vehicles alone is not enough. Apart from electric vehicles, there are actually other modes of cleaner transport such as bikes and cycle tracks. This is one of the most environmentally-friendly projects that

the Hong Kong Federation of Trade Unions has been fighting for throughout the years. Last month, the Government put forward to the Panel on Development of this Council the project of developing cycle tracks for connecting the New Territories East and the New Territories West. This is a good start as people can ride on their bikes to travel around different places in the New Territories East and the New Territories West. Nevertheless, it is a great pity that the Government only treats cycling as recreation and a family activity instead of a means of transportation. That is why the cycle track networks in different districts have remained disconnected. I hope that the Secretary, after listening to me, can further discuss with the Secretary for Development on how to further enhance the development of cycle tracks as a means of transportation and an alternative to walking. Last year, I, together with the local community from Tsuen Wan, met with Secretary Carrie LAM of the Development Bureau and conducted a site visit for the cycle track project along the waterfront promenade of Tsuen Wan. During the visit, we proposed to develop a waterfront cycle track connecting Tsing Yi and Tsuen Wan with Tuen Mun and to build a cycle park along the waterfront promenade from Tsuen Wan West MTR Station to Chai Wan Kok. Such a proposal can on one hand stimulate the local economy and help achieve green transport on the other, thus creating quality living space.

President, on the existing public transport, though the Government has commenced the scheme of subsidizing car owners to switch to more environmentally-friendly engines and encouraging bus companies to switch to more environmentally-friendly vehicles such as Euro IV buses, there are still a large number of traditional vehicles and buses on roads. These vehicles still emit highly-polluting gases and severely pollute the environment. Hence, consideration should be made to introduce vehicles using cleaner energy such as electricity and natural gases into Hong Kong so as to further improve the environment.

Another aspect is on Greening Master Plans (GMPs). Currently the GMPs for the Hong Kong Island and Kowloon which promote community greening are already available. According to the information from the Government and the GMP for the entire urban district, approximately over 10 000 trees and some 2.7 million shrubs will be planted, thus creating about 600 job opportunities. I welcome this very much. However, it is a pity that the GMPs for the New Territories are not yet implemented. Upon my pressing, the Government has recently replied that it may commence the job by the end of this year or the beginning of next year the earliest. But the concrete date of implementation has yet to be announced. Given the larger expanses of the New Territories, there are still a lot of rural areas for expanding this greening concept.

If the Government is willing to make a firm decision, the New Territories will become the biggest city lung for the urban districts in Kowloon and the Hong Kong Island, producing more fresh air especially oxygen. Therefore, I hope the Secretary for Environment will consider this issue.

On the other hand, the Government often talks about job creation under the financial tsunami. It will be more comprehensive if the GMPs can be fully implemented for both Kowloon, the Hong Kong Island and the New Territories.

As regards the promotion of green construction of buildings, I think the Government can put more efforts since the Housing Authority, being the Government's largest landlord, can have done more in promoting green economy. The Panel on Housing has recently conducted a site visit to understand the implementation of the greening programme launched in 12 public housing estates of the Housing Department. I find that this pilot programme is well received by residents and therefore hope that the Secretary for Environment and the Secretary for Transport and Housing can work together to promote the greening campaign in public housing estates throughout the Territories and make more efforts such as green roofs, green refuse depots, green public toilets and green roofs in wet markets so as to improve the living environment of public housing estates.

Now I would like to talk about the EcoPark. Though Phase 1 of the EcoPark has already been fully leased out, without more support from the Government, I worry whether there will be more contractors who are interested in the tendering exercise of Phase 2 even if it is carried out in future. Therefore, I hope the Government can pour more resources to support the work in this aspect.

Lastly, I would like to raise a challenge to the Secretary. Being the Secretary for Environment, can you act as a role model and take the lead to put on causal wear except on occasions of important ceremonies and functions? In doing so, people will be encouraged not to wear ties and three-piece suits so often so that room temperature of air-conditioned rooms can be raised and so can the awareness of people towards environmental protection. This is the most practical way. In particular, I see from recent news photos taken during overseas visits that the Secretary wears casually, with even jeans on. You look really smart. In fact, I believe that it would be more effective if you, being the Secretary for Environment, would act as a role model to promote the awareness of people in environmental protection.

Therefore, can the Secretary take the lead in promoting green economy? I hope to hear a positive response from the Secretary. Thank you, President.

**MR CHEUNG HOK-MING** (in Cantonese): President, the SAR Government has really put in a lot of efforts on green economy in recent years and they are somehow effective. However, I believe that more steps can be taken to bring about better development of Hong Kong.

President, being the organization with the most staff and resources for utilization in Hong Kong, the SAR Government should stand on the frontline and promote green economy from inside out by leading private enterprises and organizations in raising green competitiveness. However, a well-established identification system for green products is absent in the community at this moment. To make green products widely known by the community, a green product identification system and labelling system should be set up immediately and the requirement for different departments to procure green products should also be raised.

President, at the end of last month, I, together with more than ten vice spokesmen of the Democratic Alliance for the Betterment of Hong Kong, visited the Sha Tin Depot of the Kowloon Motor Bus. The depot has a history of more than ten years and there are quite a number of environmental protection installations. For example, the waste water after bus washing can be recycled for a number of times before discharge while old tyres will also be retreaded for further use. We can see that some private enterprises pay due attention to environmental protection features.

On the Mainland, the "China Bao Steel Environment Prize", the highest level of its kind in terms of sociality, has been set up to recognize the contributions of enterprises in promoting environmental protection in their own field, trade and region. A theme that is closely related to the international and mainland economic circumstances is set every year and the current theme "green economy, sustainable development" is exactly the topic we just put forward. At the moment, the SAR Government does not have a representative award or activity to steer green development among enterprises.

President, my personal view is that the concept of sustainable transport should include green elements such as those low carbon-emitting or zero-emission modes of transport. Since the recent years, major cities of the world have sped up the development of electric vehicles and hybrid vehicles. I

believe the replacement of vehicles using traditional fuels by those using new energy will happen sooner or later. Having waited for more than ten years, the development of electric vehicles has finally been implemented. We have seen recently that Secretary Edward YAU signed a memorandum with the Renault-Nissan Alliance to work out together the promotion of electric vehicles in Hong Kong. The SAR Government will also introduce electric vehicles for testing within this month. During testing, I hope that the Government will make reference to past experiences such as the situation where vehicles waited in long queues at liquefied petroleum gas (LPG) refilling stations which caused inconvenience. Before the formal introduction of electric vehicles, the Government should explore as soon as possible the coverage of these battery-charging networks across the Territory.

Apart from private cars, public vehicles and trucks are also major road users. We understand that the industry only adopts a wait-and-see attitude in the development of electric vehicles in the coming few years. As energy consumption of large vehicles multiplies that of private cars, the amount of electricity required, the size of batteries, the location for installing batteries and cost-effectiveness are all details to be carefully considered. If the concept of sustainable green development is to be fully implemented, a detailed study on the green energy for large vehicles has to be carried out.

President, the development of green transport should not only include electric vehicles on land but also fishing vessels or boats operating in the sea. Compared with other regions, the research work on the development of environmentally-friendly vessels in Hong Kong is obviously insufficient.

What is more disappointing is the partiality of the Administration who is always talking about the promotion of the fishing industry but only subsidizes vehicles such as taxis and minibuses to switch to LPG while neglecting the request of the industry and refusing to assist fishermen to switch to the use of environmentally-friendly engines. The Government has even repeatedly turned down the request of the industry for a diesel subsidy on the ground that this is unfair to other industries. But it is inconceivable that the Government on one hand subsidizes vehicles to switch to environmentally-friendly engines but refuses to offer subsidies to fishing vessels on the other hand. Is it adopting double standards and self-contradictory?



President, to fully upgrade the environmental quality of Hong Kong, I believe more stringent environmental protection legislation will be introduced and this will deal a further blow to the sea transport industry and fishing industry that are already in the cold period. Therefore, I hope that the Administration, while actively promoting the use of electric vehicles, can also provide appropriate assistance to the vessel industry and re-consider the issue of subsidizing local fishing vessels to switch to environmentally-friendly engines and fuels.

President, I so submit.

**MR IP WAI-MING** (in Cantonese): President, the environmental industry is among the six sectors with good potential identified for development as announced by the Government last month. At that time, the Chief Executive described the advantages of environmental industry of Hong Kong in this way: firstly, enterprises are experienced and good at commercializing environmental technology; secondly, the Mainland looks squarely at the problem of environmental pollution and hence Hong Kong has unlimited business opportunities. However, this thought was already on my mind then: Now even the Mainland starts to attach importance to environmental protection. Does Hong Kong really enjoy advantages in terms of environmental standard, policy and people's awareness? Compared with Taiwan across the Straits, are our environmental development and technology competitive? If we ourselves do not have a high standard and awareness of environmental protection but serious pollution, and yet we call for others to promote environmental protection, how can we be confident in the industry so developed? Hence, if the authorities are really eager to promote environmental industry and develop green economy, the immediate task is to start from ourselves and strengthen environmental development of Hong Kong. This can on one hand build up a good foundation for the industry and benefit local workers on the other, allowing the industry to become a real backbone of the economy.

President, ever since 1999, the Democratic Alliance for the Betterment of Hong Kong has been asking the Government to promote environmental industry, especially the recycling industry. We also moved the motion "developing environmental industries" in the last Legislative Session — the last term of the Legislative Council. This is because we think that the recycling industry can reduce waste and facilitate the reuse of materials while creating job opportunities for different classes. For instance, research projects on the development of recycling and waste disposal can create more posts for specialists and highly-skilled professionals while waste collection and separation in the

downstream can create a number of jobs for low-skilled workers. Regrettably, the proposal has been put forward for years but we think that the Government's attitude is far from proactive. Last year, the report of Audit Commission criticized on environmental protection departments for being inefficient in reducing waste. They failed to fulfil the targets set out in the "Policy Framework for the Management of Municipal Solid Waste" in 2005. On the contrary, the volume of our solid waste has been on the increase every year. The waste recovery rate only reached 45% in 2007 and the recovery rate for domestic waste was as low as 36%. The report of the Audit Commission has therefore made criticism and requests for improvement.

President, the increase in waste will result in landfills being filled up, which in turn leads to social controversies such as the expansion of landfills, incineration and objection by residents. In this connection, we hope that the Government can formulate as soon as possible a set of overall policies on recycling/recovery and remove the restrictions and barriers so that the industry concerned can do the recycling work and operate in a systematic manner.

Our recycling/recovery technology and policies have already lagged behind many places. To cite an example, at the moment we are unable to recycle paper packages of drinks but can just dispose them in landfills. However, in places such as Japan, Taiwan and even the mainland and Brazil, the paper packages of drinks are wastes that can be recycled for making recycled paper and plastics. For the recovery of domestic waste, Taiwan has gradually started separation at source and recovery of food waste since 2000 and we can see that they are quite effective. The Taipei City has even set out the target of "2010 Total Recycling and Zero Landfill". Hence, if we really want to develop our recovery/recycling economy, we must accelerate the pace on our policies; otherwise we think that it will be difficult for us to succeed and many social problems may also arise.

President, next I would like to talk about the cycling industry. When we talk about green economy and reduction in emission, apart from electric vehicles, cycling is another global trend in environmentally-friendly transport. Many places like New York and Washington have launched cycling promotion schemes in recent years. In Paris, a bicycle rental network has been set up under which users are free to hire and return a bicycle at any of the 750 rental stations within the city that operate round the clock and travel everywhere. More than 2 million people have tried the scheme after 40 days since it was introduced. We can see that cycling has much room for development in both travelling and transportation.

Taiwan has also developed its cycling industry in recent years and their information shows that research on bicycle accessories has been carried out. In 2007, Taiwan has exported 4.75 million bicycles and the amount of industrial exports reached US\$1.47 billion. Regarding promotion work, the "Cycle Day" was just held in Taiwan on 3 May which not only promoted cycling in the form of parades and carnivals but was also made a tourist attraction. Earlier in March, Taipei held the International Cycle Show which saw an increase in both the number of admission and exhibitors amidst the financial tsunami. We think that this can show the potential of the industry.

President, we welcome the proposal of the Government earlier on the connection of the cycle tracks in the New Territories. My colleague, Mr WONG Kwok-hing, has proposed in his speech just now that the Environment Bureau and the Development Bureau should have more liaison in this aspect because we think that the Government should not simply consider cycling as a kind of recreational activity but should also tap its potential in local economy and tourism. In 2002, the Hong Kong Federation of Trade Unions brought up to the Government the development of cycling tourism but the Government did not follow up our proposal. We think that the Government should re-consider this now. In fact, social enterprises in Tin Shui Wai have now launched a cycling eco-tourism programme. Inasmuch as private enterprises have already taken the first step for the cycling industry, we are of the view that the Government should think hard about how to assist the industry to take the second and third steps.

President, we believe that if the Government is determined to develop environmental industry, it should take actions without delay by making investments and carrying out improvement measures so as to recover the time wasted. We believe that this is also the aspiration of the many Members who speak today. I so submit to support the original motion and the amendments. Thank you, President.

**MS CYD HO** (in Cantonese): President, the Civic Party has talked about green economy in the past three to four months and I believe that many of the points have been mentioned before. Therefore, I would like to raise some new points of view today.

What I would like to talk about today is the strength of the individuals — strength of consumers and investors, that is in direct response to the comment

given a while ago by the Secretary, in which he said, "the Government take the lead and guide the way in everything?" I hope the Secretary would feel more at ease after listening to my speech. In fact, green economy not only covers the recycling industry, the development of environmental protection technology or allocation of land for recycling, it also involves a financial point of view. Hence, I wish to talk about green financing, green investments and monitoring of green securities today. The hope is that the strength of individual investors or consumers can be used to make the service providers change, or to change the services produced and the production processes for the products.

First of all, I am going to talk about green loans. Environmental industries actually do not gain large profits in scientific researches or during their start-up stages. On the contrary, due to the fact that only a few people will use a new technology or more capital must be injected into scientific research and development, the unit cost of a new technology is higher than those of the existing ones in many cases, and it will be difficult for it to compete in the market and gain wider use initially. Therefore, in addition to providing government subsidies in the form of land grants to help those enterprises in starting up their business, we could, in fact, encourage banks to relax their loan policies toward green enterprises; offer tax concessions to the borrowing and lending parties respectively, or the Government shall provide loan guarantee to those enterprises, similar to the assistances being provided to small and medium enterprises. Nevertheless, we must have a monetary authority with a green vision in this regard

Secondly, it is about green investments. There are many retirement funds in foreign countries which also promote investments with a sense of responsibility for environmental protection. In making investment decisions, they will assess the enterprises they are going to invest in to see if those enterprises are doing businesses which help to protect the environment. Using the assessment results as selecting criteria, they will determine whether stocks of those enterprises shall be purchased. Investors' attitudes are influential in that they can make it easier for new environmental enterprises to raise capitals, while at the same time provide sufficient incentives to old enterprises to regenerate themselves.

Although at present there is no long established retirement fund in Hong Kong which could affect the stances of certain enterprises, we have Mandatory

Provident Fund (MPF) contributions in Hong Kong and the total annual contributions are around HK\$20 billion. Each contributor may choose among those investment portfolios some high, medium, low risk investments or capital preservation investments. Naturally, we hope the Mandatory Provident Fund Schemes Authority will include an item of "risk" in those options, so as to allow contributors to choose investing in enterprises which help to protect the environment.

In fact, reducing aerial emissions will help improve air quality and be beneficial to the public health. On the contrary, if some existing enterprises do not want to change their modes of production and keep on producing emission, the number of respiratory disease cases will increase as a result. This in fact is a very direct personal risk. In this regard, investors should have the power to make their choice, and should hear some good news as well, say, the HKSAR Government could negotiate with the Mainland on introducing natural gas for electricity generation. Nevertheless, we understand the two power companies in Hong Kong so far have not yet clearly indicated that they will make the necessary investment correspondingly. If we can convey the message that we can have a green vision in investment, the public will be able to change the modes of production of enterprises through the investment portfolios of their MPF contribution accounts. The motion we have today requests the Government to allocate HK\$30 billion, but we already have HK\$20 billion of MPF contributions each year. If such money can be invested in the local market, after accumulating the annual amount of HK\$20 billion for ten years, it really will have certain influence on the enterprises listed in Hong Kong. This is the green investment that we can put into practice.

Next is the monitoring of green securities. Actually a number of international funds have been investing in forest farming and some local conglomerates have also purchased lands abroad for planting redwood, but not too many people are aware of such facts. Actually, in addition to producing advertising films explaining to investors that the prices of investments may rise as well as fall and the risks involved, the SFC and authorities concerned should also promote to the investors that how we can make long term investment for the healthy environment of this planet. Not only do such criteria for investments take receivable interest and monetary rewards into account, they also can give us a sustainable environment to turn back the tide of global warming. This in fact is the most rewarding investment.

Naturally, the Government plays a very important role in the formulation of policies. Yet the combined strength of the people is actually more effective. Moreover, individual behaviours that matter to the environment are not restricted to switching off the lamps or turning off the taps after use, every aspect in life could in fact have a green vision, including our decisions on investment and our financial activities. In fact, people who pay great attention to environmental protection and firmly embrace it will also embrace democracy at the same time, because environmental protection requires the exercising of the people's power from below. I wish the same principle and stance will be adopted by the Hong Kong Government and the public in protecting the environment and pursuing a democratic political system.

Thank you, President.

**MR RONNY TONG** (in Cantonese): President, the whole world is facing the crisis of global warming in the 21st century. Today, as we are confronted with the problems of deteriorating air quality and an increasingly acute shortage of fuel, there is indeed the need for us to find a way out.

President, in the report published by the United Nations Environment Programme last month calling for a Global Green New Deal, the concept of "sustainable transportation" is put forward and it is pointed out that 23 million jobs and ancillary jobs in related sectors could be created globally through the production of vehicles with low emission technologies. Investment in public urban transit systems which rely on cleaner fuel also has an average multiplier effect of 2.5 to 4.1 indirect jobs created, thus inducing economic development. It is definitely true that mass transit systems in Hong Kong are highly developed, but it doesn't mean that there is no room for the development of "sustainable transportation". In an action agenda launched by the Civic Party in March for Hong Kong's Green New Deal, suggestions have been made in this regard, including Green Pedestrian Corridors, Electronic Road-Pricing, Clean Buses and Public Bikes for All.

President, there is considerable potential of developing Public Bikes for All scheme in the New Territories and therefore I would like to say something about this. There will be a double advantage, President, in introducing a public bicycle system in the New Territories as the use of bicycle is not only an environmentally friendly option, it can also provide grass-root people living there and bearing high transportation expenses with a cheap mode of transport. As a matter of fact, public bicycle system has been widely adopted in various parts of

the world and Paris is renowned for the implementation of such a scheme. However, the main objective of the system in Paris is to facilitate the accessibility of the city by tourists and the major setbacks are the difficulties in renting a bicycle and the unavailability of parking spaces during public holidays or in popular tourist attractions, which have caused much inconvenience and have given rise to a lot of complaints. Although the whole system is not very comprehensive, reference can still be drawn from the demerits as mentioned above.

Last week, President, some members of the Civic Party visited the Xinyi District of Taipei to better understand its YouBike Public Bicycle System introduced in March. With an investment of NT\$12.5 million, the whole idea of the system is to provide commuters with bicycle renting services to cover the last part of their journey. Citizens may, with a privilege card similar to the Octopus card used in Hong Kong, rent a bicycle at a very cheap price in various bicycle parking stations at public transport interchanges such as Taipei Municipal Rapid Transit stations. To return the bicycle, they can simply put it back to one of the 11 parking stations in the District and if the bicycle is returned within half an hour, fees will be waived. The trial scheme, whether successful or not, will certainly be useful for our future reference but it is our opinion that the Government should at least give the idea some thought.

