

# OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 13 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

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

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

THE HONOURABLE ABRAHAM SHEK LAI-HIM, 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 LAU WONG-FAT, G.B.M., G.B.S., J.P.

**PUBLIC OFFICERS ATTENDING:**

THE HONOURABLE JOHN TSANG CHUN-WAH, J.P.  
THE FINANCIAL SECRETARY

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

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

PROF THE HONOURABLE K C CHAN, S.B.S., J.P.  
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

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

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

MR GREGORY SO KAM-LEUNG, J.P.  
SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT

**CLERKS IN ATTENDANCE:**

MS PAULINE NG MAN-WAH, SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY  
GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

**PRESIDENT** (in Cantonese): Clerk, please ring the bell to summon Members back to the meeting.

(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>No.</i>	
Food Business (Amendment) Regulation 2009 .....	L.N.	93/2009
Race Discrimination (Formal Investigations) Rules.....	L.N.	94/2009
Race Discrimination (Investigation and Conciliation) Rules .....	L.N.	95/2009
Code of Practice on Employment under the Race Discrimination Ordinance.....	G.N.	2733/2009

### Other Papers

- No. 89 — Early Retirement Ex-gratia Payment Fund for Aided Primary School Teachers  
Audited Financial Statements together with the Report of the Director of Audit for the year ended 31 August 2008
- No. 90 — Early Retirement Ex-gratia Payment Fund for Aided Secondary School Teachers  
Audited Financial Statements together with the Report of the Director of Audit for the year ended 31 August 2008

- No. 91 — Securities and Futures Commission  
Approved Budget of Income and Expenditure for the  
Financial Year 2009/2010

## ORAL ANSWERS TO QUESTIONS

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

### Reform of Law Relating to Guardianship and Custody of Children

1. **MR ALBERT HO** (in Cantonese): *A sub-committee of the Law Reform Commission of Hong Kong (LRC) issued in 1998 a consultation paper on the law relating to guardianship and custody of children, and issued between 2002 and 2005 four reports on related issues, including the report on Child Custody and Access. In this connection, will the Government inform this Council:*

- (a) *given that over a decade ago, England and Australia had carried out a reform of the law relating to arrangements for children after their parents' divorce by introducing a joint parental responsibility model, and the aforesaid report recommended that Hong Kong should follow the practices in those jurisdictions, whether the authorities have any plan to adopt the recommendation of LRC to implement Article 18 of the Convention on the Rights of the Child of the United Nations, which states that both parents have common responsibilities for the upbringing and development of their children; and*
- (b) *given that the aforesaid consultation paper has been issued for more than a decade, and the authorities indicated in 2005 that they were carefully studying the relevant recommendations in the four reports, but they have not yet reported to the Panel on Welfare Services of this Council the Government's stance, of the reasons for the slow progress of the study being carried out by the authorities; whether it has assessed if the recommendations of LRC and the relevant consultation outcome still meet current circumstances; whether the Government has a timetable for amending the law concerned?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, the LRC issued four reports on child guardianship and custody issues, namely, the Report on Guardianship of Children, the Report on International Parental Child Abduction, the Report on the Family Dispute Resolution Process and the Report on Child Custody and Access. Examination of the one on the Family Dispute Resolution Process within the Administration was led by the Home Affairs Bureau, whereas the Labour and Welfare Bureau is responsible for co-ordinating and following up the other three reports.

The four reports have made a total of 124 reform recommendations. They relate to the areas of responsibilities of a number of bureaux, departments and enforcement agencies and involve amendments to various pieces of legislation. The implementation of some of the recommendations is intertwined and carries far-reaching implications. They have to be carefully considered.

- (a) Part (a) of the question asks whether the Administration would adopt the recommendations of the LRC and follow other jurisdictions in introducing the "joint parental responsibility" model into Hong Kong's Family Law.

The relevant recommendations were made in the Report on Child Custody and Access published by the LRC in 2005, with the aim of enabling both parents to maintain an active involvement in the lives of their children after divorce. The LRC recommended introducing the new "joint parental responsibility" model, as a reform to the existing custody arrangement under which the custody of a child is usually granted exclusively to one of the parents while only the right of access is granted to the other parent. Specifically, the LRC recommended that the Administration should follow the practices of England and Australia to abolish the existing custody orders, replace it with residence orders and introduce contact orders, specific issues orders and prohibited steps order, and so on. The LRC also recommended specifying in law that the parent granted the residence order would only have the right to reside with the concerned child and make decisions relating to the day-to-day care of the child. For major decisions affecting the child, he/she would have to notify or obtain the prior consent of the other parent.



Members would probably agree that the LRC's recommendations are fundamentally changing the existing concept of "custody" under the Family Law and will have far-reaching implications on children and family on various fronts. Moreover, owing to the differences in cultural background, the family laws of other countries may not be entirely suitable for Hong Kong. We therefore need to examine carefully each of the 72 recommendations of the LRC report and consider them in a holistic manner, consulting stakeholders as and when necessary during the process.

In fact, the relevant recommendations are more complicated and controversial than we expected. We have consulted the social welfare sector and women's groups. Although most of them agreed with the concept underlying the "joint parental responsibility" model and thought that parents still had responsibilities for their children and the right and duty to be involved in major decisions relating to their children even after divorce, some respondents considered that it might not be advisable to adopt this model in local Family Law. Some worried that parents whose relationships broke up after divorce might abuse the relevant legislation and obstruct the making of major decisions relating to the child, which in the end will hinder the development of the child and work against their interests. Moreover, the proposed legislation will specify that the parent who resides with the child has to notify or obtain the prior consent of the other parent before making major decisions for the child. This may also cause unnecessary concerns and disruptions to victims of domestic violence, or may even lead to incidents of violence.

In addition, studies indicate that there has been an increase in the number of court disputes in Australia subsequent to the introduction of the "joint parental responsibility" model. This suggests that the new model might not be able to change parents' customary concept on custodial responsibility; instead, it might be abused by trouble-making parents.

In sum, the Government endorses in principle the well-meaning concept underlying the "joint parental responsibility" model. However, in deciding whether and how to adopt the recommendations of the LRC, we need to examine carefully the pros

and cons of introducing the new model, considering in particular the views of relevant stakeholders and make reference to overseas experience. At this stage, we have an open mind on the recommendations.

- (b) As for our actual progress, as I have mentioned just now, the four reports made a total of 124 recommendations which relate to the areas of responsibilities of a number of bureaux and departments and will bring about fundamental changes to some long-established concepts of parental rights and responsibilities in our community. Many of them are also controversial and inter-related. It takes time to consider them.

Although the Administration has not yet finished the examination of all the recommendations of the four reports, we have taken into account the recommendations of the LRC in considering related issues. For instance, we had adopted the relevant parts of the LRC Report on Child Custody and Access in reviewing the Domestic Violence Ordinance (DVO). We had proposed amendments to the DVO so as to extend its coverage to ex-spouses and cohabitants whose relationship had ended; substantially enhanced the protection to children under the DVO; and introduced provisions empowering the court to vary or suspend the custody order or access order currently in force when making an injunction under the DVO regarding the child concerned. We also know that the amendment bill was passed by the Legislative Council in June 2008 and has already taken effect.

Besides, according to information provided by the Home Affairs Bureau, since the release of the Report on the Family Dispute Resolution Process, the Administration has been working on family mediation. For example, the Legal Aid Department, after consulting the Legislative Council Panel on Administration of Justice and Legal Services, had launched a one-year pilot scheme on mediation in matrimonial cases in March 2005 to examine the effectiveness of mediation and to consider whether funding could be provided for mediation in legally aided matrimonial cases. The Administration recognizes that mediation is an adjunct to litigation, and will make permanent arrangements for mediation in legally

aided matrimonial cases. The Administration is now considering the implementation details of the permanent arrangements for mediation in legally aided matrimonial cases, having regard to the recent development of the Civil Justice Reform which came into effect in April 2009.

As regards the Report on Guardianship of Children and the Report on International Parental Child Abduction, we are discussing the various recommendations with relevant bureaux and departments, with a view to deciding whether and how to implement them as soon as practicable.

Although the Report on Child Custody and Access is relatively more complicated and controversial, we have stepped up our efforts in studying the "joint parental responsibility" model it advocates. We have been in touch with the Law Society of Hong Kong (LSHK), frontline social workers and women's groups to collect their views. We will meet the LSHK and frontline social workers again shortly to further understand their stances on the subject.

Considering that the Hong Kong society keeps changing, certain parts and recommendations of the reports may not suit prevailing circumstances. In studying the recommendations, we have to collect views from stakeholders and have taken note of the latest developments in other countries in this regard.

**MR ALBERT HO** (in Cantonese): *President, if the Secretary has been following the subject attentively, he will certainly know that when the sub-committee of the LRC issued the report 10 years ago, it had studied the experience of many advanced countries for fully and comprehensively implementing the spirit of the Convention on the Rights of the Child with the interests of the child as the most important consideration, and confirmed that regardless of the condition of their marriage, parents have to jointly assume the responsibility of developing and educating their children.*

*Before the issue of the report, the sub-committee had studied many issues concerning the merits and demerits, and after the issue of the report in 1996, the LRC issued a report again in 2003 and 2004 and subsequently made a lot of*

*discussions, including, as mentioned by the Secretary, the issue of domestic violence caused and the so-called overseas contact centres, where social workers will intervene upon contact between parents). Therefore, all the issues should have been solved.*

*President, it has been 10 odd years so far, but today faced with this report prepared by many experts and practitioners after spending much time and effort, the Government still stays at a stage of having to face a lot of problems, refraining from proceeding and discussing without deciding. Is this a responsible attitude of doing things? Does it respect the spirit of the Convention on the Rights of the Child?*

*Therefore, my supplementary question is: Does the Secretary today still tell us that he does not have any timetable, and still does not know how long it takes to discuss the issue and in what way, nor can he tell us whether a white bill will be introduced or how long we have to wait before the introduction of a white bill, or even will he submit any discussion papers to this Council? However, he has provided nothing, but adopted such an attitude in responding to the study results.*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Thanks to Mr HO for raising the questions. We know that all of you are very concerned with this subject, so my main reply has reported it in great detail. The four reports of the LRC are in fact intertwined, and many recommendations in them have to be considered fully and broadly upon implementation. Regarding the concerns of all of you, we will absolutely not just sit and do nothing. We have always been working at them. All of you know that we are now conducting analysis and maintain close liaison with stakeholders and the LSHK, and we understand that women's groups and responsible social workers are very concerned. We cannot ignore these concerns and mind our work only. Instead, we have to rationalize different views.

I understand that the reports have been released for a period of time, and in fact since they were released in 2005, we have been following them up. Thus, I have clearly mentioned in my main reply that I will meet with LSHK and the social work sector again to get a better understanding of these issues early next month. We hope that we can grasp the issues, explore solutions, see what we can do and do it.

**MR ALBERT HO** (in Cantonese): *Is it still impossible to inform us of the timetable?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): At this stage, I cannot provide a timetable, but I want to emphasize two points. Firstly, we keep an open mind on the recommendations and secondly, we are actively following up and exploring the issue, and particularly maintain close communication with concerned groups, stakeholders and the legal profession. President, these are our latest developments.

**DR MARGARET NG** (in Cantonese): *President, I particularly want to ask a further question about the 124 reform recommendations in the report of the LRC mentioned in the main reply that carry far reaching implications and so they have to be carefully considered, and the controversy of the recommendations concerned. President, the legal profession is extremely concerned that the laws of Hong Kong substantially lag behind. Many of our laws lag behind a lot and have not yet been dealt with by the LRC. Even though many laws have been handled by the LRC and a lot of specific recommendations have been made, there is still no reaction from the Government.*

*I would like to ask the Secretary: Have the authorities concerned drawn up a timetable for the recommendations of the LRC, specifying that they have to be implemented within a certain period of time? Should it be clearly stated that those recommendations deemed to be unsuitable for Hong Kong will not be considered for the time being, instead of hesitating to fix any specific date for implementation for those recommendations which are more in numbers, more updated and involve a broader scope? Has the Government considered in a holistic manner how long it takes to reform the laws? President, some laws have been delayed for 10 odd years, while some even longer. In this case, the effort of the LRC has no effect on us at all. We feel sorry for the Convention on the Rights of the Child and the LRC.*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Thank to Dr NG for raising the questions. We very much respect the reports submitted by the LRC and I have just mentioned that we will now study and fully consider the four reports. We hope that a timetable will be available and, as I have just mentioned, after the issues concerned have been solved, we will do what we can.

For example, of the four reports, the Report on Guardianship of Children and the Report on the Family Dispute Resolution Process are now followed up by the Home Affairs Bureau, but we hope that we can make a decision on the direction of the Report on International Parental Child Abduction in the near future. We hope to make it clear when it will be done, if so decided, and provide the legislative timetable. We keep a pragmatic manner, Dr NG. We will certainly do what we can do, and will not delay it.

**DR MARGARET NG** (in Cantonese): *President, I am sorry. The Secretary has failed to answer the crux of my supplementary question: Will the authorities concerned draw up a timetable for any recommendation made by the LRC, specifying the time needed or that a decision has to be made within a certain period of time? It must be clearly stated whether it has decided to do or not to do it.*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): *President, we maintain close liaison with the Department of Justice, and communicate with the Secretariat. We have undertaken that after the issues concerned have been handled, once there is a sign that we know what we can do, as I have just mentioned about the issue of parental child abduction, we will state the Government's stance whether it will do it or not, after the issues have been clarified. We will provide the timetable if we have decided to do it.*

**DR MARGARET NG** (in Cantonese): *President, from the Secretary's reply, it seems that the Department of Justice has certain ideas about my supplementary question. That being the case, can the Secretary please follow up by requesting the Department of Justice to provide us with them?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): *I will relay Dr NG's views to the Department of Justice.*

**MR TAM YIU-CHUNG** (in Cantonese): *President, child guardianship and custody issues are rooted in the unbalance of family functions. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) released a Proposal on Family-friendly Policies on 16 May 2006 to promote and publicize*

*family-friendly policies, and to invest in and enhance family harmony at the root. Will the Government tackle the issues at the root and put in more effort?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, thanks to Mr TAM. Family harmony is, of course, the core of the whole issue as the problem of divorce will not appear if a family is harmonious. I also agree that it is necessary to start tackling the issue at the root, but what we are now discussing are legal issues, that is, the issue of how children are treated when the couple relationship breaks up and a divorce is unfortunately necessary, as well as a series of legal issues arising therefrom. I agree that the Government has to adopt a two-throng approach. On the one hand, it should start from the root of the issue by actively promoting the idea of family harmony, as the concept of family is very important. On the other hand, it should adopt remedial measures, as we cannot escape from these reality problems, such as that of handling divorce cases. The interests of children are the most important and we will handle them in a pragmatic manner. We attach great importance to these four reports, and hope that after we have found the answer, we will report to all of you fully as soon as possible.

**MS MIRIAM LAU** (in Cantonese): *President, I first of all declare my interest as the Chairman of the sub-committee of the LRC mentioned in the main question. We spent eight to nine years in preparing these four reports which, of course, were finally issued by the LRC.*

*These four reports, as stated in the main reply, are very complicated and among them, the Report on Child Custody and Access is the most complicated one, which took eight to nine years to complete. During this period, with regard to the issues mentioned in the main reply, we had to conduct a study afresh to provide supplementary information. The main reply mentions that as cultural backgrounds of different places may differ, so it may not necessarily suit the condition of the Chinese society of Hong Kong. These factors were all considered by the sub-committee. As regards the possible issues and the views of groups mentioned in the main reply, wide consultation was conducted then, and not just once but at least twice. We fully grasped their views, amended the report based on the views expressed and put forward advice to address the problems that various parties were worried about. Therefore, from the perspective of the sub-committee of the LRC, this report is very comprehensive.*

*We have addressed the concerns and reservations mentioned in the Secretary's main reply today. I do not understand why the Secretary still, in the last report in 2005, four or five years after the release of the most complicated one, used the information that we provided then. I cannot help querying whether the Bureau or the Government has after all made any effort in the past several years. I do not belittle this report, not even a bit, especially the complexity of the Report on Child Custody and Access mentioned at present, nor do I take lightly the controversy aroused or the views of women's groups and — I am going to raise my supplementary question, but I still want to say one more sentence — the whole report recommends studying how to safeguard the interests of children from their perspective, as parents still have the right to contact their children after divorce, and we deeply believe that this recommendation will lead to family harmony. Therefore, his reiteration of these issues and concerns at present gives us an impression that he will do nothing.*

*I want to ask the Secretary: If he says that he will do something, will he once again conduct extensive consultation on some of the recommendations in this report with not just groups but across the territory, and then provide a timetable for active implementation? These recommendations may not be implemented in one go, and different recommendations can be implemented in phases. Is that possible, Secretary?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, thanks to Ms Miriam LAU. First of all, I would like to thank Ms Miriam LAU for making the efforts. I have read the whole report and her contribution as the Chairman is really very great. I must humbly acknowledge the complexity and controversy of the report, but this time we are not saying that the problems start from zero again. We do not mean that. We only take a pragmatic approach and consider it necessary for us to discuss with the stakeholders for a mutual understanding before the implementation of the recommendations. For example, we will discuss with the LSHK, the social work sector and women's groups face to face next month. We cannot turn a blind eye to the concerns. We just cannot do that. We all know that the society nowadays is people-centred and there is the need for more communication. If a dispute arises, it is necessary to see how the different views of both sides can be rationalized. This is a matter of opinion.



However, a practical problem that we cannot neglect is that Australia and the United Kingdom made some amendments in 2005 after the implementation of the relevant measures. Therefore, it is also necessary for us to consider whether these new amendments have an impact on the Ordinance. Secondly, Australia subsequently prepared a three-year observation report for assessment and identified a lot of problems, which is not simple. In Australia, cultural change is still at its early stage and litigations have increased in number.

It may not be a problem for one of the parents to look after their children alone, but there are cases where joint custody is exercised by both parents. In such cases, one of the parents may make things difficult for the other parent and find fault with him or her deliberately. For example, in choosing a school for their children to attend, if one of the parents raises objection, it is often referred to the court for decision. We must learn from these experiences. The advantage of our relatively late implementation is that the best experience is available to us. Therefore, please give us some time, tolerance and space. We are already putting in effort and keep communicating with stakeholders and the LSHK. I have met and sat down with the LSHK for discussion. The LSHK also knows that we intend to tackle the issue. As the issue is complicated, we have to tackle it properly.

**PRESIDENT** (in Cantonese): This Council has spent about 24 minutes on this question. Just now, I allowed Members raising questions to speak more, as I thought this might help to make the nature of the question clear. However, we can only put an end to the question here. Second question.

### **Reuse of Construction and Demolition Materials**

2. **MR CHAN HAK-KAN** (in Cantonese): *President, the Chief Executive announced in his 2007-2008 policy address the implementation of the 10 major infrastructure projects, which will commence one after another within the next few years. In this connection, will the Government inform this Council:*

- (a) *of the estimated quantity of construction and demolition (C&D) waste to be generated by such projects in the next five years, and the respective quantities of such waste which will be transported to*

*public fill banks for reuse and recycling, transported to the Mainland for reuse, and discarded at landfills;*

- (b) whether it will specify in the building contracts for such projects the quantities of C&D waste which the contractors concerned must reuse; if it will, of the details; if not, the reasons for that; and of the measures to be introduced to encourage contractors to reuse C&D waste during the construction periods; and*
- (c) whether it will conduct a territory-wide large-scale and comprehensive environmental impact assessment to explore the impact of the noise, water and air pollution which will be generated by such projects during the construction periods on the overall environment of Hong Kong; if it will, of the details; if not, the reasons for that?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President,

- (a) Thanks to Mr CHAN Hak-kan for raising the question. As to C&D waste mentioned by Mr CHAN, it is usually referred to as C&D material instead, as most of it can be reused. As such, it is usually called C&D material.

In fact, C&D materials also include some so-called inert or non-inert materials. Inert materials are generally referred to as those arising from construction, excavation, renovation, demolition or roadworks. Sometimes, they are known as public fill, of which some are called soft materials, such as debris, used in reclamation and earth filling works. Some are named as hard materials such as rocks, broken concrete or bricks, and can be used for seawalls in reclamation or recycled as aggregates for concrete production or as granular materials for road sub-base. Non-inert materials are referred to as those not mentioned above, comprising, *inter alia*, some solid waste, plastic and timber, and are usually delivered to landfills.

Regarding inert C&D materials, we will reuse and recycle them as far as possible. As to non-inert waste, like that mentioned just now, it may be delivered to landfills for disposal.

According to the figures provided by the relevant policy bureaux, Mr CHAN asks: In the next five years, how many C&D materials will be generated by the 10 major infrastructure projects? Based on our current estimation, about 45.7 million tonnes will be generated, but this figure cannot cover the entire 10 major infrastructure projects as some of them are still at the stage of planning and technical study. Thus, we may not have the relevant figure. However, we now estimate that the 10 major infrastructure projects will generate about 45.7 million tonnes of C&D materials, of which 42.9 million tonnes (about 94%) will be inert C&D materials. That is to say, 94% of these materials can be reused, while the remaining 2.8 million tonnes (about 6%) will be non-inert C&D materials. The inert C&D materials would be stockpiled at public fill banks for later beneficial reuse or delivered to be reused in reclamation projects in the Mainland.

- (b) Regarding part (b) of Mr CHAN's question, according to the existing Technical Circular (Works) No. 33/2002, a Construction and Demolition Material Management Plan (C&DMMP) has to be prepared in the design stage of a large-scale works project to consider among other measures to minimize the generation and maximize the reuse of C&D materials. Any surplus materials should be reused in other sites or delivered to recycling facilities. The measures, including the amount of C&D materials to be reused, are included in the works contract to facilitate implementation by the contractor. Each works department has set up a departmental vetting committee to scrutinize the C&DMMP and to monitor its implementation during construction. The relevant information of the C&D materials would also be set out in the funding application to the Public Works Subcommittee under the Finance Committee of the Legislative Council. It is believed that all Members have seen it.

To encourage the reuse of C&D materials by contractors, large-scale works projects would look for work areas as far as possible to facilitate the materials to be sorted and temporarily stockpiled for later beneficial reuse. For example, the C&D materials to be reused later as filling materials in the Kai Tak Development infrastructure works will be temporarily stockpiled within the Kai Tak area.

- (c) Regarding part (c) of Mr CHAN's question, the 10 major infrastructure projects are Designated Projects under the Environmental Impact Assessment Ordinance (EIAO), so an environmental impact assessment (EIA) study is required to be conducted under the EIAO and an environmental permit has to be obtained before a Designated Project can be implemented. In addition to the environmental impact of the project itself during the construction and operation phases, the EIA study will comprehensively assess the cumulative impacts on the overall environment arising from other relevant existing and planned projects, and work out suitable mitigation measures.

The scope of the EIA study includes the combined impacts on the environment and ecology due to noise, wastewater, solid waste and air pollutants generated by the projects during the construction and operation phases. Depending on individual requirements, the study may include assessment of visual impact, impact on antiques and monuments, as well as the hazard posed by dangerous goods.

After completion of the EIA report on the project, the relevant works department or organization is required by law to exhibit the report for public inspection and submit it to the Advisory Committee on the Environment (ACE) for consideration. The Director of Environmental Protection (DEP) will take into account the views of the public and the ACE and ensure that the report fully complies with the statutory standards and requirements under the EIAO before giving approval to the report and issuing the environmental permit.

**MR CHAN HAK-KAN** (in Cantonese): *President, although the Secretary states that 94% of C&D materials can be reused or used for reclamation, according to the paper of the Environmental Protection Department (EDP), the total generation of public fills is expected to reach 94 million tonnes between 2009 and 2013, but during this period, the total demand will only be 26 million tonnes. Even though we can transport most of the C&D materials to the Mainland for the implementation of such projects as reclamation, in fact 18 million tonnes of them are still left in Hong Kong, and we have no idea as to how to deal with them.*

*My supplementary question is: Will the Government find other outlets for these local C&D materials, instead of just transporting them to Taishan, Guangdong but, for example, to South East Asia to develop some new markets as some members of the engineering sector tell us that many areas in South East Asia need such C&D materials for reclamation works, or will the Government take the lead in using these C&D materials?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): Mr CHAN's supplementary question is just concerned with the issue that we are now facing and handling. To make it simple, three aspects of the issue need to be addressed. Firstly, how can C&D materials generated by projects be reduced; secondly, can these materials be recycled; and thirdly, how should surplus materials, if any, be handled?

Concerning the first aspect of how C&D materials can be reduced, I have just mentioned in my main reply that it is necessary to specify a way of reusing C&D materials first before the commencement of a project, with a view to minimizing them. On figures, as in the case of the known ones for the 10 major infrastructure projects, 94% of the materials can be reused, while only 6% may be discarded at landfills. Besides, since the introduction of charges for the disposal of C&D materials in 2005, the quantity of such materials has greatly reduced. Since 2005, it has in fact reduced by approximately a half.

As regards the recycling of these materials, as I have just said in my main reply, some materials, if expected to be unusable whether in projects or reclamation works in Hong Kong in the future, will be temporarily stockpiled, but some of them will also be transported to other places. Last year, we successfully reached an agreement with Taishan under which about 10 million tonnes of waste are transported to Taishan for reclamation purposes each year, which is beneficial to both sides. As to whether this arrangement can meet future needs, we will examine the quantity of waste generated by projects and study the availability of other means jointly.

**SECRETARY FOR DEVELOPMENT** (in Cantonese): I want to respond, in a positive way, to the part of the supplementary question of Mr CHAN Hak-kan on whether the Government will take the lead in reusing C&D materials and the answer is in the affirmative. In fact, the Government has very clear guidelines

for government projects, requiring contractors to reduce and maximize the use of C&D materials, including recycled inert C&D ones; to use products made of recycled aggregates for producing concrete or paving blocks on sites; and to maximize the use of inert C&D materials in projects.

Therefore, as regards the figures quoted by Secretary Edward YAU, we can generally achieve them on project sites at present. For example, the Kai Tak Development Project recently approved by the Public Works Sub-committee of the Legislative Council will, as a whole, generate about 27 000 tonnes of C&D materials, of which 84% (22 800 tonnes) will be used on the original Kai Tak site after being recycled.

**MR CHEUNG HOK-MING** (in Cantonese): *President, I want to specifically raise a question on the environmental problems caused by the 10 major infrastructure projects as mentioned in the question of Mr CHAN Hak-kan just now. The Hong Kong-Shenzhen-Guangzhou Express Rail Link Project will soon be commenced. The Link will start from the Kowloon Station and go straight to the Mainland, via the Tai Mo Shan Country Park, Pat Heung and San Tin. It will be several kilometres long and constructed in tunnel form. As it will be constructed in tunnel form, I want to ask: What plan does the Government have to handle the debris generated by the Project? How will the Government handle it after all? Will it be transported by land or water? Where will it be deposited?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): Thanks to Mr CHEUNG Hok-ming for raising the supplementary question. He is right in saying that some of the current 10 major infrastructure projects will generate more C&D materials, including the Hong Kong-Shenzhen-Guangzhou Express Rail Link he has just mentioned, as it will be constructed in tunnel form. For the disposal of these materials, as mentioned in my main reply just now and supplemented by the Secretary for Development, we will adopt the several methods just mentioned for the purpose of minimizing the generation of C&D materials on the one hand and maximizing the reuse of them on the other. However, if they cannot be reused in projects, we will stockpile them. As to the surplus C&D materials, we now have a plan to deliver them to Taishan for disposal. We address the issue from various perspectives.

**MR LEE WING-TAT** (in Cantonese): *President, since the implementation of the measure of imposing charges for the dumping of waste, a number of cases have occurred, involving the dumping of construction waste in remote areas in the New Territories, such as ponds, places near the agricultural land and some places of scientific value. As many projects will emerge in the next five years, builders will definitely want to save money by discarding debris in the abovementioned places, instead of having to pay the charges. The Government is now implementing a system, requiring the production of a ticket for dumping debris as well as entering and leaving landfills, but private builders do not have such checking system. I want to ask both Secretaries: What difficulties will there be if this system is extended to private builders? Actually, this is the only way to thoroughly deter them from discarding construction waste on agricultural land or other places.*

**PRESIDENT** (in Cantonese): Which Secretary will answer this question?

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, Mr LEE Wing-tat is of course quite aware of this issue, as he is the Chairman of the Subcommittee on Combating Fly-tipping established under the Panel on Environmental Affairs. We and other departments have discussed this issue at meetings of the Subcommittee.

Regarding fly tipping, we have in fact discussed the relevant proposals at meetings. The Environment Bureau undertakes to study the possibility of doing something in the Ordinance relating to waste disposal on the one hand, and on the other hand, as Mr LEE has said, a Trip Ticket System (TTS) is now put in place for government works. Under the TTS, the entry and exit of all dump trucks involved in government works must be recorded. This allows us to know where the dump trucks leave and the material loads they carry. Their designated locations for dumping or the types of material deposited are also recorded.