As I have mentioned earlier, President, the New Territories is a potential area to develop such a scheme in Hong Kong. In fact, cycle tracks have already been provided in a number of districts in NT such as Tai Po, Sha Tin, Tseung Kwan O to link up various housing estates within the districts. Nevertheless, there are inherent defects in the tracks themselves. For example, some of the tracks are like dotted lines, with some sections discontinued or missing, while some are not linked up to the major transport interchanges. Furthermore, not every major public facility in the districts is accessible by bicycle. Since bicycle parking facilities are seriously inadequate to meet the demand, there is also the problem of illegal parking, thus causing inconvenience to non-cyclists.

President, we also consider that there is no government department that can be charged with the sole duty of coordinating the management of bicycles on roads, such as their use, the management of their parking or the development of relevant facilities. I believe these are issues to be considered by the Secretary. There is in fact a lack of a comprehensive policy on the use of bicycle in Hong Kong and as a result, despite efforts in the community to promote the use of bicycle as a sustainable mode of transport, its use has been seriously hampered in terms of road planning, use of roads and policy on road management. Let us

take the Tai Po District Council (TPDC) as an example. To my knowledge, the TPDC has tried to improve the management of parking of bicycles within the district for years but past discussions of the issue with the Administration were of no avail. It will be more important for the Government to have a change in its stance of regarding cycling merely as a recreational activity, and take bicycle as a sustainable mode of transport to be developed, as well as complement the use of bicycle with suitable policy and planning on the use of roads.

President, in a proposal submitted by the Government recently, it is suggested to implement a project of \$2.2 billion to connect the existing cycle tracks. During a visit on the project two weeks ago, I find that the sole purpose of introducing the initiative is to tie it up with various kinds of recreational or tourist activities and thus our objective of further promoting the use of bicycle as a mode of transport cannot be met. If the existing cycle tracks can be extended to give access to major facilities in town centres or strategic connecting points to public transport, such recreational facilities can be put to substantive use by people going to work, or be used as link roads to transport interchanges as required by those who have to travel to work. Only through this can the use of bicycle, as what I mentioned earlier, serve the purposes of the Green New Deal and meet the objective of protecting the environment, as well as relieve the burden of grass-root people in transportation expenses and provide them with a cheap mode of transport.

In the face of the attack by the financial tsunami, President, the SAR Government has undertaken at earlier meetings to introduce additional relief measures in the Budget. Nevertheless, it is already May now and is approaching the middle of the year as stated by the Financial Secretary. What additional relief measures will actually be introduced? Will there really be such measures, or the undertaking is just castle in the air? I hope the Administration will seriously consider the many suggestions put forward by the Civic Party concerning the Green New Deal and turn the crisis of the financial tsunami into an opportunity for Hong Kong to break new ground in building a green economy. Thank you, President.

**MR JEFFREY LAM** (in Cantonese): President, in the face of the global financial tsunami, there are many motion debates in this Council concerning the improvement of economic and financial systems. Apart from such discussions, this is also the third motion on improvement of air quality. Besides, the President will lead a delegation which comprises members of the Panel on Economic Development and Panel on Environmental Affairs for a duty visit to



the Pearl River Delta (PRD) Region next Friday, with a view to discussing with Mainland officials issues of mutual concern of the two regions as mentioned above. It is obvious that in the course of promoting economic development, much emphasis has been put on environmental protection.

Mr WEN Jiabao, Premier of the State Council, states in the Report on the Work of the Government delivered in March this year that the central government will "steadfastly promote energy conservation, emissions reduction and ecological and environmental protection". Therefore, it has come to my knowledge that although Hong Kong is hit by the financial tsunami and the swine flu, that is the influenza A (H1N1), there is no reduction of resources for the promotion of green economy by the industrial and commercial sector because efforts in environmental protection, as long-term investments, are conducive to enhancing the competitiveness of the sector as well as creating more employment opportunities.

Every profession and sector has a role to play in "green economy". From supplies, manufacturing to the delivery of end-products, emerging professions and conventional industries alike, there is always room for contribution to environmental protection. President, in my opinion, there are five major areas in the development of green economy, namely cooperation between Guangdong and Hong Kong, renewable energy power, energy conservation in buildings, transportation and recycling.

As we all know, Guangdong and Hong Kong are living under the same sky. During summer vacation last year, a Memorandum of Understanding on Energy Cooperation was signed between the National Energy Administration and the SAR Government for the long term and stable supply of natural gas and nuclear electricity. In December last year, it was also agreed between Guangdong and Hong Kong that both sides should cooperate and strive to include the proposal for transforming the PRD Region into a green and quality living area in the upcoming National 12th Five-year Plan to raise the overall competitiveness of the Greater PRD Region.

Besides, some Hong Kong-funded enterprises of the PRD Region have participated in the Cleaner Production Partnership Programme, which pursues cleaner production practices and is recognized by participating enterprises as an effective scheme and a programme to achieve saving in operating costs. For example, only compressed paint without volatile organic compounds will be used, waste water will be recycled and fewer packaging materials and plastic bags will

be used. Such experiences will be shared with other enterprises with a view to turning the PRD Region into a green base and more importantly, improving the air quality in the Region.

Regarding the use of cleaner energy for power generation, the two power companies in Hong Kong are major sources of air pollution in the territory but vigorous efforts have been made to reduce the use of coal-fired power and switch to natural gas, or explore the use of other renewable energy for power generation. I hope more efforts will be devoted by the two companies to gradually reduce pollutants emitted from their power plants.

As far as promotion of energy conservation in buildings is concerned, the Government should, through enhanced publicity, encourage and assist owners and enterprises to draw up a list of objectives on energy conservation because many of them are not sure about the roles they play in this regard. The Government should set a good example and apply energy efficiency measures in government buildings.

With regard to transportation, subsidy schemes are in place all these years to encourage owners of private cars and diesel vehicles to switch to eco-friendly vehicles. Although there are positive responses from car owners, it is disappointing that the choices of eco-friendly vehicles are very limited at present. For example, the electric vehicle "MyCar", an eco-friendly private car developed by the Hong Kong Polytechnic University, can only be issued with a special vehicle licence in Hong Kong and I think this is really ridiculous. I hope the Government understands that its involvement is crucial in promoting eco-friendly vehicles. While the Secretary has shown great concern over the issue lately and has travelled all the way to Japan to identify possible options of electric vehicles for us, it would not be enough to go signing a few contracts and riding on some electric vehicles for a few rounds in Japan if we really want to successfully promote the use of such vehicles in the territory. I hope the Government would respond seriously to the problem and have it resolved as soon as possible so that appropriate legislation would be timely put in place to tie in with the introduction of such vehicles. Technical support and maintenance services should also be provided for vehicle battery systems and recharging facilities in order to ensure optimal battery life and price for the local market, so that car owners will come to realize that electric vehicles are both roadworthy and cost-effective.

I have been emphasizing all these years that among the three "Rs" in waste management, that is "Reuse", "Reduce" and "Recycle", reuse of waste is equally

important as waste reduction. Although I am in support of the Government's initiative to be introduced on the charging for plastic bags, the premise is to encourage members of the public to reuse all plastic bags and dispose them as garbage bags for other wastes.

As such, I am very much concerned about the development of the EcoPark, progress of which seems to stay stagnant and is far from satisfactory all these years. Tenants of the EcoPark either have to surrender their tenancies or are experiencing a delay in the issuance of a licence to operate their businesses. No wonder the environmental industry in Hong Kong is often criticized as remaining in the primitive stage of "rag picking". I hope the Government would offer genuine and appropriate assistance to the development of the EcoPark through suitable complementary measures and funding, with a view to encouraging the sector to actively develop recycling industry and green products, while creating employment opportunities for lower-skilled workers.

It is my belief that promoting green economy plays a vital part in striving for an expeditious economic recovery amid the financial tsunami, as well as in enhancing our competitiveness for long-term development. I hope the Government would turn its words into action and take the lead to publicize the promotion of green economy.

President, I so submit.

**MR LEUNG YIU-CHUNG** (in Cantonese): President, there has been a substantial change in the local economic model since the relocation of Hong Kong industries to the Mainland in the 1980s, shifting from an industry-based economy to a bubble economy relying on finance and real estate and so on. However, as we all know, bubble economy is vulnerable to economic fluctuations. That is the reason why we have often faced the crisis of unemployment in recent years, as unemployment is readily a by-product of bubble economy. As such, a solution in the long run lies in that we must identify some industry-based economic segments in order to effectively facilitate the development of the local economy.

Green economy involves green economics, green industries or green enterprises, and all these are more substantive sectors of economy. I am in full support of their development and agree that the Government should endeavour to pursue such modes of economy. Nevertheless, there will definitely be a lot of problems associated with the task and the Government cannot just pay lip service

by saying one thing and doing another. In other words, if the Government is in support of green economy and the development of green enterprises, it should not, on the other hand, take any course that runs against the concept of environmental protection. President, what does that mean? I think the problem lies exactly in the stance taken by the Government, in particular Secretary Edward YAU, in insisting on the installation of incinerators. How can we protect the environment with the existence of incinerators? With incinerators, everything will be incinerated. The Government will of course argue that it is necessary to opt for the strategy of incineration given a shortage of landfill capacity, but the policy of incineration is not conducive to environmental protection.

To do a good job in environmental protection, I think first of all we should not consider it a piece of cake but a task to be accomplished with a lot of efforts and resources. For green enterprises, land is of paramount importance. I recall that a paper recycling plant closed down before 1997, resulting in the loss of 5 000 jobs. Why did it happen? At that time, the plant requested the Government to grant a site in an attempt to solve its problem, since paper recycling operations required land, without which such operations could not take place. However, no land was granted by the Government then, hence leading to the winding up of the paper recycling plant. It is regrettable that since then, the paper recycling industry has failed to renew the momentum to develop again, as the plant used to be the largest paper recycling operator in the territory. Its winding up has miserably led to the closedown of many other companies in the same sector. Paper recycling is one of the important trades in the green industry.

Apart from paper recycling, plastics is another important industry. We all know that the plastics industry involves large-scale operations, but the materials after compression are small in size and the mass practically usable is also very little. Without storage facilities in various districts to save the need for transportation, the costs involved will be higher, thus posing a lot of difficulties to the development of the plastics industry. Therefore, land should be provided by the Government for storage purposes in order to facilitate its development, and there is no point in only paying lip service to support its growth. Nevertheless, it seems that the Government has failed to assist the development of the industry and as a result, Hong Kong is lagging behind in the development of plastic recycling. This has also posed a problem to the green industry.

Many other trades in the green industry can, in fact, only develop with the funding and resources from the Government. Many recyclers have encountered difficulties in finding premises to operate their business, since there are often complaints that they are polluting the environment. The most desirable solution is to identify some more suitable sites for them to operate, but there seem to be a lot of difficulties in this regard. If planning is contemplated by the Government to offer focused assistance to recyclers, I think it can specifically earmark a number of sites in each district for such purpose, so that recyclers can adapt to the operating environment and survive; otherwise, the objectives of recycling cannot be achieved and all will be nothing but empty talk, which simply cannot help promote the development of green economy.

Therefore, it is my wish that green economy be developed. The Government must make real efforts to achieve it. On the one hand, the concept and principles of environmental protection should be adhered to as far as practicable, and it should not resort to incineration lightly because there will be no recycling of materials after incineration. On the other hand, resources should be provided for promoting green economy, and in this regard, land is most important since land is vitally essential to the development of recycling business.

A third issue, which I think is also very important, is that residents of many housing estates also want to do something for environmental protection, but due to inadequate co-ordination of resources or lack of publicity, a lot of resources have been wasted. The collection of waste paper is one example. We all know that as paper is voluminous and may easily be burnt by cigarette butts, and therefore people seldom keep waste paper. I think it will help to create more favourable conditions for the operation of the recycling industry, if suitable places, such as store rooms located in housing estates, can be identified for storage of waste paper.

I hope that in developing green economy, especially when undertaking initiatives in environmental protection, the Government will strive for greater progress by making extra efforts and deploying additional resources. Besides, as I have mentioned just now, it is all the more important to enhance the public awareness of environmental protection. The Government should also be more environmentally aware as it is simply not right to criticize others without reviewing one's own shortcomings. If there is a good interface in this regard, this will help give an impetus to the development of the whole economy.

In fact, based on our rough estimate, green economy may easily create employment opportunities for a few thousand people, which will greatly help solve the problem of unemployment, and this is particularly helpful to lower-skilled workers. That is why we hope very much that the Government will implement the relevant measures and implement them expeditiously, so as to find a way out for the problem of employment both in the long and short terms. President, I so submit.

**MR PAUL CHAN** (in Cantonese): President, although the term "green economy" has not been used in the Policy Address by the Chief Executive Mr Donald TSANG last year, an initiative was put forward in his Address to provide \$450 million to subsidize building owners to conduct comprehensive energy and carbon audits, as well as to upgrade the energy efficiency of their buildings. The notion of developing "green economy" is officially included in the Budget announced by the Financial Secretary Mr John TSANG this year, which reflects a better thinking on the part of the Government as far as promotion of economic development is concerned. Yet, for the measures contemplated to achieve any effective results, everything hinges on the determination of the Administration in policy execution.

I am very grateful to Mr Alan LEONG for his moving the motion on "Promoting Green Economy" today, and I have also browsed through the Action Agenda for Hong Kong's Green New Deal launched by the Civic Party on the Internet. The Action Agenda contains a number of views and suggestions on how to promote Green New Deal, as well as the areas to work on in undertaking the initiatives, which I think are worth study and further examination. However, further feasibility assessment is required for some of the suggestions in the Action Agenda, such as the Public Bikes for All scheme, which is similar to the "Velib" scheme in Paris of France. It is suggested that the Government should link up new towns and harbour front areas with dedicated bicycle tracks, and bicycles should be allowed on dedicated bicycle tracks and in selected communities such as Discovery Bay. Nevertheless, for people who need to travel to work on Hong Kong Island or in Kowloon and school children, what assistance can they get from such a public bicycle system? How can the system help in relieving the problem of traffic congestion? Hong Kong is a densely populated city faced with the problem of scarcity of land, and it will be difficult to predict if it is an accident-prone arrangement to allow the use of bicycles in new towns or on bicycle tracks. Therefore, thorough consideration by the Government is

required to identify the complementary measures needed for introducing the system.

As for the level of resources needed for promoting green economy, I think it is not necessary to fix any particular amount. If it is warranted and cost-effective to do so, more resources should be invested. Alternatively, the Government may also consider introducing incentive measures such as tax concessions and subsidies for training talents, with a view to encouraging the development of green economy by enterprises. For example, in a news article published earlier, it is reported that a green products development company had developed an energy-saving all-in-one plug adaptor long time ago and successfully introduced the product into overseas markets last year, but the product has not been available in the local market until this year. According to the development company, the delay was due to the absence of certified engineer in Hong Kong to undertake product safety tests on the plug adaptor. This is a good example to illustrate that if the Government really wants to take green economy as the direction for development, a detailed study has to be made on the complementary measures. Otherwise, even though energy-saving products such as the one I mentioned above are developed by people of Hong Kong, local citizens cannot take the lead to try them out. This is unacceptable indeed.

Similarly, it has been pointed out by practitioners in the relevant trade that for the \$450 million provided to subsidize building owners to conduct comprehensive energy and carbon audits, as well as to upgrade the energy efficiency of their buildings, financial assistance will be granted in the form of matching funds, which will not be very appealing to owners who have to pay for the projects themselves, and thus casting doubt on the effectiveness of the scheme. It is suggested that the Government should consider providing credit guarantee to building owners so as to enhance the attractiveness of the scheme. I hope the Administration would review the scheme in the light of the applications received in order to ascertain if there is any room for further improvement, and in turn facilitate the comprehensive implementation of the scheme.

President, I so submit.

**MS AUDREY EU** (in Cantonese): First of all, I am very pleased that quite a number of Honourable colleagues have actively spoken on the subject of green economy today. I believe that the Government can consider and implement

expeditiously the views expressed by most Honourable colleagues, as I have not heard of any dissenting views and we are all very keen on this subject. I would like to reiterate here that the Civic Party is very pleased that the Financial Secretary has mentioned the subject of green economy in his Budget. As said by Secretary Edward YAU, green economy is a very broad subject and it is not possible to cover everything in a seven-minute speech. I can therefore only present my views on some areas, especially on the area of sustainable transport.

In fact, pollution in Hong Kong mostly comes from the transport industry, so I hope that great improvement can be made in this regard. Knowing in particular that the Secretary has recently made a study of electric vehicles, I hope the Secretary can drive an electric car to the Legislative Council in the near future and, after showing it to Members, give us a trip on the car to the Peak. That is very important, as I believe that this will definitely generate great publicity for electric vehicles if the car can take us to the Peak. I also hope that the Government can take the lead in using electric vehicles for government fleets.

President, the Civic Party's Report on the Green New Deal made a particular mention of buses, as the Government has introduced a financial incentive scheme to assist the business sector in replacing old vehicles, which however exclude buses. It has normally been the stance of the Government that bus services should be operated by the industry on a self-financing basis. However, the fact is that not only the costs are borne by bus passengers, but also the emissions from buses have impacted us immensely. As all people in Hong Kong hope for cleaner public transport, our Report suggests that six billion dollars should be allocated to subsidize the replacement of buses by bus companies. We can make reference to the figures of bus companies for April 2008: of some 5 889 buses, pre-Euro ones account for 609, Euro I 1 351 and Euro II and III 3 916. Certainly, these buses have already been installed with catalytic converters, but if they are equipped with Euro IV engines or installed with particulate filters, roadside air can even be improved to a great extent.

Moreover, I would also like to talk about scientific research on environmental protection. How can green economy be promoted in Hong Kong? In scientific research, we in fact have very favourable conditions. In particular, we have seen the achievements of technology experts in research. For example, the Hong Kong Polytechnic University organized an exhibition last month, introducing its achievements in scientific research, one of which is the application of biological and chemical technologies to develop a kind of nanotechnology for effectively purifying wastewater discharged from textile and



electroplating factories, so that the cost of treating wastewater can be lowered and the efficiency of purification enhanced. An enterprise group engaged in environmental protection projects in Hong Kong has been franchised to develop this environmental protection technology. Moreover, Prof CHOY of the Department of Civil and Structural Engineering of the Hong Kong Polytechnic University has also made an invention that the sludge generated in the course of wastewater treatment can be recycled into bricks, which can be used for paving roads.

Some small and medium enterprises (SMEs) that I have recently contacted suggest that all plastic waste materials, even including those already recycled, can be turned into very clean fuels. Many of these SMEs or small inventions need government subvention. Of course, we know that the Government will co-operate with DuPont in setting up a factory in Shenzhen to undertake scientific research or patent work in Hong Kong, but such large-scale companies are after all in the minority. In fact, most of our small-scale inventors or SMEs need government subvention very much.

The Secretary has also contacted a wind power development company. With so many rooftops in Hong Kong, the generation of electricity by wind on a small scale can in fact be considered. It is generally thought that the generation of electricity by wind requires large windmills, but the wind power devices designed by the inventor concerned are small in size and can even be used to carry advertisements. The small windmills painted in different colours can be used not only for generating electricity, but also for displaying advertisements. These developments are in need of subsidy from the Government, but this company indicates that the subsidy from the Government is near to zero.

Furthermore, I would also speak on carbon emissions trading mentioned by Mr CHAN Hak-kan in his amendment. I had mentioned Certified Emission Reductions (CERs) futures trading in my original motion on low carbon economy last year. The Hong Kong Exchanges and Clearing Limited has indicated the possibility of releasing news and plans on CERs futures services in the middle of the year. However, it is already May now and we have not heard of any news yet in this regard. Recently, the carbon emissions trading has recorded great fluctuations, with each unit of emissions allowance dropping from 31 euros in last summer to eight euros at present. However, I believe that the economy is always cyclical. In particular, New York oil futures have rebounded recently and the United Nations will hold a climate conference in Copenhagen at the end of this year. The United States has also greatly promoted the use of clean energy. Hence, carbon emissions trading should have a sustainable market with

good development prospects. I hope that after the Government has listened to our views on various aspects of the subject, not only Secretary Edward YAU but also other departments can vigorously promote the development of green economy. Thank you, President.

**DR RAYMOND HO** (in Cantonese): President, green economy has become a new trend in the present economic development. Under the impacts of global climate change, environmental protection has become the first and foremost factor to be considered in policy execution by governments all over the world. For instance, in the economic stimulus package enacted by the United States in mid February this year, US\$65 billion is spent on energy-related programmes, including the enhancement of energy efficiency, investments in renewable energy research and development, researches on electric vehicle technology and so on. Investments in this regard will not only help to address the environmental impacts brought about by global change, it will also create a considerable amount of new employment opportunities, namely the "green-collar jobs".

Under the attack of the financial tsunami, enterprises will exhaust every means to reduce operating costs. Sophisticated technologies which can yield long-term benefits often fail to achieve any fruitful results because of lack of funds, and in turn fail to benefit our next generation. We have to understand that scientific researches are very costly. Making huge investments in adversity is difficult to draw public support because of the considerable risk involved. This is exactly the reason why we require Government's leadership in promoting green economy, so that measures may be drawn up to protect those who wish to invest in green enterprises and encourage wider participation in the development of green economy.

With regard to the promotion of energy efficiency for buildings, I think the Government should apply the Building Energy Codes on a mandatory basis. The effectiveness of the voluntary Hong Kong Energy Efficiency Registration Scheme for Buildings since its implementation in 1998 is far from satisfactory, and it is necessary for the Government to find out the shortcomings of the voluntary scheme and learn from the experience, because it often requires a mandatory scheme to achieve the desired results. The application of the mandatory scheme may initially be confined to commercial buildings. With reference to information obtained in the first phase of implementation, further

extension of the scheme to cover other types of buildings may be considered after the scheme has taken effect for a period of time.

In my speech delivered at the second Budget meeting, I have mentioned that Hong Kong and Guangdong Province should cooperate and strive to transform the Pearl River Delta Region into a green and quality living area so as to enhance the living environment of the Region. Furthermore, Government's promotion of the use of electric vehicles is also good news for the green sector. It will be necessary for the Government to review the current licensing regime for electric vehicles in order to facilitate the optimal use of such vehicles by the general public, so that they may fulfill their responsibility in the reduction of greenhouse gas emissions.

The Government should also introduce more incentive measures. In the case of Hong Kong, first class and diversified public transport system has actually been developed in the territory to provide quality transport services. It is my habit to refrain from driving as far as possible during daytime but most of the time, as revealed by the relevant figures (unless updated information from the Government reflect otherwise), the daily public transport patronage all these years has remained at the level of about 11 million. Such a figure is far from desirable because no matter what kind of public transport is used, commuters can always enjoy efficient and comfortable transport services. I hope the Government would enhance publicity in this regard so that more people will come to realize that our public transport system is the envy of people in many other places and therefore we should make fuller use of our public transport system.

In the Budget announced this year, the Financial Secretary has put forward the idea of developing green economy to encourage enterprises to, with the objective of following such a trend in economic development, pursue new modes of business under the principle of environmental protection. I find the idea agreeable and concur that this is a new direction for economic development nowadays. It is hoped that more investments would be made by the private sector to promote the development of green economy in both Hong Kong and the Mainland, as an attempt to contribute to the improvement of our environment, as well as to benefit our next generation.

President, I so submit. Thank you.

**MR FREDERICK FUNG** (in Cantonese): President, the agreement reached at the G-20 Summit earlier concluded seems to tell us that it has brought a ray of hope to the global financial crisis. While signs of the United States' economy bottoming out have led to a more visible rebound in global stock markets, the Hong Kong stock market has also risen by more than 30%. However, if we make a cool-headed analysis, we will find that the recent data supporting economic recovery in fact vary to a great extent. Together with the sudden outbreak of human swine influenza, I think there are still a number of uncertainties in the proposition that the economy is on the way to bottoming out and recovery.

Furthermore, in order to really revive the momentum of the "established" real and fictitious economies, there is indeed a need to address the structural problems of the monetary system in the first place. These include eliminating the toxic assets of banks, restoring credit market liquidity to support the development of enterprises and rebuilding an effective regulatory regime. However, all such measures require a lot of time and efforts. Therefore, I wonder if you have noticed that in proposing the economic rescue and stimulus packages, countries across the world tend to explore new industrial growth areas in the real economy, so as to reactivate the economic momentum and create job opportunities, thereby stimulating the revival of the "established" real and fictitious economies.

President, for example, the Obama Administration of the United States has advocated green economy as the locomotive of future development. In his stimulus packages totalling almost trillion US dollars, substantial parts are targeted on the development of green economy, including vigorously developing renewable energy, enhancing the low-efficient electricity grid system in the United States and improving the heat-gain and cold-resistance functions of millions of houses. These investments will not only create many employment opportunities, but will also bring about a new momentum for related industries such as technological researches and the construction and engineering industries.

Apart from considering economic and employment issues in the development of green economy, there are also ethical concerns as well as the dimension of sustainable development of mankind.

Some people may think that in view of the current economic downturn and the upsurge of the unemployment rate, the Government should focus its resources on rescuing the economy and cease to invest in environmental protection or even abandon the work of tackling climatic change. Such a proposition or view is

short-sighted and is in essence as well as in theory a seriously flawed judgment. The bitter consequences will arise immediately, prolonging the crisis with its impact to be borne by our future generations.

From the economic point of view, as I have already mentioned, green economy has been practically adopted by different countries as an important means to boost the economy and has become a new driving force for future development. As an international city, and in view of the restructuring of the financial sector, should Hong Kong still live on its "past savings" and continue with the situation that "finance is the key to its success and also its undoing"? Or should it take this opportunity to develop green economy, expand the width and breadth of industries and lay a good foundation for the future economic recovery and sustainable development?

Whether humans can live in harmony with nature permanently hinges on our decision. President, just as what I have mentioned in my last question, the report newly released by the United Nations Environment Programme (UNEP) points out that the speed of global warming will be faster than what has been expected in the 2007 Report of the Intergovernmental Panel on Climate Change (IPCC). Moreover, the Carnegie Institution for Science of the United States has also advised that the increase in emissions of carbon dioxide has reached a rate of 3.5% each year since 2000, which is higher than the emissions of the 1990s by 0.9 percentage point, and that the speed of increase is also significantly faster than what has been expected by the IPCC in 2007.

Locally, the Hong Kong Observatory has recorded a rising mean temperature over the past months and that for February was 20.5°C — President — which was the warmest February in 125 years. Apart from the rising local temperature, the Observatory has also forecast that extreme weather conditions such as strong winds, heavy rains, high temperature and low temperature will persist.

President, all the above show that global warming is accelerating. Not only are we instantly bearing the bitter consequences, but our future generations and offspring will also have to pay a heavy price for our present ignorance and short-sightedness.

President, I reiterate that the development of green economy and the growth of traditional economy are not necessarily in conflict. The notion that environmental protection is a waste of money is shallow and outdated. The focus of wide concern for countries across the world at the moment is to actively

tackle the financial tsunami and the tough challenges brought about by global warming. Amid the double economic and ecological crises, the global economy is in need of a new starting engine and that is green economy.

The policy brief published earlier by the UNEP has specifically recommended that 1% of the global Gross Domestic Product (that is around US\$750 billion) should be invested in the five key environmental sectors including construction efficiency, renewable energy, sustainable transport, protection of ecological infrastructure and sustainable agriculture.

President, in broad terms, green economy does not only include the development of environmental industries such as the recycling industry and renewable energy sector, but also enhancement of traditional industries so as to integrate the concept of sustainability and the low-carbon/low-consumption mode of development into all economic segments.

Therefore, the Hong Kong Association for Democracy and People's Livelihood and I are of the view that the Government can no longer adopt the traditional approach to promote green economy. Just as what I said in last week's debate, the Government stubbornly adheres to the market-driven philosophy and continues to provide support by means of setting up funds and introducing enhancement policies that only make fine-tuning. It even makes adjustments by investing just a small amount of capital. I can say that there is surely — I am sure — no future for green economy. It is doomed to be a failure in Hong Kong. Amid the financial tsunami, market efficiency has already been undermined and enterprises are not willing to invest in new industries. Therefore, the Administration should take the lead in developing green economy with a new mindset or a concept of "big government". When the momentum for green economy is building up, it can be left to the market.

President, I so submit.

**MS MIRIAM LAU** (in Cantonese): President, the United Nations Environment Programme has released a report entitled "Global Green New Deal" in February this year, advocating a total investment of US\$750 billion (HK\$5.8 trillion) by various countries in the development of green economy. A number of countries around the world have answered the call. Take China as an example. In its

economic stimulus package of RMB 4 trillion yuan proposed earlier, almost 1 trillion yuan, equivalent to 2% of the Gross Domestic Product, is set aside for green investments. The investment of Korea has also reached HK\$279 billion. A "beach battle" for green economy is picking up momentum and imminent to start.

The Liberal Party considers that in view of the global trend, there is indeed a need for Hong Kong to catch up and jump on the "bandwagon" of green economy as developing green economy can not only enhance the quality of our environment, but also sparkle new economic ideas and create more job opportunities.

Regrettably, although the Budget mentions the need to develop green economy, what the Government has been selling are only "two dishes", namely development of electric vehicles and green buildings. The Liberal Party opines that if we are to compete with other regions on green economy, the Government should assume the role as the chief architect and come up with a comprehensive strategy for green economy.

Take the recent hot topic of electric vehicles as an example. In fact the Hong Kong Polytechnic University had already invented "MyCar" two years before. They failed to attract the SAR Government at that time but succeeded in entering the British and French markets. Now the manufacturer intends to make an entry into the local market. In order to comply with the testing standards of the Government, they hope for the Government to grant a testing site of a size approximate to only two football pitches, but they have to wait again and again. This shows that the Government is far from proactive. If the Government adopts a couldn't-care-less attitude towards local green products, what can we expect it to achieve in the promotion of green economy?

In fact, apart from "MyCar", there are still a lot of outstanding local green products in Hong Kong. For instance, the Eco-Block which has already undergone three generations is made of construction waste, recycled glass and photo-catalyst. It can be used for road paving and purifying air as well. Other products with hidden potential include the mini wind turbine that can be installed in an urban building and the power-saving socket that can automatically cut electricity supply. These products have huge market potential that are yet to be explored.

The Government should therefore offer support to the industry and assist them in converting research achievements into market products. Technical support and tax concession should also be provided, while restrictions and barriers should be removed to proactively help the industry grow. The Government may also grasp the opportunity to co-operate with the Pearl River Delta Region and promote the operation model of "front shop and back plant", so as to save costs and enhance the competitiveness of local products.

Meanwhile, the Government should play the role as a demonstrator by setting an example. For instance, on the premise of balancing cost effectiveness, it should take the lead to increase the procurement of green products by government departments as well as non-governmental organizations. This can on one hand raise public awareness of using green products and on the other hand secure a bigger market share for such products.

On the other hand, the local recovery rate and recycling industry have long been left in a state of half alive and half dead. The Liberal Party has repeatedly requested the Government to strengthen its support, but no positive response has been received. Take the EcoPark in Tuen Mun as an example. The project is well intended but has become out of shape when being put into practice. Since the first batch of lots was leased out in 2007, the EcoPark has not yet come into formal operation. The Government should therefore improve the operation and management of the EcoPark expeditiously, so that it can play an appropriate role in the promotion of green economy.

President, the original motion proposes that the Government should commit at least HK\$30 billion in this and next year to develop green economy. This, in terms of scale, is proportionate to the Central Government's investment in this regard. The proposal includes switching to environment-friendly buses and constructing integrated waste disposal facilities which are all worthy of our support. However, the Liberal Party also hopes that money can be spent on green economic projects that are truly meaningful, instead of encouraging people to buy those green products which are not readily usable or may not be practically used in their daily life. This is what the Government should avoid doing — that is to avoid encouraging or promoting such kinds of products.

President, certainly the Liberal Party agrees to upgrade the quality of our environment. However, should the Government not also bear part of the costs?



Or does it insist on solely resorting to private investments or the "user pays" principle? If the Government is willing to take concrete actions and share the responsibility, I believe members of the public and the business sector will also be very willing to make an effort to build a better quality home. We together can then embark on a ride on the broad green way.

President, the Liberal Party supports the original motion and all the amendments. But regarding the suggestion of establishing an "advisory committee on green economy", while supporting the motion, we hope that this will not cause duplication of efforts.

President, I so submit.

**PROF PATRICK LAU** (in Cantonese): President, I am very grateful to Mr Alan LEONG for proposing today's motion and to other Honourable colleagues for proposing the amendments. I support every policy that promotes environmental protection. I would like to emphasize that the disasters brought about by climate change have become imminent, and protecting our environment is something that must be done. I understand that Hong Kong people often think that things should be considered from the commercial point of view, such as how to create business opportunities out of environmental protection. But is it more desirable that we should think the other way round from the perspective of truly protecting the environment and promote green economic growth through social sustainability?

Indeed, many people know that global warming has led to melting of glaciers in the polar regions and rising sea levels, putting coastal cities such as New York, London and Hong Kong in great risk. As far as I know, global warming may even cause the existing ice field of Tanzania's Mount Kilimanjaro in Africa to disappear, cutting the water source for rivers and resulting in extensive droughts across Africa, which may further trigger global ecological disasters.

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

In fact, the greenhouse effect brought about by the emission of carbon dioxide is the main cause for climate change. The main source of carbon emissions in Hong Kong, as we all know, is from energy consumption of buildings. Therefore, those environmentally unfriendly buildings are the real culprits for climate change. Just talking about Hong Kong, electricity consumption of buildings, as the Secretary has also mentioned, accounts for 89% (almost 90%) of the total electricity consumption of the city. Power stations are the biggest source of local greenhouse gases, generating 70% of the total emissions in Hong Kong. In other words, in order to reduce the climatic disasters caused by greenhouse gases, it is necessary to think of ways to cut down energy consumption of buildings.

Deputy President, that is why I, together with a group of professionals, initiated and established the Professional Green Building Council six years ago. We have held a number of international conferences, attained all the international standards and set up a number of green building awards. The Secretary has also participated in many of our activities. We also advocate emission reduction.

As regards how to reduce carbon emissions of buildings, in fact, when I start to design a building, due consideration will be given to how to reduce the use of air-conditioning by utilizing natural ventilation of air. What we should also consider is that the concept of environmental protection should begin with the design of green building. I would like to invite the President or the Deputy President to attend the annual prize-giving ceremony of the Hong Kong Institute of Architects to be held at the Pacific Place at around 6 pm this Friday. We will put the awarded buildings this year on exhibition and you can also see that our theme this year is sustainable design.

Let us now turn to people nowadays, in particular the people of Hong Kong, who live in a concrete forest. The tall buildings, elevators, air-conditioners, escalators, household electrical appliances and so on consume a large amount of energy, and these are the main sources of carbon emissions. Therefore, to protect the earth, we must build a sustainable society for our next generation and start with green building to substantially cut energy consumption. Only by this can we really achieve emission reduction.

Green building should start with green planning. Currently, we have a number of development areas such as the West Kowloon Cultural District, the

South East Kowloon Development, the New Territories New Development Areas and the harbourfront planning for Central, Wan Chai and other districts which provide very good opportunities. We should make use of these areas, including the new government headquarters at the Tamar site, to present some hallmarks of Hong Kong as a green city.

Members of my functional constituency support the concept of green city very much and propose to set up an executive committee to play the role as a facilitator and monitor the implementation and execution of the targets of sustainable city. Members of my functional constituency are of the view that green building can promote green economy mentioned by Mr LEONG because buildings indeed require a lot of green products. I also agree very much with what Mr Andrew LEUNG has just said. If we can master the technology, research and design directions in this aspect, we can launch in collaboration with the Mainland products that meet international demands.

Members of my functional constituency further propose that the Government should introduce some effective measures to implement the policy directions of sustainable development. Examples include mandating all buildings to achieve an emission reduction by 30% or other targets as we think fit within three years; introducing tax concessions to encourage the development of energy-saving and low-carbon economies; and requiring all government buildings, government departments and public buildings to conduct carbon audits on a mandatory basis.

Mr Andrew LEUNG said just now that he would like to own a "MyCar". But he raised a question: where should he get the electricity supply then? In fact, we have a well-established Octopus System. Why do we not utilize it by using Octopus as a means to make electricity charging payment? I hope the authorities can address these problems.

One more point I would like to raise is that the Buildings Ordinance has imposed too many restrictions. There should be more relaxation on environmental protection. Lastly, the Kyoto Protocol is due to expire in December. I hope that at the future conference at Copenhagen, countries can sign a new protocol and be decisive on environmental protection issues (*The buzzer sounded*) ..... to introduce different forms of green building.

Thank you, Deputy President.

**MR LEE WING-TAT** (in Cantonese): Deputy President, I speak in support of the original motion. After listening to the speeches delivered by Honourable colleagues, I find that the Secretary is actually not unaware of the broad principle. Everyone knows the broad principle, that is, green economy, environmental economy and environmental industry are not only beneficial to the economy but also to the earth. I do not want to repeat those views. Instead, I would like to talk about the problems in the measures being implemented in Hong Kong.

I agree very much with a point raised by Prof Patrick LAU just now. One big problem is: is our own policy very clear? I am a member of the Panel on Environmental Affairs. The Secretary has mentioned the environmental procurement policy we brought up. But have we actually checked how much the Government has done internally? I know that the Environmental Protection Department has done more. But for other departments, Deputy President, I am afraid they have done nothing or just very little.

Some issues like green roofs have been under a lot of discussions but have they been put into practice? Yes, they have been put into practice. The Housing Authority (HA) has implemented them but where exactly are they implemented? In the roofs of some shopping centres and power stations. How about the roofs of residential buildings? Still under testing. How long do we have to wait? Deputy President, I am sorry that I do not know how long we have to wait. How many buildings are there under the HA? There are 200 estates, that is, at least 800 to 1 000 buildings. If it is successfully implemented, we do not need to expend so many efforts in the discussions now.

Deputy President, words need to be translated into actions. For example, we talk about reduction in the emission of carbon dioxide. Has the Government done so? Yes, it has. The Government encourages trucks and taxis by providing incentives. For trucks, it is mainly the replacement of vehicles. But how many trucks have been replaced? Only 10% to 20%. I forget the exact figures but anyway the quantity is not large. The Government offers \$100,000 to vehicle owners. However, as the Deputy President has also mentioned, despite that \$100,000, they need to pay an auto loan amount of \$900,000, which is not affordable to them, is it not? We need to be flexible.

We, a group of District Council members, made a visit to a bus company and then had lunch together last Monday. I told a director of the Kowloon Motor Bus Company Ltd., Mr HO, that the Secretary alleged that they did not give enthusiastic responses to a proposal of the Government about using low-emission vehicles in busy districts. But Mr HO said that they already

assigned most new buses to run in Causeway Bay and Wan Chai districts. The Secretary is also nodding his head, which means that what Mr HO said is true. Then what other difficulties does the Government face in implementing measures in such crowded areas as Causeway Bay, Wan Chai, Mong Kok and Central? We all know that roadside pollutants affect our health most. The average numbers are meaningless as they are calculated after consolidating the figures of many districts. No matter in our daily life or at work, just like we ourselves who go to office in Central or those who go to Wan Chai, Causeway Bay and Mong Kok, what we breathe in every day is such polluted air. Is it difficult to implement these measures? They should be feasible. But in the implementation, relevant industries should be encouraged to take full measures.