In addition, we will discuss with the relevant departments the possibility of extending the TTS to non-government works through the construction sector, which, we think, is worth doing. Of course, in handling fly tipping in general, there are also some complicated issues. For example, if private land is involved, tougher problems will often occur. Nonetheless, I think Mr LEE Wing-tat and

members of the Subcommittee also know that much co-ordination has been made among government departments in the hope that more effort can be made to monitor or prevent such situation.

**MR LEE WING-TAT** (in Cantonese): *The supplementary question I have just raised is very simple. As TTS for dump trucks entering and leaving government sites is good enough, I want to ask the Secretary for the Environment: Why is the TTS not extended to all private construction sites?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, it is our intention to do so, and we have proposed how to extend the TTS to works of non-government projects. Simply because of this reason, we are now discussing with the industry.

**DR RAYMOND HO** (in Cantonese): *President, in the 70s and 80s, there were tens of contracts in each new town in the New Territories and the quantity of materials required for reclamation and that generated by construction and demolition were figured out early and balanced. As we are now going to implement the 10 major infrastructure projects, has the Government conducted an integrated and comprehensive analytical study and a feasibility study on Sustainable Development? As, for example, the 26-kilometre long tunnel of the Hong Kong-Shenzhen-Guangzhou Express Rail Link will generate a great deal of inert materials, has the Government considered those private contracts in this regard? Has the Government considered the future Disneyland expansion project or airport reclamation works, and so on? Various contracts may form a great demand for such materials, so we can actually stockpile some inert materials for later use, instead of transporting them to the Mainland. Otherwise, when they are needed in the future, it will probably be necessary to look for other sources. In this connection, has the Government conducted a comprehensive study on these 10 projects?*

**PRESIDENT** (in Cantonese): Which Secretary will answer this supplementary question?



**SECRETARY FOR DEVELOPMENT** (in Cantonese): Thanks to Dr HO for raising the supplementary question. I think Dr HO's supplementary question specifically indicates that in recent years, reclamation works have really reduced quite a lot in Hong Kong. As a result, spaces capable of receiving C&D materials have substantially decreased. Of course, Dr HO is right in saying that from the perspective of planning, if we can see that in the middle and long terms there will be reclamation works for which these C&D materials can be used, we should stockpile them temporarily in Hong Kong for later use. However, at present to identify places to serve as fill banks is also a problem, that is, a problem of selecting locations. Currently, there are two fill banks in Hong Kong, located at Tseung Kwan O and Tuen Mun respectively. The total capacity of the two fill banks is only 19.2 million tonnes, which is far from enough compared to the quantity of C&D materials generated by projects to be implemented. Therefore, in the middle term, the exportation of materials for the purpose of allowing them to be used at least in the best way, which is land filling, may be an inevitable measure. However, in respect of Dr HO's supplementary question, we will also co-ordinate with other bureaux in public works and ENB will also consider them further.

**PRESIDENT** (in Cantonese): This Council has spent about 18 minutes on this question. The last supplementary question.

**MR LEUNG YIU-CHUNG** (in Cantonese): *President, as the Secretary for the Environment has just said, the quantity of waste collected has decreased since the introduction of charges. I first of all want to ask: Has the Secretary, I wonder, analysed the reasons for the decrease? He has also mentioned that fly tipping of debris actually still exists, which I believe is one of the important reasons. In particular, Mr LEE Wing-tat asked whether TTS could be extended to private works. In this regard, I want to ask the Secretary: Are there other means, except this one, of prohibiting fly tipping of waste on private or non private land, including for example the possibility of reviewing the prosecution procedure under the existing legislation or even the possibility of examining whether the penalties are effective, and so on? Can the Government conduct a comprehensive review in this aspect to increase the deterrent effect?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): Thanks to Mr LEUNG for raising the supplementary question. From now on, there will be a number of projects in Hong Kong in the next few years. If we look at the overall figure, as in the case of the 10 major infrastructure projects, most of the materials — over 90% — have been reused, and only a few had to be discarded. The vast majority of the projects are funded and managed by the Government, so the TTS, as Mr LEE Wing-tat has just mentioned, is now implemented. However, as there are also a few minor works in the community, some non-compliant and irresponsible people will dump one or two loads of debris on certain land in the New Territories. Such situation really exists and is a problem that we have to face. Therefore, a subcommittee is established under the Panel on Environmental Affairs to discuss issues relating to the problem.

In fact, we have now taken a number of factors into account. For example, is it possible to legislate for implementation? As proposed in our paper and discussed at meetings, is it possible to adopt a licensing system to regulate certain land? If the land is to receive a deposit of waste requiring an area larger than a certain size, can an application be made in advance? This, of course, may be in conflict with, *inter alia*, the use and development right of the land, so it has to be discussed sufficiently.

We have just mentioned that the Government has adopted an effective practice. However, can it be extended to non-government works? Thus, all of you can see that we also hope to solve the problem under various conditions. If an individual area is a fly-tipping black-spot, we will try to install closed-circuit television there, as Members all know. Therefore, we have in fact put in effort in various ways, but we must have land owners' co-operation to solve such problems jointly.

**PRESIDENT** (in Cantonese): Mr LEUNG, which part of your question has not been answered?

**MR LEUNG YIU-CHUNG** (in Cantonese): *He did not answer the part on the prosecution procedure. I think there is something wrong with the existing prosecution procedure. With residents' frequent complaints, police officers, even at the spot, fail to offer help though willing to, as the prosecution procedure under the law cannot help them. In fact, I disagree to the Secretary's point that*

*at present only one or two loads of debris are dumped illegally in areas in the New Territories. The problem is in fact very serious. I think the Secretary should review and study it afresh.*

**PRESIDENT** (in Cantonese): Mr LEUNG, please do not express your views any more. The Secretary for the Environment, please answer that part of the question.

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): On the issue of prosecution, it is really difficult to adduce evidence. However, as far as the several recent cases are concerned, the Government, apart from catching the offenders on the spot, has successfully made use of much other evidence to institute prosecutions or successfully proved the offence with information provided by members of the public. Therefore, I welcome Mr LEUNG Yiu-chung to join discussions at the Subcommittee. In fact, we wish to address the problem fully from various perspectives.

### **Inclusion of June 4th Incident and Pro-democracy Movement in 1989 in Curricula of Senior Secondary Level**

3. **MR KAM NAI-WAI** (in Cantonese): *President, in 2004, the Government incorporated the Chinese history of the period from 1976 to 2000 into the syllabus for the subject of Chinese History at senior secondary level. However, most existing textbooks on Chinese history have simplified and watered down the pro-democracy movement and the June 4th incident which happened in 1989, while the relevant Curriculum and Assessment Guide of the Education Bureau does not even mention these incidents at all. In this connection, will the Government inform this Council:*

- (a) *whether the authorities will clearly list the 1989 pro-democracy movement, along with significant events which have far-reaching influence on China, as a compulsory topic in the Curriculum and Assessment Guide for the subject of Chinese History under the three-year senior secondary academic structure;*
- (b) *given that the new senior secondary academic structure will be implemented soon, yet the historical information provided in existing*

*textbooks on the 1989 pro-democracy movement and the June 4th incident is extremely inadequate, and the Education Bureau has recently sponsored the compilation of a teachers' special digest with a detailed account of the May 4th Movement, whether the Bureau will sponsor the compilation of an information compendium on the 1989 pro-democracy movement and the June 4th incident for teachers' reference; and*

- (c) *given that the subject of Liberal Studies under the three-year senior secondary academic structure will have elements to enhance the Chinese culture, civic awareness and national identity, whether the authorities will include the 1989 pro-democracy movement and the June 4th incident as topics for study, so that those senior secondary students who have not selected the subject of Chinese History will also have the opportunity to learn and reflect on these historical events?*

**SECRETARY FOR EDUCATION** (in Cantonese): President, the cut off point for the present Junior and Senior Secondary Chinese History curricula is up to the end of the 20th century or thereafter. The last topic of the Senior Secondary Chinese History Curriculum and Assessment Guide is "From the founding of the People's Republic of China to the end of the Twentieth Century" which covers the period from 1976 to 2000. Therefore, the "June 4th Incident" of 1989 can be taught in this topic. Publishers write textbooks in accordance with the curriculum guides prepared by the Curriculum Development Council. As a matter of fact, the "June 4th Incident" is already covered by most Chinese History textbooks that are currently available in Hong Kong.

My replies to the three parts of the main question are as follows:

- (a) The New Senior Secondary (NSS) curriculum is prepared through a long process of extensive consultation, and will be implemented in Secondary Four this September. In accordance with the New Senior Secondary Chinese History curriculum, schools may teach the "June 4th Incident" of 1989 under the topic "From the founding of the People's Republic of China to the end of the Twentieth Century". In fact, the forthcoming Chinese History textbooks for the New Senior Secondary levels all cover the "June 4th Incident". The

textbook contents have to be accurate in terms of the historical facts and consistent with the approach of the curricula, while flexibility in their presentation is allowed. The textbook provides important reference materials but it is not the only reference for learning and teaching. If history teachers find the historical data for certain topics inadequate, they may encourage students to obtain more information from various sources, and guide them to understand, analyse and evaluate the data appropriately.

- (b) The Education Bureau has no plan to sponsor the production of a special issue on the "June 4th Incident". The teachers' digest on the May 4th Movement mentioned in the question is edited and printed by *Wen Wei Po*, commissioned by the National Education Services Centre. Although the expenditure of the National Education Services Centre is partly sponsored by the Education Bureau, the Education Bureau did not sponsor the publication of this booklet. The Education Bureau was not involved in the editing of this digest, either.
- (c) The design of Liberal Studies (LS) under the New Senior Secondary Academic Structure is based on the knowledge foundation of different Key Learning Areas. It aims to develop students' thinking skills and expand their horizons. Under the theme of "China's reform and opening-up", students may explore topics such as "how the Central People's Government (CPG) dealt with the effects of the reform and opening-up policy" and "examples of the CPG's response regarding institutionalization of more democratic practices". Teachers can make use of different issues, including the "June 4th Incident" of 1989 to achieve the purpose of the subject. Since LS is a core subject for all students, students not studying Chinese History as an elective subject would still have the opportunity of reflecting on various historical events that happened in the last few decades.

**MR KAM NAI-WAI** (in Cantonese): *Secretary, today I have brought with me a book entitled "People Will Not Forget 《人民不會忘記》", which is published by 64 journalists, recording what had happened in the June 4th Incident. The writers include two of our incumbent Honourable Under Secretaries, namely Mr YAU Shing-mu and Dr Kitty POON. Of course, these two, our Honourable*

*Under Secretaries, are part of the Government now. But I do not understand why the June 4th Incident is watered down in the Government's existing education policy. Do you want to convert "People will not forget" into "People will forget" as your education policy? We are aware of some views recently expressed by Mr Ayo CHAN, former President of the Hong Kong University Students' Union, about the June 4th Incident, which had aroused an outcry and cast doubt on whether the young people has a very biased view about the June 4th Incident.*

*President, my supplementary question is that I have actually asked the Education Bureau in the main question why the June 4th Incident is not included in the Curriculum and Assessment Guide? As the Guide has mentioned the May 4th Movement and the Cultural Revolution, why only the 1989 pro-democracy movement is not mentioned? I hope the Secretary can clearly explain to us why this incident is not mentioned at all in the Curriculum Guide?*

**SECRETARY FOR EDUCATION** (in Cantonese): President, we have no intention to water down the incident. I believe every one of you has also heard in my main reply that there are lots of concrete examples evidencing that this topic can be taught in schools. As I have said just now, the textbook provides important materials for teaching, but it is not the only teaching material. Teachers may encourage students to obtain more information from a wide range of sources, such as the Internet, and so on.

Regarding the supplementary question raised by Mr KAM Nai-wai, we need to understand that the curriculum is prepared by the Curriculum Development Council, and the Guide is prepared through a long process of public consultation and discussions of all sectors in the community. The targets of the consultation which include persons from the education sector and all other sectors in the community are selected according to established procedures.

The Chinese history spans 5 000 years, and the curriculum of the subject of Chinese History mainly emphasizes the macro development of history. We have to develop the students' thinking, and so we have adopted a more macro approach to prepare the syllabus of Chinese History as what I have said just now. We mainly hope to outline the important lines of the development of history. In fact, it is impossible to include all individual events that happened in China over the past thousands of years, be they big and small, in the curriculum. We have

also not listed one by one in the Curriculum Guide many important events occurred in various dynasties. Despite having the Curriculum Guide, we cannot list in it all individual events one by one.

However, as I have said just now, the incident is mentioned in all textbooks, and teachers may, based on their approach, let the students understand this incident, and give appropriate guidance to them.

**MR CHEUNG MAN-KWONG** (in Cantonese): *President, what Michael SUEN has said is wrong as the Government has clearly listed the May 4th Movement in the New Senior Secondary syllabus. As a matter of fact, does the Government have a phobia for the June 4th Incident? Even although 20 years have passed since the June 4th crackdown, the term "June 4th" is still a taboo in the syllabus for Chinese history, and can only be hidden under the theme of "China's reform and opening-up" with the term "June 4th Incident" being out of sight. In the new syllabus, the June 4th Incident and the May 4th Movement are treated differently with the former not even being mentioned at all. Will the Government inform this Council whether this is due to the fact that the Central Government had termed the June 4th crackdown as "June 4th riot (六四暴亂)" or "June 4th disturbance (六四風波)", or has so far refused to vindicate the "June 4th", and so the June 4th Incident cannot be clearly listed in the syllabus as the May 4th Movement? Will the Government at least include such a neutral term as "June 4th Incident (六四事件)" in the syllabus of Chinese History 20 years after the June 4th Incident?*

**SECRETARY FOR EDUCATION** (in Cantonese): I have just replied to the supplementary question raised by Mr CHEUNG Man-kwong. Our views are only slightly different. Regarding the approach to dealing with the incident, he hoped that we could highlight it. Nonetheless, as I have said, this topic can be taught under the current syllabus. Besides this, training courses are also provided to train teachers how to teach China's contemporary history. We will not give free rein to teachers. In fact, the Education Bureau has prepared training courses for teachers in accordance with the new senior secondary curriculum guides for Chinese History and Liberal Studies. These courses cover China's contemporary history, including the topic on the June 4th incident, and are presented by the experts from the tertiary institutions and professional organizations. In these courses, there will be very extensive discussions on the

relevant curricula. The results of these discussions will be compiled into a special issue and made available on the web. So we have adopted different measures to provide teachers with various angles of analysis so that they can use them as reference for teaching. In this regard, the action we have taken is to allow great flexibility for teachers, and provide them with some viewpoints.

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

**MR CHEUNG MAN-KWONG** (in Cantonese): *He has not answered why the May 4th Movement, which is an individual event, is included in the syllabus, while the June 4th Incident, which is also an individual event, is not? Is it that the June 4th Incident is not included because the Central Government had termed it as a riot or disturbance? Is it that the June 4th Incident cannot be included because it has so far not been vindicated? This is the crux of my supplementary question.*

**PRESIDENT** (in Cantonese): I have heard the Secretary say he has already replied. Let me see if the Secretary has anything to add.

**SECRETARY FOR EDUCATION** (in Cantonese): President, I do not have much to add. What I would like to add a bit more is that as I have said just now, we have to follow procedures and conduct extensive consultation in preparing the curriculum guide, and the targets of consultation include persons from the education sector and other sectors in the community. As 90 years have passed since the May 4th Movement, they may have a more mature view about the May 4th Movement and consider that it should be included in the syllabus. Regarding the June 4th incident, perhaps they have not yet come to consensus. As we will conduct a new round of consultation once every few years, we still have the opportunity of revising the curriculum development guide, and may come to different points of view in the next consultation. If this happens, it will be reflected in the scope of the next revision.



**MRS REGINA IP** (in Cantonese): *President, whether the Secretary agrees that if we want to understand an individual historical incident or movement, be it the June 4th Incident or the 1989 pro-democracy movement mentioned by Mr KAM, or the Xuanwumen Coup, the Ganlu Incident, the Xian Incident, or the land reform in the Ming Dynasty, and so on which occurred long time ago, we cannot actually treat it as an independent event for study, and we need to understand the entire social, economic and cultural background in order to know the truth — I see the Secretary nodding and appearing very gratified. Based on this principle, if we only teach the history of contemporary China in the Liberal Studies in which Chinese history is only part of one of the six elements, that is society and culture, whether the Secretary agrees that this is actually not very ideal and will impart to the students a very fragmented and shallow understanding of the individual incident in the Chinese history, and will even mislead them. This will also result in increasingly less students studying Chinese History, and the Chinese History faculties at universities being shriveled, which will deal a great blow to the Hong Kong people in understanding the history and culture of their own country. Will the Secretary take some measures to rectify such a situation?*

**SECRETARY FOR EDUCATION** (in Cantonese): I believe every one of you also understands that Chinese History is an elective subject, and students may consider whether to select this subject based on their own wish. The subject is available for their choice. As Mrs IP says, the history of China spans 5 000 years. So the subject of Chinese History is mainly to arouse students' interest to delve into history, and to enhance their motive of learning. Therefore, any historical topic has to be understood from a macro point of view as said by Mrs IP, and the way these incidents affect each other has to be understood in context. So people studying Chinese history will also have exposure to this.

As for Liberal Studies, its main purpose is to assist students in connecting their knowledge of all subjects in the learning process, and allow them to delve into various topics from different angles. As such, Liberal Studies will have a scope narrower than that of Chinese History in treating this topic, and these two subjects have a slightly different point of start. If we hope to assist students in understanding history through Liberal Studies, it will not be as detailed as taking Chinese History as an elective. Nonetheless, we will consider all views expressed by the Members just now and study how to enrich the contents of Liberal Studies.

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

**MRS REGINA IP** (in Cantonese): *The Secretary has said Chinese History can be studied as an elective subject, and every one of us knows that .....*

**PRESIDENT** (in Cantonese): Mrs IP, would you please point out which part of your supplementary question has not been answered by the Secretary?

**MRS REGINA IP** (in Cantonese): *What the Secretary has not answered is how we can encourage students in Hong Kong to have a more in-depth study on Chinese history or study Chinese history selectively, other than taking the subject as an elective currently?*

**SECRETARY FOR EDUCATION** (in Cantonese): President, I have mentioned just now that Liberal Studies as a compulsory subject provides exposure to this. It is hoped that students will know about China's history through this subject so as to arouse their interest. If they wish to have more knowledge in this area, they will perhaps select to take Chinese History in the future.

**PRESIDENT** (in Cantonese): This Council has spent nearly 20 minutes on this question. Last supplementary question.

**MS EMILY LAU** (in Cantonese): *President, the incident of June 4th Massacre in Beijing shocked the whole world, which is a matter of concern to many people. It will be a shame if the SAR Government tries to water it down. The Secretary has said just now that Beijing has not come to consensus in this matter. President, he also mentioned that the contents of textbooks must be accurate in terms of historical facts, and now what are the facts? Among us, there are many people who have recorded the incident based on what they saw at that time, including those who wrote the book entitled "People Will Not Forget" as displayed by Mr KAM Nai-wai just now. However, Beijing considered this incident a disturbance or riot, and so refused to conduct investigations.*

*The Secretary has said in his reply that this topic can actually be taught at schools, and information can be accessed from various sources, but he has not indicated whether it is a very irresponsible act for having no plan to sponsor the production of a "Special Issue on the June 4th Incident"? Even though you have said there is no consensus, and we do not know what had happened, or the issue is very contentious, it should be taught and can be taught. There had been a number of times when a million people took to the streets in Hong Kong. So why is it that this information cannot be clearly imparted to students at schools? If different views exist, we can also show them all. So should the authorities sponsor the production of this special issue to let our next generation see clearly why so many people had been massacred?*

**SECRETARY FOR EDUCATION** (in Cantonese): President, first of all I need to emphasize that I have never said anything about the views of Beijing. I hope every one of you understands that the Education Bureau will not publish textbooks, and will not provide teaching materials for this either. The materials mentioned just now about the May 4th Movement were also not published by the Education Bureau. I have pointed out in the main reply that we had not been involved in the process.

What we are talking about is how the curriculum is prepared. As I have also explained just now, the curriculum is prepared by the Curriculum Development Council based on a set of procedures, and I have explained the operation of these procedures for a few times. What I mentioned just now about the fact that there has not been consensus relates to these procedures, and that they have not come to consensus to include the June 4th incident in the curriculum — this is in response to the request of Mr KAM Nai-wai. I did not say there has been no consensus about the June 4th incident, but what I said is there has been no consensus to include the June 4th incident in the curriculum as a special case. This topic can be taught by teachers, and teaching materials can be found from any sources, and we will also take the initiative to provide teachers with training so that they can understand the various views of academics and enrich their teaching in classrooms. I think we have done the part we should do.

**MS EMILY LAU** (in Cantonese): *President, my supplementary question is why the authorities did not sponsor the production of the special issue. As you have already requested Wen Wei Po to apply for sponsorship and given that you consider it so contentious an issue, will the Government provide the same sponsorship as far as its policy is concerned if other people also apply for it?*

**SECRETARY FOR EDUCATION** (in Cantonese): We have not sponsored any organizations in the production of any special issues. The special issue mentioned just now is jointly published by Wen Wei Po and the National Education Services Centre, and the National Education Services Centre is not an institution of the Education Bureau.

**PRESIDENT** (in Cantonese): There are still seven Members waiting to ask their questions. I am afraid they have to follow up this issue on other occasions.

### **Emotional Problems of Public Under Impact of Financial Tsunami**

4. **MS STARRY LEE** (in Cantonese): *President, according to the survey results recently published by a political party, 80% of the respondents indicated that they felt the stress in facing the impact of the financial tsunami, and the number of people who sought medical treatment due to emotional problems had tripled as compared to the number at the end of last year. Moreover, the support hotline set up by the CEASE Crisis Centre of Tung Wah Group of Hospitals in view of the financial tsunami received a total of around 3 000 calls for assistance during the period between October last year and April this year and nearly 50% of the calls involved indebtedness, and the callers included owners of small and medium enterprises who were facing financial difficulty. Furthermore, the number of bankruptcy petitions received by the Official Receiver's Office (ORO) in the first quarter of this year saw a year-on-year increase of over 50%. In this connection, will the Government inform this Council:*

- (a) *given that the longest median waiting time for new cases for psychiatric specialist out-patient service among all hospital clusters under the Hospital Authority (HA) was as long as 34 weeks in 2008-2009 (as at end of 2008), whether the Government has any*

*plan to allocate additional resources, so as to shorten the waiting time for new cases for psychiatric specialist out-patient service; if it has, of the details; if not, the reasons for that;*

- (b) whether the Government has allocated additional fundings to non-governmental organizations (NGOs) after the onset of the financial tsunami for them to meet the increasing demand of the public for emotional support services; if it has, of the additional fundings received by various NGOs and the dates of appropriation, broken down by the name of NGOs; whether the Government will consider making further allocation of additional fundings to NGOs according to their actual needs; if it will, of the details; and*
- (c) whether it will arrange for professionals to provide assistance for people who have filed for bankruptcy and small and medium enterprises which are going through the liquidation procedure, including assisting them to negotiate with banks on extension of repayment schedules and restructuring of debts?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President,

- (a) At present, under the triage system for new appointment at specialist out-patient (SOP) clinics at the HA, new patients are classified into the following categories on the basis of the urgency of their clinical conditions: priority 1 (urgent), priority 2 (semi-urgent) and routine categories.

In 2008-2009, the median waiting time for first appointment of priority 1 and priority 2 cases at psychiatric SOP clinics were around one week and three weeks respectively. As for new psychiatric SOP cases in the routine category, the HA will arrange the date of medical appointment having regard to the clinical conditions of individual patients.

To further enhance mental health services, the HA has introduced new initiatives to provide people suspected of having mental problems with more channels to receive treatment. In January 2009, the HA launched the designated clinics for mental health in

various clusters for a six-month period. The designated clinics are provided with psychiatrists and psychiatric nurses to render specialist treatment and care for patients referred by general practitioners.

On the other hand, the HA plans to set up triage clinics at the psychiatric SOP clinics in Hong Kong East, Kowloon East, Kowloon West, New Territories East and New Territories West clusters in 2009-2010. The triage clinics will mainly provide services for new psychiatric SOP patients classified as routine cases so as to shorten the waiting time for these non-urgent new cases. The Administration has earmarked additional recurrent funding of \$6.8 million to the HA starting in 2009-2010 to recruit additional manpower to implement the initiative. Meanwhile, to strengthen community mental health services and provide suitable psychiatric services, the Administration has also earmarked additional recurrent funding of \$23.6 million and \$8.26 million starting in 2009-2010 to provide recovery support service for psychiatric patients in the community and to further enhance the psychogeriatric outreach service to private residential care homes for the elderly respectively.

- (b) The Administration is aware of the fact that some members of the community may have emotional and family problems as a result of the financial difficulties brought by the global financial tsunami, and has therefore taken prompt action to enhance the support for them.

The Social Welfare Department (SWD) allocated a total of \$2.17 million in October 2008 and January 2009 to two Non-governmental Organizations (NGOs), namely 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, for setting up two "Financial Crisis Emotional Support Hotlines" manned by registered social workers. The hotlines provide 24-hour counselling service to persons in need. Social workers manning the hotlines also provide face-to-face counselling services to persons seeking assistance and organize support groups for them with a view to strengthening their competencies to face adversity. Where necessary, social workers will refer their cases to appropriate welfare and professional service

units for follow-up. The SWD will continue to closely monitor the provision of the above services and take appropriate measures in response to service demand.

- (c) On assisting debtors, who are responsible for repaying their debts in accordance with their loan agreements, at present if they are unable to meet their contractual obligations, they can seek assistance from various channels. Apart from approaching creditors to renegotiate payment terms on their own, they could also retain the services of private sector advisors or firms with experience in debt or business restructuring to provide the necessary advice. In addition, we understand that various voluntary or social welfare agencies and professional bodies offer free financial counselling services, for example, setting up counselling hotlines, organizing seminars to provide personal finance advice during financial tsunami, arranging support groups for people in financial difficulties and providing personal debt counselling for those in need, and so on. The Administration does not provide debt restructuring advisory services and it would not be appropriate for the Administration to intervene in negotiations between debtors and creditors.

As for banks' lending policies, they are in principle the commercial decisions of individual banks. Nevertheless, having regard to the needs of borrowers in financial difficulties, the Hong Kong Monetary Authority (HKMA) has endorsed the "Hong Kong Approach to Consumer Debt Difficulties" (Approach) issued by the Hong Kong Association of Banks, the DTC Association, Finance Houses Association and HKSAR Licensed Money Lenders Association in 2002, requiring banks to comply with the guidelines set out in the Approach. Under the Approach, when banks become aware that their customers are in financial difficulties, they should consider such cases sympathetically and discuss the matter with the customers concerned to find a solution which is mutually beneficial to both customers and banks. Possible solutions may include extending the repayment schedule, rescheduling the debts or offering debt relief plans.

In addition, the HKMA has taken a series of measures to help alleviate the difficulties faced by Small and Medium Enterprises

(SMEs), including issuing a circular to all banks in October 2008 urging them to continue to support their SME customers, be accommodating and flexible to the funding needs of SMEs, and refrain from hasty and indiscriminate withdrawal or reduction of credit lines. In November 2008, the HKMA also issued a circular to remind banks of the need to follow the "Hong Kong Approach to Corporate Difficulties" in handling situation whereby a corporate customer, who has borrowed from more than one institution, runs into financial troubles. The "Hong Kong Approach to Corporate Difficulties" has set out some basic principles, including the one specifying that banks should remain supportive to corporate customers in financial difficulties, and should not hastily withdraw their existing facilities, put the borrower into receivership or issue writs demanding repayment. Instead, they should endeavour to help enterprises with reasonable prospect to continue operating. The HKMA encourages banks to proactively consider customers' requests for temporary relief arrangements, and in the event that a debt restructuring is necessary, banks should follow the "Hong Kong Approach to Corporate Difficulties" and co-operate with other institutions involved in identifying a workout plan acceptable to all stakeholders, with a view to alleviating the difficulties faced by SMEs amid the global financial turmoil.