As regards electric vehicles, recently the Secretary has been on a busy travelling itinerary. Having conducted a stand-up interview during his visit to Japan, he then travelled to Canada. When he returned, he told me that the situation in Hong Kong was in fact not too bad and that our recycling industry was also doing well, even doing better than Toronto. Secretary, please do not feel complacent. I think Hong Kong is just "so-so" in this aspect; otherwise, why are those landfills so filled up? If he has a so-called green policy or procurement policy, many of these measures have to be implemented.

I still have two more points to go. Recently, I have seen the initiatives introduced by the Government which show that it has done something. On the other hand, electricity consumption is high in commercial and other buildings which accounts for 60% to 70% of the total consumption. Now the Government plans to promote a campaign of encouraging people to conduct carbon audits by providing money. Firstly, would the Government please do not use this term anymore. We have discussed at the Panel on what "carbon audits" are. This term is from English. If we ask middle-aged and elderly people what "carbon audits" are, all they know is how to burn charcoal or how to make a grilled goose with charcoal. They know how to do barbecue with charcoal as well. But they do not quite know what low-carbon economy is. Therefore, it is useless to refer to this term in the region.

Next, we have discussed about the funding for the committee launching this campaign. Secretary, I hope you know that your colleagues beside you have already listened to our views and I hope they will report to you truthfully. I should not describe your proposal as absurd or nonsense, but it is very

impractical. Why do we need to conduct audits on those old buildings? They are just 10-storey tall with no lifts but stairs. All the light bulbs are very old, too. Power can certainly be saved if they are encouraged to replace all the light bulbs. Then what suggestions does the Government make? They are required to conduct audits first. Those elderly people and landlords need to pay \$50,000 to conduct audits, and then seek funding for the replacement of the light bulbs. Your colleagues said that this procedure was not mandatory and that there was still a chance of seeking funding even without audits. Alright. I will remember what he said and make enquiry to him every three months.

I have repeatedly said and in fact I have also told the Secretary that the intention of some of the campaigns is not bad. But some campaigns are not specific and practical enough. You require each household living in tenement and old buildings to pay \$1,000 to \$2,000 to conduct audits and then replace the light bulbs. But does it work? Let's use our common sense. Is it necessary to conduct carbon audits first for an old building to replace its light bulbs? Both you and the report have pointed out that those having conducted carbon audits are given priority. But what will be the result? As I have also mentioned during our chat last time, all the benefits will go to the big companies. Those large housing courts are managed by well-established companies who provide good management. But it is getting more difficult for those old buildings with older light bulbs and poorer management to get funding.

Deputy President, what should the Secretary do indeed? He should submit a checklist to the Panel on Environmental Affairs. The Secretary has already listened to the heap of arguments we advanced today for many times. You should give us a checklist on every item of green economy, be it procurement, encouragement of research, development and practice, as well as measures that have been adopted by government departments. Please tell us which items you have considered and which ones will be implemented, as well as the implementation timetable. I think we should not simply deliver our speeches for seven minutes during the debate. Instead, the Panel on Environmental Affairs should monitor the Government to see when every specific item on the checklist will be completed.

Thank you, Deputy President.

**MISS TANYA CHAN** (in Cantonese): Deputy President, my speech today will focus mainly on green construction. Just now, Mr Alan LEONG — the proposer of this motion debate today — he has purposely dressed in green today — and our party leader have both made detailed speeches on this topic. As for me, I will speak specifically on green construction.

Earlier on, about a month ago as I remember, I once met the Secretary in the Ante-Chamber, and I told him that I would go on a study tour to Australia where I would visit a lot of green buildings. The Secretary told me that the main building of the Electrical and Mechanical Services Department was a must-see, and I replied "okay, okay". So, before going to Australia, I visited the Electrical and Mechanical Services Department — which is located in a green building constructed locally by our Government. They had taken a picture each day during the entire construction process, and as such, they could illustrate to me the construction process of the whole building through those pictures. Moreover, there were quite a number of facilities inside the building which were built specifically for the purpose of environmental protection.

Well, the green building or eco-building in Hong Kong really is not only about making green roofs on podiums or producing a green outlook, it also includes indoor items ranging from carpet materials — such as the glue that sticks carpets together — to building materials, and even the use of electricity, water, lighting and so on. All of these are, as Prof Patrick LAU said, about planning, and construction on the whole has direct relevance to our green building.

I am of the view that, as far as green construction is concerned, we may use a direct term — "sustainable buildings". At the Professional Green Building Council, there had been discussions on what are sustainable buildings, that is, buildings that are sustainable, which refer not only to environmental sustainability, but to economic sustainability and social sustainability as well.

Today, I have raised a question on green construction and have been given a written reply. I know that the Development Bureau and the Environment Bureau have jointly issued a technical circular, which requires all newly-built government buildings with construction floor areas of more than 10 000 sq m to undergo local or international environmental performance assessment, and they must attain grades not lower than the second highest level under such assessment.

According to the standard of the Hong Kong-Building Environmental Assessment, the highest grade is the "Platinum Level" and the second highest grade is the "Gold Level". I know that many government buildings, whether at present or in the future, will have to meet such requirements. However, the buildings involved are in fact not that many in terms of percentage, as only some 170 buildings all over the territory have obtained such grading and government buildings only account for 30% of them. I think the Government can put in more efforts in this regard. It should assume a leading role regardless of whether the buildings involved are commercial or residential in nature, and this should be a beginning for the Government and more should be done in the future. For instance, it should consider, if possible, imposing mandatory requirements on some government-subsidized organizations such as the Housing Society, the Housing Authority, or even the development projects of the MTR Corporation Limited, to the effect that they had to comply with certain requirements of local or international environmental performance assessment. Perhaps we might set up a minimum requirement as in the case of government buildings.

I said just now that I had joined a study tour to Australia earlier on and it really has a lot to learn from my Australian experience. The Green building Council there was just set up in 2002 and it had a very short history only. Its operation had gone through many years of hardship as there were only few supporters at the beginning. Its Board of Directors comprised only one or two developers as members therein mainly came from the government. However, green construction gradually developed into a practice and everyone will bear the environment and sustainability in mind. As such, the Board has now included many powerful and leading developers.

I think that the Government should encourage more local developers in Hong Kong to put in more efforts in this regard. Here in Hong Kong, even if the developers have set up sustainable working groups of their own, their numbers are just as few as the number of fingers in one hand, and we all know the few developers that have made particularly more contribution in this regard. Therefore, I hope the Government can try its best to attract more developers to put in extra efforts in these areas.

Moreover, I have yet another experience in Australia: for certain newly-developed projects, they require, apart from planning, the whole project as well as individual buildings to meet that standard too. I very much agree with



the saying made by Prof Patrick LAU just now that it actually begins with planning. For our future West Kowloon Cultural District (WKCD) and Kai Tak, I very much hope that they can meet certain standards in respect of basic requirements.

(THE PRESIDENT resumed the Chair)

Turning back to the WKCD, as I am more concerned about this topic. At the afternoon session of the seminar organized by Sir TANG that day, there was a question on sustainability which asked how important it meant to us. All the guests from overseas considered that it was very important. I also hope very much that the Hong Kong Government felt the same way. Of course, we understand that it has its own Bureau to take care of the matter. But we do hope that they can at least incorporate these considerations in their tender requirements, so that every tenderer will meet certain requirements and that will be exactly the considerations being taken into account as to whether their tenders are accepted or not.

Now I would like to talk about water for a while. Perhaps Hong Kong has really been spoiled as we have a very stable supply in this respect. On the contrary, as they are persistently dry in Australia, they have given a lot of thoughts about the use of water. For instance, the so-called grey water, that is, water in grey colour (which is in fact used water that has undergone treatment) is used for flushing.

What other environmental facilities have they put in place? While I was in Sydney, a power failure suddenly occurred one day. I was in hotel at the time, not yet taken my shower but had to rush to attend a function. I thought that I had to take a shower even only icy water was available. But I found that hot water was there when I turned on the tap. Why was it so? It was because they had another system which collected thermal energy and then provided hot water. Therefore, such a devise can sometimes provide relief in case of emergency.

Furthermore, the Green Building Council in Australia is self-sufficient ..... it is hoped that the Government can spent some more time on it as they can

charge certain fees for organizing courses and helping others to conduct assessment, although it is itself a non-profit making organization. After a few years' efforts, they have made the entire Australia, in particular the newly-developed areas such as the Docklands, pay special attention to environmental protection. It is hoped that our Government can conduct the same assessment for newly-developed areas or individual buildings to be built in the future.

Thank you, President.

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

**MR ALBERT CHAN** (in Cantonese): President, talking about promoting green economy or environmental policy, I think, apart from constitutional reform issues, it is the most debated topic in this Chamber over the past ten years or so since I joined the Legislative Council in 1991.

This topic can be said as discussing without making decisions and deciding without taken actions, it is just the Government spells out its own words or we spell out our own words. Also, I do not know whether the Government is autistic, incompetent or paranoia, as it said that it attached great importance to environmental protection and wanted to promote green economy, but in fact, as far as advanced countries are concerned, Hong Kong Government was the government which did the most to damage the environment over the past 20 years. There were so many measures taken by the Government that had caused damage to the environment. I remembered in 1988, when I was a member of the then Regional Council, we had made a study tour to Japan. After I came back, I asked the Government why the refuse incinerators in Japan could generate electricity but ours in Hong Kong could not? Burning refuse can produce lots of thermal energy and many places in the world use refuse incinerators to generate electricity, but that is not the case in Hong Kong. It is big wastes that refuse in Hong Kong is just burn away and not used for power generation.

Reclamation is another way of causing damage to the environment in Hong Kong. If we look at Chek Lap Kok or Kai Tak, or the landing sites of the Hong Kong-Zhuhai-Macao Bridge off Chek Lap Kok, the reclamation works involved

are just digging up marine sand. In Sai Kung, Lamma Channel, Tsing Yi South, hundreds of millions tons of marine sand was dug up for reclamation, which has totally damaged the nature ecology of the entire seabed.

All these years, the Hong Kong Government has been discussing a number of issues for decades. The river problem in Sha Tin has only improved a little and the odour problem in Kai Tak remained the same. It has been over one to two years since I raised the question to the Secretary about marine pollution at the Tsuan Wan Bay, but the Government paid no attention and no measures have been taken. The District Council had invited Prof LAM Kin-che to conduct a study about eight years ago, and it was found that the anaerobic zone in the sea was as thick as about one foot and no living creatures were found therein. As the Secretary for the Environment, does he not feel shame or does he not think that he should be held responsible? This is the blemish of Hong Kong, a blemish on its history.

The Mainland Government has now gradually restored the environmental ecology that was damaged in the past. In Seoul, the most famous action being taken is turning an important highway into a river. They are very determined to get things done. Environmental protection cannot be lip service only. But I do not blame the Secretary because it is his duty to pay lip service. The Environment Bureau in Hong Kong can just pay lip service because it has no power, no resources. Ask the Secretary to close a certain road in Central and turn it into a river, can he do that? Ask the Secretary to widen certain roads by one and a half feet in order to plant trees, can he do that? He would say that it could not be done due to road conditions or the presence of underground utility. Hence, the Secretary for the Environment Mr Edward YAU should change his title to the Secretary for "lip service" (just talking and takes no actions) or the Secretary for "big talk", which is quite a good title. However, he is not as "big" as I am and this title is therefore not that good after all. It is better to adopt the Chinese leaders' description and call him Secretary for "discussing without making decisions".

Therefore, general and large-scale works cannot be done. In fact, reclamation does not necessarily damage the environment, but the overall management of the government must have the determination and awareness in pursuing environmental protection. Reclamation can take care of refuse and construction waste at the same time, and it just needs time to finish the process. In every district, no matter it is the New Territories East, the New Territories West, Hong Kong Island, Kowloon or so on, it is possible to identify three to four reclamation sites and have the refuse and construction waste transferred there,

and given a longer time, the refuse can be turned into reclamation materials. This is achievable. However, the Government will not do so and it often does things in a hurry. If it wants to go for reclamation, it starts working at once and will go damaging the whole environment in order to get the job done. Hence, if the Government wants to talk about environmental protection, please do it with a little far-sight, a little awareness and a little determination, so as to get the thing done properly. Do not go on discussing without making decision and have himself become a Secretary for "big talk".

Regarding the environmental problems mentioned by the Secretary, I had a lot of arguments with him over the issue of plastic bags, and we opposed the idea. The Secretary was just paying lip service because it had done nothing about waste separation which was utmost important. In fact, waste separation is a very important green industry because it is labour intensive. Ten years ago, we already proposed that the Government should identify one site at each district for such purpose, as existing places for collecting waste paper and waste metal are all located at ground floors of old buildings, the noises they generated had disturbed the peaceful sleep of residents upstairs and the wastes were lying around which had made the environment very filthy. The so-called green industry turns out to be the most polluted locations in the community. This practice is very ridiculous and ironic.

Hence, please will the Government consider a little more in their planning, whether by exemption of government rent or land premium, so as to find a suitable recycling site in every district and that the nearby residents, after collecting tins or newspapers, can sell them for 10 cents per catty and thus make a little income. Green work has to be done systematically, has to be lead by the Government, has to be planned and assisted, but it is not so in reality. It is now left to the free market and the Government then claimed that Hong Kong has recycled that many tons or that much proportion of its refuse. However, it is only "exaggerating", just "talking", that is, "nothing but talking", or as the Chief Executive said, it is "bull shit", which is far away from satisfactory as compared with other places. The most absurd phenomenon is the transfer of benefit to developers under the green concept in which the developers are allowed to launch the green balconies that are not only excluded in the calculation of gross floor areas, but are also claimed to be offered at special prices. At the end, the developers sell the balconies at normal prices and it is the developers who stand to gain.

President, in addressing those issues, the Secretary can in fact do a lot of concrete things. I have said many times that it is possible to implement waste separation and when approval for small houses are granted, it can be specified that such houses must install with solar energy device. All of these are things that can be done easily. However, if the Secretary for the Environment fails to formulate any policy and does not make use of his influence, it will just be "bull shit" again and again.

**MR LEUNG KWOK-HUNG** (in Cantonese): President, I don't know whether you will be the Chief Executive or the President of the Legislative Council in the future. Yet, this issue, that is, the problem of dioxin at the Tamar site, will definitely concern you. If methane gas comes out from underneath when we are having a meeting, the problem can be very serious. It is obvious that the Tamar site may have a problem of dioxin pollution. In fact, with the SAR government's and the British Hong Kong Government's landfill policies, the problem of dioxin pollution is doomed to haunt, unless something is done about it.

To tackle this problem, what should we do in the first place? The Administration has to inform the public through its website about the cumulated quantity and the estimated level of such substances at a particular location. I have asked Denise YUE before about how she would monitor the senior officials. She replied that all the information had been uploaded onto the website and members of the public would report to her should they find out anything wrong. Secretary, why don't you adopt a similar approach? You had been an Information Officer before, therefore, when Donald TSANG appointed you as the Secretary for the Environment, I knew right away that you would talk nonsense, as you had served as an Information Officer before, that is, a "PR" man. I now challenge you on the issue of dioxin. When will you provide a timetable? When will you do it? When will you give it to me so that I will be able to monitor your work? This is the first point. Let us not talk about other things and turn to matters concerning us. President, if one day dioxin comes out from beneath suddenly when you sit there, that can be lethal and it may trigger a fire all at a sudden. Should methane gas emit profusely at the Tamar site, it will be like a gun going off by accident and occasioning a fire.

Secretary, it is actually wrong for you not to account for this matter with tabulated information. In 2004, we signed the Stockholm Convention on

Persistent Organic Pollutants on the coattails of the Mainland. It is now 2009, and refuse disposal at the landfills is a far cry from what you have projected. You used to think that the landfills would be sufficient for use, and now you suddenly say that there is a shortage of landfill capacity. Would you please provide a timetable and set out the arrangements to be made in the event of a shortage of landfill capacity? Are you going to transport the refuse to Shenzhen for disposal at the landfills there? Please do not treat our compatriots like that.

Secondly, it is about the sea water. The so-called Strategic Sewage Disposal Scheme is a blunder and it simply does not work. The use of ferric chloride to treat faeces has also hardened the seabed over time because of the sedimentation of faeces. As a result, big cruises cannot sail into the harbour. President, in the past, when sailing into our harbour, ships could enter from the east and exit from the west, but it is now no longer possible, as every day 2 000 tonnes of ferric chloride treated-faeces are being deposited there. And now, the Government has even suggested spending \$6 billion to burn faeces at Mr LAU Wong-fat's "turf". Human faeces should not be burnt as it is hazardous to do so. So never do this! Please make a trip to Hamburg and have a look. How can you blame the residents for panicking?

Honourable Members, please do not listen to his "PR" talk. He talked about how to build up a market for such stuff, and how the market would continue to develop the industries concerned. That was bullshit. He should first deal with matters relating to abatement of public hazards. Why did he sign the Convention? Why did he go to Stockholm? Did he go there to travel? Was he there to see the bridges? How many bridges have they crossed? The place is known as the City of Bridges? He even refuses to account for the details of the signed Convention. President, he would account for this matter to someone else, but not us. We are now talking about a Convention, buddy. Has the Convention been put into effect?

We fail to deal with the dioxin now, and the use of ferric chloride is also impracticable. We request that various types of refuse should be separated before recovery and recycling. I am living in a public housing estate where the use of those three-coloured waste separation bags is also not environment-friendly. Chucking things into those bags is a non-green act in itself. President, you may have seen those three-coloured waste separation bags with handles before, those in which the public chuck paper or wood as told.

Please do not play these tricks. If you have to do it, please use better and more environmentally-friendly means. Or we can follow the practice of Germany and provide handcarts to elderly ladies, so that they can do a better job. As far as waste disposal is concerned, some 10 waste collection centres have been set up in Hamburg. Have you set up such facilities here? No, you have not. You have only asked people to "operate business at the front of their premises and use the rear for residence" in old buildings. And yet, you will prosecute them. Can the Government grant a site for green purposes? Is it possible to construct fewer buildings?

Turning to building construction, I would like to speak on the screen-like buildings. Let me talk about the "sky" now. The "land" we have dealt with earlier refers to landfills. On top of that, we have talked about the "sea". Air, land and sea are all under his purview. Speaking of screen-like buildings, oh buddy, I have really never seen such buildings before. They have blocked all the views. Such buildings can also be found in Tai Kok Tsui, and the residents are staging demonstrations again. I have taken heed of what Dr Priscilla LEUNG has said earlier, demonstrations are now a commonplace. He is the Commander-in-Chief of the air, land and sea forces. Yet, he lost all battles. Please do not mind that we always criticize him as being "bu gai (*in Putonghua*)" (literally meaning "should not behave that way"). Indeed, he is truly "bu gai (*in Putonghua*)".