**MS STARRY LEE** (in Cantonese): *President, according to the figures of the ORO, we have seen that the number of corporate liquidation cases has jumped three-fold since the onset of the financial tsunami. The number of such cases has not reached 1 000 before October 2008, while over 1 000 cases of bankruptcy petitions were recorded in each month starting from November 2008 to February in 2009. In the case of personal bankruptcy petitions, the situation is similar, with the average number of people filing bankruptcy petitions exceeding 1 000 each month. Individuals and corporations are left with no alternative but to resort to dealing with their debts by going into bankruptcy, which they have to pay a huge price. I have talked to voluntary organizations and according to them, there is mandatory requirements in some overseas places for bankruptcy petitioners to receive financial counselling, so that they can reach an agreement on loan restructuring with their creditors through these professional counselling.*



*The Secretary mentioned in part (c) of the main reply that as far as he is aware, quite a number of voluntary or social welfare organizations as well as professional bodies also provide financial counselling services for free. Despite the availability of these services, it depends on whether the assistance seekers are willing to take this step. Against the background of the continuing financial tsunami, it is estimated that the average number of bankruptcy petitioners may be maintained at around 1 000 per month. May I ask the Secretary whether the authorities will consider putting in place a mechanism for these bankruptcy petitioners to be able to receive professional counselling?*

**PRESIDENT** (in Cantonese): Which Secretary will answer this question?

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, perhaps let me answer this supplementary question.

What Ms Starry LEE has proposed just now is really a good suggestion. In fact, Secretary Matthew CHEUNG also mentioned earlier that many different voluntary and social welfare organizations provide services of this kind. What I want to point out is that the ORO has all along been taking some education initiatives in this respect and explained to social services organizations and professional bodies the procedures in respect of bankruptcy and individual voluntary arrangement as well as their differences, such as teaching them how to prepare the bankruptcy petition and the balance sheet, and so on. At the invitation of different organizations, the ORO will certainly be most happy to provide more talks of this kind so that voluntary organizations will find it more easily to provide such services to those people in need.

**MS STARRY LEE** (in Cantonese): *President, I want to clarify if the Secretary's reply implies whether the Secretary or the Bureau intends to perfect the existing mechanism. I understand that the Government provides certain talks at present, however .....*

**PRESIDENT** (in Cantonese): Ms Starry LEE, you can only state which part of your supplementary question that has not been answered by the Secretary.

**MS STARRY LEE** (in Cantonese): *Yes, he did not answer the part of my question about whether the Government is willing to perfect the existing mechanism, so that all the bankruptcy petitioners will be given an opportunity to receive professional counselling provided by these voluntary organizations.*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, at the present moment, what we can offer is that if a person in financial plight considers an alternative other than going into bankruptcy, he may make use of the individual voluntary arrangement which I have mentioned earlier, the consequence of which is not as serious as that of going into bankruptcy. The arrangement itself allows for a degree of flexibility under which the debtor can negotiate with the creditor and make a proper arrangement between them. Our mechanism enables one to have more flexibility in dealing with his own financial difficulty.

As regards the ways to help these people in need of assistance, we have to rely on the existing voluntary organizations and the ORO to step up their educational efforts in providing more support services of this kind.

**DR JOSEPH LEE** (in Chinese): *President, I think the Secretary may also know that on the issue of psychiatric patients, a tragedy took place in our community not long ago. In the third paragraph of part (a) of the main reply, the Secretary mentioned that starting from January 2009, the HA would launch the designated clinics for mental health in various clusters for a six-month period. And it is already mid May now. May I ask the Secretary if he can give me an answer as to whether the Administration will extend this service where necessary? Since this service is about to expire and given the large number of people who need the service, will the Secretary extend the period of its availability?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Thank you Dr LEE. This service is a matter of great concern to all of us. I would like to make it clear that the service launched in January 2009 covers a period of six months. It is also explained in the following paragraph of the main reply that by the end of the six-month period, we will set up triage clinics at five clusters (that is Hong Kong East, Kowloon East, Kowloon West, New Territories East and New Territories West) in 2009-2010. These clinics will start operation on

1 July. The timing of the two services matches well one after another in that we will make it as a long-term service in July after the short-term service expires in June. And the provision itself is a recurrent funding which means that this is not a temporary or six-month programme. In other words, the HA has made a comprehensive arrangement which is to be enhanced by the Government's supporting services to make it as a long-lasting service.

**MR CHAN KAM-LAM** (in Chinese): *President, the Secretary has indicated in the main reply that new cases for psychiatric specialist out-patient service will be classified into priority 1, priority 2 and routine categories. From the information available, however, the average waiting period needed will at least be over 30 weeks. In our view, whilst patients who are classified into priority 1 and 2 categories may be arranged for treatment within one to three weeks, there are indeed many other cases of which the patients have to wait for as long as 34 weeks or more. This situation is really far from satisfactory. May I ask the Government whether it will allocate more resources in a bid to shorten the waiting time for other new cases? If the patients have to wait for more than 34 weeks, their cases may turn from routine category to priority 1 or 2 categories, and this is definitely unacceptable.*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Thank you Mr CHAN for his concern on this issue. The HA fully appreciates the need to strengthen its existing services.

As I have said just now, the Bureau and the HA have developed a strategy under which triage clinics will commence operation in July and it will be included as a long-lasting service in the clusters. On the other hand, I would also like to share with Honourable Members some figures in this respect. The particular case in which the patient had to wait for 34 weeks is a special case in Kowloon East cluster. I would like all of you to remember several figures. Generally speaking, patients of 96.6% of cases which are classified as priority 1 category will be able to receive treatment in one or two weeks' time.

In connection with the cases which are classified as routine categories, the median waiting time is 17 weeks. Thus, it is only a special case for the patient to wait for 34 weeks. We are aware of this case and the HA also knows that efforts have to be made. On this front, Honourable Members are all clear about

our reply that we will put in place a series of measures, be it short-term or long term recurring measures. We are certain to enhance our services.

**MR JAMES TO** (in Chinese): *President, part (c) of Ms LEE's main question asks the Government whether it will arrange for professionals to help these people who are in need of assistance. And the Government's reply is that the Administration does not provide such advisory services and it would not be appropriate for them to intervene. I can see its point.*

*However, it is stated in the Secretary's reply that he understands some people do offer these services. In this way, President, whether it is necessary for the Government to make available its own analysis, say whether there are professionals of voluntary organizations to provide these services currently? If so, it is imperative for the Government to analyse whether these services are adequate and whether it is necessary to provide additional funding. These are what parts (b) and (c) of the main question are asking. Yet, the Secretary only said that he understood that services were already available and hence, the Government would not provide such services. Is it something that a responsible Government should do? Or is it something we should expect from an official who is responsible to answer questions?*

**PRESIDENT** (in Cantonese): Which Secretary will answer this question?

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): I thank Mr TO for his supplementary question.

What I want to say is that whether corporations or individuals, when they suffer from financial difficulties, their negotiations with the creditors are definitely their own matters. Under the legal framework, there are various procedures which will help them deal with their financial problems.

Concerning the replies we provided just now, apart from the legal framework, Ms LEE asked what kind of special assistance would also be available to those in need of help. The point that I wish to make is that to a great extent, we really have to rely on the voluntary organizations in the community to provide these additional special services.

Of course, from the perspective of the Government, we will identify the procedures available under the legal framework which are conducive to the smooth conduct of negotiations between creditors and people in financial plight. At the same time, it is also mentioned in the main reply of Secretary Matthew CHEUNG that guidelines have been issued by the HKMA to remind banks that in the event of problems associated with personal loans, the Hong Kong Association of Banks needs to adopt a very .....

(Mr James TO raised his hand)

**PRESIDENT** (in Cantonese): Secretary, please wait a minute and let Mr TO repeat his supplementary question.

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

**MR JAMES TO** (in Chinese): *I did not ask this part. My supplementary question is: Given that it is said in the main reply that the Secretary understands that voluntary agencies do offer services, I thus asked why it is not analysed in the Government's main reply that whether the services offered by these voluntary agencies are sufficient to meet the demands. As I do not intend to request the Government to provide such service, should this question be answered by another Secretary?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Let me briefly finish my reply.

I wish to stress that the Government should consider the legal framework and certain special services when offering services. Just like the mechanism between Hong Kong Association of Banks and debtors which I have mentioned earlier, it is designed to facilitate the negotiation between banks and people suffering from financial plight. This is what we can see at the moment.

**PRESIDENT** (in Cantonese): Secretary, Mr TO's main query is: What is the Government's policy on the services currently offered by voluntary agencies?

(The Secretary for Labour and Welfare indicated that he would make the reply)

**PRESIDENT** (in Cantonese): Secretary for Labour and Welfare, please give a reply.

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, I would like to thank Mr TO for his question.

There are indeed certain social welfare organizations which are providing these services at the moment. One typical example is the Family Crisis Support Centre of Caritas-Hong Kong. Their 24-hour operated counselling hotline, with an easily remembered number (18288), is a debt counselling service manned by social workers who provide much advice on loan restructuring. I also paid a visit to them before. The reason why I can maintain a good relationship with them is that the SWD has entrusted the Support Centre to set up a "Financial Crisis Emotional Support Hotline" which is funded by our Bureau. Funds are also allocated to the Multi-purpose Crisis Intervention and Support Centre of the Tung Wah Group of Hospitals. In terms of their overall services, apart from offering emotional counselling on financial tsunami, counselling services on loan restructuring are also available. In particular, some enthusiastic accountants and lawyers also play a part in providing lots of advice. All in all, these services do really exist.

**MR JAMES TO** (in Chinese): *President, I am not asking if there are such services. Instead, what I want to point out is that it is incumbent upon the Government to analyse whether the services are sufficient. This is the question posed in Ms LEE's main question. Yet, the Secretary only indicated that services were available. Who does not know services are available? Each and everyone of us are aware of this fact.*

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

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): My answer is that first of all, this kind of service does really exist. As regards the question raised by the Honourable Member concerning whether the service is sufficient, I will say that if it is insufficient, the agencies concerned will reflect the situation to us. Of course, they are not government-funded organizations but we do keep in contact with them. Just as what I have said earlier, there are a lot of communication between the welfare sector and those organizations. We are therefore aware of what kind of services they are providing.

**PRESIDENT** (in Cantonese): We have spent more than 21 minutes on this question. Now the fifth question.

### **Corporate Rescue Procedure**

5. **MR PAUL CHAN** (in Cantonese): *President, since the financial tsunami struck Hong Kong, more and more enterprises are expected to encounter difficulties in their operation. Yet, many of such enterprises are delivering quality products and services, their management are people with competence and integrity, and their modes of business are commercially viable, but they have fallen into financial difficulty only because the economic environment has deteriorated too rapidly. To give enterprises in financial difficulty a chance to turn around, quite a number of countries such as the United States, the United Kingdom, Australia and some Asian countries have currently put in place statutory procedures whereby such enterprises are allowed to undergo debt restructuring during the "moratorium", so as to protect them from being wound up immediately, thereby preserving the "rice bowls" of employees. Although the Second Legislative Council had started the scrutiny of the Companies (Corporate Rescue) Bill, the scrutiny work was subsequently held in abeyance on the request of the Government. The Government has announced earlier that it would start afresh the relevant legislative exercise. In this connection, will the Government inform this Council:*

- (a) *of the legislative timetable; whether it can manage to introduce the bill concerned into this Council within the first half of the 2009-2010 Legislative Session; if not, of the reasons for that;*

- (b) *whether it has reviewed the reasons for the failure to enact a law on corporate rescue procedure during the Second Legislative Council; whether it has assessed the greatest barrier to the relevant legislative exercise that time, and how the Government plans to overcome such barriers; and*
- (c) *as it takes time to legislate, whether the Government has considered, apart from continuing to implement the Small and Medium Enterprises Loan Guarantee Scheme, immediately adopting other methods and measures to help enterprises in financial difficulty and their staff to tide over the difficult times?*

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

- (a) The Government is actively revisiting the proposal of introducing a corporate rescue procedure for companies in financial troubles to provide a statutory "grace period" for companies facing short-term financial difficulties but are viable in the longer term, so that they can restructure their business or debts, or seek capital injection to turn themselves around.

The corporate rescue procedure is a very complicated subject involving interests of different stakeholders, including company shareholders, management, employees, creditors and professionals engaging in corporate restructuring. Our objective is to ensure that the proposed statutory procedure can strike a reasonable balance between the interests of various stakeholders.

We are reviewing the Companies (Corporate Rescue) Bill presented to the Legislative Council in 2001. Taking into account the views of the community and the latest overseas developments, we may need to revise some of the proposals contained therein so as to make the proposed procedure more practicable. After we complete our internal study, we plan to conduct a public consultation on the principle and conceptual framework of the proposed statutory procedure in the fourth quarter of this year. Subject to the outcome of the public consultation, and depending on whether a consensus



can be reached, we expect that the Bill will be submitted to the Legislative Council for scrutiny in the second half of next year at the earliest.

- (b) As I understand it, when the Second Legislative Council scrutinized the Companies (Corporate Rescue) Bill, one of the more controversial issues was the issue of arrears of employees' wages and other entitlements. The Bill proposed that a company should be required to settle all amounts owed to its employees or to set up a trust account for the purpose of paying all the entitlements owed to its employees prior to the start of the corporate rescue procedure. However, many business and professional bodies as well as some Members were concerned that the trust fund arrangements would make it more difficult for companies to initiate the corporate rescue procedure.

In view of the above, the Government considered in 2003 capping the amount payable under the trust account to each employee to what would have been payable to that employee by the Protection of Wages on Insolvency Fund (the Fund) had the company instead been wound up at the time of initiating the corporate rescue procedure. The company must undertake in its voluntary arrangement proposal to repay in full any amounts not covered by the cap within 12 months. In September 2003, we issued a paper to seek views from relevant parties. While the majority of the respondents either supported or had no comment on the proposal, some still considered it a significant impediment to the corporate rescue and that it would affect the interests of other creditors.

Other controversial issues included the personal liability of directors and senior management in case a company traded while insolvent, whether the corporate rescue procedure would be abused and whether the remuneration of provisional supervisors would be prohibitive, and so on.

At that time, we considered that the proposal of capping the sum payable under the trust account had already paid due regard to the interests of employees and companies. However, we expected that a significant amount of work remained to be done, and it was highly

unlikely that the scrutiny of the Bill could be completed within the Second Legislative Council term. Therefore, we did not propose that the Bills Committee be reactivated to continue its scrutiny of the Bill and informed the Bills Committee in June 2004 accordingly.

As mentioned above, we are reviewing the proposals in the Companies (Corporate Rescue) Bill to study if any amendments need to be made. We will publish a consultation paper later this year to solicit public views on this subject. We will report the progress to the Legislative Council Panel on Financial Affairs in due course.

- (c) The Government is very concerned about the difficulties faced by small and medium enterprises (SMEs) amid the global financial crisis. To actively support Hong Kong enterprises, the Trade and Industry Department (TID) introduced various enhancement measures to the "SME Funding Schemes" last March and November. TID further introduced a "Special Loan Guarantee Scheme" last December, providing up to \$100 billion loan guarantee.

At the same time, the "Support and Consultation Centre for SMEs" (SUCCESS) of TID provides SMEs with free business information and practical consultation services, including offering advice to deal with business operation problems, so as to help SMEs equip themselves amid the adversity and enhance their competitive edge. We appreciate that SMEs face many difficulties amid the financial crisis and will need practical knowledge and skills to tide over the adversity. To this end, SUCCESS will organize more seminars to help SMEs explore business strategies and skills for survival.

On the other hand, while the lending policies of banks are in principle their commercial decisions, the Hong Kong Monetary Authority (HKMA) has adopted a series of measures to help alleviate the difficulties facing enterprises amid the global financial crisis. This included issuing a circular to all banks in October 2008, urging them to continue to support their SME customers, be accommodative and flexible to the funding needs of SMEs, and refrain from hasty and indiscriminate withdrawal or reduction of credit lines. In addition, the HKMA issued a letter in November 2008 to remind banks of the need to follow the "Hong Kong

Approach to Corporate Difficulties" in handling situations where a corporate customer, who has borrowed from more than one institution, runs into financial troubles. Banks should adopt a supportive attitude and they should not hastily withdraw facilities, put the enterprise into receivership, or issue writs demanding repayment.

**MR PAUL CHAN** (in Cantonese): *President, it is mentioned in part (b) of the main reply that a more knotty problem identified last time was the issue of arrears of employees' wages. The authorities have proposed the setting up of a trust account to impose a cap on the amount of contribution on the part of arrears of employee's wages. However, the main reply also mentioned that this proposal was highly controversial. While it is important to safeguard the interests of staff in the restructuring exercise, the whole process should not be hindered by this. May I ask the Government if it will consider introducing a measure in the consultation paper under which staff members will be considered as a group to be allowed to vote on the restructuring proposal? This measure provides more room for the design of relevant restructuring proposal, taking into account of various circumstances, and offering better solutions to both staff members and other stakeholders.*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): It is correct for Mr CHAN to say that the issue is relatively controversial. Of course, we believe that the interests of staff are also very important which have to be taken care of. But how should we solve this problem? We are looking at various approaches. It has been suggested in our original proposal that a trust account for the purpose of paying outstanding wages to employees should be set up. A cap has to be imposed and be pegged at the amount payable under the Fund. We believe that this approach is feasible and should be put up for discussions. Certainly, relevant implementation issues also have to be considered, such as whether a director and provisional supervisor of a company should be temporarily exempted from criminal liability arising from the arrears of employees' wages under the Employment Ordinance upon the enactment of the measure? A relevant study is underway.

Mr CHAN has talked about another approach: can the same voting right be given to employees? We believe that it is also one of the approaches we can

take into consideration. Besides, we are also considering whether staff members could be exempted from the "moratorium" restriction so that they could apply to the court for winding up the company concerned during the corporate rescue exercise. Of course, the merit is that employees' interests will be not affected by the corporate rescue procedure. However, by requiring a company to settle all outstanding wages to employees beforehand, the threshold for initiating the corporate rescue procedure may be set too high. This is what we have to deal with. We are studying these approaches and will submit a consultation paper in due course to solicit public views.

**MR PAUL CHAN** (in Cantonese): *Please implement them as soon as possible.*

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

**MR CHIM PUI-CHUNG** (in Cantonese): *President, the Secretary pointed out in part (c) of the main reply that the Government introduced the "Special Loan Guarantee Scheme" in December, providing up to \$100 billion loan guarantee. This is a highly desirable effort to rescue SMEs. However, in the meantime, Joseph YAM, the Chief Executive of the HKMA, has repeatedly reminded the banks that the second wave and also the third wave of the financial turmoil are around the corner. Does he indirectly call on the banks to exercise caution in lending? Are this kind of spirit and remark in contrary to the spirit of the Government to rescue SMEs?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): I try to answer this supplementary question. I believe that Joseph YAM has made his remark from a more macro perspective. Actually, the guidelines we issued to the banks aim to advise them to make arrangements for SMEs in difficulties and refrain from treating them in a broad-brush manner, which are in line with the guidelines issued in 1999 amid the last financial turmoil. We raise this with the banks again this time and we can sense that the banks' attitude and response in this regard are very positive.

**MR TOMMY CHEUNG** (in Cantonese): *President, it is mentioned in part (c) of the main reply that a "Special Loan Guarantee Scheme" was introduced last November. But as far as I understand it, the scheme will soon expire as the Government has said that the scheme will last for six months only. So far, only \$10 billion-plus have been lent out. I would like to ask the Secretary whether or not it will extend the expiry date of the "Special Loan Guarantee Scheme" given the small number of beneficiaries? Besides, whether it will reexamine if the loan terms are so harsh that a number of SMEs, in particular those engaged in the catering industry, are denied access to the loan facility?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): *President, I am very pleased to inform Members that as at yesterday, this loan scheme has approved 8 706 applications, totalling \$17.6 billion in loan amount. Since the launch of various loan schemes in November and December, the results have become more satisfactory and the procedures increasingly smooth now. Certainly, it is originally planned that this scheme will end in June, but a review is underway. Upon completion of the review exercise at the end of May, we will come up with a decision on measures to be taken.*

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

**MR TOMMY CHEUNG** (in Cantonese): *President, he only mentioned carrying out a review but I actually want to address two areas: the expiry of that scheme in June and also whether or not the terms are too harsh? Will the Secretary also review the latter?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): *President, the review will cover the terms and operation of the loans as well as the smoothness in handling loan applications by banks. Is it really difficult for SMEs to apply for loans? Based on the actual total lending figures, I believe that it is not the case. All the latest information shows that successful applications actually reach more than 75%. Despite this, a review will still be conducted which will be completed at the end of May.*

**MR IP WAI-MING** (in Cantonese): *The Secretary mentioned just now in part (b) of the main reply that how to handle the interests of employees also poses a big problem in the Companies (Corporate Rescue) Bill. At that time, the Hong Kong Federation of Trade Unions (FTU) was actually highly concerned about this issue. We were of the view that under the Bill, employees might not have their outstanding wages paid for a long period of time. We have been all along opposed to the imposition of a cap, which is a cap on interests. We believe that the imposition of such a cap in the absence of any unemployment protection scheme in Hong Kong will deprive employees of adequate protection. However, we are deeply disappointed to hear just now that in the soon-to-be released consultation paper, the Secretary still seems to insist on imposing a cap. I would like to know that in the forthcoming consultation exercise, will this be one of the proposals? Are there any proposals which can better protect the interests of workers?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, Mr IP should recall that we had had lengthy discussions on this issue at that time. The reasons for proposing a cap at that time were that firstly, this cap would ..... this cap would be pegged at the amount payable to workers by the Fund in the event of a company winding up. At that time, it was believed that the peg could accord appropriate protection to employees. Why have we come up with this proposal? It was because a lot of feedback received at that time suggested that the requirement to settle all outstanding debts prior to the start of the corporate rescue procedure would make it more difficult to initiate such procedure. Mr IP, frankly speaking, it is a controversial issue. This is why in answering Mr Paul CHAN's question just now, I said we are studying other approaches, including some measures I mentioned just now, such as whether staff members could be exempted from the "moratorium" restriction so that their consent would be required to initiate the winding-up procedure? This is one of the approaches we are considering. Nevertheless, I agree that in future discussions, we rely much on the wisdom of all Members to come up with a consensus proposal.

**PRESIDENT** (in Cantonese): We have spent more than 19 minutes on this question. Last supplementary question.

**MR LEUNG KWOK-HUNG** (in Cantonese): *President, "a person who is genuine in rescuing the lives of others never gives up any person". I heard that the Secretary, in reply to Mr IP's supplementary question, said that the issue was controversial. My supplementary question is: now in the year of 2009 which has been eight years since the introduction of the Bill to the Legislative Council in 2001, the Government should make a decision on that controversial issue. I want to ask the Secretary and Mr SO if they believe that under any circumstances, protection of the interests of wage earners should always be accorded top priority when a company goes bankrupt? This is the simplest question. If the answer is "yes", why don't you introduce the Bill into the Legislative Council for passage by Members?*

**PRESIDENT** (in Cantonese): Which Secretary will reply?

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Perhaps let me answer the question. Currently, with no corporate rescue procedure in place, companies can certainly apply for liquidation, dealing with various labour issues pursuant to the existing labour legislation and resolving issues with their creditors according to the existing insolvency procedures. However, there are views in society that this arrangement is not very appropriate because in other places where corporate rescue procedure is available, companies will be given a "grace period" to address their short-term financial difficulties. It would be beneficial to both the company and its staff if the difficulties could be coped with. I explained just now to Members the problem we have seen, which is to strike a reasonable and appropriate balance to the satisfaction of various stakeholders. At that time, we really reached a stage at which the Second Legislative Council would not be able to finish this legislative work. Now, we put it up for discussions again as we can see that the current economic difficulties may provide an additional incentive or example showing us this procedure, if put in place, would help us rescue our companies. I hope to draw on collective wisdom and absorb all useful ideas by restarting discussions on the issue. With the input of more views, we would be able to overcome the numerous problems we encountered in the past.

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

**MR LEUNG KWOK-HUNG** (in Cantonese): *What I am asking is if he should accord top priority to the task of safeguarding the interests of wage earners? If yes, why doesn't he introduce the Bill to the Legislative Council? Now, he said "drawing on collective wisdom and absorbing all useful ideas" once again. From 2001 to 2009, eight years have already past, buddy.*

**PRESIDENT** (in Cantonese): Mr LEUNG, you need not repeat your views. Secretary, please reply.

**MR LEUNG KWOK-HUNG** (in Cantonese): *The economy slipped into recession twice.*

**PRESIDENT** (in Cantonese): Secretary, Member asked you how do you think about his views?

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Members' views will certainly be taken into consideration so as to draw on collective wisdom and absorb all useful ideas. As "many drops of water will make an ocean", we hope to come up with a comprehensive proposal.

### **Above-station Property Development Projects at Nam Cheong Station and Yuen Long Station**

6. **MR LEUNG YIU-CHUNG** (in Cantonese): *President, although the Government had announced in November 2008 the lowering of the development densities of the above-station property development projects at the Nam Cheong Station and the Yuen Long Station along the West Rail, some residents nearby still relayed to me recently that the development densities of such development*



*projects were still too high. In this connection, will the Government inform this Council:*

- (a) whether the Government and its project agent, the MTR Corporation Limited (MTRCL), have ascertained if there are still residents nearby and concern groups having reservations about or objecting the revised schemes of such development projects at present; if so, of the details;*
- (b) whether the Government and MTRCL have any plan to enhance communication with the residents nearby, so as to ascertain if they generally support the revised schemes; and*
- (c) whether the Government will assess again if the development densities of such development projects may be lowered further; if it will, of the details; if not, the reasons for that?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, the original Master Layout Plans (MLPs) of the property development projects at the Nam Cheong Station and the Yuen Long Station along the West Rail were approved by the Town Planning Board (TPB) in 2004 and 2005 respectively. In the 2007-2008 policy address, the Chief Executive (CE) announced that one of the important tasks of the Government of the current term was to review the relevant outline zoning plans (OZPs) in a step-by-step manner and to lower the development density as appropriate, with a view to creating a better living environment for our people. The CE also mentioned that the Government would review the approved schemes of the above-station property development projects at the Nam Cheong Station and the Yuen Long Station to address the concerns of the local residents and the District Councils (DCs) about the development densities of the two projects. Thereafter, the Government and MTRCL, that is, the Government's agent for above-station property development projects of the West Rail, carried out a comprehensive review on the design of the Nam Cheong Station and the Yuen Long Station projects. We had seriously considered public views and taken into account the consideration to optimize the use of housing land to meet the society's demand, in announcing revised schemes in November last year.

In brief, under the revised scheme for the Nam Cheong Station, two towers will be deleted and the total gross floor area (GFA) will be reduced by 18%. The total plot ratio will be reduced from 8 to 6.6 and the number of residential units will be reduced by 926 (or 22% of the original number). The revised scheme has also adopted the design features of other buildings with a view to improving the air ventilation and the visual impact of the properties on the district.

As for the Yuen Long Station, the revised scheme has also proposed to delete two blocks and reduce the total GFA by 15%. The total plot ratio will be reduced from 4.64 to 3.93 and the number of residential units will be reduced by 456 (or 21% of the original number).

Generally speaking, Mr LEUNG's question concerns the consultation carried out by the Government on the above two development projects and the latest progress of the projects. Our consolidated reply to the three-part question is as follows:

(a) and (b)

When we decided to review the scale of development of the two projects in 2007, we meant exactly to address the earlier concerns expressed by the DCs and residents' organizations. After the revised schemes were announced, the Development Bureau, the MTRCL, the Planning Department (PlanD) and the Transport Department (TD) attended the Shum Shui Po District Council (SSPDC) meeting on 6 January 2009 to brief the DC members on the proposed revised scheme of the property development project at the Nam Cheong Station along the West Rail. Apart from expressing its wish for a further reduction in development density, the DC specifically requested increasing the breezeways from two under the revised scheme to three. In response to the request, the MTRCL further amended the proposed revised scheme after the meeting. Under the latest scheme, three breezeways will be provided. On 10 March, the Development Bureau issued a letter to the SSPDC to explain the amended scheme in detail.

The Transport and Housing Affairs Committee of the SSPDC discussed the amended scheme of the development project at the

Nam Cheong Station at its meeting on 16 April 2009. Some members supported that consideration should be given to making the above-station development at the Nam Cheong Station compatible with the local environment, and having the relevant development started promptly after consulting professional advice, with a view to optimizing the use of land resources and creating job opportunities. But some members hoped that when the TPB examined the planning application regarding the above-station development at the Nam Cheong Station, due consideration should be given to other proposals, including further reducing the building height and development intensity, and rezoning part of the land to open space or community facilities, and so on.

Regarding the Yuen Long Station development project, the villagers (especially the "Joint Meeting Group of Seven Villages" comprising Nam Pin Wai, Tung Tau Tsuen, Tsoi Uk Tsuen, Ying Lung Wai, Shan Pui Tsuen, Wong Uk Tsuen and Tai Wai Tsuen) in the vicinity of Yuen Long Station and the residents of Sun Yuen Long Centre (SYLC) have been in touch with us to express their concerns over the project both before and after the announcement of the revised scheme. On 18 March 2009, the Development Bureau, the MTRCL and the PlanD attended the Executive Committee meeting of the Shap Pat Heung Rural Committee and briefed its members on the proposed revised scheme of the development project at the Yuen Long Station and listened to the villagers' views. Village representatives from the "Joint Meeting Group of Seven Villages" were also invited to the meeting. The Development Bureau, the MTRCL and the PlanD also attended the meeting of the owners' incorporation of the SYLC on the evening of 23 March to brief its members on the proposed revised scheme and listen to their views.

Thereafter, at the meeting of the Yuen Long District Council (YLDC) on 23 April 2009, the Development Bureau, the MTRCL, the PlanD and the TD briefed the DC members on the proposed revised scheme. The DC requested the Government at the meeting to reconsider and review the plot ratio of the above-station development project at the Yuen Long Station, to reduce the scale of

the development project further and to increase the greening area and room for air ventilation.

As can be seen from the above, the Government and the MTRCL have maintained close liaison with the relevant DCs and the local communities. However, we need to understand that it will not be easy to achieve a general consensus on such a controversial issue. The aspirations of the residents living in the vicinity of the property developments to further reduce the number, the height and bulk of the buildings are understandable, but we can only strive to strike a balance in the best interest of the community under the various objective constraints.

- (c) The MTRCL has submitted the amended scheme of the above-station property development project at the Nam Cheong Station that allows three breezeways to the Metro Planning Committee (MPC) of the TPB for consideration. The scheme has just been approved by the MPC on 8 May 2009 with conditions requiring the MTRCL to further improve the form and disposition of the buildings, with a view to further increasing the distances between towers and widening the breezeways.

Regarding the Yuen Long Station development project, we are now considering and examining the views and concerns expressed by the villagers, local residents and the DC. We will give our response to the YLDC in due course.

**MR LEUNG YIU-CHUNG** (in Cantonese): *President, the Secretary's colleagues had visited the two districts respectively at the beginning of this year to introduce the new amended schemes to the residents' organizations and the residents. However, we are not sure if the nature of such meetings is to consult or notify residents and hope that the Secretary could clarify later whether the meetings are consultative or informative in nature. It is because until now, the relevant authorities have yet to respond to the many views expressed by the residents and organizations. In the light of this, I would like to ask the Secretary whether the authorities have plans to revise the amended schemes in the future? If yes, how the schemes could be amended; if not, the reasons for that? Will the authorities continue to further ..... instead of notifying, consult local*

*communities or residents or listen to their views so as to improve the current environment?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): The SAR Government adopts an interactive approach as far as possible every time it meets DCs, residents' organizations and community organizations to study issues of public concern. In other words, we will not go to a venue to merely inform our friends consulted of what our views are, without listening to any of their views. Let's cite the example I mentioned just now. In the SSPDC meeting, we have listened to the wishes of the DC members for the provision of three breezeways. We subsequently incorporated this view in our design. Nevertheless, DCs or residents will certainly have other views from time to time which we are unable to fully accept. We hope that Mr LEUNG will appreciate this.

So, here are the responses to Mr LEUNG's question regarding the respective progress of the two projects. The revised or amended scheme which provides three breezeways for the above-station development at the Nam Cheong Station has been endorsed by the TPB with a condition of approval. We are following up the implementation of the condition imposed by the TPB. To comply with it, we have to make use of the building design to increase the distances between towers and improve the ventilation arrangement without changing the development density of the original revised scheme. We are now working on this.

For the Yuen Long Station, as I said in the main reply, we will re-examine the views expressed by the residents and the DC. However, we cannot assure you now whether there is room for further reduction of the building density and height. As I have said in the main reply that after dealing with issues of the development densities and height of these buildings for about two years, I have accepted the fact that it is not possible to meet expectations fully, nor could we satisfy all requests of residents and organizations concerning each and every project.

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

**MR LEUNG YIU-CHUNG** (in Cantonese): *The Secretary has not answered whether the authorities will further communicate with the local communities and residents to understand and listen to their views so as to make any amendments. At present, the residents are dissatisfied and discontent with their way of doing things.*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): I have mentioned in the main reply that we have actually paid many visits to the local communities, particularly so for the Yuen Long Station. Apart from the DC, we have met with villagers and SYLC residents to address their concerns. Therefore, I believe that we have basically grasped the aspirations of the residents. The current problem is to what extent we can satisfy the aspirations of the residents or we can satisfy none of their aspirations at all. I will certainly give an account of this to the YLDC in due course.

**MR FREDERICK FUNG** (in Cantonese): *I must admit that the Secretary has taken on board views of the public and the DC regarding the provision of breezeways (increasing the number of breezeways from two to three). However, this is not the only issue on which the public and the DC have expressed views. I try to point out other requests to which they have attached greater importance.*

*I would like to ask the Secretary a question. Two of the Government's latest building guidelines are quite important. They are, firstly, the use of ridgelines as a reference, and secondly, stepping height should be used for waterfront buildings with buildings at the front not to be taller than those at the back. I have just handled a case yesterday concerning a development at King Wah Road, North Point. Although the developer has been given green light to develop high-rise buildings which are taller than those at the back, the Government subsequently requested the developer not to do so in view of residents' opposition. The developer was then requested to lower the height of the buildings at the front to 110 meters from 130 meters on the basis that buildings at the back are 110 meters high. Of course, North Point residents have yet to give their nod. Nevertheless, when we look into the situation here in Sham Shui Po, the SSPDC and some local communities have requested that the Nam Cheong Station project, a MTRCL's property development located in front of Fu Cheong Estate, should also not be taller than Fu Cheong Estate. Even with the provision of three breezeways under the latest scheme, this*

*soon-to-be-launched project is still 20 meters taller than Fu Cheong Estate. How could the Government request other developer to lower the building height to 110 meters or to follow the height of buildings at the back on the one hand but breach the guidelines by building taller blocks at the front for its own development on the other hand?*

*Secondly, for the building designated for business and office uses, the local communities and the DC have proposed to change its use from business to community facilities. It is because as a new reclamation area, such area does not have any community facilities. Besides, these facilities are usually not tall, probably three to four floors high, versus up to 40 storeys high for commercial buildings.*

*The Secretary said in part (c) of the main reply that the TPB has requested the MTRCL to make some improvements. Will the two views expressed by the local communities and the DC be considered and accepted by the authorities in making further amendments in the future?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, I have to thank Mr FUNG for his question. Actually, Mr FUNG has already given a lot of views during SSPDC's discussion of the Nam Cheong Station project. Perhaps please allow me to say a few words on this subject. In the current review of the Nam Cheong and Yuen Long Stations, we have followed four major principles: firstly, of course, we have listened to the aspirations of residents for reducing the bulk of the buildings, providing breezeways, and adjusting the disposition of building blocks so as to improve the view and air ventilation; secondly, we aim to develop a quality living environment for these projects through urban design as far as possible; thirdly, despite these, we also have to maintain a reasonable level of housing supply; and fourthly, after all the above-station land resource is very precious, so we are obliged to make good use of it.

Based on these four principles, we have made substantial reduction through which we believe a balance has been struck. In answer to Mr FUNG's query about why we cannot adopt measures considered to be more desirable from a planning perspective, such as adopting stepping height development for waterfront sites, there are other considerations we have to take into account in order to achieve such a balance. Here are some figures for Members' reference.

These two projects can produce approximately 6 461 residential units before the reduction, the number of which has significantly been reduced to 5 000-plus units after the reduction. Still, this figure accounts for 50% to 60% of the residential units produced from all 40 sites on the Application List this year (2009-2010). That is why we cannot easily give up the supply of these residential flats, otherwise, it will cause grave problems to the long-term supply of private residential flats in Hong Kong.

Mr FUNG asked if there is still room for further reduction? I am afraid since in the TPB ..... as I said just now, the premise is that after amendments and further amendments with the provision of three breezeways, the development density of the buildings has been approved by the TPB. In granting approval to the amended scheme, the TPB has taken note of the background of this project that its former scheme with higher development density and more residential units had already won approval in 2004. We hope to make additional efforts on the design of the buildings. We will surely follow it up with the MTRCL.

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

**MR FREDERICK FUNG** (in Cantonese): *President, the Secretary has not dealt with whether the requests of relevant DC and residents will be incorporated into her so-called amended scheme?*

**PRESIDENT** (in Cantonese): I believe the Secretary has already given an answer. Secretary, can you clearly reiterate your points?

**SECRETARY FOR DEVELOPMENT** (in Cantonese): Actually, I have already answered the question. We would definitely go ahead if we were able to make it without changing the development density and the number of flats. But I don't see that it is feasible as one of Mr FUNG's proposals is to scrap the high-rise development at tower three to make way for the provision of public facilities. It is impossible for us to do so.



**MISS TANYA CHAN** (in Cantonese): *The development densities and provision of breezeways, and so on of the Nam Cheong and Yuen Long Stations projects have aroused public concern. What we see nowadays is a scenario that Hong Kong people have generally shown great concern about urban design and planning, and so on. Mr FUNG also mentioned these guidelines just now. I think he was actually referring to the Hong Kong Planning Standards and Guidelines (HKPSG). The HKPSG deals with a number of issues which the public always show concern, such as the sustainable development of our city. I would like to ask the Secretary whether or not she will consider reviewing the HKPSG in the near future and in it whether she will consider making it mandatory for public organizations, such as the MTRCL, to comply with the HKPSG in their property developments so as to build up Hong Kong's sustainability in the future, not only concerning the environment, but also the livability of the community as well as the social and economic development?*

**PRESIDENT** (in Cantonese): This main question is clearly about the above-station property developments at two MTR stations. In this supplementary question, are you asking if such guidelines have incorporated the abovementioned proposals? Or perhaps are you asking if the Secretary intends to compulsorily apply the guidelines to the two properties?

**MISS TANYA CHAN** (in Cantonese): *Not necessarily refer to the two properties. Rather, for the sake of long-term consideration, will it .....*

**PRESIDENT** (in Cantonese): But Miss CHAN, this main question deals with the developments at the two MTR stations.

**MISS TANYA CHAN** (in Cantonese): *Fine. So, in the long term, will the MTRCL be requested to comply with the HKPSG? In case of non-compliance, will the MTRCL be required to provide sufficient justifications?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): Firstly, let me reiterate that the MTRCL is playing the role of the Government's agent, especially for the two projects. So, there is no need for us to exert external force to request the

MTRCL to do anything. These are our decisions on the planning development and land use while the MTRCL is merely our agent. Nevertheless, I wish to respond to Miss CHAN's question of how we could apply our planning to some non-governmental development projects in the long-run? Actually, we have a comprehensive system in place to do so. Firstly, Miss CHAN should also be aware that we have to rely on the OZPs in the land use planning in Hong Kong. In formulating the OZPs, the TPB will definitely make reference to the guidelines stipulated in the HKPSG. Secondly, many land uses in the OZPs, for example the Comprehensive Development Area in particular, which draws general public attention and comprises bigger site area, are required to submit MLPs. In the process of reviewing the MLPs, the TPB will also pay attention to the requirements of the HKPSG. Therefore, we could actually achieve the desired outcome under this planning framework.

**PRESIDENT** (in Cantonese): Four Members are waiting for their turns to ask supplementary questions. But we have spent 20 minutes on this question, and the entire question session has lasted nearly two hours and 15 minutes. End of oral question time.

## WRITTEN ANSWERS TO QUESTIONS

### Replacement of Air Traffic Control System

7. **MR RONNY TONG** (in Chinese): *President, the Civil Aviation Department (CAD) is now working to replace the air traffic control (ATC) system, and the new ATC system is expected to commence operation by the end of 2012. In this connection, will the Government inform this Council:*

- (a) *of CAD's specific plans for the procurement of the various components of the new ATC system, and how it ensures that the new ATC system can cope with the continuous growth in air traffic volume, and comply with the standards of the relevant systems of the airports in the Pearl River Delta Region;*
- (b) *given that PCCW-HKT Telephone Limited has been providing technical operation and maintenance services for the ATC system of CAD since 2006 and is highly conversant with the various*

*specification requirements of the ATC system, what measures CAD has to ensure a level playing field for all bidders to participate in the tendering of contracts for various components of the new ATC system; and*

- (c) *of the expenditure incurred by CAD on software update for the ATC system in each of the past five years, as well as the relevant estimated expenditure for the coming five years; and given the current economic downturn in Hong Kong, whether CAD will reduce the expenditure on the new ATC system, including deferring certain software updating work?*

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

- (a) The planned timetable for the tendering of various components of the new ATC system of the CAD is at the Annex. It is expected that the entire new ATC system will be installed by end 2012 for testing and commissioning. In procuring the new ATC system, the CAD will ensure that the new system is on par with the most advanced systems adopted globally with much enhanced data transmission, processing and display function. The CAD will also require the new system to provide up to twice the handling capacity of the existing system, thereby meeting the air traffic growth by 2025 as forecast by the Airport Authority.

To effectively co-ordinate the air traffic management in the region, the CAD will specify the system interoperability requirements in the tender documents of each system component to ensure that the new ATC system will be compatible with other ATC systems in the neighbouring areas.

- (b) To ensure a level playing field for all bidders to participate in the tendering of contracts for the various components of the new ATC system, the tendering will adhere to the Government's basic procurement principles of transparency, openness and fairness. The tender notices will be gazetted so that any interested organization can participate in the tendering. Other tendering procedures will also fully comply with the requirements set out in the Agreement on

Government Procurement of the World Trade Organization. Moreover, the CAD will specify the details of various requirements of the new ATC system, including system functionalities, operations, training, interoperability between system components, commissioning and maintenance, and so on, as well as the tender assessment criteria in the tender documents. Prospective tenderers may also request the CAD to elaborate on the various requirements in writing and to arrange visits to the installation sites so that they can have a clear understanding of the specifications and requirements of the new ATC system.

- (c) The expenditure on the maintenance and updating of the software of the existing ATC system in the past five years is set out below:

<i>Financial Year</i>	<i>Expenditure on software maintenance and updating (million dollars)</i>
2004-2005	7.9
2005-2006	7.9
2006-2007	7.6
2007-2008	7.9
2008-2009	7.8

The expenditure is expected to remain at around \$8 million a year before the commissioning of the new ATC system. After the commissioning of the new ATC system, it is expected that the relevant expenditure will be higher than the current level due to the greater complexity of the new system. The exact amount will depend on the tender outcome of the system components.

Given that the ATC system adopts the most advanced technology with complex interfaces among different components, an integrated design approach covering both hardware and software is required at the early planning stage to ensure that the new system will have all the key functionalities at the start of operation. Despite the current economic downturn in Hong Kong, to ensure that the new system can meet the future air traffic demand and support the long-term development of the aviation industry, the CAD will not reduce the expenditure on the new ATC system. As regards software maintenance and updating of the new system, the aim is to ensure

that the system can continue to operate smoothly in coping with the latest air traffic flow and ATC requirements. The CAD will make appropriate arrangements in the light of the actual circumstances in the future.

Annex

Planned Timetable for Tendering of  
Various Components of New ATC System

<i>Component Group</i>	<i>ATC System Component</i>	<i>Planned Tendering Date</i>
1	Control Tower Simulator	Q4 of 2008 (completed)
2	Communications Backbone	Q2 of 2009
3	Air Traffic Management System	Q3 of 2009
4	Communications and Recording System	Q3 of 2009
5	Air Traffic Services Data Management System	Q4 of 2009
6	Aeronautical Information Management System	Q4 of 2009
7	Aeronautical Messaging System	Q1 of 2010
8	Ancillary Systems and Support Facilities	Q1 of 2010

Note:

The new ATC system consists of 14 main systems and 3 associated training/simulator systems. They will be combined into 8 tender groups.

### **Participation of Elderly People in Social and Public Affairs**

8. **MR WONG KWOK-KIN** (in Chinese): *President, regarding the participation of elderly people in social and public affairs, will the Government inform this Council:*

- (a) *of the number of persons and its percentage in the population aged 60 or above who had registered as volunteers with the Social Welfare Department (SWD) as at the end of April this year, as well as the percentage of that number in the total number of registered volunteers;*

- (b) *whether it has compiled statistics on the respective numbers of electors aged 60 or above who cast their votes in the 2007 District Council Election and the 2008 Legislative Council Election, and the respective percentages of such numbers in the total numbers of voters in the elections;*
- (c) *of the number and percentage of the non-official members of various advisory and statutory bodies (ASBs) who are aged 65 or above; whether the authorities will stipulate a minimum percentage of the number of elderly members in the total number of members of such bodies, so as to ensure that elderly people have sufficient opportunities to participate in social affairs and policy formulation work; and*
- (d) *whether it has clearly requested various policy bureaux and government departments to establish specific channels for elderly people to express their views, as well as to extensively consult elderly groups and collate the views of elderly people prior to the formulation of major policies?*

**SECRETARY FOR LABOUR AND WELFARE** (in Chinese): President, along with the Elderly Commission, the Government has been promoting "active ageing" to encourage elders to pursue lifelong learning, engage in community activities and have healthy living so as to lead an enriched life. We encourage members of the public, including the elderly, to actively take part in community affairs such as joining volunteer service and fulfilling civic responsibilities. In formulating policies and programmes, we also take into account the views of the elderly.

My reply to the question is as follows:

- (a) Interested persons can register as volunteers with the SWD and other organizations. As at end-April 2009, a total of 108 271 elders aged 60 or above (about 8.9% as derived from the demographic data as at end-2008) have registered as volunteers with the SWD, accounting for 13.4% of the total number of volunteers registered with the SWD.

- (b) In the 2007 District Council Election, the number of registered electors aged 61 or above who cast their votes was about 292 000, accounting for 25.4% of the total number of electors casting their votes. In the 2008 Legislative Council Election, the number of registered electors aged 61 or above who cast their votes was about 344 000, accounting for 22.6% of the total number of electors casting their votes. (The data on the age profile of electors who cast their votes is grouped by a five-year range (for example, 61-65 years old). We have therefore provided the figures on electors aged 61 or above who cast their votes.)
- (c) Members of ASBs are not required to provide age information to the Government. However, from information provided by those members, as at end-March 2009, of the 5 494 non-official members of ASBs appointed by the Government, 960 (17.5%) were aged 60 or above and 316 (5.8%) aged 65 or above.

In making appointments to ASBs, the Government aims to secure the services of suitable persons to meet the requirements of the body concerned. It is our policy to appoint more persons with experience and interest in community affairs. Each appointment is made taking into account the candidate's ability, expertise, experience, integrity and commitment to public service, and having regard to the functions and nature of business of the body concerned and statutory requirements (for statutory bodies) to ensure that the composition of ASBs can broadly reflect the interests and views of the community. That said, we will not set a minimum percentage of participation for different age groups.

- (d) The Government has all along attached importance to public views on government policies and programmes so as to ensure that its policies are responsive to public demands. For territory- and district-wide issues of public concern, the relevant policy bureaux will collect public opinion through different channels, such as consultation with the Legislative Council, District Councils, relevant organizations as well as other stakeholders. We consider the existing channels adequate for the elderly to reflect their views and see no need to establish specific channels for the purpose.

**Drug Abuse Problem of Ethnic Minority Youths**

9. **MR LEE CHEUK-YAN** (in Chinese): *President, some voluntary agencies dedicated to serving ethnic minorities (EM) have complained to me that although the drug abuse problem among EM youths (especially those of Nepalese descent) has become increasingly serious in recent years, such youths often have nowhere to turn to for assistance. In this connection, will the Government inform this Council:*

- (a) *whether it has collected statistics on the abuse of drugs by EM youths in the past five years; if it has, of the details; if not, the reasons for that;*
- (b) *whether it has collected statistics on the provision of relevant services for EM youths by various service units in the past five years, such as the District Youth Outreaching Social Work Teams, overnight outreaching teams, counselling centres for psychotropic substance abusers as well as drug treatment and rehabilitation centres; if it has, of the details; if not, the reasons for that; and whether it has issued any guidelines to such service units to ensure that such persons have access to the relevant services; if it has issued such guidelines, of the details; if it has not, the reasons for that; and*
- (c) *given that the drug abuse problem among EM youths is increasingly serious, and the services they need as well as the skills required in providing services to them are different from those for youths of other ethnic groups, whether the Government has considered offering them tailor-made services (including outreaching, counselling and treatment services); if so, of the details; if not, the reasons for that?*

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

- (a) The Central Registry of Drug Abuse (CRDA) has all along been collecting voluntarily reported information on drug abusers. According to the CRDA, the reported youth drug abuse situation of EM (aged under 21) in the past five years is as follows:



<i>Ethnicity</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>
Nepalese	31	18	9	21	34
Vietnamese	1	2	10	6	8
Indian/Pakistani/ Bangladeshi/Sri Lankan	9	6	9	9	5
British	5	4	1	5	1
Filipino	1	2	3	5	1
Thai	1	2	1	1	4
Others	8	13	15	7	6
Total	56	47	48	54	59

The CRDA is a voluntary reporting system. It does not capture the actual numbers of the drug abusing population in Hong Kong, nor that of the drug abusers who have come into contact with reporting agencies. Nevertheless, the statistics derived from it may effectively reflect the trends of drug abuse.

- (b) The CRDA is presently supported by 67 reporting agencies in the territory, including service agencies in different modalities. A breakdown of the reported figures is as follows:

<i>Reporting Agency</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>
Law Enforcement Departments	23	24	19	24	18
Methadone Clinics	19	13	9	20	31
Treatment and Rehabilitation Centres	17	13	8	2	6
Counselling Centres for Psychotropic Substance Abusers	2	-	-	6	1
Youth Outreaching Teams	1	2	13	4	9
Substance Abuse Clinics	-	1	-	1	-
Total <sup>#</sup>	56	47	48	54	59

Note:

# An individual drug abuser may be reported by more than one agency in a given year. Repeated reports have been discounted from the total figures.

Like general welfare and medical services, drug-related services are provided for all in need irrespective of ethnicity. We have not laid

down specific guidelines or restrictions on how relevant agencies should provide services to EM youths as far as the drug problem is concerned. However, we do not overlook the special needs of EM groups. We not only encourage them to make use of the various services available, but also call on non-governmental organizations (NGOs) to provide programmes suitable to them.

- (c) In 2006, the Action Committee Against Narcotics completed a study which aimed to better understand the social background, drug abuse situation and service needs of EM drug abusers. The findings of the study have been widely distributed to the government departments and NGOs concerned, as well as shared with social workers and front-line teams, for their reference in the planning, provision and improvement of the relevant services. The Fifth Three-year Plan on Drug Treatment and Rehabilitation Services in Hong Kong published in April this year also specifically pointed out that agencies should consider the changing needs of the EM and other special groups for service enhancement, and encouraged agencies to make good use of the Beat Drugs Fund to provide necessary services.

As a matter of fact, the agencies concerned are now providing well-suited services to EM youths who are in need and willing to receive help. For example, when EM youths have special language communication needs, the agencies may contact volunteers, their families or fellow clansmen to help them access the service they need. The Support Service Centres for Ethnic Minorities to be set up with government subvention in mid-2009 will also provide interpretation services for EM youths. In addition, the Youth Outreaching Social Work Teams and Counselling Centres for Psychotropic Substance Abusers proactively approach youths at risk, including EM youths, with a view to providing them with suitable counselling and referral services.

Separately, there are individual agencies providing targeted services and programmes for EM groups. For instance, on the front of treatment and rehabilitation, there is provision for voluntary

residential treatment services targeting EM groups. EM workers are even engaged to help residents overcome language barriers in communication and to enhance mutual understanding. As for integration into society, some agencies offer district-based services to EM groups to help them familiarize with and integrate into the community, participate more in activities and make good use of the services offered. The publicity materials and websites of these agencies may be available in languages other than Chinese and English (for example, Nepalese) for the convenience of the EM groups.

On preventive education and publicity, non-Chinese speaking or EM students are covered by the school drug education programmes subvented by the Narcotics Division (ND) and the Social Welfare Department. ND and the Education Bureau also help local schools with non-Chinese speaking or EM students to prevent student drug abuse and provide assistance to at-risk students by arranging drug education training for their teachers. The Home Affairs Department and the police organize district-based activities dedicated to EM youths, including peer sessions on the harmful effect of drugs by rehabilitated EM youths.

As regards the Beat Drugs Fund, projects targeting EM groups have been given priority for funding in recent years. Of the projects approved in the past five years, eight target EM groups including parents and youths, with a funding of around \$5.5 million. On preventive education, activities subvented include an anti-drug video production competition, parental workshops and seminars, parent-child anti-drug events, school-based activities, recreational and sport activities, outreaching services, and resources kits and publicity leaflets in languages of EM groups. On treatment and rehabilitation, activities include medical consultation and counselling for EM drug abusers and their families, the pooling of rehabilitated drug abusers into mutual help groups, peer counsellor training, language and vocational training, and service training for social workers.

## **Release of Information on Elderly People Waiting for Subsidized Care and Attention Places**

10. **MR LEUNG KWOK-HUNG** (in Chinese): *President, in reply to my question on 1 April 2009 concerning subsidized care and attention (C&A) places for the elderly, the Secretary for Labour and Welfare indicated that the Social Welfare Department (SWD) "does not separately record the waiting time for individual residential care homes for the elderly (RCHes). The waiting time ..... varies under different circumstances". In this connection, will the Government inform this Council:*

- (a) *whether it has used any means to enable the elderly people who are waiting for such places and their family members to know the circumstances that will affect their waiting time; if so, of the details; if not, the reasons for that;*
- (b) *whether it has adopted the simplest and most direct way to enable such elderly people and their family members to readily enquire about their position on the waiting list and estimate the duration for which they still have to wait, as well as to enable those elderly people who are waiting for admission to specific homes and their family members to enquire about such information; if so, of the details; if not, the reasons for that; and*
- (c) *of the date when it last reviewed the mechanism and way of releasing information on the "waiting list for residential care services", the "waiting time for residential care services" and the "turn for placement offer for cases applying for residential care services"; whether it has provided channels for the public to express their opinions on the mechanism and way of releasing such information, and how it enabled them to know such channels?*

**SECRETARY FOR LABOUR AND WELFARE** (in Chinese): President, my consolidated reply to Mr LEUNG Kwok-hung's question is as follows:

At present, all waiting cases for subsidized residential care places are centrally managed under the SWD's Long Term Care Services Delivery System (Delivery System). The Delivery System allocates services mainly on the basis

of the order of the applicant's "date of application" (that is, the date on which the applicant's service need is confirmed under the Standardised Care Need Assessment Mechanism for Elderly Services). Besides, the Delivery System also takes into account the applicant's specific preference(s) for RCHEs, including the districts in which RCHEs are located, the religious background of and/or the types of diet provided by RCHEs, in service matching.

The waiting time for subsidized residential care places varies under different circumstances. Factors such as applicants' specific preferences for RCHEs, the number of residential care places in individual RCHEs that are made available through natural wastage, the number of elders choosing to wait for specific RCHEs, or RCHEs in individual districts, during the same period, and even the genders of waiting elders will all affect the waiting time. Besides, applicants may change their preferences during the waiting period, which will also affect the waiting time. As these factors are beyond the Government's control, it is difficult for the SWD to estimate accurately the waiting time for individual cases. Nevertheless, applicants or their family members can contact the social workers responsible for their cases at anytime if they have questions on their positions on the waiting list or the waiting time required. The social workers concerned will endeavor to provide the relevant information for their reference.

As regards information dissemination, the SWD currently releases, through its website, information on the total number of applicants waiting for admission to subsidized residential care places, the average waiting time for these places and the "date of application" of the elder most recently allocated with a subsidized residential care place. The information is released on a regular basis for reference by applicants and the public. Suggestion boxes are also available at the SWD's district offices for collecting public feedback. The SWD also welcomes members of the public to express their opinion, including views on the mechanism and way of releasing information, through such channels as telephone or email.