President, as you know, real estate developers are very good at playing tricks. Can you still remember the case of the EcoPark? You should remember this. The EcoPark was set up before TUNG Chee-hwa suffered from leg pain. It is now said that the project is going to be aborted, and the site is said to be converted into the home for one of the biggest real estate developments in my geographical constituency, just like the Cyberport has become Richard LI Tzar-kai's ..... As I have said before, he is acting against heavenly principles and committing gross injustice. He steals, deceives, abducts and swindles. Please go there and see it for yourself. You may happen to be around there sometimes. You can find a hotel there. They were allowed to make a fortune out of all these, simply by putting forward a topic or a project proposal. The EcoPark has disappeared over time. Buddy, a Secretary must do properly what he is obliged to do under the Convention. He has failed to do so. He then comes here to advise us to look forward. Is he aware that our bottom is now on fire? When I use the expression "our bottom is on fire", you may say that I am being vulgar. Fine, what about "House on fire"? Is it elegant enough? That is to say, as your house is already on fire, what is the point in talking about doing business and

getting a wife for your son then? The Secretary must do what is stipulated in the Convention first. He has to make public how the ferric chloride has got our harbour into the present state. The harbour has been narrowed due to reclamation, and yet he allows ferric chloride to be deposited at the seabed, in such a way that it can never be cleaned up. He also proposed to burn human faeces. What on earth is he talking about? Today, he even talked about business opportunities. He must report to us on these matters in accordance with the Convention and adopt a proper attitude, instead of using any "PR" ploy. If this cannot be done, please call forward Henry TANG to take responsibility, or we should call in Donald TSANG. Have you got it? Please do not talk about such things as business or blue sky any more. You have failed on every front, no matter it be in the sky, on land or in the sea. Sorry, I have to say, you would better get lost.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr Alan LEONG, you may now speak on the four amendments. You may speak up to five minutes.

**MR ALAN LEONG** (in Cantonese): President, the motion today is one of the few motions in this Council which has obtained Members' unanimous consensus to a very large extent. I am of course very glad that four colleagues have proposed amendments to the original motion. These amendments not only enriched the original motion, but also put forward various aspects of the new green economy in a more diversified and more comprehensive manner. I think that Secretary Edward YAU and the SAR Government should be thankful to Members who contributed so much effort to put forth a rather rich and diversified policy. Regarding the amendments proposed by my colleagues, I just want to take out a few points for brief discussion.

Mr Andrew LEUNG's amendment mentioned about providing greater economic incentives and more encouragement to attract the transportation industry and the public to use electric vehicles. President, you might have noticed that, in order to enhance the publicity for this motion debate, I had found



an electric motorcycle outside the Legislative Council yesterday. The owner of the motorcycle said that he had encountered numerous difficulties while trying to obtain a licence in Hong Kong. Many departments considered that the licence involves quite a number of policy areas, some of which might be under the ambit of the Transport Department, and some of which might touch upon the traffic laws.

President, I believe that it also highlights a problem that, in order to truly implement a green policy, it has to put in actual resources in addition to words, and Secretary YAU has to make the necessary break-through arrangements. I think that there will be policy limitation in the Environment Bureau after all and it might not be able to cross the line. If Mr Andrew LEUNG's proposal is to succeed, it has to remove more red tapes and restrictions. Mr Andrew LEUNG also mentioned about environmental protection and waste recovery. Last week, I just went on a study tour to Taipei City where they have achieved a remarkable result. They have by now almost getting rid of landfills as solid waste there has been successfully recovered, separated and recycled. Therefore, it seems that there is a bit different from our approach that we are now having to offer our country parks as landfills.

Regarding Mr CHAN Hak-kan's amendment, the only point that caused my deep concern is that he had deleted the point about the HK\$30 billion. President, I am very glad to hear Mr CHAN said that he was in fact not against it. However, a promise with figures will always carry a certain degree of importance. Therefore, I very much hope that this point can be maintained and the Civic Party will vote in abstention as regards Mr CHAN's amendment.

Lastly, I would like to make the point that, Dr Priscilla LEUNG's proposal to fully implement priority green procurements by all departments is indeed a very good policy direction. It is because the Government can in fact play a leading role in using green products for stationery or vehicles, so that such products can attain economy of scale, and thus stimulate research and development for the establishment of such markets.

Thank you, President.

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, here, I would like to thank Honourable Members once again for the debate on "promoting green economy", which is a subject of common concern. In making

my response, I have contemplated whether I should place the focal point of the debate on the issues that Members have all along been concerned about. Yet these issues have already been expounded in great detail in both the Panel on Environmental Affairs and this Council. Or, should I focus back on Mr Alan LEONG's original motion — how are environmental policies going to promote green economy.

Certainly, a number of issues have been raised by Honourable Members, from restoration of the seabed, the presence or otherwise of dioxin in the Tamar Site, to the question of whether sludge incineration is a sensible technology. As I remember, all these issues have in fact been clearly expounded in this Council as well as in the relevant papers and documents. As such, I do not wish to repeat them here. Rather, I would like to respond to the many forward-looking and constructive views raised by most Members on this subject of green economy.

Having regard to the enthusiasm of Honourable Members to speak on the motion and the views raised, I note a consensus that the coverage of green economy we see today is indeed more extensive than that of the traditional environmental industries and trades. The two-pronged objective is to promote efforts to improve the environment on the one hand, and see if green economy can become a new driving force for our economy on the other.

The response I am going to make represents not only the Environment Bureau. This is because the information on some work areas is provided by the relevant policy bureaux, and I would like to cover as far as possible the information they have prepared, so as to provide a response of the Government as a whole.

President, Mr Alan LEONG first mentioned about energy for health in his motion. I believe by that he meant the use of certain kinds of low-pollution and cleaner energy or ultimately the kinds of energy that are renewable. The Government fully agrees with him in this regard. As Members may recall, the Memorandum of Understanding on Energy Co-operation (MOU) we signed with the National Energy Administration in August last year has indeed set out a blueprint for our future clean energy resources. Over the past two years, we have reduced the amount of pollutants generated by power plants through a number of regulatory measures. On the other hand, we do have a responsibility

to ensure a cleaner power generation process for Hong Kong. In this connection, we have made some endeavours in a number of respects. One endeavour is to offer a higher rate of return in the Scheme of Control Agreements signed with the two power companies, so as to enable them to develop renewable energy. Perhaps there may be certain limitations locally. However, when we reviewed the relevant schemes after introducing this economic incentive, we felt that the general public would accept such an arrangement. Even though this arrangement may lead to some difference in the electricity tariff rates, we still believe we are doing the right thing.

The MOU signed in August, together with the Air Quality Objective review we are conducting currently, gives us a blueprint for the future. In our Air Quality Objective review, we have stated clearly our hope that in mid-term, natural gas could account for at least 50% of our existing energy mix. In addition, we hope to keep nuclear energy use to curb as far as possible the reliance on the existing coal-fired power generation which is more polluting. We hope to establish this strategy gradually through the Air Quality Objective review.

Concerning renewable energy, just now Members have also referred to some examples. The Apollo Global Thin Film Photovoltaic Research and Development Centre which we have recently set up at Hong Kong Science Park in collaboration with a US company is indeed a successful example. By making good use of the Science Park, protecting intellectual property and developing new technologies, Hong Kong could bring in certain types of renewable energy, or even apply such types of energy for the development and use of new technologies that are suitable for Hong Kong as a city packed with buildings.

Mr CHAN Hak-kan mentioned putting landfill gas to use. This is indeed one way to apply renewable energy. In this connection, I believe Members are aware that we have three comparatively larger landfills (or strategic landfills). As for the one located in Northeast New Territories, we have already built a 17-kilometre duct to transmit the landfill gas produced there to the Tai Po Gas Plant for further use. The Government will continue studying with the company concerned the possibility of making the same arrangement for the other two landfills. If such an arrangement could be implemented, we would be able to use renewable energy in our landfills. Indeed, similar schemes have been in operation in some of the restored landfills. As for the figures, in 2008 alone,

more than 50% of the landfill gas produced by the restored landfills has already been put to use. We certainly hope to do even better in this regard.

I think more Members have mentioned green building and building energy. In this connection, Prof Patrick LAU has rightly cited two figures. Over 60% of our carbon dioxide emission comes from power generation, and 89% of the electricity generated is used in buildings. When I visited the United States recently, the corresponding figures there stood at 40% and 71% respectively. This tells us that as Hong Kong is a city packed with high-rise buildings, the energy consumption of our buildings will indeed affect our carbon footprint. And that is why the Government has put forward specific measures in both the policy address and the annual budget in these recent two years. One of such measures is the Building Energy Codes, which is proposed by Dr Raymond HO, supported by Prof Patrick LAU, and have much attention from Honourable Members. How is this set of codes which has been adopted on a voluntary basis for 10 years going to turn into a set of statutory requirements? The objective of the Government is to apply this set of codes to not only the newly constructed buildings, but also hopefully to the existing buildings when they are undergoing renovation, so that the energy efficiency of the buildings in Hong Kong can at least be comprehensively upgraded to a certain standard.

As regards the new development areas, I believe Honourable Members are also aware that in the Kai Tak Development Area, for example, the centralized cooling system will substantially help reduce electricity consumption. The measure which we have adopted more frequently in recent times and secured extensive attention and support is the \$450 million fund set up by the Government. With this fund, the Government is offering matching subsidy to encourage buildings to engage in energy efficiency projects. Just now Mr LEE Wing-tat mentioned — he is not in this Chamber at the moment — whether it is a must for buildings to conduct carbon-audit before commencing enhancement works. The answer is in the negative, and my colleague sitting next to me has already explained to Mr LEE on the same occasion. But then, why must carbon-audit and enhancement works be conducted concurrently? This is because good carbon-audit could in many cases identify the most energy efficient ways for buildings. In some cases, we can even save energy consumption in areas we have never thought of. I believe Honourable Members in the electrical engineering field could best understand this point. Hence, the objective of this two-pronged scheme is to make owners and occupants of buildings more aware of energy efficiency.

Nevertheless, I do understand, and as some Members have pointed out, that property owners may not necessarily know how to get things done in this respect. As such, we have made some efforts during the half-year preceding the implementation of the scheme. We have provided training for the relevant professionals and invited their participation in the scheme. These professionals include engineering personnel, consultants and auditors. Besides, persons engaged in property management were also invited to take part. This is because they have a better understanding of the situation of buildings than the property owners concerned, such as the public areas, lighting, air-conditioning, lifts, and so on. Through the provision of training and their participation, we can help property owners to understand better how they will be benefited from the scheme. Some members opined that the funding approach of matching one dollar with one dollar might not be enough to cover the cost involved. Let us think this way. This subsidy is in fact the biggest support the Government can offer to individuals or private enterprises, because both are paying one dollar. Compared to many other cities in the world, whereas in many cases they only offer loans, we are subsidizing in the form of matching one dollar with one dollar. Besides, the one dollar paid by property owners can in fact be arranged through loans. If property owner can really establish a case in this respect, they can save money in the long run. And I believe energy resources consultancy firms will be happy to take up such jobs. Hence, compared with the practice of other major cities in this regard, the package we are putting forward in fact involves a rather substantial commitment from the Government.

Both Mr Andrew LEUNG and Mr Jeffrey LAM also mentioned that the Government should set a good example in implementing initiatives in this respect. I could not agree more. And I am also grateful to Miss Tanya CHAN for mentioning that as reflected in the reply we had given her, the Government was in fact endeavouring to set an example in respect of energy or establishing our own practices. Last month, I and the Secretary for Development has jointly promulgated an internal circular to implement a target-based environmental performance framework for government buildings and set environmental performance targets for different types of government buildings. And we hope that government buildings can strive to achieve the highest or second highest standard under an internationally or locally recognized building environmental assessment system. With this arrangement, we hope that government buildings will attain a certain standard and set a good example for other buildings. As Members may recall, of the 800-odd buildings voluntarily abiding by the

Building Energy Codes in the past 10 years, over 75% were government buildings. From this we can see that the Government has indeed responded to Members' suggestion that the Government should set a good example.

Just now Members have also talked about sustainable transportation, covering such transport means as trams, buses and even electric vehicles. Some Members advocated that we should use green transport means, and that the Government should provide a circular cycling track in the New Territories to encourage people to travel more on bicycle. From the point of view of the Environment Bureau, I certainly agree with Members. And I note that Members are very interested in the electric vehicles we have talked about recently. Members are right in saying that electric vehicles are not the products of a newly developed technology. However, the Government can see that in the coming three to five years, certain kinds of electric vehicle technology will be put to more extensive use, and more electric vehicles will be manufactured. And that is why the Government have recently entered into agreements with some electric vehicle manufacturing plants, so that we can import into Hong Kong a new lot of electric vehicles driven by batteries which can support a longer travelling time and better suit our requirement.

Basically, our existing practice will not confine our choices to either overseas technology or local technology. So long as the electric vehicles concerned meet our safety and structural specifications, the Environment Bureau will join hands with other government departments to enable the import of the electric vehicles concerned into Hong Kong for trial runs, and such vehicles include the ones developed in Hong Kong and the one manufactured on the Mainland.

Meanwhile, we understand that two Japanese automobile manufacturing plants have an existing model which should be ready for the production line within a short period of time, and we will give such a model a trial run. I can give Honourable Members an advance notice that on the coming Tuesday, the first electric vehicle of this kind will be on trial run in Hong Kong. We hope that the relevant automobile manufacturer would allocate a substantial number of electric vehicles of their first batch of production for the Hong Kong market. It is my hope that upon the trial run of the said electric vehicle, members of the public will see whether the new vehicle concerned could meet the green transport need of Hong Kong as a green city.

As regards the replacement of vehicles for the fleets of franchised buses, just now Mr KAM Nai-wai and Mr WONG Kwok-hing have also touched upon this issue. We have mentioned in the past that about 35% to 40% of the traffic flow on major trunk roads was attributable to franchised buses. And that is why I responded to Members that there was indeed a need to replace the franchised buses with new ones. We have already started discussing the issue with the bus companies. In this connection, however, while it is necessary to replace the buses, the bus routes also need to be consolidated. We particularly need the co-operation and support of Honourable Members and the various District Councils in this regard.

Concerning the recycling economy, I noted that Members also mentioned the 3R approach. The Government has done quite a lot in promoting the 3R approach, and has of course been facing many challenges. Having said that, as reflected in the figures released last month, the annual recovery rate of solid waste in Hong Kong has increased from the previous years' 45% to 48%. Certainly, there is still much room for improvement before we can finally achieve our target.

As regards domestic waste, thanks to the newly enacted legislation and the implementation of the tri-colour recycling bin scheme, the recovery rate has increased from the previous year's 24% to 31%. What is more, the recovery rate of industrial and commercial wastes has risen to 63%. The approach of the Government in this connection will continue to follow the direction of waste reduction and recycling.

Mr LEUNG Yiu-chung particularly talked about whether or not the Government should allocate more land to support the recovery industry. The Government concurs with him in this respect. As the Government has mentioned in the past, 35 pieces of land with a total area of seven acres have been granted on short leases to the recovery industry. Recently, in view of the economic downturn, the Government has also identified 10 pieces of land in Kai Tak, Stonecutters Island and Tsing Yi respectively. We hope to allocate the said land lots shortly for use by the industry.

Mr WONG Kwok-hing, Mr Jeffrey LAM and Ms Miriam LAU have all mentioned the EcoPark. I have also spoken on this subject in this Council before. During the first phase development, we have indeed encountered some

difficulties. However, as our colleagues have strived to help the relevant trades to tackle their issues, and a lot of hard work has been done by the parties concerned, the land lots in the first phase have all been leased out by now, and one company has even commenced operation.

Drawing on the experience gained in the first phase development, we can see that quite a number of people are engaged in the recovery industry. However, owing to the limitations of the industrial environment in Hong Kong, many of them would have much difficulty in embarking on the recycling industry as well. As such, it is the Government's hope that the second phase development can draw on the past experience and consideration can be given to whether other approaches should also be adopted, including introducing the social enterprise approach to the treatment of waste plastic, used electrical appliances or used electronic facilities. The objective is to find out whether such wastes could be disposed of in this manner, and whether a new path of development can be developed as well.

With regard to waste reduction and recovery, however, I believe most Members would agree that Hong Kong's existing approach of relying solely on landfills to dispose of the solid waste is not sustainable. All along, we have stated very clearly the expected time when three existing landfills would be filled up, which would take place in four to six years' time. Hence, the Government has to introduce a modern and comprehensive waste treatment facility, which should be capable of turning waste into energy for consumption on the one hand, and creating investment and employment opportunities on the other.

As regards some environmental quality standards, I do not wish to talk about the air quality standards in detail here. However, it is our hope that through the air quality review proposed by the Government, we can gradually raise Hong Kong's air quality to the standards set by the World Health Organization, and at the same time improve the environment of Hong Kong, thereby boosting Hong Kong's competitiveness. The improvement in air quality will certainly be conducive to the development of industries and trades.

Several Members have talked about green procurement just now, and I particularly concur with the views raised by Dr Priscilla LEUNG. She pointed out that both the Government and the private enterprises should put in their best efforts to enhance their green procurement practice. At present, some non-government organizations have already developed some certification and labelling systems.



Just now Dr LEUNG referred to the work of the Green Council in this respect, which is certainly recognized and appreciated by the Government. As a matter of fact, the Government has put in resources to co-operate with a few associations on this front. I believe that by the time the Mainland and the world have developed more labels that are much clearer and mutually acceptable, we will be able to achieve more.

In mid-2008, the Government commissioned a consultancy firm to review the procurement policy of the Government. We hope that by the time the review results are ready, we can extend the product categories on our green procurement list.

During the procurement process, the Government does not rely solely on price as its decision basis. As a matter of fact, we have been implementing gradually the idea of green procurement since 2000. The hybrid cars procured by the Government recently are one obvious example showing the fact that priority is accorded to environmental consideration in the Government's procurement process.

Regarding technological researches on the environmental front, in addition to the Government, the Science Park has also participated in such researches for quite a period of time in the past. For example, this year, the Hong Kong Science and Technology Corporation has designated green technology as one of the five technology groupings for promoting the use of renewable energy in Hong Kong and the development of environmental industries. The development of thin film photovoltaic mentioned earlier on is one of such undertakings. We hope that new developments of this kind could encourage more energy-saving environmental projects and technological researches to be carried out in the Science Park.

Some Members, including Ms Audrey EU, opined that the Government should co-operate with the various fund bodies, universities, as well as other non-government organizations or the private sector to promote researches in environmental technologies. As a matter of fact, since its establishment in 1999, the Innovation and Technology Fund has already given support to more than 40 environment-related projects, involving a total amount of subsidy exceeding \$70 million. The University Grants Committee has also allocated \$20 million in 2007-2008 to participate in this work. With the capital injection received

recently, the Environment and Conservation Fund has also provided assistance to technological research projects. It is my hope that our efforts in this respect can facilitate the development of technological research. In particular, we hope that the small and medium enterprises can achieve more in the field of technological research.

Just now Mr CHEUNG Hok-ming asked if Hong Kong had any comprehensive certification and award schemes to help enterprises to set a good example. In fact, last year, the Government combined the various environmental award schemes of the community into the Hong Kong Awards for Environmental Excellence, and the first prize-awarding ceremony was just held last month. We are currently promoting the next round of the awarding scheme, in the hope that we can identify more actual examples to demonstrate that there are indeed enterprises putting in efforts in this respect and have won the recognition of the community.

I am very glad that Ms Cyd HO talked about green economy, and particularly green financial services, in her speech just now. In addition to the traditional environmental trades, these are in fact some of the business opportunities that green economy may bring about. Or perhaps some of the industries that Hong Kong has been doing very well in, such as the financial industry and tourism industry, may also be involved. And that would of course include green financing. As I have mentioned at the beginning, we are in fact doing rather successfully in the clean production schemes subsidized by the Government. In addition to the matching fund provided by the Government, we have also secured the agreement of five local banks to offer green loans, so that the loan applications submitted by participating factories for renewing their plant and machinery could be considered on a green basis as well.

Secondly, just now I also mentioned that regarding the clean development mechanism (CDM), which is a newly emerging economic activity, we have successfully strived for the eligibility of Hong Kong-owned enterprises to participate in CDM projects on the Mainland. With Hong Kong as a channel for entering the market, we believe we can provide a lot a business opportunities in this regard. And as I have also mentioned just now, about one-third of the world's CDM projects involves the Mainland, which may give rise to business opportunities amounting to some US\$80 billion annually.

Thirdly, the recent development in the CEPA has also allowed Guangdong Province to permit Hong Kong-owned enterprises to promote environmental services on the Mainland. This can be regarded as an emerging trade. In addition to enabling the companies concerned to provide green consultancy services in Hong Kong, we can also open up Guangdong Province as our new market.

These developments have led us to the "centre for carbon dioxide emission trading" referred to by both Mr CHAN Hak-kan and Ms Audrey EU. In this connection, we are glad that the Hong Kong Exchanges and Clearing Limited (HKEx) has completed the study of futures trading contracts in this respect, and is ready to embark on new development in this direction.

I understand that the HKEx plans to conduct public consultation on the market for certified emission reduction futures in the later part of the year. I believe that by co-ordinating the various efforts mentioned just now (such as efforts in the field of CDM), we can open up a new horizon for the work on carbon dioxide emission.

Regarding the suggestion of establishing an advisory committee on green economy, I believe Honourable Members would urge the Government to accord attention to this issue in a more comprehensive manner. As a matter of fact, the six economic areas where Hong Kong has a competitive edge proposed by the Task Force on Economic Challenges in April already include the environmental industries. The Government will also discuss this subject with the relevant trades to see whether we can expand the spaces of the green industries and attract more participation. I believe that the many constructive opinions raised by Honourable Members in this debate today will help consolidate the Government's belief that green economy is conducive to developing economic opportunities.

Regarding the subject of cross-boundary co-operation, both Mr Andrew LEUNG and Mr Jeffrey LAM have pointed out the importance of such co-operation. In fact, as I have mentioned before on some similar occasions, while the co-operation between the Government and the Guangdong Province, particularly the Pearl River Delta region, in the past was to join efforts to deal with pollution problems, such co-operation has evolved and we are now sharing the hope of jointing efforts in a sustainable manner. The past proposals on clean production, clean energy, as well as recovery and recycling were all joint efforts

in this direction. Besides, both parties also hope to develop a region like the "greater Pearl River Delta green quality life region" referred to by Dr Raymond HO earlier on. Actually, we have also been making use of resources in an interactive manner, whereby Hong Kong will put in resources to encourage the Hong Kong businessmen operating on the other side of the boundary to engage in clean production. On the other hand, the resources deployed by the Mainland side are no less than Hong Kong's. We hope that through these opening-up efforts, we can establish a platform (including the CEPA and CDM efforts) for achieving cross-boundary environmental improvement and developing new economic opportunities.

Having summarized the issues and views raised by Honourable Members, I believe the objectives of the Government and Honourable Members basically converge. We all hope that the Government can make use of policies, legislation and resources allocation to mobilize enterprises, the public and even the community as a whole to forge ahead together. It is my hope that rather than focusing solely on Hong Kong, the development of green industries will extend into Guangdong Province through the co-operation between Hong Kong and the Pearl River Delta region, so as to bring our competitive edge into play. Under this premise, I hope that in addition to creating more business opportunities, we are really able to build a greener and better environment.

Thank you, President.

**PRESIDENT** (in Cantonese): I now call upon Mr Andrew LEUNG to move his amendment to the motion.

**MR ANDREW LEUNG** (in Cantonese): President, I move that Mr Alan LEONG's motion be amended.

**Mr Andrew LEUNG moved the following motion: (Translation)**

"To add ", the Financial Secretary has proposed in the Budget this year that promoting investments and economic activities that protect the environment and save energy will put the overall economy on a more sustainable path," after "That"; to add "and reduce the costs of energy and

materials of the community and enterprises" after "create employment opportunities"; to add "and enhance Hong Kong's competitiveness" after "in the environment"; to delete "and" after "current year,"; and to add "; (e) providing greater economic incentives and more encouragement to attract the transportation industry and the public to use electric vehicles; (f) expeditiously introducing a financial assistance scheme to assist local property owners and enterprises in formulating energy-saving targets and undertaking initiatives to reduce carbon dioxide emissions; and (g) organizing the environmental services sector and the recycling industry in Hong Kong and increasing the assistance for them, so as to provide employment opportunities for low-skilled workers; considering establishing social enterprises to provide environmental and recycling services, and providing subsidies and appropriate complementary arrangements for such enterprises, with a view to fully maximizing the benefits of the EcoPark " immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Andrew LEUNG to Mr Alan LEONG's motion, be passed.

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

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Mr CHAN Hak-kan, as Mr Andrew LEUNG's amendment has been passed, I have given leave for you to revise the terms of your amendment, as set out in the paper which has been circularized to Members. When you move your revised amendment, you may speak up to three minutes to explain the revised terms in your amendment, but you may not repeat what you have already covered in your earlier speech. You may now move your revised amendment.

**MR CHAN HAK-KAN** (in Cantonese): President, I move that Mr Alan LEONG's motion as amended by Mr Andrew LEUNG be further amended by my revised amendment.

President, as I have fully explained in my speech the revised terms in my amendment, I have nothing more to add. Thank you, President.

**Mr CHAN Hak-kan's further amendment to the motion as amended by Mr Andrew LEUNG: (Translation)**

"To add "; (h) establishing an emissions trading platform and expeditiously enacting relevant legislation to develop Hong Kong into a centre for emissions trading; (i) formulating a certification mechanism and labelling scheme for green products; (j) adopting more pro-active measures to strengthen the conservation of natural environment, as well as further developing Hong Kong's ecotourism through effective tourism management; and (k) making optimal use of the restored landfills to facilitate the production of renewable energy and promote the development of other environmental enterprises in Hong Kong" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Mr CHAN Hak-kan's amendment to Mr Alan LEONG's motion as amended by Mr Andrew LEUNG be passed.

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

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Mr KAM Nai-wai, as the amendments by Mr Andrew LEUNG and Mr CHAN Hak-kan have been passed, I have given leave for you to revise the terms of your amendment, as set out in the paper which has been circularized to Members. When you move your revised amendment, you may speak up to three minutes to explain the revised terms in your amendment. You may now move your revised amendment.

**MR KAM NAI-WAI** (in Cantonese): President, I move that Mr Alan LEONG's motion as amended by Mr Andrew LEUNG and Mr CHAN Hak-kan be further amended by my revised amendment. President, I have no supplementary remarks to make.

**Mr KAM Nai-wai's further amendment to the motion as amended by Mr Andrew LEUNG and Mr CHAN Hak-kan: (Translation)**

"To add "; (l) complementing the promotion of green economy through policy changes, including, in the transport aspect, providing subsidies for franchised bus companies to replace old vehicles; (m) providing relevant facilities for the introduction of electric vehicles, including providing adequate charging apparatuses and constructing plants for manufacturing vehicle batteries; (n) operating the EcoPark in the mode of an industrial estate, flexibly adjusting the areas of lands for lease according to the needs of the applicants, and leasing the lands at low rents so as to attract investors in the environmental protection industry; and (o) encouraging the development of a waste recovery economy, establishing a licensing regime for waste collectors and providing operation space, tax concession

as well as technical support for waste collectors" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Mr KAM Nai-wai's amendment to Mr Alan LEONG's motion as amended by Mr Andrew LEUNG and Mr CHAN Hak-kan be passed.

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

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Dr Priscilla LEUNG, as the amendments by Mr Andrew LEUNG, Mr CHAN Hak-kan and Mr KAM Nai-wai have been passed, I have given leave for you to revise the terms of your amendment, as set out in the paper which has been circularized to Members. When you move your revised amendment, you may speak up to three minutes to explain the revised terms in your amendment. You may now move your revised amendment.

**DR PRISCILLA LEUNG** (in Cantonese): President, I move that Mr Alan LEONG's motion as amended by Mr Andrew LEUNG, Mr CHAN Hak-kan and Mr KAM Nai-wai be further amended by my revised amendment. I have nothing to supplement.



**Dr Priscilla LEUNG moved the following further amendment to the motion as amended by Mr Andrew LEUNG, Mr CHAN Hak-kan and Mr KAM Nai-wai: (Translation)**

"To add "; (p) establishing an 'advisory committee on green economy' and appointing representatives from different industries to sit on it, turning the notion of green economy into different types of front-line jobs so as to create more employment opportunities, and assisting the entire population in boarding the express train of green economy; and (q) enhancing education and publicity to instil the concept of green living in the public" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Dr Priscilla LEUNG's amendment to Mr Alan LEONG's motion as amended by Mr Andrew LEUNG, Mr CHAN Hak-kan and Mr KAM Nai-wai be passed.

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

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Mr Alan LEONG, you may now reply and you have two minutes forty seconds. This debate will come to a close after Mr Alan LEONG has replied.

**MR ALAN LEONG** (in Cantonese): President, first of all, I would like to thank Members for their enthusiastic response in speaking up about this motion, and it is my wish that the Secretary would realize the fact that Members' response is, to a certain extent, triggered by the failure on the part of the Financial Secretary in specifying concrete ways to implement the Green New Deal in the Budget.

I also hope that the HKSAR Government would understand the reasons why the United Nations is vigorously promoting the Green New Deal: this is a way through which we may kill two birds with one stone. We are now facing with the problem of having to strive for economic advancement even though our Planet Earth is really sick. How can we revitalize our economy on one hand, while relieve Mother Earth of its sickness on the other? Green economy seems to be the solution. Therefore, President, vigorously promoting green economy seems to be the consensus of governments of a lot of places in the world.

Let me briefly explain the computation of the amount of \$30 billion put forward by the Civic Party today. According to the suggestions made by the United Nations, developed areas are recommended to spend 1% of their Gross National Product to promote green economy. Applying the formula to the situation of Hong Kong would give us an investment of about \$36 billion in two years and this is how we derive the amount of money required. Apart from curing the illness of our Planet Earth, it is also estimated that 87 000 job vacancies will be created with the sum, thus producing some fruitful results.

Finally, I would like to spend a minute to advise the HKSAR Government that this is not a mission to be fulfilled by our Secretary Mr Edward YAU alone. Members of this Council agree unanimously today that in order to have the mission achieved, synergy in terms of management within the Government is required with complementary measures put in place in various bureaux and departments. It is hoped that the Administration would respond timely and appropriately to Members' consensus today. Thank you, President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Alan LEONG, as amended by Mr Andrew LEUNG, Mr CHAN Hak-kan, Mr Kam Nai-wai and Dr Priscilla LEUNG be passed.

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

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Motion for adjournment.

Under Rule 16(6) and (7) of the Rules of Procedure, I determine that if at the expiration of 75 minutes from the moving of this motion, there are still Members who wish to speak, I shall extend the period of the debate until all Members who wish to speak have spoken, and the designated public officer has given his reply.

As regards the speaking time, each Member may speak for up to five minutes, and the designated public officer making a reply may speak for up to 15 minutes.

**PRESIDENT** (in Cantonese): It is now 8.01 pm, the debate shall now proceed.

Members who wish to speak will please press the "to speak" button.

**PRESIDENT** (in Cantonese): I now call upon Mr LAU Kong-wah to speak and move his motion.

**MOTION FOR THE ADJOURNMENT OF THE COUNCIL**

**MR LAU KONG-WAH** (in Cantonese): President, I move "That this Council do now adjourn for the purpose of debating the following issue: Commencement of the Independent Police Complaints Council Ordinance."

President, actually there is just one purpose for scrutinizing this piece of legislation: that is to enable a date to be set for the new public body, the statutory Independent Police Complaints Council (IPCC), to commence its operation, and that date is on the first of June. Originally, the Government had proposed an earlier date. Nevertheless, when we formed a subcommittee to study it, members were very concerned during the scrutiny process as to whether this new statutory body would be provided with sufficient resources to support its members and its future secretariat and be able to conduct monitoring and operate independently, thereby enhancing public's confidence in this new institution. Therefore, when the Government first submitted the legislation to the Council, we all considered that the relevant commencement date should be deferred. The Government then had accepted good advice and proposed a new timeframe. Members consequently still focused on whether sufficient resources would be provided to the new institution by the Government when they further scrutinize the legislation. Surely, many members still expressed concern about its future operation and might not consider that the new independent institution would be able to have full independence in operation. However, its principal ordinance had already been passed anyway, and we very much hoped that the institution could be established as soon as possible. We had invited the existing IPCC's Chairman and Secretary to attend the subcommittee's meeting in the Legislative Council to brief us on its operation in the future. In fact, we saw that the Government resources available to IPCC as well as the resources provided to the teams to be set up in the institution would both be enhanced. If the resources are found to be insufficient in the future, more can be bid for in next year's budget.

President, members shared a consensus that this IPCC would be able to have a new image. Therefore, I would like to talk about some expectations here. First of all, regarding the new IPCC members, there may be 18 new members in future and some of them may be retained members. We very much hope that the new council will not just have honorary functions but do solid work. We expect the workload involved will be heavy, and that is why we hope members of the new term, that is to say, members of the new institution, will be able to invest

sufficient time in their work and think independently as well as inquire indefatigably and thoroughly in pursuing certain cases in order to establish IPCC's creditability.

Secondly, it is about expectations of the observers. There are quite a number of observers. According to past records, the intention of introducing observers was good, especially in regard to conducting checking or observation on surprise basis with a view to monitor the course of interviews without prior notifications. Nevertheless, the past records show that no such observations have ever been carried out. Therefore, we very much hope that in future the new observers will make their best efforts and use the power endowed by the law to conduct more surprise observations as far as possible.

Thirdly, it is about expectations of its Secretariat. The IPCC Secretariat has been staffed by civil servants all along. Yet IPCC will appoint its Secretariat staff through open recruitment after its establishment as an independent institution. I hope those non-civil service staff of its Secretariat will be able to work dauntlessly.

Lastly, it is about expectations of the Government. When we scrutinized the principal Bill of this legislation in the past, Members had suggested many views on the new institution to be established and earnestly identified several areas for improvement. There are plenty of such views and areas. I hope the Government will collect those views and make a relevant summary for information of IPCC members of the new term, enabling them to note the Legislative Council Members' expectations of the new institution. Thank you, President.

**Mr LAU Kong-wah moved the following motion: (Translation)**

"That this Council do now adjourn for the purpose of debating the following issue: Commencement of the Independent Police Complaints Council Ordinance."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That this Council do now adjourn.

**MR RONNY TONG** (in Cantonese): President, the former IPCC had given people an impression that it was an inadequate body all along. Now that a new ordinance has been enacted, making that organization appears to be enjoying a higher degree of independence. Nevertheless, it still will be an inadequate institution after all.

President, the first point I would like to mention is that it has been stipulated in the relevant Ordinance that the IPCC will observe, monitor and review the handling and investigation of reportable complaints by the police, and make recommendations in respect of the handling and investigation of such complaints. However, the most regrettable thing about it — excuse me, not the most regrettable, but one of the regrettable things, is that it will not be able to handle cases which have not been submitted. At the district level, I once received a case which complained that the police had been pursuing an investigation for as long as two years but without any results, and the complainant even had to give statement again due to the fact that during the course of investigation the responsible police officer had been redeployed to another post. The complainant had lodged a complaint to the Complaints Against Police Office (CAPO). However, the police officer taking statement from him in the CAPO was also the very same one responsible for the relevant investigation case previously, making it truly difficult for the complainant to believe that his case would be handled in an objective and impartial manner.

Another unacceptable shortcoming is that the reviewing and monitoring by the IPCC will be confined to the reports submitted by the CAPO only, and the IPCC will not be able to supervise the quality of investigations carried out by the police officers. A family member of a deceased individual had complained that the police did not conduct a careful investigation into the cause of death of the deceased person, and for two years had not advised him of any outcome. The case file had already been closed. Since nothing had been done on it for years, even the evidence could no longer be obtained. When the complainant made a request to give statement, the police refused it on the basis that he was not personally aggrieved. He then lodged a complaint with the CAPO. However, the police officer taking statement from him in the CAPO was actually the superior of the police officer being complained against, that is the so-called officer "the file". This is just beyond our imagination: how would the police officer concerned provide evidence which would be useful to the complainant in the complaint against himself and the Police Force? Had it not

been for the complainant's insistence on lodging the complaint and giving statement, the whole case would not have been re-investigated and submitted to the former IPCC for vetting. Nevertheless, it is hard to imagine how much time the complainant had to spend on it and how much pressure had been imposed on him.

And of course the most serious shortcoming is that essentially the IPCC will not be able to conduct any independent investigation and the scope of the overall system is limited to investigations on police officers by their own peers. The investigations by the police have always been like that: if there are disputes over the facts in a case, no one can make independent judgment on it. That is to say, the complaint will be rejected as non-substantiated so long as the statements given by one side do not tally with those given by the other, and being non-substantiated means it will make others think that it actually is the complainant's fault. President, this is not a convincing mechanism at all.

President, can we persuade the Hong Kong people that our Police Force, being the finest in Asia, will never make a mistake; and that if they do make one, they will always admit it and accept the relevant judgment? President, we cannot.

Therefore, if we want to have a truly independent organization here, the Ordinance must be revamped anew in its entirety and the whole system be re-designed. Nevertheless, President, there is nothing we could do. It is impossible for us in this Council with very restricted powers to do anything to such an unfair system, to put forward any proposals, or to request the Government to adopt any measure. All we could do is to continue to condemn the Government for not establishing under this system for monitoring the police a trustworthy and independent organization that can really perform monitoring functions.

Thank you, President.

**DR PRISCILLA LEUNG** (in Cantonese): President, I wrote to the Chief Executive on the 16th of April, suggesting that regarding the incident of opening fire at a Nepalese, it would be desirable to give consideration to establishing an independent commission of inquiry to inquire into the incident; or at least to

invite some independent members, such as legal academics, to join in the police's investigation procedure.

The Chief Executive gave me a formal reply on the 4th of May, and in paragraph two of the reply it is mentioned that "police is investigating the incident in accordance with the relevant legislation and regulations and will comply with the Coroner's request of adopting appropriate measures to ensure that the investigation will be conducted in an independent and impartial manner. The police will submit a detailed report to the Coroner upon completion of its investigation."

President, what I would like to talk about today is that regarding the procedure, we probably will not have much dispute on the part concerning the Coroner at this stage. I believe what is going to cause disputes is the police's indication that it will ensure its investigation to be independent and impartial, that is the part involving the submission of a detailed report to the Coroner. Frankly speaking, I personally think that no racial issues may actually arise from that incident of opening fire at the Nepalese. Rather, the problem lies in the police's handling of such cases. Could the police handle such cases in a better way in future?

In fact, this incident reveals the anxiety among people of different races, and of course there are still many areas for improvement in Hong Kong when talking about racial issues, especially concerning the Nepalese community. Their organizations have been neglected, or they have been neglected in the aspect of harmonizing the society. And as a result the deceased Nepalese had been lacking care and attention while he was living as a vagrant for two years. However, we do not have the time to discuss that problem today.

Our Police Force may ..... I consider that if trying to be fair, the Police Force may actually submit impartial findings of their investigation to the Coroner, without any bias to any party. Nevertheless, with regard to the procedure .....

**PRESIDENT** (in Cantonese): Dr Priscilla LEUNG, is the content of your speech related to the topic under discussion?



**DR PRISCILLA LEUNG** (in Cantonese): Yes, I am going to arrive at my point very soon. This is because it is very important, in the end, it is about this ordinance: I hope the Government will consider our views in future in order to further improve the Independent Police Complaints Council Ordinance (IPCC Ordinance).