### **High Prices of School Textbooks**

11. **MISS TANYA CHAN** (in Chinese): *President, recently, the survey results of an environmental group revealed that quite a number of publishers had attached a large quantity of promotional materials to and used unnecessary*

*packaging for the textbook samples they sent to primary and secondary schools, and the relevant expenditure might jack up the prices of school textbooks. Moreover, quite a number of parents have relayed to me that the frequent issue of new editions of textbooks has denied them the opportunity to use old textbooks, and the high prices of textbooks impose a heavy financial burden on them. In this connection, will the Government inform this Council:*

- (a) given that some teachers have relayed to me that at present publishers do not provide textbook prices when they send textbook samples to schools, making it impossible for schools to take into account the price factor when selecting textbooks, and this situation has indirectly increased the financial burden on parents, whether the Government will request publishers to provide information on textbook prices when they send textbook samples to schools; if it will, of the details; if not, the reasons for that;*
- (b) whether it will consider assessing more stringently if new editions of textbooks are really necessary; if it will, of the details; if not, the reasons for that; and*
- (c) in view of the forthcoming implementation of the new senior secondary academic structure, and that the contents of senior secondary school textbooks will be drastically altered, whether the Government will consider seizing this opportunity to review the existing policies and measures for monitoring and regulating the publication of textbooks; if it will, of the details; if not, the reasons for that?*

**SECRETARY FOR EDUCATION** (in Chinese): President,

- (a) The Education Bureau has always paid close attention to the issue of textbook prices, and has communicated with the textbook publishers' associations, school councils, the Consumer Council, Committee for Home-School Co-operation and the ICAC to explore ways to lower the cost of textbooks. With regard to the provision of textbook price information by the publishers to schools for textbook selection, the Education Bureau, in its regular meetings with the textbook publishers' associations and during meetings of the Working Group

on Textbooks and E-learning Resources, has already made this request to the textbook publishers' associations. The textbook publishers' associations have clearly replied that schools would be provided with price information when they select the textbooks. The Education Bureau has issued a Circular Memorandum (EDBCM052/2009) on "Notes on Selection of Textbooks and Learning Materials for Use in Schools" in April 2009 advising schools not to select those textbooks and learning materials without price information. The Education Bureau has already listed out the prices of all the New Senior Secondary textbooks and those of each level of primary and secondary school textbooks in the "Recommended Textbook List" on 6 April 2009 and 7 May 2009 respectively for schools' reference in their textbook selection. The Education Bureau will continue to step up communication with the textbook publishers' association so as to provide timely information on textbooks prices to schools.

- (b) Under the present textbook review mechanism of the Education Bureau, a "three-year rule of no revision" for textbooks already exists. All textbooks which have been reviewed by the Education Bureau and are recommended to be put on the "Recommended Textbook List" will not be eligible for revision within three years. The Education Bureau has been strictly enforcing this rule. If the publishers wish to revise textbooks that have passed the three-year rule of no revision, they must submit their applications for textbook revision to the Textbook Committee of the Education Bureau and pass its assessment in textbook review exercise. In cases where there are insufficient justifications for textbook revision or lack of significant improvement in the proposed revision contents as compared with those of the previous version, the publisher's application will not be approved. For minor amendments or information revision in the textbooks, the Education Bureau would recommend the publishers to amend the content and information under the category of "Reprint with Minor Amendments". The publishers should provide free addenda/corrigenda via schools to students using the old versions of textbooks. The Education Bureau also requests schools to indicate clearly that "second-hand textbooks can still be used" against the titles of the "Reprint with Minor Amendments" textbooks in their textbook lists so as to enable

students to differentiate and decide whether to buy new or old textbooks.

- (c) The Education Bureau is mainly responsible for monitoring the quality of textbooks, and provides guidelines and the Recommended Textbook List for schools' reference in the selection of textbooks. The Working Group on Textbooks and E-learning Resources Development set up by the Education Bureau last year is currently collecting views from the public and conducting an in-depth study on the future development and supply of textbooks (including New Senior Secondary textbooks). The Education Bureau has just reported the work progress of the Working Group to the Legislative Council Panel on Education on 11 May 2009. It is anticipated that the Working Group will submit its report and recommendations to the Secretary for Education in September 2009.

### **Measures to Tackle Manpower Problems in Construction Industry**

12. **MR ABRAHAM SHEK** (in Chinese): *President, some members of the construction industry have relayed to me that there has been a trend of ageing construction workforce in recent years and, upon the commencement of various major infrastructure projects, a serious shortage of construction workers is anticipated to emerge at the end of next year at the earliest, or in 2011. In this connection, will the Government inform this Council:*

- (a) *whether it knows the progress of the discussions conducted earlier between the Construction Industry Training Authority and the Hong Kong Construction Association on issues such as the ageing workforce and entry pay in the construction industry, and when the outcome of such discussions will be announced;*
- (b) *of the details of the Construction Industry Youth Training Scheme (CIYTS) jointly run by the Youth Work Experience and Training Scheme and the Construction Industry Council Training Academy (the Academy), including the support rendered by the Government and the response of young people to the scheme; how the authorities will step up the promotion of the scheme, so as to attract young people (including new arrivals and ethnic minorities) to join the construction industry;*



- (c) *which trades in the construction industry are expected to experience a shortage of skilled workers in the coming three years, and the relevant shortfalls; what training strategies the Government will adopt in response to the situation; and whether it will allocate additional resources to provide more training places or trainee allowances for the trades concerned; and*
- (d) *what measures are in place to ensure that priority will be accorded to local construction workers in the recruitment exercises for future work projects?*

**SECRETARY FOR DEVELOPMENT** (in Chinese): President, the Government is keeping a close watch on the overall demand and supply of manpower resources in the construction industry to meet the needs of its future development. We are aware of a possible succession gap in certain trades of the industry as a result of the ageing workforce and insufficient new entrants. On the other hand, the employment situation of young people remains critical as they bear the brunt of the financial tsunami. In view of the above, the Government has maintained close liaison with the Construction Industry Council (CIC) and stakeholders of the construction industry, including contractors and trade unions, to step up training for construction workers in a timely manner with a view to attracting young people to join the industry. We hope that the initiatives can provide the necessary manpower resources for the construction industry and help alleviate the employment difficulties of young people.

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

- (a) We understand that the Academy has discussed recently with related trade associations on potential manpower problems in the construction industry upon successive commencement of various infrastructure projects. Apart from the ageing workforce and entry pay issues, the discussions cover wider topics such as how young people can be attracted to join the industry and upgrading of the skills of construction workers. On the ageing workforce in individual sectors, the CIC is drawing up measures to attract new entrants. These include stepping up publicity on the prospects of the construction industry and the employment opportunities for trainees upon completion of the courses offered by the Academy;

enhancing the training courses to meet the needs of the construction industry; establishing the fifth training centre in Tin Shui Wai; and implementing the CIYTS as elaborated below.

- (b) The CIYTS is a training and employment programme jointly run by the Academy and Labour Department (LD). The aim is to provide comprehensive training, including craftsmanship courses and on-the-job training, for young people who aspire to join the construction industry, so that they can become skilled workers upon completion of training; and to inject fresh blood into the skilled workforce of the industry.

The Government actively supports the implementation of the CIYTS. To increase the attractiveness of the scheme, the Youth Work Experience and Training Scheme of the LD will subsidize part of the training allowances.

Subject to the funding approval by the CIC for the implementation of the CIYTS, the Academy will widely publicize the scheme through various channels to related organizations, including those for ethnic minorities, so as to recruit young trainees.

- (c) The CIC has commissioned a consultancy study on the projected demand and supply of construction workers and supervisory/technician staff over the next few years. The study will be completed in mid-2009. Basing on the results of the study and the needs of the industry, the CIC will formulate a package of training strategies, including allocating additional resources to step up training when necessary, that can best meet the future needs.

In response to the expected mismatch between the demand and supply of workers in specific trades, the CIC will adopt appropriate human resources training measures to meet the demand. For instance, the Academy will organize training courses on blasting works in late May 2009 to meet an expected increase in demand for shotfirers in view of a large number of tunnel infrastructure projects for the coming years. In parallel, the Government has incorporated special terms into new public works contracts which cover blasting works, to require contractors to employ a certain number of workers

who have completed the above courses, and to provide training ground for blasting work for trainees, so as to ensure that there will be an adequate supply of shotfirers for the upcoming infrastructure projects. Besides, the Academy will also organize building repair and maintenance courses to train up special trade workers to cope with increasing demand in these trades.

- (d) Government's employment policy is to ensure that local workers enjoy priority in employment. Under the policy, employers must accord priority to filling job vacancies with local workers. Employers who wish to import workers at technician level or below under the Supplementary Labour Scheme (SLS) need to demonstrate that there are genuine difficulties in finding suitable staff locally. The employers are required to pay workers imported under the SLS wages at a level no less than the median monthly wages of local workers in comparable positions with terms of employment no less favourable than those for local workers under the labour laws. Imported workers are only allowed to work for their employers in the positions and for the employment period as stipulated in the employment contracts. Upon expiry of the contracts, they must return to their place of origin.

### **Monitoring of Dishonest Trade Practices of Retailers**

13. **MR FRED LI** (in Chinese): *President, the results of a survey recently released by the Consumer Council (CC) indicated that the two major supermarket chains very often substantially raised the prices of some goods before publicizing extensively that these goods were being sold at reduced prices, so as to create a false impression that the goods were real bargains, but the promotional prices of some of these goods were in fact higher than those prior to the price increase, and such practice of raising and then lowering the prices may arouse suspicion of misleading consumers. In this connection, will the Government inform this Council whether:*

- (a) *at present it has measures and policies to deal with the aforesaid dishonest trade practices adopted by retailers; whether the Customs and Excise Department is authorized to carry out follow-up actions*

*in respect of the retailers concerned; and whether the Government will provide additional resources to CC to step up monitoring the prices of supermarket goods;*

- (b) it will provide support, through implementing policies such as offering rent concessions, for social enterprises and non-profit making organizations to operate co-operative societies which sell daily necessities, so as to break the oligopoly of major supermarkets; and*
- (c) it will, in the long run, follow the practice adopted by the United Kingdom and Australia to legislate against the use of dishonest promotional tactics by retailers to mislead consumers?*

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

- (a) At present, the Trade Descriptions Ordinance (Cap. 362) prohibits suppliers of goods from providing in the course of trade false trade descriptions, false, misleading or incomplete information, and false marks or misstatements, including false or misleading price indications. As for pricing strategies, they are commercial decisions of the suppliers.

In mid-2008, the Government has already provided the CC with additional resources for undertaking three price surveillance projects, that is, "Weekly Price Survey", "Internet Price Watch" and "Daily Wet Market Report". These projects seek to enhance price transparency and facilitate the flow of market information, thereby helping customers make better choices.

- (b) The Government has been actively promoting the development of non-profit-making organizations. Regarding the rental of premises, the Hong Kong Housing Authority (HA) has been letting out its non-domestic premises for welfare purposes to eligible non-profit-making organizations at concessionary rents, such that direct welfare services can be provided to estate residents. The Link Real Estate Investment Trust also, in accordance with its

covenant with the HA, lets out certain floor areas of its shopping centres at concessionary rents to eligible non-profit-making organizations for operating welfare facilities. In addition, the Government would consider leasing out vacant government premises at nominal rents to eligible non-profit-making organizations. These organizations can decide on the detailed content of the services they provide, including whether to operate co-operative societies, as long as the services are in line with their missions and directions, and are compliant with the terms and conditions on which the concessionary rents are granted. The services should also not meet with local objections.

The aim of the Government's promoting the development of social enterprises is to create job opportunities for socially disadvantaged groups, thereby achieving the social policy objectives of enhancing community integration and self-reliance, as well as fostering a caring culture. Since social enterprises should operate on a self-financing basis, the Government has no plans at this stage to grant them concessionary rents.

- (c) The CC has earlier submitted a report on the regulation of inappropriate trade practices. Some of the recommendations therein are related to commercial promotion. We agree in principle that we should strengthen the regulation of inappropriate trade practices. Nevertheless, the CC's recommendations are very complicated, and we are now carefully examining them in detail.

### **Provision of Babycare Rooms in Government Premises**

14. **MR LEE WING-TAT** (in Chinese): *President, although the Government has all along pledged support for breast-feeding of babies, among the public accessible government premises as at 22 April 2009, most of those which have babycare rooms are maternal and child health centres and hospitals. Among the government offices in Hong Kong, only a total of three babycare rooms are provided in the Central Government Offices and Sha Tin Government Offices, and other government premises have very few babycare rooms. In this connection, will the Executive Authorities inform this Council whether:*

- (a) *the babycare and breast-feeding facilities in government offices and other government premises comply with the Advisory Guidelines on Babycare Facilities (Guidelines); if so, of the details; if not, the reasons for that and whether improvement schemes have been drawn up;*
- (b) *they had received complaints from the public in the past five years that there were not enough babycare rooms in government premises; if they had, of the details;*
- (c) *any member of the public had, in past five years, requested the managers of government premises without babycare rooms to provide them with rooms for breast-feeding; if so, of the number of such cases, and whether the venues so provided complied with the specifications recommended in the aforesaid guidelines; and*
- (d) *more babycare rooms will be provided in government offices and other government premises (for example, libraries and museums); if so, of the details; if not, the reasons for that?*

**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President, we are grateful for the question raised by Mr LEE Wing-tat.

- (a) The Government announced in August 2008 that it has made available the Guidelines for reference by all government departments and public organizations. As at April 2009, there are approximately 120 babycare rooms in government premises, including eight babycare rooms in six government offices buildings. The babycare rooms in government premises are generally in compliance with the Guidelines, with a few exceptions due to construction constraints. Subject to feasibility, the departments concerned will make improvements according to the Guidelines at an appropriate juncture. For example, during refurbishment of the Hong Kong Coliseum and the Queen Elizabeth Stadium last year, the Leisure and Cultural Services Department (LCSD) had provided a babycare room in each of these premises in accordance with the Guidelines.

We believe that the Guidelines will facilitate the provision of appropriate baby care rooms by government departments and public organizations. As at April 2009, there was an increase of nine baby care rooms in government premises over the figure last released in October 2008. Apart from the addition of baby care rooms in hospitals and clinics under the Hospital Authority, two more baby care rooms have been provided in LCSD venues. All new baby care rooms are equipped with facilities as recommended in the Guidelines.

- (b) There is no record of complaints from the public about insufficient baby care rooms in government premises in the past five years.

The Bureau has however received proposals of setting up more baby care rooms from non-government organizations. In 2006, the Bureau also received a letter from a periodical suggesting that baby care facilities should be included as essential amenities in public places. In addition, the LCSD has received two letters in the past five years suggesting provision of baby care facilities in recreation venues and libraries respectively, and two proposals on provision of baby care rooms in the Hong Kong Science Museum and Nan Lian Garden. The LCSD has already taken follow-up action to provide baby care rooms in these venues.

- (c) There is no record of public requests for the provision of rooms for breastfeeding received by managers of government premises without baby care rooms in the past five years.
- (d) In the coming few years, a minimum of 50 new baby care rooms will be provided in government premises, including some 30 baby care rooms which are expected to be provided in the new LCSD projects under planning, about 10 in existing LCSD venues (libraries and other leisure and cultural facilities), and four additional baby care rooms to be provided in government offices buildings. The distribution of these new baby care rooms is at the Annex.

Provision of additional baby care rooms in government premises or facilities frequented by the general public in the coming three years  
(As at April 2009)

<i>Relevant premises/facilities</i>		<i>Numbers of baby care rooms and breastfeeding facilities</i>
Government offices buildings		4
Leisure, cultural and recreational facilities	Libraries	3
	Civic centres	3
	Sports venues	16
	Parks	6
	Open space	4
Others	Shopping centres (under the Housing Department)	5
	Other government premises	10
Total		51

### Unlicensed Travel Agents

15. **MR PAUL TSE** (in Chinese): *President, some practitioners of the travel industry have complained to me that more and more people are operating, without a licence, travel agents' businesses (including selling air tickets, booking of hotel or guesthouse rooms and receiving inbound tour groups), dealing a heavy blow to the businesses of licensed travel agents. In this connection, will the Government inform this Council:*

- (a) *how the Travel Industry Council of Hong Kong (TIC), Tourism Commission, Travel Agents Registry (TAR) and other relevant government departments currently handle and follow up complaints about the unlicensed operation of travel agents' businesses; whether there was a rising trend in the number of complaints received by such departments in the past three years and, among them, the respective numbers of cases which had been and had not been*



*followed up; of the specific reasons for some cases not being followed up and details of such cases;*

- (b) *whether last year, it had conducted any survey on how the businesses of licensed travel agents had been affected by unlicensed operation; if it had, of the survey outcome; if not, whether it will conduct the survey expeditiously and study corresponding solutions; and*
- (c) *what measures are in place to eradicate the unlicensed operation of travel agents' businesses, so as to protect the interests of licensed travel agents?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Chinese): President, in accordance with the Travel Agents Ordinance (Cap. 218), any person who carries on business as a travel agent without a licence commits an offence and is liable on conviction upon indictment to a fine of \$100,000 and to imprisonment for two years.

The TAR and the TIC have received reports of suspected cases of unlicensed travel agents' operation. Those received by the TIC have been referred to the TAR for follow-up. Upon receiving such reports, the TAR will immediately follow up and refer the cases to the police for investigation so as to safeguard the interests of licensed travel agents and consumers. The police will seek the advice of the Department of Justice on the evidence gathered from the investigation and consider whether or not to institute prosecution.

The statistics in respect of cases filed by the police for investigation and prosecution over the past three years are set out below:

<i>Year</i>	<i>No. of case filed</i>	<i>No. of person arrested</i>	<i>No. of person convicted</i>
2006	14	13	8
2007	14	16	10
2008	7	11	5

Having considered the situation on unlicensed operation of travel agents' businesses and that other market factors also affect travel agents' businesses, the

Government has not conducted the survey in question. The TAR has consistently reminded the public through various channels, including Announcements in the Public Interest, website and printed materials, to patronize licensed travel agents. The public may visit the websites of the TAR and TIC to check whether a travel agent is licensed. We also encourage the public to report to the TAR any suspected cases of unlicensed operation.



### **Traffic and Directional Signs on Roads**


16. **DR PRISCILLA LEUNG** (in Chinese): *President, I have recently received complaints from members of the public that the numerous types and colours of traffic signs in Hong Kong cause confusion to motorists and as a result, accidents are prone to occur. Moreover, it has been reported that quite a number of property management companies of private housing estates or large shopping malls in districts have recently put up directional signs of all types on government-owned traffic sign posts outside their properties, showing motorists the direction to drive towards the properties concerned. In this connection, will the Government inform this Council whether:*


- (a) it will consider studying ways to simplify the shapes and colours of traffic signs for the convenience of motorists; and*
- (b) it has looked into the situation of property management companies putting up directional signs that they designed on traffic sign posts outside their properties, and whether such acts are illegal; if they are, whether the authorities have instituted prosecutions against them, and whether at present there are government departments responsible for inspecting and removing directional signs on roads which have been erected without approval?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Chinese): *President, traffic signs primarily serve to provide road users with advance information about road conditions ahead or give them orders, warnings and guidance. At present, there are three major types of traffic signs.*

The first type is circular traffic signs, which give notice of requirements, prohibitions or restrictions. A sign with red border prohibits an action (an

example is the "Goods Vehicles Prohibited" sign ). A sign with blue background means that an action must be taken (an example is the "Turn Left Ahead" sign ).

The second type is triangular traffic signs, which give warnings to motorists about matters they must heed (an example is the "Roundabout Ahead" sign ).

The third type is rectangular traffic signs, which mainly give information, such as directions to certain routes, or places/facilities frequented by visitors (an example is the directional sign to Tuen Mun ). Signs indicating route directions at a junction usually have one end pointed. If such signs are displayed on expressways, they will have a green background. If they are displayed on main roads, they will have a blue background. Temporary traffic signs usually have a yellow background.

My replies to the two parts of the question are as follows:

- (a) All traffic signs installed on roads must comply with the standards and guidelines on, *inter alia*, size and content (including text and symbols), set out in the Transport Design and Planning Manual (the Manual) published by the Transport Department (TD). The design and standards of Hong Kong's existing traffic signs are comparable to those adopted overseas. While the TD does not have any plans to revise the design at the present stage, it will review the Manual regularly to ensure that the standards specified therein can meet the needs of the community and the latest international standards.

To familiarize road users with the traffic signs in Hong Kong, the TD has devised and uploaded onto its website the Road Users' Code so that the general public may understand the different messages conveyed by various traffic signs.

- (b) Private bodies, including property management companies, must comply with the relevant standards set out in the Manual and seek prior approval from the TD if they plan to erect or place traffic signs on a street. In considering such applications, the TD will take into account the relevant justifications and actual needs, and consult the parties concerned. Section 51 of the Road Traffic Ordinance

(Cap. 374) provides that any person who places any traffic sign without permission commits an offence, and is liable to a fine of \$1,000 and to imprisonment for three months. Depending on circumstances, prosecution will be instituted against unauthorized placement of traffic signs.

The TD and the Highways Department will follow up on cases of unauthorized on-street traffic signs identified during routine inspections and arrange for their removal.

### **Cross-boundary Fishing of Mainland Fishing Vessels**

17. **MR ALBERT CHAN** (in Chinese): *President, at the Council meeting on 25 April 2007, I asked a question on curbing the illegal entry of mainland fishermen into Hong Kong waters for fishing. In reply, the Administration said that the government departments concerned would further strengthen the enforcement of the relevant legislation to prevent the illegal entry of fishing vessels from outside the territory for fishing, and would continue to combat such illegal activities. Yet, recently I still received requests for assistance from quite a number of members of the public, who said that the problem of mainland fishing vessels making illegal entry into the waters off Tai A Chau and Siu A Chau for fishing was still serious. In this connection, will the Government inform this Council:*

- (a) *of last year's manning scale of Marine Police officers patrolling the waters south of Lantau (including the waters near Tai A Chau, Siu A Chau, Peng Chau and Cheung Chau);*
- (b) *of the number of cases involving mainland fishing vessels suspected of illegal entry for fishing, and the respective numbers of cases in which the persons involved were prosecuted and convicted last year; and*
- (c) *whether, apart from those law-enforcement actions mentioned in its reply to the above question, the Government will consider curbing the illegal entry of mainland fishermen for fishing through increasing law-enforcement resources, improving the prosecution mechanism and raising the penalty, so as to protect the interests of*

*local fishermen and conserve the ecology of local waters; if it will, of the details of such measures; if not, the reasons for that?*

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

- (a) Since early 2008, the waters south of Lantau (covering the areas near Tai A Chau, Siu A Chau, Peng Chau and Cheung Chau) are patrolled daily on a 24-hour basis by two to three launches of the Marine Police, each manned by five to 11 officers. The police will deploy additional launches to patrol in the area having regard to the circumstances and operational needs.
- (b) In 2008, the number of mainland fishing vessels suspected of entering the territory illegally and the number of related prosecutions and convictions under the relevant statutory provisions are set out below:
- In accordance with the Immigration Ordinance (Cap. 115), the Marine Police refused the entry of 274 mainland fishing vessels and 761 mainland fishermen onboard. The Marine Police also intercepted 180 mainland fishing vessels for illegal entry into Hong Kong waters and arrested 282 mainland fishermen onboard. These people were all illegal immigrants and were repatriated to the Mainland.
  - The Agriculture, Fisheries and Conservation Department made successful prosecution under the Marine Parks and Marine Reserves Regulation (Cap. 476A) in five cases involving mainland fishermen fishing illegally in marine parks in Hong Kong. Five mainland fishermen were convicted and were each fined \$3,000.
  - According to the record of the Agriculture, Fisheries and Conservation Department, no mainland fisherman was prosecuted during the year for carrying out in Hong Kong destructive fishing practices that are prohibited under the Fisheries Protection Ordinance (Cap. 171).

- According to the record of the Marine Department, no mainland fishing vessel was prosecuted during the year for unauthorized entry into Hong Kong waters under the Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548F) or the Shipping and Port Control Regulations (Cap. 313A).
- (c) The Administration considers that the existing statutory provisions can already effectively combat the illegal entry of mainland fishing vessels into Hong Kong waters for fishing activities. The departments concerned will continue to stringently enforce the law, flexibly deploy resources to step up patrol at sea depending on the circumstances, and carry out joint enforcement action where necessary. The departments concerned will also enhance communication and co-operation with the mainland law-enforcement agencies to prevent the illegal entry of mainland fishermen for fishing in Hong Kong waters, so as to safeguard the interests of local fishermen and conserve the marine ecology of Hong Kong waters.

### **Provision of Social Services to Ethnic Minorities**

18. **MR CHEUNG KWOK-CHE** (in Chinese): *President, in connection with the provision of social services to ethnic minorities, will the Government inform this Council:*

- (a) *of the respective numbers of cases in each of the past three years in which the Social Welfare Department (SWD) provided family and child protective services, clinical psychological service, social security service and probation service to ethnic minorities, as well as the respective numbers of cases in which integrated family services were provided to such people by the SWD and subvented non-governmental organizations (NGOs); if such figures are not available, whether the Government will start collecting the relevant data from this year onwards; if it will not, of the reasons for that;*
- (b) *whether the SWD had provided training to the staff concerned in the past three years to heighten their sensitivity to the cultural differences between various ethnic groups; if it had, of the details; if not, the reasons for that; and*

- (c) *apart from establishing regional support service centres for ethnic minorities, how the Government helps them overcome the difficulties they encounter in using social services?*

**SECRETARY FOR LABOUR AND WELFARE** (in Chinese): President, as the question has not defined "ethnic minorities", the term is taken to mean non-Chinese persons in the ensuing reply.

- (a) According to data captured by the Computerised Social Security System of the SWD, the number of cases involving ethnic minority recipients of Comprehensive Social Security Scheme (CSSA) and Social Security Allowance (SSA) in the past three years is as follows:

*CSSA*

<i>Financial Year</i>	<i>No. of Ethnic Minority Cases</i>
2006-2007	7 703
2007-2008	7 517
2008-2009	7 557

*SSA*

<i>Financial Year</i>	<i>No. of Ethnic Minority Cases</i>		
	<i>Old Age Allowance</i>	<i>Disability Allowance</i>	<i>Total</i>
2006-2007	1 783	796	2 579
2007-2008	1 974	844	2 818
2008-2009	2 230	910	3 140

The existing data collection system of the SWD does not comprehensively collect data on the number of ethnic minority cases handled through other services (including Integrated Family Service Centres (IFSCs) operated by the SWD). The SWD is conducting a study on a new "Client Information System". The system will retain information on service users' nationality and ethnic origin, and so on. When the system comes into operation next year, it should be able to help the SWD capture such data.

As regards IFSCs operated by NGOs, any local resident (including persons of different ethnic origins), in case of need, may approach the centres for assistance. The SWD had not requested the centres to report the number of cases involving ethnic minorities in the past three years. SWD has no plan at this stage to revamp the existing statistical information system and obtain such figures from the NGOs.

- (b) The SWD has been providing relevant training for its and NGOs' staff to enhance their capacity and sensitivity in handling work relating to ethnic minorities. The SWD had arranged a series of training programmes for them in the past three years, including training programmes on working with ethnic minority groups/asylum seekers and torture claimants and child protection special investigation for children of ethnic minority background.
- (c) The Government is committed to promoting racial equality and harmony, as well as providing necessary support services to ethnic minorities, so as to facilitate their integration into the community. Apart from the four support service centres set up by the Constitutional and Mainland Affairs Bureau, respective government departments have been introducing various measures to assist ethnic minorities in using social services.

For instance, to assist ethnic minorities who have difficulty communicating either in Chinese or English in using the social welfare services they need, the SWD produces service leaflets in ethnic minority languages and arranges interpretation services where necessary. Besides, social welfare service units in the districts also organize group and community activities, including visits, social and recreational activities, community educational programmes, support groups, voluntary services, and so on, to enhance the ethnic minorities' knowledge of, and encourage their participation in, their communities in order to facilitate their social integration. The service units also encourage ethnic minorities to make use of mainstream services where necessary.

The Labour Department (LD) has similar arrangements. Apart from providing various services, including employment services,



enquiries on labour legislation and employees' rights and benefits, as well as services of the Occupational Health Clinics, in both Chinese and English, the LD will, where necessary, also arrange translation and interpretation service to citizens who speak neither Chinese nor English, including the ethnic minorities. Special counters have also been set up at its 12 Job Centres to provide ethnic minorities with readily accessible service. Employment briefings tailor-made for ethnic minorities are organized by these Job Centres from time to time. Apart from producing various pamphlets, concise guides and publicity leaflets in Chinese and English, the LD also prints some publications and information in other languages.

On medical services, the Hospital Authority (HA) has engaged a service contractor to provide patients with interpretation service (including on-site and telephone interpretation service) in four common ethnic minority languages. Such interpretation service will be expanded to cover eight more common languages starting from June 2009. The HA will also provide interpretation service to patients of ethnic minorities through volunteers and consulate offices. Although information provided to the public by the Department of Health (DH) is generally in both Chinese and English, information in other languages, including some minority languages, is also provided for selected health topics as appropriate. The DH will also arrange interpretation service for its clients as required.

To address the training needs of the ethnic minorities in Hong Kong, the Employees Retraining Board (ERB) and the Vocational Training Council (VTC) have organized dedicated vocational training courses for them using English as the medium of instruction. Subject to demand and the availability of resources, the ERB and the VTC will provide in-class interpretation service, where necessary and appropriate, to facilitate teaching and learning.