Therefore, although the police might have been conducting an investigation in an impartial manner, there may still be people who consider that the police have been biased at the end of the day. In that regard, with respect to the system in future, introducing an independent investigation mechanism definitely is the direction we should consider. No matter the findings of such investigations are favourable to the Police Force or not, the community is going to accept them; and there will be much fewer challenges made against the credibility of those investigations in the future. Just like in this case where the incident has become one involving racial issues, I consider it unnecessary and not worth it. Besides, it may also lead to racial antagonism. I think in that regard, the Police Force must conduct a comprehensive review of the system for itself and the community.

Regarding the IPCC Ordinance, I basically think that it is difficult for us to debate on its specific details. Nevertheless, with regard to the direction, I very much hope the Government will consider it that if it is impossible to introduce an independent investigation mechanism, the Police Force should think about improving its internal investigation practice and enhancing the credibility of the report to be submitted to the Coroner's Court. In that case, it might be helpful to invite some independent members to join in. Moreover, I also think that the future direction should include some sort of independent investigation mechanism as it could better resolve the problem. Thank you, President.

**MS CYD HO** (in Cantonese): The enactment of the IPCC Ordinance had kindled hopes of the civil society that a truly effective monitoring mechanism would be in place to prevent policemen from abusing their powers. However, as usual, the result is disappointing. Not only is there no substantive change in its powers, there is also no increase in available resources. Actually, what needed to be studied this time was the commencement date of the Ordinance only. Then why did we hold a number of meetings for it? This is because we must examine the relevant administrative details which could not be set out in the legislation.

Nevertheless, according to the information we found during our scrutiny, we really cannot be optimistic about it.

During the scrutiny of the principal legislation in 2008, the Chairman of IPCC proposed that resources and manpower be increased. His suggestion is just a humble increase of six staff, but eventually only three additional staff are to be added, expanding the number of its vetting teams from three to four. Although this represents a one-third increase, the amount of workload the teams have to take on is shocking. In 2008, for instance, the IPCC as a whole handled a total of 2 500 cases, and 1 100 of them required further investigation. Since there will only be four vetting teams, and there are only 230 working days in a year excluding the holidays, that means each team will have to handle nearly three cases a day. Moreover, 40% of the cases will require further investigation. How can they launch investigations? In view of such limited manpower and resources, many complaint cases will often be forgotten after being referred to the statutory IPCC. Therefore, we have been very concerned about how the statutory IPCC will prepare its estimates submission in the future.

At present, the IPCC as well as the Police Force are placed under the financial envelope of the Secretary for Security. In other words, the Secretary for Security has to attend to the needs of both his left hand, that is the IPCC, and his right hand, the Police Force, at the same time. This is tantamount to requiring the Secretary to hit his right hand with his left hand. What should he do if there is inadequate funding? Will he simply use funding allocation as a means to tie up his left hand when he does not want the IPCC to do anything? Therefore, we several Members from the democratic camp had hoped that the IPCC could have its independent budget. This of course did not materialize as we hoped. The officials attending the meetings had advised that in the future the Secretary-General to the IPCC could directly attend the Star Chamber, the high-level forum responsible for the preparation of the budget, and brief the Financial Secretary direct on the IPCC's estimates of expenditure. Although this arrangement is not satisfactory, we can tell the Secretary that Members like us who are concerned with the handling of complaint cases by the police will definitely follow up this issue carefully in the Annual Budget.

Of course, although it is not satisfactory, attending the Star Chamber by the Secretary-General of the statutory body appears to be the only practicable arrangement at the moment. However, we also worry about the mentality of the

Secretary-General. While the Secretary-General will be employed by open recruitment, the Secretary attending a meeting in the Legislative Council last month, who represents the existing IPCC, is still a civil servant. We are deeply concerned about her mentality and attitudes because she still thinks in the way of preserving the powers of the Government, without shifting attention to protecting the rights of the people yet. Even though in the future the Secretary-General to the statutory body will be able to attend the forum directly to brief on the needs in relation to its budget, we are not convinced that the current Secretary is committed to protecting the rights and interests of the people.

President, the whole society would have to pay a high price for the collapse of a complaint mechanism, as can be seen from the fact that there are aggrieved persons applying for legal aid in order to file a case against the Government, rather than bothering to lodge complaints with the CAPO. This reflects that people have absolutely no confidence in the CAPO, or even the IPCC or the statutory IPCC. Therefore, if the Administration does not review this Ordinance again as soon as possible and submit legislative amendment proposals to enable us to consider carefully what powers are to be increased to monitor the problem of police abuses, no matter how many statutory bodies we have, they will exist in name only, or will even just be a waste of public money. Thank you, President.

**MR ALBERT HO** (in Cantonese): President, given the limitation of the IPCC's existing system and powers, we all know that the IPCC is facing a stubborn CAPO which always has a self-protective mindset, so we do not have much expectation for it. I even think that it can hardly achieve anything. Although it will begin its work after the commencement of the Ordinance, I still would like to raise a few points and see how things will develop in the future.

First of all, I hope that the IPCC's Independent Secretariat and Secretary-General can really fulfil certain functions. It is our expectation that the openly recruited Secretary-General not only possesses legal knowledge, but also have definite experience in the operation of disciplined services. Of course, the salary offered should be more reasonable, but it is never easy given the limited resources. As such, we really hope that the Government can allocate additional resources, otherwise it will not be able to recruit a suitable person.

Secondly, Members are aware that current cases are classified by results, that is, complaints can be substantiated, not fully substantiated or unsubstantiated. This method of classification is rather general. The greatest problem is: What effect will the results really produce as far as the complainants are concerned? As we all know, even if the case is substantiated, the subsequent action may be issuing an oral warning, putting the case on record or not putting it on record, or a disciplinary proceeding may be instituted. However, regardless of what the ultimate outcome of the proceeding may be, complainants will know nothing under the current procedure, and in the end they will not be notified of the result. It is absolutely unacceptable and unfair. In accordance with the Victims of Crime Charter, complainants should have the right to know. We hope the IPCC can ensure that complainants have access to the relevant information. This is the most fundamental requirement, not to mention whether it is satisfactory and fair. He should know the result. Where there is a disciplinary proceeding, he should also know what its outcome is.

As we are aware, the IPCC's powers are very limited, with no independent investigative powers at all. However, it at least has some limited powers, such as interviewing witnesses and occasionally sending observers. I hope it can fully exercise these powers and make every effort to perform its monitoring role.

It is our hope that, as Honourable colleagues have said just now, the observations can be carried out not on a pre-arranged basis, that is, observers can monitor how the IPCC investigates complaints made by complainants on a surprise basis. I believe full co-operation from the police is required in this regard, because I am given to understand that some observers have to wait for a few hours upon arrival before any arrangements are made. It is not only a waste of time, but also makes people feel that they are not being respected, or even have the feeling that they are being treated with disdain by the police. In such a circumstances and atmosphere, how can these observers fulfil their function?

If the IPCC can interview witnesses, it should make full use of this power to assist in finding out the facts. We are aware that the investigative powers are in the hands of the CAPO, and in accordance with the law, it is clear that the IPCC has the power to request the CAPO to file the information concerning the facts found during investigation, including the factual findings of the investigation and the grounds or evidence on which they are based. It is very

important. So, if the IPCC can interview witnesses, this will help to ensure that the CAPO will work seriously to find out the truth.

I agree with a point just raised by Mr Ronny TONG that a number of cases have been investigated for many years, but the truth cannot be found. Therefore, I think if the IPCC has any views, it should make its views known to the public. Even if its views are not accepted by the CAPO, it should also let the public know. I so submit.

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

**MR JAMES TO** (in Cantonese): President, the IPCC is an organization with "no's": it has no power to investigate, no power to make decisions and no power to impose sanctions. Thus we can see that it is useless.

President, why does the IPCC come into existence? This is because the CAPO is not independent of the Police Force. Let us look at the recent situations. Today we discuss the IPCC Ordinance here and put forward our views. Nevertheless, two Honourable colleagues who are the Vice-Chairmen of the IPCC are not in the Chamber now. How far are they concerned about it? Just like what Ms Cyd HO said, the Secretary is still a civil servant, and her post is included in the transition arrangements. Nevertheless, at the meetings of the subcommittee formed to study the commencement notice, the Secretary had been very nervous and sought opinions from the Deputy Secretary for Security on everything. She was so nervous on anything that all she knew was looking at the Deputy Secretary, not daring to say a word. What kind of a mentality does she have? Is she actually protecting the people? Whom does she consider to be the boss: the current Chairman and members of IPCC or the Deputy Secretary for Security?

The IPCC Chairman of the last term, when he was about to leave the office, had commented that the whole police complaints system was only for the protection of the police and for sweeping cases of injustice under the carpet. Look at how smart the members of the IPCC are: they have succeeded in discovering so many such cases. They had carefully studied the Ordinance, the most thorough study that had been carried out over the years, and had made

several suggestions on its budget estimates, but their suggestions were not accepted. Nevertheless, when attending a meeting of the subcommittee of the Legislative Council, the IPCC Chairman of the current term boldly claimed that all could be done with the existing level of resources provided. The former Chairman had taken up the office for more than four years and he is the one most familiar with the system. However, he was not retained during the comprehensive transitional arrangements, while the new Chairman claimed that everything could be done. How much faith can we have in this Chairman?

President, even recruiting a man of ability to vet a CAPO's report which is lacking independence may lead one fall into a trap at any time. In establishing a skeleton staff for the IPCC, we need talents who are more sagacious, not Executive Officers and Senior Executive Officers employed under the current pay standards, as no talents who are really smart and intelligent could be recruited in this way. We are bound all over by the system. And just as what the IPCC chairman of the last term has said, this is simply not the way to find out the truth.

How does the IPCC convene a meeting with the CAPO? Their meetings are closed and the agendas must first be discussed and agreed by the CAPO. And according to our understanding, the CAPO designates some agenda items as the open part of a meeting each time to enable the public to vent their grievances against it. Such an arrangement also enables the CAPO to express its views and claim some credit before the public. This is the situation now. Worse still, some Honourable colleagues have just put up a show of pretence a while ago and uttered something which even they themselves do not understand, that is claiming that people outside the Government will be recruited as staff for the statutory IPCC. What really are they talking about? President, we have been discussing the issue for years and it is not a problem for us who have not been a member of the subcommittee, since we can still get the picture by reading the relevant documents.

President, the statutory IPCC to be established on 1st of June is just a piecemeal remedy to a flawed and defective system. Under such circumstances, we will not be able to get justice.

President, I consider that Honourable colleagues should do our best to convey the view that the CAPO must be independent. If not ..... a motion passed recently by a committee under the Panel on Security of this Council —

sorry, a motion passed by the Panel on Security requests that independent inquiry be undertaken for the incident of opening fire at a Nepalese. I think that independent inquiries should be conducted on all cases, not just on this one. Nevertheless, even in an extreme case like this one, the investigation on the police officer concerned is to be carried out by his peers under the current system. What else can we say about it?

**DR JOSEPH LEE** (in Cantonese): President, first of all, I declare my interest as being one of the serving Vice-Chairmen of the IPCC. Of course, there is also another Vice-Chairman who has newly joined. I believe that I may claim myself as being senior among the three Vice-Chairmen, although I have only served for just over one year.

The Secretary should be well aware of the doubt and inadequacies that my colleagues have just raised in their speeches about the IPCC, as these had already been voiced when the legislation on the IPCC was deliberated in the last Legislative Council term. I have served on the IPCC for over one year. Is the IPCC a "useless" body of "three have-nots"? If it is, I will be a useless person. Of course, I do not know whether or not I am a useless person, but based on my experience of serving on the IPCC, the biggest function of the IPCC, as a body without statutory powers, is to monitor whether the Complaints Against Police Office (CAPO) has properly handled incidents or cases of complaint against the police. Surely, during my service with the IPCC before 1 June, I found something dissatisfying. For example, we found that a specific case should not be handled in a particular way, or although being doubtful, we felt that nothing could be done about certain cases. We did not have any statutory power to order the CAPO to reinvestigate the cases or even request the return of all information, or exercise the statutory power to request the Commissioner of Police or the Secretary to reinvestigate them. All these could not be done.

However, my IPCC colleagues have in fact worked very hard to examine each case. I dare not say that I am quite familiar with the operation of the IPCC, but I know that when the full-time staff of the IPCC (who are now civil servants) receive cases referred by the CAPO, they would try very hard to understand the way each case is handled, the whole process and even contact witnesses, so as to find out what has actually happened and ascertain whether the CAPO has handled the incident properly. I believe that among colleagues present at the meeting, I

am not the only one having working experience in the IPCC. Other colleagues may have such experience too. If we remark that the existing IPCC is a "useless" body since the CAPO is now not an independent body for handling incidents of complaint against the police, we seem to negate the past efforts of the IPCC. This, in my view, is absolutely inappropriate.

If the IPCC really does not perform well, I believe there will not be the need for the Government to confer statutory powers on the IPCC. If, after the enactment of the IPCC Ordinance, a lot of loopholes are identified in the future, it means that we might possibly have failed to consider certain cases adequately in the course of deliberating on the legislation. It is incumbent upon the Government to plug such loopholes and confer rather comprehensive statutory powers on the IPCC to examine the complaint cases handled by the CAPO. Of course, the most ideal situation — as many colleagues have just said and I agree very much — is that Hong Kong should have an independent body to handle complaints against the police. However, with the absence of such a regime at present, is it right that the role of the IPCC should be negated? I do not agree. Of course, if such an independent body is really set up in the future, the issue of whether the IPCC should continue to exist can be further discussed by then.

A colleague has said that the IPCC and the CAPO meet only after they have discussed the cases and the meetings are closed ones. This is not the case. Here, on behalf of the IPCC, I can invite all colleagues to attend its meeting to observe its procedures. According to my experience, confrontation between the police and us is a common occurrence during a meeting as we disagree on certain cases but, in the view of the Police Superintendent concerned, we should not have such remarks. As such, is it that we have failed to fulfil our intended role? Yes, it is. Why? It is because we do not have statutory powers under the law to order them to act accordingly. Therefore, we also expect that the IPCC will be able to do better after 1 June. However, the Secretary is well aware of the problem of inadequate resources, which colleagues have also mentioned just now. For example, the recruitment of the Secretary General actually does not cost much, but will there be high-calibre people applying for the post? This issue is causing us a headache.

Moreover, Mr Albert HO and me have also raised a question in this Council: can we have full-time observers to monitor the handling of complaint cases by the police? This is very important, but unfortunately the Secretary has



evaded this issue and given no reply. Many colleagues are dissatisfied with the existing regime, but I hope that the IPCC will have a more comprehensive role to play and be able to monitor the police more easily after 1 June. Thank you, President.

**DR MARGARET NG** (in Cantonese): President, we have to keep abreast with the times. No matter it is before or after the reunification, the Police Force have many myths. When it comes to the Police Force, some common and reasonable things seem to turn into a blind alley. As what we have discussed earlier, one of the examples is that police officers are not entitled to legal representation at disciplinary hearings. Everyone or counsels can have legal representation, but police officers cannot. Why? As they are disciplined force, if they are provided with legal representation, the world will then be in disorder and all disciplinary hearings will be prolonged.

Before the unification, someone said that when taking an overview of other regions, there is no such legal representation. In 1984, Britain had no such legal representation too and it would be improper if they had. Finally, Britain could have this in 1986. Recently, the Court of Final Appeal (CFA) ruled that a ban on legal representation for the Police Force was unconstitutional. So, President, we are indeed improving. Before the unification, the Independent Police Complaints Council (IPCC) also had such a myth of not allowing Hong Kong to have another force to investigate the police independently. As a result, the IPCC has to have an independent legal advisor — I do not know if Mr James TO remembers that we had overcome many difficulties before setting up such an organization. In respect of having another team of officers to independently investigate the police, it is really not right and will certainly stir up a revolt.

Britain had no such a team in 1997, but until now, Britain had already approved a consultation paper in 2000 to restructure the IPCC, so as to make it truly independent to conduct independent investigations. As a result, Britain has set up an independent investigative body since 2004, and the IPCC will classify complaints into different levels. As for cases of simpler level, it may not be necessary to employ this independent team to conduct investigations. Also, their approaches are flexible. Sometimes, it may be regarded as management, that is to be responsible for management and administration, but it will also call on the Police Force to assist in investigations; sometimes, when conducting

independent investigations, it may fully employ a team of non-police officers, or make use of the cooperation between the two, that is involving external parties and the police. There are many flexible handling approaches. So, we cannot say that there is no such practice around the world, so we cannot have it, otherwise the world will be in disorder. Before the unification, someone said that the Hong Kong-British Government was afraid that the police would rise in revolt. Now, what are we afraid of?

President, of course, we cannot assume that we can do anything with the independent investigative power or an independent investigating team. This may not be the case. Recently, I looked into the development of the IPCC in Britain. It was only until 2007 that it had such independent investigations. Moreover, the British counsels are not entirely satisfied with the IPCC, because they are dissatisfied that it is not independent enough. Therefore, many counsels have expressed their view that they are unwilling to provide assistance, and are of the opinion that it has no creditability. However, Secretary Mr Ambrose LEE should never say that approach of other people is not so good, so our approach is not too bad. We cannot handle matters in this way. Even if the others' performance is not good, we can still perform well. But, what has happened to the others? They can be more and more transparent, as well as more and more independent. When they have deficiencies, their civil society, regardless of people in the legal sector or others, will protest and criticize. And, every time, they will move a step forward as a result of those criticisms.

President, after many Honourable colleagues have made such criticisms here today, I hope this will make the authorities to move one step further, instead of conversely saying that since other people are not very good, so we are not the worst. President, making these remarks is the biggest insult. There is no greater sorrow than despair. We should have confidence in ourselves, so that we can do better. Thank you, President.

**MR LEUNG KWOK-HUNG** (in Cantonese): President, it would be good if Secretary Ambrose LEE had the same attitude towards his own remuneration. It would even be best if he thought he could also take a pay cut. These are two types of logic, are they not? He is a secretary exercising semi-autocratic power, which is actually the minimum requirement for being a father-mother official. I do not choose you because parents are not optional, but you have to be kind to

your children and take care of them. I assume that he does. Yet, is he really like this? Of course, he is not, buddy.

After listening to the speech given by Dr Joseph LEE just now, I think of a tip for being a civil servant, that is, a civil servant must be seen to be doing something. Apart from that, the most powerful trick is self-hypnosis — he also thinks that he has done something himself. Something like that has to be done; otherwise, he will feel bored and guilty. Most of the people at the IPCC also think that they themselves have done something. However, let us have a look at its system: it neither has any independent investigative power, nor any independent power in requesting the CAPO to conduct investigation for once more time. Come to think of it, in the case of controlling someone, President, for example, should be able to control me, but how can he really control me if he cannot rule that I must get out after giving my speech here? This is the same case for the Secretary. While I can now speak hastily, he cannot say, "LEUNG Kwok-hung, get out!" This is because he does not have this power. Without any power, how can the IPCC monitor the CAPO? There will be no consequence. Even if it does not perform its work according to guidance, this point can only be raised causally. May I ask if this system is corrupt? I think it is extremely corrupt.

The great failure arising from the corruptness of the British Hong Kong Government prompted university students to take the lead to "combat corruption and apprehend Peter GODBER". As such, the Government was forced to set up the Independent Commission Against Corruption (ICAC). Corruption is of course an unacceptable behaviour. However, as a state apparatus and a perpetual motion machine, it has the opportunity of restraining human rights perpetually and permanently, as well as wronging others. Is this point not important? Could it be that only those involving money are to be restrained? If it can wrong others, does that mean human rights are valueless? It is also possible that it will go back to the old path of corruption on the strength of its excessive power caused by the decline in human rights. We speak of guarding against gradual creeping corruption. If we think that it is necessary to fight against corruption, protecting human rights will be equally important.