In terms of mainstream education, the Government also attaches great importance to providing support for non-Chinese speaking (NCS) students, in particular ethnic minority students, with a view to facilitating their early integration into the local education system and the community. The Education Bureau has implemented

appropriate support measures for NCS students and their parents. For instance, information on the local education system, applications for Primary 1 and Secondary 1 places under relevant school places allocation systems and the executive summary of the Supplementary Guide to the Chinese Curriculum for the NCS students have been translated into major ethnic minority languages. Simultaneous interpretation service is provided when conducting briefing sessions and, where necessary, interpretation service of major ethnic minority languages can be arranged.

### **Cross-boundary Vehicles**

19. **MR LAU KONG-WAH** (in Chinese): *President, will the Government inform this Council:*

- (a) *of the number of Closed Road Permits issued to cross-boundary vehicles by the authorities in the past three years, together with a breakdown by the crossing which the vehicles were permitted to use;*
- (b) *of the respective volume/capacity ratios of various crossings during peak hours, off-peak hours and public holidays in the past three years;*
- (c) *whether it has studied if cross-boundary vehicles are currently too concentrated on using particular crossings to cross the boundary, and if such concentration has caused frequent traffic congestions on the roads in the vicinity of such crossings; if it has, of the outcome; and whether the authorities have adopted new measures to encourage cross-boundary vehicles to switch to use crossings where traffic is smoother for crossing the boundary; and*
- (d) *as the authorities are considering the introduction of an ad hoc quota system for cross-boundary private cars, which will be launched at the Shenzhen Bay Port (SBP) first, of the implementation timetable and whether they will implement the system within this year?*

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

- (a) The number of Closed Road Permits issued to cross-boundary vehicles by the Transport Department in the past three years is as follows:

<i>Crossing</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>
Lok Ma Chau	16 296	16 062	16 301
Man Kam To	2 118	1 950	1 949
Sha Tau Kok	3 857	3 519	3 002
Shenzhen Bay Port*	Not applicable	3 389	8 927
Multi-crossing <sup>(1)</sup>	16 062	15 753	15 443
Total	38 333	40 673	45 622

Notes:

\* The SBP was commissioned on 1 July 2007.

- (1) To further facilitate the cross-boundary transportation of goods, goods vehicles allowed to use more than one land boundary crossing point only needed to apply for one Closed Road Permit since March 2005.

- (b) The average daily traffic flow, daily handling capacities and highest daily traffic volume at different crossings recorded in the past three years are set out below:

<i>Crossing</i>	<i>Average daily traffic volume of cross-boundary vehicles</i>			<i>Estimated daily handling capacity</i>	<i>Highest daily traffic volume in the past three years</i>
	<i>2006</i>	<i>2007</i>	<i>2008</i>		
Lok Ma Chau	31 101	30 989	27 883	32 000	41 275
Man Kam To	7 511	6 901	5 823	10 000	9 956
Sha Tau Kok	2 473	2 297	2 402	2 500	3 482
Shenzhen Bay Port*	Not applicable	3 103	5 899	29 800	8 838

Notes:

\* The daily handling capacity of the SBP will be around 60 000 if all supporting facilities are fully operated.

We have not kept separate statistics on the respective volume/capacity ratios of various crossings during peak hours, off-peak hours and public holidays.

- (c) At present, the Lok Ma Chau (LMC) crossing accounts for over half of the cross-boundary vehicular traffic. The number of vehicles using SBP has been increasing since its commissioning as from 1 July 2007. The volume of cross-boundary traffic at other land boundary crossings (that is, the LMC, Man Kam To (MKT) and Sha Tau Kok (STK)) as a ratio to the overall cross-boundary traffic has been decreasing, reflecting the diversion effect of the SBP. The traffic on the roads in the vicinity of the various crossings has been generally smooth. We will continue to monitor the utilization of various crossings. In order to encourage the utilization of the SBP, together with the Guangdong authorities, we have implemented a number of measures, including:
- (i) allowing all goods vehicles of cross-boundary freight companies to freely use the SBP;
  - (ii) allowing private car quota-holders of the LMC, MKT and STK crossings to continue to choose the SBP for commuting purpose until end September 2009; and
  - (iii) allowing private car quota-holders for the SBP to use the LMC during the hours when the SBP is not in operation (that is, from midnight to 6.30 am) with effect from 26 May 2008, in order to facilitate them to cross the boundary during the small hours.
- (d) As regards the introduction of an ad hoc quota system for cross-boundary private cars, the expert group set up by the Hong Kong and Guangdong authorities has already started to sort out implementation details and relevant technical issues with a view to rolling out a trial scheme at the SBP as soon as possible. Our tentative target is to announce the arrangements for the first phase (that is, issuing one-off ad hoc quotas to Hong Kong private cars) within this year, while the actual implementation date will be subject to the progress of discussions with the Guangdong side.

**Digital Terrestrial Television**

20. **MR FREDERICK FUNG** (in Chinese): *President, regarding the Digital Terrestrial Television (DTT) officially launched on 31 December 2007, will the Government inform this Council:*

- (a) *of the respective latest penetration rates of analogue and digital television;*
- (b) *whether it has conducted any survey on the prices of DTT receivers in the past 18 months; if so, of the relevant trend of price movements; if not, the reasons for that; and*
- (c) *as some members of the public have noticed that digital television signals are sometimes interrupted due to failure of the transmission stations, whether it knows the number of such failures since the launch of digital television broadcasting, the reasons for the failures and the time taken for repair; what follow-up measures the authorities have taken to reduce transmission station failures?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Chinese): *President, the improved quality and enhanced features offered by the DTT service have been well recognized and accepted by the viewing public since its launch in December 2007. The digital take-up rate has grown as the DTT coverage has progressively been extended to reach some 75% of the population in Hong Kong, covering all 18 districts. The extensive high-definition service provided by the two free-to-air broadcasters and the wide coverage of Beijing Olympic last August provided a major boost to the take-up rate. The two free-to-air broadcasters will continue to expand the digital network so that the ultimate DTT coverage will be on a par with that of the existing analogue television broadcasting by 2011. By that stage, all members of the public may enjoy the brand new audio-visual experience and more programme choices through the DTT.*

*My replies to the questions are as follows:*

- (a) According to a public survey conducted in the first quarter of 2009, about one third (around 770 000) households in Hong Kong receive DTT services via set-top boxes, integrated digital television sets and computers. The penetration rate for traditional analogue television reception is close to 99%.
- (b) Since the introduction of the DTT services, there has been consistent growth in the DTT receiver market. The functionality of the receivers continues to be improved and enhanced while the price range is moving downwards. Over the past year, the price range of popular DTT receivers has dropped from the range of \$1,500-\$3,000 to \$900-\$1,500. In addition to this, as the market matures, a new range of integrated digital television sets of different brands have been made available in the market, providing more choice for consumers.
- (c) The two free-to-air broadcasters have consistently delivered reliable DTT services to the viewing public. The service reliability (that is, the ratio in terms of broadcasting hours without interruption for an individual channel over the preceding six months) has been over 99%.

Since the launch of DTT, 19 incidents in respect of the transmitting equipment and related facilities of the two broadcasters have been recorded, resulting in service interruptions which lasted for periods from a few minutes to half a day. According to the licence conditions, the two broadcasters have to immediately respond to an event of service interruption of television broadcasting so that normal service is resumed as soon as possible. An investigation report must be submitted subsequently to the Television and Entertainment Licensing Authority and the Office of the Telecommunications Authority (OFTA). To minimise possible DTT service interruption affecting the viewing public due to failure of the transmitting facilities, the OFTA has asked the two broadcasters to improve their service recovery process including enhancement of the relevant spare equipment.

**BILLS****First Reading of Bills**

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

**DUTIABLE COMMODITIES (AMENDMENT) BILL 2009****INLAND REVENUE (AMENDMENT) BILL 2009**

**CLERK** (in Cantonese): Dutiable Commodities (Amendment) Bill 2009  
Inland Revenue (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.

**DUTIABLE COMMODITIES (AMENDMENT) BILL 2009**

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, I now move the Second Reading of the Dutiable Commodities (Amendment) Bill 2009 (the Bill) which seeks to implement the proposal of increasing the duty rates on tobacco by 50% as announced in the 2009-2010 Budget. The proposal of increasing the duty rates on tobacco is made in an attempt to protect public health and strengthen anti-smoking efforts.

The object of the Bill is to amend the schedule to the Dutiable Commodities Ordinance (Cap. 109), in order to increase the duty rates on various types of tobacco products by 50%. The relevant initiative has come into immediate effect on the delivery of the Budget speech on 25 February pursuant to the Public Revenue Protection Order 2009 (the Order). The Order gives legal effect to this proposal up to a period of four months. Thus, we need to have the relevant legislative amendments passed by 25 June 2009.

It has been pointed out by both international research and local experience that increasing the tobacco duty can help reduce the demand for tobacco and hence protect public health. Past experience in Hong Kong clearly indicates that every time when the Government drastically increased the tobacco duty, smoking prevalence would decline correspondingly. At the same time, a worrying phenomenon of smoking has emerged among Hong Kong people in recent years, as the proportion of female and youth smokers has not dropped as in the case of the overall smoking population, the trend has become increasingly prevalent among younger persons and smokers are smoking more cigarettes. In the light of this worrying trend, it is imperative for the Government to increase the duty rate as a means to further strengthen its tobacco control efforts.

There have been concerns from the community that increasing the duty rate on tobacco will boost illicit cigarette activities. Following the commencement of the new tobacco duty rate as announced in the Budget, the Customs and Excise Department (C&ED) has been keeping a close watch over illicit cigarette activities at various control points and on the street level, and combating such activities on different fronts, including smuggling, storage, distribution and peddling. So far, there is no sign indicating that illicit cigarettes activities on the street level have become more rampant. The C&ED will continue to take effective enforcement actions against illicit cigarette activities. Furthermore, as regards the impact of increasing the tobacco duty rate on the income of newspaper hawkers, the Food and Environmental Hygiene Department (FEHD) has met with representatives of these hawkers to understand their needs in depth. FEHD is now considering that, under the premise of not affecting environmental hygiene, the restriction on hawkers' licence may be suitably relaxed. As far as I know, some people in the community are worried that raising the duty rates on tobacco will adversely affect low-income smokers. Yet, we opine that smoking poses health hazards to people of all social strata. Our proposal of increasing the tobacco duty is made purely for the sake of protecting public health.

At the Council meeting on 2 April this year, a vast majority of Members agreed the Government's proposal of increasing the tobacco duty rate by 50%. I hope that the Bill can be scrutinized and passed by the Legislative Council as soon as possible, so that the above proposal will be given proper legal effect.

President, I so submit.



**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Dutiable Commodities (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.

### **INLAND REVENUE (AMENDMENT) BILL 2009**

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

The Bill seeks to amend the Inland Revenue Ordinance (Cap. 112) to implement the one-off tax reduction as proposed in the 2009-2010 Budget.

The outbreak of the century's financial tsunami has caused the global economic and financial environment to experience huge changes. In the face of the global economic recession, Hong Kong is inevitably impacted. We hope to alleviate the burden on members of the public in the midst of the economic downturn. Bearing in mind the overall and long-term development of the community and having regard to the Government's financial position, the Financial Secretary has proposed in the 2009-2010 Budget to allow a one-off reduction of 50% of salaries tax and tax under personal assessment for the year of assessment 2008-2009, subject to a ceiling of \$6,000. The reduction will be reflected in the taxpayer's final tax payable for 2008-2009.

The said one-off tax reduction will benefit 1.4 million taxpayers, and this proposal will cost the Government about \$4.1 billion in 2009-2010.

President, I so submit.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Inland Revenue (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' motion. Two motions with no legislative effect.

**PRESIDENT** (in Cantonese): First motion: Enhancing the tax system to keep Hong Kong competitive.

Members who wish to speak in a debate on a motion will please indicate their wish by pressing the "Request to speak" button.

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

**ENHANCING THE TAX SYSTEM TO KEEP HONG KONG COMPETITIVE**

**MR PAUL CHAN** (in Cantonese): President and colleagues, faced with the financial tsunami, the Chief Executive set up the Task Force on Economic Challenges (TFEC) to identify and capture new opportunities for Hong Kong. However the Government, I think, should at the same time examine the competitiveness of Hong Kong, consolidate and reinforce our strengths, as well as rectify our weaknesses, in order to provide assistance for hundreds of thousands of enterprises in Hong Kong, whether they be small, middle or large; and make Hong Kong more capable of attracting local and overseas investment to foster economic growth and create more job opportunities.

This is the aim of my motion — Enhancing the tax system to keep Hong Kong competitive — today and a step towards consolidation.

The offer of tax concessions to encourage business upgrading and stimulate business investment is a means treasured and used by countries around the world. Unfortunately, the Hong Kong tax system has not kept pace with time in the past 10-odd years. Hong Kong also gradually lags behind the neighbouring countries in attracting and retaining foreign investment. Some of its shortcomings in this aspect are pointed out in my motion for the purpose of urging the Government to face up to them and catch up with the countries without delay.

I once moved amendments to Dr Samson TAM's motion on "Promoting the development of local creative industries", suggesting that tax deduction for expenditure of enterprises incurred in the purchase of such invisible assets as trade marks and copyrights be allowed and the amount of tax deduction for expenditure on research and development be increased to 200%. The amendments were passed by a vast majority of votes then and I felt very grateful for the support of colleagues.

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

The other four tax concession measures proposed by the motion today are specific and feasible. Due to time constraint, I cannot elaborate on them one by one. However, an introduction to and an analysis of these four tax concession measures are set out in the memorandum I distributed to each Member before the meeting. Photocopies of it are also available on the table near the Ante-Chamber for the reference of Members. Now, I just brief you on them and provide supplementary information.

The current Inland Revenue Ordinance (IRO) allows enterprises to carry losses forward to later years of assessment against future profits. The loss carry-back proposal allows enterprises to offset the current year loss against profits recorded in prior years and thereby obtain a refund on taxes previously paid.

If the current year loss is allowed to be carried back, it will help small and medium enterprises (SMEs) to improve their cash flow. The main different from the current practice is the time difference in carrying the loss forward for tax deduction. If the enterprise does not close down, the revenue will not suffer any loss.

Moreover, Hong Kong has adopted the International Financial Reporting Standards in recent years and assets are often recorded at their fair value, so profits of enterprises will inevitably fluctuate with the fair value of their assets. The issue is that as at year end an increase in asset valuation reflects book profit only, not cash inflow, but the enterprise is required to pay tax on the increase in value. If the fair value drops later, or a loss is incurred in the disposal of assets,

the loss can be deducted. However, if the enterprise did not earn much or even suffered a loss that year, the tax paid earlier can only be deducted from future profits, so the difficulties are imaginable.

If losses are allowed to carry back, the loss arising from a drop in fair value mentioned above can be deducted from the profit of the previous year and the tax paid previously can be refunded. As a result, the effects of fair value fluctuation on enterprises' tax burden can be alleviated. In practical implementation of the measures of carrying the loss back, the Government can set an appropriate dollar cap for the loss that can be carried back and the maximum number of years to which it can be carried back, to prevent any decrease in revenue from exceeding the expectation

Let us have a look at overseas experience: the Government of Singapore first introduced such measure in 2005, with 100,000 Singapore dollars as the tax deduction ceiling. It further implements a provisional measure in its budget for the current year to raise the ceiling to 200,000 Singapore dollars, but it only applies to the assessment years of 2009 and 2010. In fact, both measures aim to help SMEs.

As to group loss relief, losses of a subsidiary can be deducted from profits of another subsidiary within the same group before tax is chargeable.

Many enterprises, even SMEs, run their business through a number of subsidiaries, so as to diversify the risks of different businesses on the one hand and separate the operational risks in different areas. Under this type of group structure, there will be cases where some subsidiaries have profits, while others suffer losses. The introduction of group loss relief is to allow losses of one group company to be deducted from profits of other group companies, so that the overall tax burden on the group is closer to its net profit level.

One more advantage of allowing group loss relief is to encourage Hong Kong enterprises to invest boldly and confidently, especially in some projects which require a large initial investment and a longer investment return period (such as creative industries), as such investment is good for business innovation of enterprises and the creation of new profit growth points and provides superior benefits to the enhancement of the competitiveness of Hong Kong.

To prevent group loss relief provisions from being abused, my suggestion is that these provisions should be available only to wholly-owned and near wholly-owned subsidiaries within the same group of companies. Besides, consideration can also be given to the determination of the maximum amount of deduction at the early stage of implementation.

We can see that at present most countries in Europe and America allow losses to be set off against profits among subsidiaries within the same group of companies. Neighbouring Singapore introduced group loss relief provisions in early years as well. Since the implementation, there has not been evidence of abuse of these tax measures.

What about the allowance for capital expenditure incurred on machinery used in processing trade arrangements? Currently, many Hong Kong manufacturers operate processing trade through the establishment of foreign investment enterprises on the Mainland. In practice, Hong Kong manufacturers sell materials to production units on the Mainland and these units will sell their finished products back to them for export to overseas. Hong Kong manufacturers often provide machinery, equipment and moulds for production units on the Mainland. In particular, as far as moulds which usually involve special design are concerned, Hong Kong manufacturers are not willing to sell them to mainland enterprises to protect the intellectual property of the design.

Section 2 of IRO in Hong Kong contains a very wide definition of lease. Besides, under sections 16G(6) and 39E, the abovementioned machinery, equipment and moulds provided by Hong Kong manufacturers for production units on the Mainland will be regarded as "leased to others for use outside Hong Kong" and cannot be deducted from Hong Kong tax.

The original intent of the IRO sections mentioned above addresses aircraft leasing arrangements for the purpose of combating tax evasion arrangements involving aircraft and ship finance. As aircraft and ships are not often used in Hong Kong, their operators do not derive their income from Hong Kong and are not required to pay profits tax. Therefore, the denial of tax deduction is reasonable.

Nevertheless, we can think about the situation that Hong Kong manufacturers engaged in processing trade are required to pay Hong Kong profits tax on their income. The Inland Revenue Department of Hong Kong insists that

the machinery, equipment and moulds concerned are leased assets used outside Hong Kong and are not tax-deductible. This stance does not match the needs of Hong Kong manufacturers engaged in processing trade and obviously fails to keep abreast with time and the market. It contravenes not only the intent of the statutory provisions, but also the basic principles of Hong Kong tax laws that allow taxpayers to deduct the cost of producing profits.

Then, I want to talk about how to make Hong Kong a choice location for regional offices for group companies. All of us know that if more overseas or local companies set up their regional offices in Hong Kong, it will certainly provide more job and economic opportunities for various industries in Hong Kong.

Incidence of taxation is one of the important factors for an enterprise to consider the location of its regional office. In recent years, the neighbouring areas, such as Shanghai and Singapore, have incessantly introduced measures to attract enterprises to set up their regional offices there. Some foreign businessmen have even decided to move their regional offices from Hong Kong to these places. In fact, this phenomenon is inextricably related to the willingness of these countries or areas to offer tax concessions.

To preserve its competitive edge, Hong Kong needs to focus on tax relief by providing profits tax concessions on income arising from overseas for regional offices. If these concessions are not provided, regional headquarters will not be set up here, providing no benefit for us.

The taxation measures proposed in my motion this time are suggestions of the accounting and taxation sectors after repeated discussions and are widely supported by the business and banking sectors. We have repeatedly raised these suggestions to the Administration but, quite regrettably, we invariably fail to see it take any rigorous actions at all.

The explanations always given by government officials are that Hong Kong's low tax rates and simple and certain tax system are incentives for foreign businessmen to do business here; Hong Kong has been committed to preserving neutrality by offering no concessions to certain enterprises or industries and necessarily creating a fair competitive environment; and Hong Kong cannot deviate from the principle of neutrality in the Hong Kong tax system.

Such remarks actually reflect government officials' inadequate knowledge of the tax policy and lack of awareness of the impacts of changes in Hong Kong's external environment.

The degrees of benefit of my tax concession proposals to enterprises may vary, depending on their business nature and operation scale. However, being cross-industry measures, they are available to enterprises in different industries. No favouratism is shown towards a particular industry. Nor is the neutrality of the tax system violated. On the contrary, I just point out some unfair practices in the current tax system in the hope of correcting them.

The Hong Kong Government needs to set up a structure for integrating tax policies and establish a specialist tax policy unit to examine the tax policy direction and strengthen its ability and sensibility to identify taxation problems, allowing the Government to determine related actions and their priorities properly.

You may want to ask whether my suggestions above will give rise to a reduction in government revenue. My colleagues, the Government reduced the profits tax rate and the standard salaries tax rate by one percentage point respectively in the previous year, resulting in a reduction of about \$6 billion in revenue and the impact of my suggestions above on revenue is far less than that. If the competitiveness of Hong Kong can be enhanced to attract more people to invest here, the jobs and revenue thus created can, I think, more than offset the loss.

The Government should not simply reduce the standard tax rates by one or two percentage points to please the public. Instead, it should implement my suggestions to enhance the competitiveness of Hong Kong. This is more useful for Hong Kong.

I earnestly call upon all colleagues to support my motion. Deputy President, I move the motion on "Enhancing the tax system to keep Hong Kong competitive" printed on the Agenda.

**Mr Paul CHAN moved the following motion:**

"That, whereas the Hong Kong profits tax system has not kept pace with time and does not offer adequate incentives and concessions to help Hong

Kong enterprises and manufacturers upgrade their business to improve their competitiveness; whereas improved competitiveness of Hong Kong enterprises and manufacturers will create more jobs and economic opportunities for the people of Hong Kong; whereas appropriate choice of tax incentives and concessions is a key inducement to drive business innovation and to lure business investment which can in turn improve the overall competitiveness of Hong Kong; and whereas tax issues are becoming increasingly complex yet setting the right tax policy is becoming ever more important to the overall competitiveness of Hong Kong; therefore, this Council urges the Administration to:

- (a) amend the Inland Revenue Ordinance or otherwise to provide for appropriate tax incentives or concessions or other features to encourage business upgrading, drive business innovation, stimulate business investment and foster economic growth, such tax incentives or concessions or features shall include but not limited to the following:
  - (i) tax loss carry-back provisions, with appropriate dollar cap for the loss that can be carried back and an appropriate maximum number of years to which tax loss carry-back can be applied;
  - (ii) group tax loss relief, to be available only to wholly-owned and near wholly-owned subsidiaries within the same group of companies;
  - (iii) allowance for capital expenditure incurred on plant or machinery physically located outside Hong Kong (e.g. on the Mainland) and which are used in processing trade arrangements producing profits assessable in Hong Kong; and
  - (iv) profits tax reduction and tax credits on foreign withholding tax, with appropriate anti-avoidance provisions, to make Hong Kong a choice location for regional offices and service centres for group companies;



- (b) identify and evaluate further changes, enhancements, initiatives and priorities, as appropriate, in respect of tax policy principles and tax administration practices, in order to further improve the overall competitiveness of Hong Kong's tax system; and
- (c) establish a specialist "tax policy unit", to be staffed by sufficiently senior personnel with relevant technical knowledge and practical experience, to conduct research and provide policy formulation support to the Administration, in order to enable a continued and focused effort at identifying and evaluating changes, enhancements, initiatives and priorities to better Hong Kong's tax policy and tax administration practices."

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

**DEPUTY PRESIDENT** (in Cantonese): Mr Vincent FANG and Mr Albert HO will move amendments to this motion. Mr Ronny TONG will also move amendments to Mr Albert HO's amendments. This Council will now proceed to a joint debate on the motion and the amendments.

I now call upon Mr Vincent FANG to speak first, to be followed by Mr Albert HO and Mr Ronny TONG; but no amendments are to be moved at this stage.

**MR VINCENT FANG** (in Cantonese): Deputy President, under the economic crisis brought about by the financial tsunami, governments throughout the world are trying by all means to enhance their competitiveness. The reform of the Hong Kong tax system has been discussed for many years, yet little progress has been made, particularly in terms of attracting foreign investment and enhancing the competitiveness of enterprises through reforming the tax system.

However, the Liberal Party is of the view that no matter how the Hong Kong tax system is to be reformed, the basic principle of maintaining a simple and low tax system which underpin Hong Kong's success should be upheld.

Besides, Article 108 provides that "the Hong Kong Special Administrative Region shall, taking the low tax policy previously pursued in Hong Kong as reference, enact laws on its own concerning ..... matters of taxation." I therefore propose amendments to supplement the original motion.

Apart from being founded on the number of tax types, a simple tax system must be underpinned by clear rules and regulations, as well as specific definitions and principles that are easy to follow. At present, Hong Kong adopts a territorial source principle of taxation, that is, profits which have a source in Hong Kong are taxable whereas profits sourced elsewhere are not taxable. This principle looks simple, but with enterprises globalizing their businesses and the mode of territorial division of labour ever evolving, many grey areas and even taxation traps have emerged in actual operation, adding uncertainties to taxation planning and arousing many disputes.

Under globalization, to effect a transaction, a number of places or countries are usually involved. For example, discussions can be held in Hong Kong or overseas, orders can be placed and contracts can be signed in Shanghai, and the goods can be consigned in Vietnam and delivered to the buyer in Australia. The question of whether the profits generated from this transaction are derived from Hong Kong or overseas will easily give rise to disputes.

However, the Inland Revenue Department generally does not accept the apportionment of profits, so all the profits generated from a transaction involving different territories will either be regarded as "tax derived from Hong Kong" and subject to taxation or "offshore profits" which are not taxable. The Inland Revenue Department adopts a very stringent approach in accepting profits as "offshore profits". As long as a company in Hong Kong is involved in a transaction, all the profits generated from the whole transaction will be counted as profits earned by the company and are fully taxable.

As a result, tax disputes arising from territorial source have to be brought before the Board of Review and even the court from time to time, which will inevitably add many uncertainties, ambiguities and inconsistencies to the simple tax system. To save trouble in this regard, some small and medium enterprises (SMEs) have recently relocated their offices dealing with transactions to Macao.

In this connection, I hope that the authorities will have a set of clear and detailed tax assessment criteria, and if possible, to draw up jointly with the

accountancy sector and trade associations some simple rules for their implementation, so as to reduce tax disputes.

Recently, Hong Kong enterprises have been much beset by the question of whether allowance should be given for capital expenditure incurred on plant or machinery physically located outside Hong Kong (such as on the Mainland) and which are used in processing trade arrangements producing profits assessable in Hong Kong. With the change in policies and the tax system on the mainland, enterprises engaged in processing trades with supplied materials are no longer encouraged, that is, mainland enterprises will still be responsible for the production process, but the production mode will be changed to "processing with imported materials". In other words, Hong Kong enterprises will be regarded as selling raw materials to mainland enterprises and will no longer be regarded as taking part in the production process as in the past. The plant or machinery provided by Hong Kong will no longer be entitled to a 50% depreciation allowance as in the past.

Moreover, the Inland Revenue Department even further recovers the allowance granted in the past five or six years and the tax involved may be as high as several million dollars, which will in turn add burden to enterprises which are striving to survive in the midst of the financial tsunami. Therefore, I hope the Inland Revenue Department will conduct a review in this respect.

The Liberal Party also supports other tax reform proposals stated in the original motion. In particular, group tax loss relief and profits tax reduction are the objectives which the Liberal Party and the commercial sector have been striving to achieve, as they will help attract foreign investment and create more jobs. Notwithstanding that, we are of the view that with the change in the mode of the economy, the Government should introduce new concessions to encourage research and development among enterprises. In this connection, the Liberal Party considers that tax deductions for research and development expenditures should be at least doubled and full tax deductions should be provided for the purchase of trademarks and brand names.

As regards the establishment of a tax policy unit, the Liberal party keeps an open mind. According to the idea of Mr CHAN, the tax policy unit is supposed to conduct research and provide policy formulation support to the Administration. Since the proposal involves a drastic change to the policy-decision structure, it is necessary to conduct extensive consultation. As such, the Liberal Party supports

that the Administration should study the proposal first before making a final decision.

Deputy President, while the Liberal Party is supportive of Mr Albert HO's proposal to increase the amount of deduction allowable from the expenditure incurred on employee training and purchase of environment-friendly facilities, it does not agree to the part of his amendment concerning profits tax and salaries tax. Therefore, the Liberal Party objects to his amendment. I would like to respond in respect of the part on profits tax and Deputy President will elucidate on salaries tax later.

Regarding profits tax, Mr HO's amendment proposes to introduce a tiered profits tax system and substantially increase the profits tax rate for those companies with assessable profits of \$10 million or above to 18%. However, a report published by the Bauhinia Foundation Research Centre in 2008 reveals that during the decade from 1997 to 2007, places around the world adjusted their corporate tax rates downwards continuously to enhance competitiveness. The proposals stated in the amendment obviously go against this global trend. They will even compromise the principle of a simple and low tax system pursued in Hong Kong and in turn undermine the competitiveness of Hong Kong.

Taking Singapore as an example, the corporate tax rate is currently 18% and next year, that is in 2010, it will be further reduced to 17%. Enterprises setting up regional or global headquarters in Singapore will enjoy a concessionary tax rate of 15% for three years. From a global perspective, the tax rate in Hong Kong is not as competitive as it used to be. If we further adjust the tax rate substantially upwards, we will not be able to attract investment, not to mention retaining international corporations. As the Chinese saying goes, if this place does not retain people, there will be places that retain people. A lot of jobs will be lost if enterprises close or scale down their business in Hong Kong due to tax increases.

Places overseas, particularly our competitors in Asia, usually impose a lower tax rate on SMEs in introducing a tiered profits tax system. Taking Singapore as an example, a tax exemption of 75% is given to the first SGD\$10,000 of profits. A further exemption is given to the next SGD\$250,000 of profits. In South Korea, the corporate tax rate for the first 100 million won (about HK\$6.2 million) of taxable income is only 14.3%. The tax rates in both of these places are lower than that of Hong Kong.

The adoption of a simple and low tax system was passed in Taiwan this month and the profits tax rate has been reduced from 25% to 20% in one go, hence posing a direct challenge to the low tax system in Hong Kong. Under such circumstances, Hong Kong should not go against the trend and give up its own competitive edge.

Deputy President, I so submit.

**MR ALBERT HO** (in Cantonese): First of all, we welcome the motion moved by Mr Paul CHAN today which calls for a review of the existing tax system in Hong Kong. He has also put forward many other proposals for our discussion.

Before going into specific proposals, I would like to talk about the central philosophy of enhancing our tax system and improving our competitiveness. I must stress that competitiveness is neither confined to increasing the attractiveness of Hong Kong to investors nor enhancing the competitiveness of our business sector to do business. It is not as simple as that. I think we have to look further and enhance the overall competitiveness of Hong Kong for the benefit of all strata of the society on a long-term and sustainable basis. If we adopt this way of thinking, we should not think that by reducing tax and providing more tax relief, we can make investors come in the belief that it is profitable to do business in Hong Kong. It may be too short-sighted if we think so. Of course, I am aware that many of the proposals have a longer-term effect. However, I have to emphasize the importance of this central philosophy.

In adopting this way of thinking, the Democratic Party would like to stress that a fair tax system is indispensable to enhancing the competitiveness of Hong Kong on a sustainable basis. A fair tax system will bring about two social effects. Firstly, if we can increase the government revenue moderately under the principle of fairness, we can make some long-term social investments, create equal opportunities for the disadvantaged and promote social mobility, so as to help reduce social conflicts, achieve social harmony and in the long term strengthen social stability. If we do not have long-term social stability, and if the rich become richer and the poor become poorer, how can there be sustainable competitiveness?

Therefore, we have to set an objective to narrow the gap between the rich and the poor and reduce the wage disparity between them. As we all know, the

Gini Coefficient is the best indicator of the income disparity in society. Over the past one to two decades, Hong Kong performed worse and worse in terms of income disparity and is currently among the top ranks. Our Gini Coefficient has reached 0.533, a level which is both shocking and alarming. If we continue to allow Hong Kong to be beset by social conflicts and pressure caused by the disparity between the rich and poor, how can we have social stability? If a lot of people live under the poverty line and live from hand to month, and if a lot of people have to worry about medical and housing matters, or worry that their daily life is not well protected, or they cannot live with dignity, how can we have social stability? If we often have tens of thousands or even hundreds of thousands of people taking to the street on 1 July, how can we be competitive?

Therefore, from this point of view, the Democratic Party would like to supplement or enrich Mr CHAN's motion. As a matter of fact, I agree to many of his proposals and I only have reservations on some of them. I shall talk about my reservations later. From this point of view, the Democratic Party proposes an increase in tax, but only a moderate one, so as not to scare away investors as mentioned by Mr Vincent FANG. We propose that a two-tier profits tax system be introduced. Such a system will not be unique to Hong Kong. I do not wish to compare Hong Kong with countries levying high tax such as Canada, the United Kingdom, France and even USA (the tax rates in the USA are higher than those in Hong Kong) and Australia. Let me cite the examples given by Mr Vincent FANG, that is, South Korea and Taiwan (which are the competitors of Hong Kong). I will even talk about Singapore later. These countries all adopt a tiered tax system. Take Taiwan for example. As mentioned by Mr Vincent just now, Taiwan has made a decision to reduce tax. Its tax system is basically two tiered with the tax rate for the upper tier being 25%. Even if it goes down to 20%, it is still higher than our tax rate. As for South Korea, the tax rate for companies earning a profit of \$1.25 million or more is 22%, which is far higher than what I am proposing. I am proposing to raise the existing tax rate by 1.5%. This is the first point.

I propose to introduce a two-tier profits tax system with the first tier dealing with companies with profits of \$10 million or above. As we can all see, a profit of \$10 million is not a small sum of money and the vast majority of SMEs will not be affected under my proposal. For those companies with profits of \$10 million or above, will paying an extra 1.5% of tax do great harm to them so that they have to relocate their business to Singapore or South Korea? I am very doubtful about this. However, if we raise the tax rate for those companies with

profits of \$10 million or above by 1.5% to 18%, our annual revenue will be increased by \$6.8 billion. With this money, we can greatly improve our social services and education system and put in place more poverty alleviation measures. As a long-term investment for the society, this proposal will greatly help to alleviate the pressure brought about by social conflicts and the disparity between the rich and the poor.

Secondly, the Democratic Party proposes that the standard rate of salaries tax be abolished. As we all know, all salaries taxpayers can opt to pay tax according to the standard rate if they find that it is to their disadvantage to pay tax according to the progressive marginal tax rates. I see no reason why Hong Kong has to continue to be so good to the small number of "kings of employees". Therefore, we propose that the standard tax rate be abolished and the slightly progressive marginal tax rates be applied to salaries taxpayers. The actual number of people to be affected will not be great and will be in the region of 20 000. These people all have an income of \$1 million or more, and many of them even earn an income of several million dollars or tens of million dollars or more. Why can't these people pay more salaries tax? It should be noted that even if we abolish the standard tax rate, the tax payable by these "kings of employees" will be peanuts compared to the tax charged by advanced countries. Other countries levy a progressive tax rate as high as 30% to 40%. A 20% salaries tax rate will be nothing to the "kings of employees"? Let us be fair. The more you earn, the more tax you pay. In this way, the Government will have more money to put in education and poverty alleviation efforts. Very often, when we ask directors of bureaux to do something that should be done, they always ask us where the money comes from. I remember very well that Dr YEOH Eng-kiong once asked us whether money did grow on trees. Whenever we hear this, we will ask why the Government does not charge more tax from the rich.

We think that the proposals put forward by Mr Vincent FANG, the territorial concept in particular, are worth consideration. If he would like to conduct a detailed study, we consider that instead of apportioning profits on the basis of percentages between zero and 100, it will be better to adopt different apportionment factors. We are supportive of the proposal put forward by Mr Vincent FANG to double the tax deductions for research and development expenditures. We also support Mr Paul CHAN's proposal that the costs incurred on training and environment-friendly facilities should be deductible from tax and the amount of deduction allowable should double the amount of the costs

incurred. However, there are problems with his proposal on group tax loss relief. I really cannot understand why a group can claim deduction from profits tax with the losses sustained by its subsidiaries, but many creditors can only sign over their misfortune and are not able to get back a single cent. How come the group can benefit from the losses of its subsidiaries?

**MR RONNY TONG** (in Cantonese): Deputy President, the Civic Party agrees in principle to the views of the Democratic Party on the tax system. We support Mr Albert HO's amendment, but we would also like to propose further improvements.

Deputy President, the objective of taxation is to enable the Government to function effectively, serve the public and promote social development, so that the public can live in peace and work happily on a fair basis. We should get rid of those types of tax that are not necessary, so as not to complicate our simple tax system. The Civic Party considers that provisional tax is exactly the kind of tax that is not necessary.

Deputy President, if the Administration completely abolishes the provisional tax system, members of the public and small and medium enterprises (SMEs) will have more flexibility in using their money. In fact, it seems that very few places impose provisional tax both on individuals and enterprises as does Hong Kong. The provisional tax system is a very unique tax system, under which individuals and enterprises are predicted to earn money before they actually do so and are required to pay tax in advance. Charging provisional tax runs counter to the idea of leaving wealth with the people which the Government has all along been advocating. When the economy is robust, the public do not mind too much about paying tax in advance, but during an economic downturn as in the present situation, the provisional tax system becomes very disturbing to the public.

Last year, the Inland Revenue Department processed a total of 60 000 and 8 000 applications for holding over the payment of provisional salaries tax and provisional profits tax respectively. As can be seen from these figures, in times of economic difficulties, many people still have to go through complicated procedures before they can keep their savings. In my opinion, there is no need to keep the provisional tax system.



As calculated by a chamber of commerce two years ago based on the 2005-2006 Budget, a revenue of \$8 billion from provisional tax might only bring to the Government an extra profit of not more than \$200 million, but if the Government abandoned charging provisional tax from companies with profits below \$5 million, the \$8 billion ultimately could have provided much convenience to many SMEs when they had cash flow problems. The Government could have done a big favour to SMEs at the mere cost of earning \$200 million less. I think it is well worth it.

Deputy President, there are in fact only two reasons for retaining provisional tax. The first one is having a financial need and the second one is reducing chances of tax evasion. Regarding the first reason, as we all know, Hong Kong has a reserve in excess of \$1,500 billion and financially speaking, provisional tax is indeed not an indispensable tax to the Hong Kong Special Administrative Region Government. As for tax evasion, the current tax default rate in Hong Kong is about 5%, which is quite normal. On the contrary, when the economy takes a turn for the worse, the administrative costs for processing applications for holding over the payment of provisional tax will certainly increase by folds. A simple calculation by the Civic Party based on the number of applications for holding over the payment of provisional salaries and profits tax shows that the administrative costs for processing such applications alone this year may be as high as \$20 million. Abolishing provisional tax can help the Government to save at least \$20 million of public money in this respect.

Deputy President, apart from the proposal of abolishing provisional tax, we would like to put forward two more proposals.

Deputy President, the Civic Party proposes that the amount of tax deduction for SMEs be increased and convenience be provided to the business sector and SMEs in respect of deduction of expenses on loan interest. At present, expenses on loan interest are deductible from profits tax. However, due to technical constraints, the Inland Revenue Department only allows deduction of expenses on interest of loans obtained from banks or licensed lending institutions. Many SMEs, particularly small businesses, cannot fully benefit from this tax deduction. We learn from our contacts with the accountants of SMEs that when SMEs encounter financial difficulties, they may not be able to obtain loans from lending institutions even with a 75% guarantee from the Government. At present, it is still very difficult for SMEs to obtain loans from banks. Instead, they borrow money from shareholders, other companies and even relatives and

friends. Therefore, to save SMEs from going through the complicated procedures and meeting the complicated requirements in obtaining loans from banks will be a great help to them.

Deputy President, the Civic Party therefore proposes that the Government should study the provision of a tax concession whereby the expenses on loan interest are deductible from tax, so that SMEs can have more tax deductible items. In order to avoid SMEs from abusing this tax concession, we propose that the interest rate for this kind of loans be standardized and the Inland Revenue Department should be responsible for monitoring whether the interest rates offered are consistent with the market rate.

Deputy President, my third proposal relates to the existing advance ruling service provided by the Inland Revenue Department to taxpayers. This service provides an effective avenue for taxpayers to seek clarification of tax policies and the amounts of tax payable, but the fees of rulings are too high. At present, the application fee for a ruling on profits tax is \$30,000 and that for a ruling on salaries tax and other matters is \$10,000. These fees are well above the level which many grass-roots taxpayers can afford to pay. We propose that the Government should slash the fees so that both SMEs and people in the lower and middle classes can enjoy this service.

Deputy President, I hope that the authorities concerned can accept the three proposals of the Civic Party, so as to enable local SMEs to enhance their competitiveness in a more lax business environment and to create favourable conditions for the recovery of the Hong Kong economy. Thank you, Deputy President.

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

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Deputy President, first of all, I thank Mr Paul CHAN for proposing this motion. I also thank Mr Vincent FANG, Mr Albert HO and Mr Ronny TONG for proposing amendments to the motion so that we can discuss the issue of Hong Kong's tax system in the Legislative Council.

The motion topic under debate today is "Enhancing the Tax System to Keep Hong Kong Competitive". Before responding to the respective measures put forth by the Honourable Members, I would like to discuss the relationship between the tax system and competitiveness of Hong Kong in a macro view and then share with them the principle we adhere to upon considering tax proposals.

As everyone knows, Hong Kong's tax system is characterized by low tax rates, limited types of taxes, clear and simple tax law, and impartialness towards individuals and enterprises. Such a good tax regime coupled with the public finance policies of managing public finances prudently and keeping expenditure within the limits of revenues is the crucial factor that sustain the competitiveness of Hong Kong and win worldwide recognition. In the Global Competitiveness Report released by the World Economic Forum for the year 2008-2009, the competitiveness of Hong Kong is ranked eleventh while the competitiveness of taxation is ranked the third in the world, ranking higher than those major competitors in the region. In the same way, according to the Tax Misery & Reform recently released by the Forbes Asia, Hong Kong is ranked the third most tax-friendly region. According to the surveys conducted by the Census and Statistics Department in recent years, Hong Kong's low and simple tax regime is considered one of the most important factors attracting overseas companies to set up regional headquarters or regional offices in Hong Kong.

Our excellent tax system has not come easily and needs to be protected. Since Hong Kong already has a tax system which is more competitive than most other regions in the world, any amendments proposed shall be taken with extra caution. Respective tax practices in other countries are not necessarily applicable to Hong Kong. In addition to low tax rate, the major difference between our system and those in other regions is that ours is simple and impartial. It is simple because the competitiveness of our tax rates saves the need of launching a variety of the tax concessions; it is impartial because we do not selectively offer tax concessions to any individual, enterprise or commercial act.

Selective tax concessions or incentives not only breach the principle of fairness but also possibly give rise to tax evasion. In order to close the tax loophole, we have to enact more complex provisions in law which will complicate our tax system and will also increase the cost of taxation.

Our tax system honours another principle of fairness — the principle of affordability. This principle is already realized in salaries tax and profits tax.

For salaries tax, we have not only implemented a progressive rate structure but also offered a variety of tax allowances and deductions which are very lenient. For this reason, less than half of the 3.5 million workforce is liable to taxes; and among those taxpayers, the top one hundred thousand who pay the most account for 65% of the total revenue from salaries tax. As for profits tax, we impose uniform tax rate so as to deter tax evasion through multiple corporatization. This practice is in line with the principle of "the more profits one makes, the more taxes one pays". As a matter of fact, out of the 700 000 registered businesses, only 70 000 are liable to tax; and the top 1 000 companies which pay the most account for 70% of the total profits. This shows that our source of tax revenue mainly comes from a very small number of high-income individuals or high-profits enterprises. It is not a healthy structure in terms of revenue stability. We therefore oppose to any proposals which will further worsen the situation.

Apart from the taxation principles just mentioned, another important factor for considering a taxation proposal is its impact on the tax revenue. Most of the proposals mentioned in the motion today will lead to a decrease of tax revenue, for example, the proposal of group tax loss relief or tax loss carry-back may have a significant and immeasurable impact on the tax revenue. Those who support these measures usually state that many other countries or regions have implemented similar measures and they therefore criticize Hong Kong being lagging far behind the other international countries.

When considering this issue, we cannot simply look at the pros and cons of a separate tax measure. It is more important to note that people often overlook that these countries or regions can provide a variety of tax concessions in direct tax because they have on average a higher tax rate and secondly, a significant proportion of their tax revenue comes from indirect tax (mainly consumption tax). A number of countries even increase their consumption tax rate so as to make more room for tax reduction or concessions in direct tax.

On the contrary, the tax in Hong Kong is low in rate, limited in types and lack of stable and sufficient sources of indirect tax, we thus have to be exceptionally cautious when considering and assessing the impact on tax revenue made by direct tax concessions. Experience has shown that the tax rate can be adjusted in response to different circumstances; nevertheless, once we introduce specified tax concessions, it will be difficult to cancel and may have a profound

impact on the tax revenue in the long run. With the financial turmoil not yet settled down and the Government estimate of fiscal deficits consecutively in next five years, we must not injudiciously carry out any taxation measures which will have a profound and long-term impact on the tax revenue.

Deputy President, for the sake of sustaining our simple, low tax rate and impartial tax system as well as taking into consideration of the potential impact on the Government finance, we do not think it is an appropriate time to introduce those taxation measures proposed in the motion and amendments today. I will answer to individual proposal in details after having listened to Members' opinions.

Thank you, Deputy President. I oppose the motion and amendments today.

**MR CHAN KIN-POR** (in Cantonese): Deputy President, Hong Kong has benefited from the principle of a simple and low tax system for many years. This principle has successfully attracted investors from all over the world to invest in Hong Kong since its economy took off and Hong Kong has even been reputed as the freest and most competitive economy in the world. Now, the principle of a simple and low tax system is still pursued as a major policy to help attract investors from all over the world to invest in Hong Kong. I believe nobody will doubt that Hong Kong's simple and low tax system has been a main contributor to its success. The subject for debate today is enhancing the tax system to keep Hong Kong competitive. I would like to start with the economic policy of Hong Kong, to be followed by an analysis of the development of the tax system in Hong Kong.

In the colonial era, Hong Kong pursued a positive non-intervention policy. The Government would not intervene in the workings of the market unless absolutely necessary. This policy rendered Hong Kong a free trading port which we took pride in. Guided by the philosophy of positive non-intervention and under the influence of the British traditional way of thinking about taxation that a stable income was more important than economic adjustments, Hong Kong developed a simple tax system with very low tax rates. Unlike other places around the world at that time, Hong Kong adopted a system that did not impose any trade barriers. It was a true free trading port. With other supporting measures in place, Hong Kong naturally attracted a lot of investors. However,

since the reunification of Hong Kong, financial systems around the world have undergone rapid changes and the development of the Internet has accelerated globalization. These factors have rendered the passive fiscal policies unable to adapt to changes in the market. In this regard, the Chief Executive Mr Donald TSANG announced in 2006 that Hong Kong would no longer adopt the policy of positive non-intervention and it would adhere to the "Big market, small government" principle instead.

Since Hong Kong has abandoned the policy of non-intervention, should appropriate changes be made to the tax system which was derived from this policy so as to respond to the changes in the market? Given that the world economy has experienced huge fluctuations in recent years, governments over the world have adopted more and more proactive financial and monetary policies to rescue their economy. As for Hong Kong, it does not have its own monetary policy because of the linked exchange rate. Besides, its tax system, which is integral to its fiscal policy, has remained rather passive for a long time and cannot help enhance Hong Kong's competitiveness. Therefore, apart from distributing money to the public by various means, there is in fact little that the Government can do to revive the economy in the wake of the financial crisis.

From another perspective, Hong Kong's simple tax system has gradually losing its attractiveness. The major competitors of Hong Kong such as Singapore have in recent years adjusted their profits tax rates downwards to levels close to that in Hong Kong. As such, Hong Kong cannot rely on a low tax system alone. Now is the time to consider whether we should learn from our competitors and offer more targeted tax concessions, hence enhancing the competitiveness of Hong Kong.

In conclusion, Hong Kong remains the most important free port in the world, so there is a need to retain the simple and low tax system. However, we should respond to the changes of the times and incorporate in our tax system appropriate tax concessions to attract more foreign investors to come to Hong Kong. The motion moved by Mr Paul CHAN today is timely. It sets out proposals to enhance the tax system having regard to the present situation in Hong Kong. Some people may think that incorporating more tax concessions will bring about changes to our simple tax system. As long as we exercise caution and increase transparency, the tax system in Hong Kong is still simple as compared with other countries.

In addition to the above theoretical analysis, I would like to convey the views of the insurance sector. As a member of the business community, the sector considers that maintaining low tax rates is very important to Hong Kong. Both Singapore and the Mainland have offered many tax concessions to the business sector, but Hong Kong does not compare favourably with them in this respect. If Hong Kong can offer more tax concessions, the insurance sector believes that more multinationals are willing to set up regional offices in Hong Kong. The insurance sector is also of the view that tax concessions for the insurance industry have not been increased for many years. There is a need to conduct a review and promote the development of the insurance industry having regard to the changes in the market in recent years.

I would like to respond to the amendment proposed by Mr Albert HO. In his amendment, Mr HO proposes abolishing the standard rate of salaries tax and introducing a two-tier profits tax system whereby the profits tax rate for those companies with assessable profits of \$10 million or above should be raised by 1.5%. As a member of the financial sector, I must point out that these tax increase proposals in disguise, though well-intentioned, will most likely bring undesirable results. They will be interpreted by the international community as the beginning of changing the simple and low tax system in Hong Kong. In the end, international investors will be scared away and the economic competitiveness of Hong Kong will be undermined. The low tax system is a cornerstone of Hong Kong's success. Any change to the tax system will have significant impacts and hence must be contemplated thoroughly.

When we talk about competitiveness, it is inevitable that we will compare Hong Kong with Singapore, which is our competitor, and Shanghai, which is our potential competitor. Undoubtedly, Shanghai is still some way behind Hong Kong. While Shanghai is becoming more and more competitive day by day, Hong Kong has come to a standstill. If nothing is done to improve the situation, it is just a matter of time for Hong Kong to be overtaken by Shanghai. As for Singapore, it has reduced profits tax time and again in recent years. If Hong Kong does the opposite, it is just telling Singapore that it is giving up its leading place. What Hong Kong should do now is to explore every means to expedite the pace of development and improve its competitiveness. If we decide to increase tax without thinking seriously, it is ourselves who will suffer. As for the enterprises and individuals to be affected by the tax increase, they will at most

suffer from paying more tax. However, as for Hong Kong as a whole, it will suffer from jeopardizing its own future.

Deputy President, I so submit.

**MR ANDREW LEUNG** (in Cantonese): Deputy President, I thank Mr Paul CHAN for moving this motion from the point of view of an accounting professional. A taxation policy is not formulated to guarantee government revenue. Instead, it aims to support the Government to implement various policies to, for instance, maintain steady economic growth and identify new economic impetuses. Periodic review of the taxation policy will help attract the business sector to invest in the economic development blueprint of the Government, such as to invest in the six economic areas identified by the Government as areas where Hong Kong enjoys clear advantages. It has the benefit of pooling talents from all over the world.

Competition in Asia is getting keener and keener. It is necessary for Hong Kong to move towards the direction of new and high technology and high value-addedness. Cross border co-operation is also a crucial factor. Our rivals have one after another formulated taxation policies on attracting investment and talents as important strategies to promote economic development. If we fail to implement a taxation policy properly, we will be sorry to face a brain drain at any time. Take the United Kingdom as an example. It has recently increased drastically the tax rate for high earners to 50% and was accused of instigating a "class war", ultimately leading to an exodus of high-income professionals out of the country in an attempt to evade tax, and dealing a further blow to the receding economy. The abolition of the estate duty several years ago has rendered Hong Kong an important regional wealth management centre. The exemption of wine duty has promoted Hong Kong to become a major red wine auction centre and has brought huge benefits to the economy as a whole. As such, we should continue to refine our taxation policy, and reduce or even waive various government fees and charges such as license fees as appropriate, with a view to increasing the competitiveness of Hong Kong and maintaining healthy competition in Asia.

To enhance the tax system, we cannot solely rely on the Inland Revenue Department because it is part of the executive authorities and is responsible for collecting and assessing tax. In order to implement policies properly, it is



necessary to set up a unit dedicated to the study of international trends in taxation. I support the establishment of a "tax policy unit" to advise on tax policies.

Since Hong Kong is moving towards a knowledge-based economy, it should focus on promoting innovative and high value-added economic activities such as research and development (R&D), and brand design and building. Although the Government has invested many resources in innovative technology, the results achieved seem to have fallen short of expectation. Economic activities depend on the involvement of different trades and industries. If the Government has not put in place appropriate measures, it will not be able to effectively encourage enterprises to make investment. Successful overseas experience shows that the most effective way to encourage the industrial and commercial sectors to invest in innovative technology is to offer tax concessions. If Hong Kong is to develop itself as an innovation and technology centre in the region, the Government has to be decisive and take on board as soon as possible the recommendations of the Federation of Hong Kong Industries that enterprises should be offered triple tax concessions and deduction for expenses on product and technology R&D, design and brand building, so as to provide a direct incentive to encourage more investment in projects on building original brand names.

Deputy President, I have explained to government officials time and again that tax concessions and deduction should only be provided when enterprises are making a profit. Doing so is not to "give out money" to the business sector, but to provide an incentive to encourage enterprises to inject their capital into the development of high value-added products and technology so as to increase their profits by folds. If enterprises succeed in launching the products into the market and make a greater profit, increase in the tax revenue of the Government will follow naturally.

Hong Kong has been an important international trade centre in the region. It is also the place where the Asia-Pacific headquarters of many multinational enterprises are located. To maintain and enhance our strength in this respect, the SAR Government needs to review thoroughly the tax regimes of our close trading partners and make arrangement for the avoidance of double taxation. It should make use of the unique edge of our simple and low tax system and the Mainland/Hong Kong Closer Economic Partnership Arrangement to attract more multinational enterprises to set up their regional headquarters in Hong Kong.

I have to take this opportunity to voice the grievances of local manufacturers setting up manufacturing plants on the Mainland. In recent years, the Inland Revenue Department has regarded the business of these manufacturers as "processing with imported materials" instead of "processing with supplied materials". The department therefore has made a reassessment of the profits tax payable by these manufacturers for the past few years. In the course of assessment, the principle of apportioning profits on a 50:50 basis is no longer applicable, and these manufacturers are no longer entitled to claim the depreciation allowance for plant and machinery used in their Mainland plants. As a result, the amount of outstanding tax payable by these manufacturers is substantial. Given the liquidity crunch of enterprises in the midst of the prevailing financial tsunami, the Inland Revenue Department has dealt a further blow to these manufacturers.

Deputy President, while these local manufacturers understand the explanation given by the Government, the latter obviously does not understand the operation mode adopted by the former. In the first place, "processing with supplied materials" and "processing with imported materials" are of no difference in essence. In both cases, raw materials and parts are provided by local enterprises to mainland enterprises for processing with the finished products exported. In order to act in accordance with the Mainland policy and in compliance with its statutory provisions, local manufacturers establish "foreign-funded enterprises" and engage themselves in processing trade in the form of "processing with imported materials". In essence, it makes no difference with "processing with supplied materials".

In the past, the Inland Revenue Department allowed enterprises to apportion profits on a 50:50 basis and to claim the depreciation allowance for their plant and machinery on the Mainland. It is on this basis that enterprises calculate their costs and fix the prices for their products. By changing its policy all of a sudden, the Inland Revenue Department is unfair to enterprises and will dampen the desire of enterprises originally engaged in "processing with supplied materials" which is export-led to transform themselves into "foreign-funded enterprises" to open up domestic markets in response to the call of the Central Authorities.

In this connection, I propose that the authorities should review the grey areas in connection with the processing trade, treat the two forms of processing

trade, that is "processing with supplied materials" and "processing with imported materials" equally in tax assessment and apply the principle of apportioning profits on a 50:50 basis to both forms of processing trade. I believe by doing so, we can achieve multiple goals, namely upholding the principle of fairness, dispelling doubts of investors about uncertainties in the tax system of Hong Kong and supporting the national policy to promote the upgrading and transformation of industries.

Deputy President, I so submit.

**DR PAN PEY-CHYOU** (in Cantonese): Deputy President, last month, the American financial magazine Forbes publicized the global tax misery index for 2009. The index is compiled according to the tax policies in different regions and their ability to attract capital and talent, covering such factors as corporate, personal and social security. The countries and regions concerned are ranked according to the index and so on, with higher index score representing heavier tax burden. According to the latest index, tax burden in France is the heaviest, mainland China ranks second and Hong Kong is third from the bottom. The Secretary for Financial Services and the Treasury has also mentioned this just now. In other words, the tax burden in Hong Kong is relatively light in comparison with the rest of the world. Against this background, when we talk about enhancing the tax system, what we must ponder is: whether enhancing the tax system is synonymous with a reduction in profits tax and the provision of tax concessions? Whether paying less tax is our sole purpose or there are other goals to facilitate the development of some industries?

The purpose of Mr Paul CHAN's proposal for the introduction of tax loss carry-back provisions is to enable an enterprise to use the loss incurred in this year to claim back the profits tax paid in the previous year, so as to receive a tax refund. However, the Hong Kong Federation of Trade Unions (FTU) does not subscribe to this proposal as an enterprise needs to pay profits tax only when it makes profits. If an enterprise makes less profits due to the difficult operating environment, it will pay less profits tax or even will not have to pay any profits tax at all. It is therefore unreasonable to ask the Government to refund the profits tax paid in the past when the enterprise made profits. Moreover, every government depends on tax revenue to support its expenditure. If the economic environment worsens, the Government will receive less tax revenue. To ask the

Government to refund the tax previously collected is tantamount to rubbing salt into its financial wound. In the long term, the Government will be in a financial roller coaster and unable to do long-term policy planning.