Are there any countries where a decline in human rights is not accompanied by a rise in corruption, or human rights are not ruined by serious corruption? Obviously, we are in the first situation. Our corruption is under

check, yet, with excessive police powers, there will still be individual corruption and favouratism cases even there is no syndicated corruption. In fact, favouratism is extremely important as this does not necessarily involve money. For example, I know Mr Abraham SHEK who is a superintendent. When I am arrested after beating someone up, Mr Abraham SHEK demands to set me free because "Long Hair" has drunk with him since young. The situation can be like that. Of course, this may also give rise to corruption because money, rather than favour, will be used as the medium when too many people know that something like that can be done. Therefore, it is actually very simple. To sum up, the system we discussed today — the system for monitoring the police — must be reformed. One of the methods is that the police should make this department independent for the purpose of monitoring and then ask somebody to head it. Another method is that IPCC should operate like the ICAC.

People will ask: Buddy, why are so many resources wasted? We always say that Hong Kong has to become an international financial centre, and this or that city. Is it not good to be granted the human rights award? Is it not good to be granted the Asian Human Rights Award? After making observation for quite a long time, I find that the Government always hires Mr JAT Sew-tong to institute legal proceedings. I do not know for certain how many times I have lost in the proceedings instituted by him. While Ronny WONG expresses that no more can be done, Mr JAT thinks that it can still be a worthwhile thing to do. Has Ronny WONG ever instituted legal proceedings on behalf of D of J? I believe that Ronny WONG has not. Mr JAT is different from him as he has kept instituting legal proceedings on behalf of the police and D of J. Therefore, I think that (*The buzzer sounded*) ..... this is imaginable, imaginable and imaginable.

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

**MR ALAN LEONG** (in Cantonese): President, I agree very much that the police complaints system does need some improvement. However, while it is not possible for the system to be substantially improved to reach perfection in this political environment and climate, I believe we still need to do something to monitor the arms-bearing Police Force.

President, of the Members of this Council, I think I may probably be the one who has gained the most personal experience in the Independent Police Complaints Council (IPCC). I joined the IPCC in 2001 and remained as a member for six years. And for the final two years, I was serving the IPCC as its Vice-Chairman. The IPCC is not "lame"; on the contrary, it could even turn shame into fame.

I hope both the Secretary and the SAR Government do understand that the actual purpose of the IPCC is to help the SAR Government to appease the general public temporarily. This is because, and I do believe that, we will be heading towards an independent police monitoring council one day. I also believe that this objective will eventually be achieved.

However, this group of people who wish to turn shame into fame ..... I just hope the authorities will really let them play their role. If, when these conscientious people strive to monitor the police force despite the great limitation they are subject to, the authorities still imposes various restrictions on them and hinder their work, I believe even this system will go bankrupt. By then, I really have no idea who else can the people of Hong Kong reply on in order to monitor this force equipped with considerable power.

If I were the SAR Government, President, I will be extremely careful in handling the resources and power provided for the IPCC and try my best to cater for their needs. I should also trust the IPCC members fully. For it is only in this way and through such interim arrangement that the IPCC members can continue to play their role and give a certain level of confidence to the public.

Of course, President, the existing IPCC is facing certain restrictions, and just now many Honourable colleagues have pointed out where those restrictions lie. Yet despite all such substantial restrictions, if we could still help to redress the grievances of the aggrieved, never mind if we could only redress one case in a month or two, the result would still be better than not having any cases redressed at all. This was the principle which I upheld in serving the IPCC during those six years. Today, I would like to take this opportunity offered by the adjournment debate to call on the authorities once again. Actually, I have repeatedly made such calls when the Bills Committee was scrutinizing the Bill.

I hope the authorities will give the IPCC their strongest support. I also hope that if his capacity allows, the Secretary will strive to ..... say, in drafting CAPO reports, give an account of the whole picture as far as possible without hiding anything, so as to enable the IPCC to work smoothly in future. Then my goal will be accomplished.

**MR ABRAHAM SHEK** (in Cantonese): President, I wish to declare that I am a Vice-Chairman of the IPCC.

I can assure Mr James TO that I heard all the speeches made by him and other Honourable Members a moment ago. I was just outside the Chamber, listening carefully and appreciating the contents of their speeches.

President, I can tell you that I would relay the opinions, recommendations and comments made by Honourable Members to the IPCC in detail, and we would try our best to make improvement in the light of the experiences and opinions offered by all of you. I hope Honourable Members would have confidence in us because the new IPCC would have the opportunity to serve the community of Hong Kong. The members of the IPCC have indeed put in much time. President, I have not joined the IPCC for a long period of time, just for about three months. Starting from the morning of Saturday, I would spend almost half day on examining the case files. For me, the schedule for examining the case files is even tighter than reading the Legislative Council papers. It is because the work is very important and involves responsibility. The circumstances of each case are different and in every case, the complaint is invariably lodged with urgency. It is also because people would lodge complaints only when they have grievances. In this regard, each IPCC member — such as Dr Joseph LEE and me — has spent much time on the work. As what Mr LAU has said just now, he hopes the IPCC members can put in more effort and time. I believe many of us have spent much time and contributed our views in every meeting, including advising how to improve the IPCC as a whole. I believe if people have the chance to see what we have done and measured our achievements based on our score sheet, we can certainly remove the current doubts of Hong Kong people. Establishing an independent commission to investigate independently is not the only way to achieve the result we want.

Certainly, it is desirable to have a "perfect", independent commission to investigate independently, but we do not have this now, we are like children with disability born at an inopportune time. For a "disabled child", for example, he has a disability and hence some difficulty, but it does not mean that he cannot move around. If he is determined to do things with a heart, he can do anything.

I hope the Honourable Members who have spoken just now would join the IPCC as observers, so that they could offer more opinions and see how the work is done. When returning to this Council, they can tell the Government, and us as well, if they find anything wrong. We have three IPCC members here, namely Dr Joseph LEE, Dr LAM Tai-fai and me. If Honourable Members think there is anything wrong, please let us know whenever you meet us. We would convey your views at the meetings of the IPCC.

President, I think that although we have to work in an environment which is not entirely satisfactory, it is a good start after all, and the first step is often the most difficult. President, I believe that starting from 1 June, we will strive to achieve the objectives of our task. Thank you, President.

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

**MS EMILY LAU** (in Cantonese): President, I believe Mr SHEK will regret for what he has said, or as it is very late now, he may say he is not very clear-minded. President, I believe Members may also not know how many such cases there are. If Mr SHEK would like it, tomorrow I can ..... not necessarily getting a truck. He will need to spend a lot of time, and I will help him ..... If it is done for the sake of responsibility, this may not necessarily be a waste.

President, recently, that is, last week, we have already mentioned this in the debate, and I have to remind the Secretary again that this police complaints mechanism is not accepted by the United Nations. The Human Rights Committee has clearly stated in the concluding observations of its report that the SAR should establish a mechanism independent of the police to investigate complaints relating to the police, and the recommendations arising from this mechanism should be binding on the authorities. During the scrutiny of the Bill last year, the Administration made it clear that they were aware of it, but did

nothing, and they just stopped short of saying "what damn thing you can do about it". President, this expression is not foul language. It is now 9 o'clock, and needs to give such an utterance. That is the Administration's attitude, and hence nothing can be done to effect regulation.

The request now is to convert the IPCC into a statutory body with effect from 1 June. I do not think in good faith as Mr Alan LEONG does. I have no reason to believe that they will certainly do a good job in the future. On the contrary, I am worried that they are unable to do it. If they are really able to do it ..... I wish that the IPCC could really do it since members of the IPCC are all so busy. I hope the website of the IPCC will make public all information about them in the future, for example, which company they are from, in how many companies they are appointed as directors, and how many public offices they are holding and so on. To make public all information is what transparency is about, and is also what the new Chairman has agreed upon. We also need to open all meetings so that everyone can see what they are doing. We see there are so many victims, and should all their cases be referred to Mr Abraham SHEK, Dr Joseph LEE and Dr LAM Tai-fai, I wish that they would not drive these people away then. They have to honour what they have said.

The post of the Secretary-General is of D2 rank, and the Administration is requested to upgrade the rank of the post to D3. However, the Administration does not accede to this. The Secretary General of the Legislative Council Secretariat is a D6 rank post. President, even for a post at D6 rank, very often the Government do not pay any regard, not to mention one at D2 rank. So, what type of person can they appoint to the post? I have also told the new Chairman that if resources are available for recruitment, which I hope he has, he really has to engage someone with experience in investigations. Perhaps they should not engage retired police officers. But there are people who had worked in the law enforcement agencies such as the ICAC, and with the relevant experience, they should assist in the conduct of investigations. He should consider such people, shouldn't he?

Ms Cyd HO and other Members have just said that there are over 2 500 complaint cases each year. President, he has mentioned that there are more than 500 cases requiring comprehensive investigations, but they have only some 10 staff. Who knows how many meetings need to be held, and how the investigations can be conducted? He has said that there are currently three



teams of personnel, and that one Vice-Chairman will head a team of these personnel. So, is it not that a team will have to investigate 800 to 900 cases? How can this be done? I feel that these figures are really inconceivable. How can you tell the public that you have already investigated the thousands of cases very impartially and that all of them are unsubstantiated, or an overwhelming majority — over 99% — are unsubstantiated? At least they should tell us that they have enough manpower and will investigate each case very carefully, and that they will follow up the case concerned if they consider that there are problems with the police upon completion of the investigation. However, I do not think that they are currently doing so. I will not believe it anyhow as there are more than 2 000 cases, and how can this be done? They may let me know after the meeting as to how they are going to do it, but I think it is simply impossible.

Members of the public always complain to us that this system is very unfair. The complainants include sex workers, ethnic minorities, and other socially disadvantaged groups. President, sometimes you are also very concerned about the socially disadvantaged groups, who are subjected to bullying and oppression. This Ordinance will come into operation next month. Can this Ordinance really help them? I have much doubt in this regard. Nevertheless, here is the Ordinance, and as what some people have said, things are like that and nothing can be done about it. Of course they are, because it is you who have opposed the setting up of an independent investigation mechanism. I think it is really absurd for you to have said such things. However, in any case I wish that you could really do something so that we will not have so many wrongful cases.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Members have already spoken. I now call upon the Secretary for Security to reply.

**SECRETARY FOR SECURITY** (in Cantonese): President, in July last year, the Legislative Council enacted the Independent Police Complaints Council

Ordinance (IPCC Ordinance). Thereafter the IPCC has put in a lot of effort to actively prepare for the establishment of a statutory IPCC. In March this year, a notice was gazetted under the IPCC Ordinance whereby 1 June this year was appointed as the commencement date for the IPCC Ordinance, and the statutory IPCC would be established on the same day. The Legislative Council has established a Subcommittee to scrutinize in detail the commencement notice for the IPCC Ordinance and the related issues.

I am deeply grateful for the many valuable opinions made by Mr LAU Kong-wah, Chairman of the Subcommittee, and all of its members during the scrutiny of the commencement notice. I have also heard in detail the views of the Members just expressed in the debate. In respect of the views on the specific arrangements for the police complaints mechanism, quite a few have been mentioned in the past discussions and debates of this Council, and I wish to take this opportunity to explain once again the position of the Government.

Firstly, I must emphasize that in the face of the complaints by the public about the conduct of the members of the Police Force, the procedures or practice of the Police Force, it is incumbent upon us to ensure that each of these complaints are thoroughly and impartially investigated to find out the facts and see if there is any improper act committed by the members of the Police Force, and whether there is any room for improvement in the procedures and measures of the Police Force, regardless of the background of the complainants.

Following the completion of the scrutiny of the commencement notice for the IPCC Ordinance, the Ordinance will come into operation on 1 June this year, and the IPCC will officially become a statutory body on the same day. This marks a new milestone for the police complaints system in Hong Kong. The IPCC Ordinance has provided a specific legal basis for the existing two-tiered police complaints system. The IPCC, upon becoming a statutory body, will exercise its statutory powers to discharge the statutory functions of monitoring the handling and investigation by the police of reportable complaints under the IPCC Ordinance, and the police will have the statutory responsibilities to comply with the requirements of the IPCC set forth pursuant to the IPCC Ordinance. On the basis of maintaining the existing two-tiered police complaints system, the new legal arrangement will further enhance the credibility and transparency of the system.

The IPCC Ordinance has established a police complaints system with effective checks and balances under the law. The Complaints Against Police Office (CAPO) will continue to be specifically responsible for handling and investigating the complaints of the public against the members of the Police Force. The CAPO is independent of other units of the Police Force in terms of operation to ensure its objectivity and impartiality in investigations. This arrangement is also able to make better use of the expertise of police officers and their in-depth understanding of the police work to ensure that professional and thorough investigations can be conducted for the complaints. Pursuant to the functions and powers conferred by the IPCC Ordinance, the IPCC is responsible for monitoring the CAPO's investigations into the reportable complaints against the members of the Police Force. If the IPCC is in doubt as to any of the CAPO's investigations during the review of the complaint cases, it may require the CAPO to provide further explanation or reinvestigate the relevant complaint. The IPCC Ordinance also empowers IPCC members and observers to attend at liberty any interview conducted by the police in respect of a reportable complaint with or without prior arrangement or appointment, and to observe the collection of evidence by the police in the investigation of a reportable complaint.

Mr LAU Kong-wah has just mentioned that he wishes to see more of such surprise investigations. In fact, I have just checked our figures, and found that the observers have conducted more than 50 such surprise observations in 2008, representing about 9% of the total number of observations.

The IPCC Ordinance also incorporates various effective check and balance measures to assist the IPCC to play its monitoring role in full. These measures include the requirement that the Commissioner of Police must strictly comply with the requests of the IPCC. Moreover, the IPCC may make reports to the Chief Executive where it deems necessary. The IPCC may also discharge its statutory functions to disclose the matters relating to any complaint, so that the public will understand how the IPCC monitors the handling and investigation by the police of the "reportable complaints".

Some Members are of the view that an independent investigation body must be separately established or the IPCC be vested with the power of investigation so as to ensure that the complaints against the members of the Police Force are properly handled. I do not agree to such a view, and I am confident that the actual operation of the police complaints system under the

IPCC Ordinance in the future will clearly demonstrate to the public that the system itself is appropriate, reasonable and effective.

In order to complement the work of the statutory IPCC in discharging its functions to monitor the handling and investigation by the police of the reportable complaints in a more effective manner, the Government has provided the IPCC with more flexibility and greater autonomy in terms of the financial and staffing arrangements.

As regards the financial arrangement, the IPCC, as a statutory body, will be able to manage its own finance in quite a flexible manner subject to the provisions of the IPCC Ordinance. To reflect this, the financial provision for the statutory IPCC will be made in the form of a one-off vote and set out under a separate head of expenditure (namely Head 121) in the Government's estimates, and the Secretary-General of the IPCC will act as the Controlling Officer for the said head of expenditure.

In the annual Resource Allocation Exercise, the IPCC may make application for allocation of additional resources as such need arises. Any request for allocation of additional resources will be made directly to the Financial Services and the Treasury Bureau for handling without the need to go through the Security Bureau, and then submitted to the Star Chamber personally attended by the Chief Secretary for Administration and the Financial Secretary for consideration. The additional resources, if approved, will be fully provided to the IPCC. In addition, the IPCC may also apply for the allocation of contingency resources needed in special circumstances during the year.

As regards the staffing arrangements, the Secretariat of the IPCC currently is staffed by civil servants and a number of contract employees. The IPCC Ordinance empowers the statutory IPCC to employ its own staff. To enable a smooth transition, the IPCC will gradually recruit experienced staff in the market to replace the civil servants currently working in the Secretariat, and it is expected to complete the replacement of all civil servants working in the Secretariat by the middle of 2012. After the IPCC Ordinance comes into operation, the existing civil servants will stay with the Secretariat of the IPCC on secondment until the IPCC successfully recruits its own staff. The Government will continue to keep contact with the IPCC on the timetable for replacing the civil servants working in the Secretariat, and provide the necessary support.

Judging from an operational or practical perspective, the serving Secretary-General who is a civil servant at Directorate Pay Scale Point 2 will remain in office for the time being to ensure the smooth operation of the IPCC after its establishment. The Chairman of the IPCC has indicated to the Security Panel of the Legislative Council that it may make proposal for the upgrading of the rank of the Secretary-General based on the actual operational experience of the IPCC and in light of the need in the future.

The Administration has reiterated many times that it will ensure that the statutory IPCC will continue to receive the appropriate support and resources. Taking the 2009-2010 budget as an example, the IPCC will have a provision of \$28.3 million, which represents a significant increase of 71.5% as compared with the original budgeted amount of \$16.5 million in 2008-2009, and an increase of \$10.5 million or 59% as compared with the revised budget for 2008-2009. The increased provision is to assist the statutory IPCC in creating additional posts, engaging its own staff to gradually replace the seconded civil servants, meeting the operational expenses originally provided under other heads of expenditure or directly paid by government departments, and purchasing equipment and so on.

The IPCC has already updated the relevant internal procedures of the statutory IPCC for the monitoring of the handling and investigation by the police of the reportable complaints, and revised the internal administration procedures of the IPCC. The IPCC has also further enhanced the procedures and guidelines for the observation of the interviews by IPCC members and observers and the collection of evidence conducted by the police in respect of the reportable complaints. Moreover, the CAPO has also revised the internal procedures and guidelines for the handling and investigation of the reportable complaints and notifiable complaints, so as to be in line with the provisions of the IPCC Ordinance and the updated IPCC procedures.

Mr Alan LEONG has just mentioned that he wishes the Government, in particular the Security Bureau, to practically support the work of the IPCC to enable it to truly discharge its functions under the statutory framework of the IPCC Ordinance. I hereby seriously undertake that we in the Security Bureau will do its utmost to monitor the operation of the entire IPCC Ordinance, and wish to see in the future that we will definitely make the IPCC operate more smoothly and effectively.

President, the implementation of the IPCC Ordinance and the establishment of the statutory IPCC will further ensure that the complaints made by the public against the police will be impartially handled and thoroughly investigated, and the public's confidence in the police complaints system be strengthened. This will live up to the expectation of Hong Kong society.

The IPCC and the CAPO are ready to work in line with the IPCC Ordinance, which will come into operation on 1 June this year, even though some Members have different views on the police complaints system. However, I expect that you will still give adequate support for the new statutory police complaints mechanism.

Thank you, President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That this Council do now adjourn. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

## **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 11.00 am on Wednesday, 13 May 2009.

*Adjourned accordingly at twelve minutes past Nine o'clock.*

**Appendix I****WRITTEN ANSWER****Written answer by the Secretary for Commerce and Economic Development to Ms Miriam LAU's supplementary question to Question 6**

As regards the number of cruise vessels requiring interim berthing arrangements in the past three years, this is, 2006, 2007 and 2008, and the number of cruise vessels skipping Hong Kong in their itineraries due to lack of appropriate berthing facilities in Hong Kong, the number of cruise vessel calls which require the Tourism Commission's assistance in arranging interim berthing arrangements were three, 15 and 12 for 2006, 2007 and 2008 respectively. For these vessel calls, all of them berthed at alternative locations as agreed by their cruise operators and/or shipping agents with the Tourism Commission. We do not have information on whether there is any cruise operator who skips Hong Kong in its itineraries in view of the existing berthing facilities in Hong Kong. Many cruise vessels which made interim berthing arrangements in their previous calls, such as Queen Mary 2 and Diamond Princess, have kept on visiting Hong Kong. The latter vessel has even increased its number of calls to Hong Kong this year.