Someone may argue that the Government has huge financial reserves amounting to more than \$450 billion and its expenditure can be supported by the reserves even if it receives less tax revenue. However, the economic environment is unpredictable and we should not turn our attention to the reserves so lightly. Otherwise, we will have nothing to turn to when we really need the reserves.

As for group tax loss relief, we consider it unnecessary to a greater extent. The profits tax rate in Hong Kong is just 16.5% and we do not have such taxes as interest tax and value-added tax. To allow subsidiaries within the same group of companies to offset each other's losses will have serious implications for the Government's tax revenue and will bring about substantial losses. At present, about 30% of the Government's major expenditure depends on profits tax. Further reduction in this source of income will seriously affect the Government's revenue. Moreover, group tax loss relief can easily become a tax evasion tool for enterprises. They can offset their profits by acquiring some loss-making companies. In so doing, they can reduce the amount of profits tax payable on one hand, and make themselves bigger on the other. What a watertight calculation! The Government by then will have to introduce a series of legislation to prevent enterprises from abusing these tax concessions and will incur more administrative costs to prevent evasion of tax. Is this not asking for trouble?

As far as the proposal for a reduction in profits tax is concerned, the FTU does not agree with it either. The FTU is of the view that profits tax should be imposed progressively. In Hong Kong's tax system, salaries tax is imposed on a progressive scale but an "across the board" approach is adopted for profits tax, the rate of which was reduced to 16.5% two years ago. Our profits tax rate is rather low. The profits tax rate on the Mainland has remained at 33% while it is about 20% in Singapore, 25% in Taiwan, 27.4% in South Korea, and in Japan, it is as high as 40.69%. What is more, these countries and region impose indirect taxes such as value-added tax and sales tax ranging from 5% to 17%. Judging by this, the profits tax payable by the companies operating in Hong Kong is already very low.

The FTU has always held that to give effect to the principle of vertical equity in tax system, those who earn more should pay more. The Government should introduce a progressive profits tax system whereby those enterprises which are making huge profits shoulder greater social responsibility. In fact, in a newspaper article entitled "No need to further cut profits tax rate" published on 19 May last year, Mr CHAN said that "From the point of view of overall community interests, it would be much more meaningful not to cut profits tax and use the revenue so generated to improve our living environment, air quality, and to alleviate the pressure on the poor." It has been nearly one year since then, Mr CHAN's opinion has changed from seeing no need to further cut profits tax rate to arguing for a cut in this respect. I wonder if he has realized that he has been wrong in the past or the other way round. Moreover, the profits tax rate in Hong Kong, which stands at 16.5%, is already very low, and as such, how much room is there for a further cut in the rate?

In fact, to attract business and capital requires more than low tax rate. The tax burden on the Mainland ranks second in the world, where in addition to a 33% profits tax rate, a 17% value-added tax is also imposed. However, foreign investment has not been deterred. On the contrary, there has been an influx of investment. The answer lies in the opportunities available there. As long as there are profit-making opportunities, tax burden is not necessarily a deterrent to investment.

In view of the various reasons above, the FTU is against Mr CHAN's original motion. As for the amendments, Mr Vincent FANG proposes for tax deductions for research and development expenditures to be increased to a rate of at least 200% and full tax deductions for the purchase of trademarks and brand names. The FTU agrees with these proposals as they can encourage product development and facilitate the development of creative industries. As for the proposals put forward by Mr Albert HO on the provision of tax concessions in respect of the costs incurred by companies for employee training and purchase of environment-friendly facilities, and the introduction of a progressive profits tax system and so on, the FTU also agrees to them. Unfortunately, these two amendments and the amendment to amendment moved by Mr Ronny TONG all contain the proposals in the original motion. The FTU therefore cannot support the original motion and the various amendments. I so submit.

**DR PRISCILLA LEUNG** (in Cantonese): Deputy President, the aim of the original motion moved by Mr Paul CHAN is to strengthen Hong Kong's competitiveness and help the business community with their operation and tide over the economic difficulties, with which I cannot agree more. However, the amendments moved by Mr Albert HO and Mr Ronny TONG propose the introduction of a two-tier profits tax system, which is tantamount to a proposal for increasing government revenue by increasing tax and then to implement more welfare measures. This is different from Mr Paul CHAN's original motion. As far as the proposals for the introduction of a two-tier profits tax system and the abolition of the standard rate of salaries tax are concerned, as they are in effect "targeting" the middle class (that is the taxpayers) and the small and medium enterprises, my colleagues from the Professionals Forum are of the view after discussion that we cannot support these proposals.

Mr Albert HO said that implementing these tax increase measures "may increase government revenue to support the Government in promoting more measures to create employment, stabilize the economy and alleviate people's hardship". However, according to Article 108 of the Basic Law, as mentioned by some colleagues earlier, Hong Kong shall practise an independent taxation system and take the low tax policy previously pursued as reference. A two-tier taxation system is very likely to fundamentally change the structure of the original system and goes against the spirit of the low tax policy. We therefore have reservations about it.

Under Article 5 of the Basic Law, Hong Kong will not practise socialist system and will maintain its original capitalist system for 50 years. In our opinion, remaining unchanged for 50 years does not mean no change at all. I believe that during the 50-year period, Hong Kong must transform from its current capitalist system to a unique Hong Kong capitalist system which is more in keeping with the aspiration of its people and the global economic development. Nevertheless, we cannot support changing the structure of the tax system and introducing a progressive one which is very likely to increase the burden on taxpayers.

I support the implementation of some temporary measures to increase welfare benefits in the face of the current financial tsunami. But the structure of the tax system must not be changed. We insist that our tax system cannot develop in a way that denies or departs from the framework of a low tax policy

laid down by the Basic Law. We have held lengthy discussion on this and concluded in the end that a two-tier system cannot be supported.

Recently, I have been distributing disinfectants in the neighbourhoods and many people treasured these materials. However, some members of the public sometimes asked us whether we could distribute more expensive items or even money. I just want to point out that I also hope that Hong Kong people can appreciate each other. Even though we can increase welfare benefits, I hope that we all understand that taxpayers, particularly the middle-class taxpayers, often face many difficulties. Many taxpayers have requested us to pay attention to this motion and not to vote for some systems which will ultimately make them pay more tax and increase their burden. The following is my observation from many e-mails received recently.

In the 1950s and 1960s, most people in Hong Kong were very poor. Most taxpayers of my generation have depended on their own efforts and rarely sought help from others and they have been climbing the social ladder through genuinely working hard at school. As a matter of fact, many people have become a taxpayer or qualified to be a taxpayer today through the spirit of hard work and endurance. Generally speaking, the middle-class taxpayers of my generation agree that the gap between the rich and the poor should be narrowed as far as possible and they are also willing to give support for the Government to increase welfare benefits under suitable circumstances. However, should tax increase be required under the current welfare proposals, many people have clearly expressed their reservations to me and insisted that there must be a voice to express their disagreement with any tax increase proposal that will add more burden on these middle-class taxpayers.

As "to teach someone how to fish is better than to just give him a fish", I am of the view that to genuinely narrow the gap between the rich and the poor, it is not enough to depend on welfare policies alone in the long run. In this regard, I suggest that the Government allocate funds at this stage to create more opportunities and this is what we have been urging the Government to do in the past six months, which will enable the newly unemployed to upgrade themselves through receiving training so that they can rely on their own and no longer be unemployed in the community, let alone become a burden for the community which they are very reluctant to accept.

In view of my opinions stated above, the four colleagues from the Professionals Forum are of the view after discussion that a number of measures proposed by Mr Paul CHAN, including the introduction of an allowance for capital expenditure incurred on plant and machinery on the Mainland and other proposals, along with the proposals by Mr Vincent FANG, are worth consideration. Nevertheless, we still need more information to prove that these proposals can truly enhance the attractiveness of Hong Kong's overall economy. However, we disagree with the amendments moved by Mr Albert HO and Mr Ronny TONG respectively.

**DEPUTY PRESIDENT** (in Cantonese): Time is up.

**Mr JEFFREY LAM** (in Cantonese): Deputy President, Hong Kong is facing more and more competitive threat from neighbouring regions and cities. This is what we can all see and there is no need to argue about it frequently. That is why Premier WEN Jiabao recently reminded the people of Hong Kong to "move forward, or they will fall behind". The onslaught of the financial tsunami on Hong Kong has not completely subsided. Despite the recent signs of a bounce back in orders and a rising stock market, the unemployment rates in Hong Kong are also rising. We need to create employment opportunities on one hand and facilitate economic development on the other. I believe that we need to do more to enhance our competitiveness. I am of the view that Hong Kong needs to maintain its current simple and low tax system and introduce some favourable and attractive tax policies in order to lure investments, improve the operation of enterprises, create more employment opportunities and develop more new industries. In my opinion, the tax system in Hong Kong is far too conservative, it also lacks creative tax measures to facilitate investment activities.

Firstly, let me talk about existing profits tax systems. Many countries in the world have cut their profits tax rates one after another in order to lure investors to invest in their countries and regions. Take Singapore for example, its current profits tax rate stands at 18% and will be cut to 17% next year. With its other tax concessions, the actual tax rates for some enterprises are in fact lower than those in Hong Kong. As for Macao, the profits tax rate there is just 12%. In my opinion, the Government should follow the trend of a reduction in profits tax and cut the profits tax rate in Hong Kong to 15% from the current 16.5%.



Some organizations have estimated that such a cut in profits tax rate would result in a loss of \$6.6 billion in government revenue, which the government coffers can cope with easily. I also firmly believe that a lower profits tax rate can attract more foreign enterprises to Hong Kong to set up regional headquarters or offices. As of June last year, the total number of foreign enterprises operating in Hong Kong was more than 6 600 while the corresponding number in Singapore was 7 000, which means that we still have room for improvement.

Many small and medium enterprises (SMEs) are struggling for survival and facing cash flow problems amid the onslaught of the financial tsunami. I am of the view that the Government should take the operational difficulties faced by SMEs seriously and make flexible arrangements in profits tax system, so as to alleviate the financial burden on SMEs, which will also help to alleviate the closure and layoffs pressure and sentiment. Singapore currently adopts a two-tier tax band for SMEs, with SMEs whose profits are less than \$300,000 being exempted from paying profits tax. I suggest that the Government cut the profits tax rate for the first \$500,000 in profit for SMEs to 10%, so that SMEs can have more money in hand to continue operation and survive.

Moreover, I again urge the Government to consider introducing "group tax loss relief" and "tax loss carry-back provisions". In fact, the Hong Kong General Chamber of Commerce has been vigorously advocating for such measures over the past several years. But the Government had repeatedly said that it would not consider these proposals for the time being on various excuses. I hope that both the Secretary and the Financial Secretary will give fresh consideration to our proposal this time. According to a survey conducted by the Bauhinia Foundation Research Centre last year, 85% of the enterprises interviewed supported the introduction of these two measures and 22% of the enterprises interviewed have moved their business out of Hong Kong, nearly 90% of which considered these measures very important. The enterprises interviewed were of the view that favourable tax rates and tax exemptions in Singapore had made it the number one choice for setting up regional headquarters and operation of SMEs. The countries which are currently implementing "group tax loss relief" include Australia, Japan, Malaysia, Singapore, the United Kingdom, the United States and so on, many places have adopted this measure. As for the loss in tax revenue as a result of this measure, I understand that the experiences in Australia and Singapore have indicated that the losses in this respect have been less than estimated. I believe that the benefits brought about

by this measure can outweigh the loss in tax revenue. As for "tax loss carry-back provisions", the countries which are currently implementing this measure include South Korea, Singapore, the United Kingdom and the United States. These measures can surely alleviate the tax burden as a result of losses on enterprises and help them increase cash flows when the economy is shrinking, which can also help to alleviate their financial difficulties.

What is more, I also hope that the Government can offer more tax concessions to those enterprises which do processing trade on the Mainland, which Mr Andrew LEUNG has also mentioned just now. In recent year, quite a number of Hong Kong enterprises which have operations on the Mainland have relayed to me that the Inland Revenue Department has abolished its original way of calculating profits on a ratio of 50:50 and the depreciation allowance for machinery used in plants on the Mainland. As the amounts of profits tax demanded by the Inland Revenue Department from the enterprises are quite substantial, it is not just collecting the amounts of tax for this year, but also recovering the amounts of tax for the past several years, coupled with cash shortage problems, the enterprises will come under heavy pressure. I hope that the Government will stop this practice as soon as possible, reintroduce the original tax concessions, increase the depreciation allowance and expand the categories of machinery covered, which will encourage enterprises to upgrade and restructure in order to enhance competitiveness.

Deputy President, to enhance Hong Kong's competitiveness, I hope that the Government will consider the abovementioned tax concession measures soon in order to promote the sustainable development and prosperity of Hong Kong.

Deputy President, I so submit.

**MS STARRY LEE** (in Cantonese): Deputy President, Hong Kong has been practicing a simple and low tax system for several decades and the Government always takes pride in our simple and low tax system whenever it talks about our competitiveness. There are not many types of taxes in Hong Kong, our statutory taxes are low, our taxes are levied according to the territorial principle, we do not have dividend tax and capital gains tax, our scope for withholding tax is narrow and we also have a highly efficient tax administration authority. However, Hong Kong cannot be without crisis awareness for such a long time. In fact,

many places around the world have cut their statutory tax rates and introduced various tax concessions and tax reduction measures in order to enhance their tax competitiveness, which has resulted in a downward trend in Hong Kong's competitive edge in terms of simple and low tax system. Take our neighbouring country Singapore for example, it has been active in reducing its profits tax rate in recent years from more than 30% in the past to the current 18%, those enterprises with income of less than Singapore Dollar 300,000 are required to pay taxes at a rate much lower than 18%, not to mention the additional tax concessions offered by the government for many industries. Hong Kong's tax edge has been significantly weakened.

According to the global tax study released in 2006 by PricewaterhouseCoopers and the World Bank in 2006, Hong Kong was ranked 122nd only among the 175 economies covered in the study in terms of actual profits tax payable by enterprises. This has demonstrated that Hong Kong's competitiveness in terms of actual profits tax rates is clearly not strong enough among major economies.

The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) support the original motion on "Enhancing the tax system to keep Hong Kong competitive" on the premise that the tax system should be reformed and enhanced to strengthen Hong Kong's competitiveness.

The Secretary said that the introduction of "tax loss carry-back provisions" and "group tax loss relief" as proposed in the original motion would create an unpredictable phenomenon for government revenue. I have different opinion about this, especially with regard to the first proposal in the original motion to introduce "tax loss carry-back provisions", we all understand that the difference involved is just timing difference and it will not have serious impact on government revenue. Meanwhile, as such an arrangement will allow an enterprise to use its loss incurred in current year to offset the profits tax deductions paid in previous year. In an economic downturn, this will be clearly of help to small and medium enterprises (SMEs) in overcoming their cash shortage problems.

In fact, in the face of the financial tsunami, many countries, including the United States, have helped to alleviate the cash shortage pressure on enterprises through relaxing this tax measure. The United Kingdom has also planned to extend the maximum period to which the "tax loss carry-back provisions" can be

applied from one year to three years. Norway also announced at the beginning of this year the introduction of "tax loss carry-back provisions" for 2008-2009 for enterprises in order to cope with the economic crisis. The SAR Government can also consider introducing such a measure when examining how to further help SMEs overcome the cash flow problems in the economic downturn, in order to satisfy their pressing needs.

As for the second proposal in the original motion, that is "group tax loss relief", this is what our professional sector has been fighting for, but has not been accepted by the Government. However, we and the Government are well aware that even without such an arrangement, enterprises have been maximizing their tax deductions by charging management fees, interests and so on from subsidiaries. Therefore, the implementation of "group tax loss relief" will not have such a serious impact on government revenue as claimed by the Secretary just now. If enterprises can have more clear concessions so as to put their minds at ease and invest, this will, in my opinion, bear fruit.

DAB is of the view that as many countries in the world, such as the United Kingdom, the United States, Germany, France, Singapore and so on, have implemented these measures, Hong Kong should also consider implementing these two measures in order to maintain its competitiveness in tax system. If the Government has found them unacceptable after consideration, it should adopt other measures such as "cost sharing agreement" to allow enterprises to formally enjoy some tax deductions which are their actual expenses.

We understand that the introduction of "tax loss carry-back provisions" will bring additional workload and costs to the Inland Revenue Department. The introduction of "group tax loss relief" requires greater care as it can easily become a breeding ground for tax evasion by enterprises.

Deputy President, many people from my professional sector have pointed out that "clarity", one of the advantages of Hong Kong's tax system, has started to diminish, especially in respect of the definitions for "offshore trading income" and "offshore commission income", which have become the core issue in the judgments of many lawsuits. Many in my professional sector have relayed to me that they hope to have clear guidelines in this respect. Although the decisions have reflected the opinion of the Inland Revenue Department, if we look back at the decisions, especially those concerning "offshore commission income", we will find that decisions vary for cases of different periods. I am

therefore of the view that the Administration should clarify the tax standards for the relevant offshore income and formulate clear guidelines for the professional sector to follow.

Moreover, the Secretary has said that the SAR Government needs a fair financial management policy and therefore will not special projects to encourage the development of a particular industry. However, we all understand that Hong Kong needs to deepen its integration with the Pearl River Delta Region and this is the general trend. The Government should act as a pioneer and may need to assist certain industries so that they can give play to Hong Kong's advantages.

If corresponding tax concessions are not forthcoming, I am afraid that our competitiveness may not be strong enough to attract relevant commercial enterprises to Hong Kong. The tax system must complement the long-term development of government policies (*The buzzer sounded*) .....

**DEPUTY PRESIDENT** (in Cantonese): Time is up.

**MR LEE CHEUK-YAN** (in Cantonese): Deputy President, on behalf of the Hong Kong Confederation of Trade Unions (CTU), I express opposition to the original motion moved by Mr Paul CHAN. Although enhancing the tax system itself sounds a good idea, nobody will oppose it. Nevertheless, what has been proposed in the original motion is not genuine enhancement, Deputy President, it mainly proposes reducing tax, profits tax. The thought that tax reduction can enhance Hong Kong's competitiveness is, in my opinion, a fancy, a myth, a wrong myth.

The Government has said just now ..... Secretary K C CHAN has said that Hong Kong adopts a simple and low tax system which has served as a cornerstone for the development of its economy. However, I am in total disagreement with what has been said about this cornerstone. As a matter of fact, as far as competitiveness is concerned, all the countries with the strongest competitiveness in the world, including the United States and the United Kingdom, have higher tax rates than Hong Kong. Finland is widely recognized as the country with the strongest competitiveness in the world. This country in Northern Europe is very competitive, but its tax rates are extremely high. Nevertheless, it maintains strong competitiveness despite its high tax rates.

There has been a mistaken belief in Hong Kong and the entire community in Hong Kong has been filled with such a belief ..... compounded by the Government's propaganda for many years, and that is to equate simple tax system with economic competitiveness. I totally oppose such a cornerstone. How to enhance the entire community's competitiveness? In fact, the Government's involvement in education and in stabilizing the community is very important. As for involvement in education, we often demand that small class teaching should be implemented in primary and secondary schools, more university places should be provided, which will require a substantial increase in education investment.

Another hot issue in Hong Kong is medical and health services. The Government said that it would implement health care financing. Why are our medical and health services full of holes? This is because of the lack of resources which has resulted in many people having to wait for four to five years. The Hospital Authority is reluctant to include many medicines in its central drug formulary because of their high costs and members of the public are required to purchase these medicines with their own money as a result. This has shown that our medical and health services need improvement.

Social welfare also needs improvement. With an ageing population in Hong Kong, we can all see the misery of retired elderly. How to enable the elderly to lead a decent retired life? Where do the resources come from?

(THE PRESIDENT resumed the Chair)

The several major subjects mentioned just now: education, medical and health services as well as social welfare, they are all related to resources. What does the money come from? We must return to the issue of tax system. We should not delink tax system from social development. When we talk about tax system, we all demand no increase in tax and it is better to cut tax; when we talk about improvement to the medical and health services, we demand more resources from the Government; we also demand more resources from the Government for education. We should not be in such a schizophrenic state. We should look at the problem comprehensively. The problem of disparity between the rich and the poor has always been extremely serious in Hong Kong. To bridge such a gap requires the rich to pay more to help the poor, so as to

achieve social stability and let the general members of the public lead a secure life.

The impact of the recent financial tsunami has been so serious that even the middle class have found themselves in a completely insecure state. They have suddenly found that even the banks have started to lay off their employees after being hit by the wave of financial turmoil. After the massive layoffs, the middle class have been left in a helpless state. We used to believe that finding a job in a bank or a big enterprise meant a secure life but we have finally realized that this is no longer the case. This belief has immediately collapsed in the face of wave after wave of financial turmoil. Its collapse has made Hong Kong in an insecure state.

We often call for the provision of unemployment assistance for the middle class. Some people will question us and point out why should we help them as they have not made any contributions in this respect. It is true that there is no contributory or unemployment insurance system in Hong Kong. Why should we offer help to them? We are of the view that this is just a short-term measure and we must consider how to finance it in the long term, so as to provide a sense of security for all "wage earners", including middle-class "wage earners" so that they can lead a secure life in Hong Kong instead of hitting the rock bottom or on the verge of death, or even becoming mentally ill when the economy collapses.

Therefore, to deal with these problems, we have to return to our tax system in the end. Today's motion still calls for tax reduction, which means less resources for making improvements to education, medical and health services as well as social welfare as I have mentioned just now.

If we need more resources to make the improvements, is our current tax system fair? In fact, the current tax system is not fair at all because big enterprises and their small and medium counterparts pay profits tax at 16.5% alike. The Secretary said just now that 70% of the revenue from profits tax comes from about 1 000 enterprises. I also hope to be among these 1 000 enterprises which have contributed 70% of the total amount in revenue from profits tax because they only need to pay more taxes after making "huge profits". However, in a fairer tax system, if big enterprises have made so much money, should they give back more? Should there be a two-tier tax system? We strongly support a two-tier tax system.

Our suggestion is different from what has been said by the Democratic Party just now, which is that the profits tax rate for those enterprises with assessable profits of \$10 million or above should be raised by 1.5%. We are of the view that the profits tax rate for small and medium enterprises (SMEs) should be reduced to 12% while that for big enterprises should be raised to 19% to 20%. Dr Priscilla LEUNG has said just now that SMEs are opposed to a two-tier tax system. I think she is really being "silly". If I were an operator of an SME, I would support a two-tier tax system because SMEs need to pay profits tax at 12% or 13% while their big counterparts would have to pay the tax at 19% or 20%. SMEs would be given tax reduction so that they will continue to invest in Hong Kong. But some big enterprises have put the money earned in Hong Kong elsewhere.

Finally, we support a two-tier and progressive profits tax system because it will make big enterprises shoulder heavier tax burden. The introduction of such a system will truly enable the disparity between the rich and the poor to be narrowed, social security, medical protection and a good education system to be provided. Thank you, President.

**MR CHEUNG KWOK-CHE** (in Cantonese): President, the motion today is about enhancing Hong Kong's tax system. With regard to enhancing the tax system, I really have no objections to raise. However, I totally disagree with the original motion's suggestion about reducing and exempting profits tax to enhance the competitiveness of Hong Kong.

At present, compared to the other Asian regions, the problem of polarization between the rich and the poor in Hong Kong is the most serious. With the latest Gini Coefficient stands at 0.53, if we should further reduce the profits tax payable by the high-income groups, the polarization problem of the community will become more acute. Moreover, the competitiveness of Hong Kong does not rely solely on the tax system. I can even point out that even if we should increase the rate of profits tax, the competitiveness of Hong Kong would by no means be weakened. As we all know, the uniqueness of Hong Kong lies in our highly internationalized environment, the rule of law system and free trade, prime quality transport and communication infrastructure, as well as a working population of high education level. All these are the factors contributing to the success of Hong Kong. Actually, the most obvious economic problem in Hong Kong is a serious case of polarization between the rich and the poor. If we are to enhance the competitiveness of Hong Kong, narrowing down the gap between



the rich and the poor is the solution. Please do not resort to reducing the profits tax payable by the rich any more.

The more advanced a community is, the harder it finds to tolerate the problem of polarization between the rich and the poor. The need of the community as a whole should be determined by the citizens through equal participation opportunities. And that is why we particularly cannot tolerate any move to deprive the underprivileged their rights to live in dignity. In order to maintain Hong Kong's competitiveness, the Government should strive to narrow down the gap between the rich and the poor. But has the Government made any achievement in this regard? In March, the Public Opinion Programme at the University of Hong Kong conducted a follow-up survey on the recently released budget. As indicated in the survey results, 62% of the respondents considered Hong Kong's tax system fair, 32% considered the system unfair, and another 61% consider the wealth distribution in Hong Kong unreasonable. From these results we can see that the public is aware of the problems of the community. Hence, the Government should carrying our wealth re-distribution by way of arrangements like tax system and public expenditure, so that the gap between the rich and the poor can be narrowed down and more members of the public can enjoy a reasonable living standard, thereby building up a harmonious community.

The narrow tax base is what the Hong Kong tax system has all along been criticized for. Many economists have pointed out that the situation must be improved. In order to maintain Hong Kong's competitiveness, I hope one day all members of the public can have a job with a reasonable pay, so that their families can be fairly well-off and enrolled in the tax net again. By then, the Government should not have much difficulty in introducing new tax items and extending the tax base. If the present situation could be improved, the problem with Hong Kong's tax system could be resolved, and Hong Kong could continue to remain being highly competitive.

President, I so submit.

**MRS REGINA IP** (in Cantonese): President, I would like to thank Mr Paul CHAN for moving this motion today, which allows us to have a debate on Hong Kong's tax system and competitiveness. I support the original motion and the amendment moved by Mr Vincent FANG.

Let me first say a few words. Hong Kong is different from other places with high tax rates in that we do not have natural resources and our population has topped 7 million, which may be the upper limit. As a matter of fact, our domestic market is very small and our only natural resources are the harbour and the hard-working people. That was why the British decided at the birth of Hong Kong to develop it into a free port by implementing a zero tariff policy for the promotion of trade development and putting in place a simple and low tax system. All of these have been the important sources of Hong Kong's competitiveness.

Of course, some colleagues have said just now that some places with high rankings in competitiveness, such as the United States and Finland whose population is just 5 million, implement high tax rates policies but that does not pose any problem for them. Nevertheless, one should not forget that these countries possess advanced technologies which we do not have — at least for the time being and I hope we will have them in the future. Secondly, their many companies and products have global market appeal. Some of these companies lead the development of other small companies which act as their suppliers. They can all survive in a high tax environment. For example, Hollywood movies have global market appeal, this leading industry has created many jobs which do not require university degrees, such as scriptwriters, props professionals and so on.

Moreover, these countries with high tax rates in fact provide many deductions and concessions, filing tax returns is therefore a complicated job there and many companies or individuals have to employ accountants or tax consultants to do the job for them.

On the contrary, Hong Kong lacks natural resources and has a small domestic market. It is our low and simple tax system which has attracted many individuals to live and set up companies here. In my opinion, Hong Kong has yet to have new economic shining points, new big enterprises, products that are innovative and can conquer the global market so that Hong Kong can still maintain its attractiveness even if it practises a high tax policy. We therefore should not hastily change the low and simple tax system, especially if we are to attract companies to set up headquarters here in the future, the headquarters economy that is very important to our economy — which was left out in the six economic areas identified by the Chief Executive. If we are to maintain the headquarters economy, especially in order to complement with the continued

robust development of our country's economy and attract many big mainland enterprises and private enterprises — especially the latter — to come here to operate, Hong Kong should maintain the rates of personal income tax and company profits tax lower than those on the Mainland, otherwise, we will not be able to attract Mainland private enterprises or big enterprises to invest or live in Hong Kong in order to give more impetus to the development of our economy. For example, the Chief Executive has said that Lok Ma Chau Loop area could be turned into a research and development base for new and high technologies. As a matter of fact, apart from local universities, many private enterprises on the Mainland can also participate in the research and development of new and high technologies. Our country has set up two technology companies in Shenzhen, namely Zhong Xing and Huawei, they have very good performance in the face of the current global economic downturn. If we maintain low tax rates, we will have the right conditions to attract these companies to operate in Hong Kong or even conduct research and development of technologies here, in order to facilitate the restructuring of our economy.

Meanwhile, I very much agree with the two points raised by Mr Paul CHAN. Firstly, we need to put our tax system under constant review. The Government used to set up Inland Revenue Review Committee to be responsible for reviewing the tax system. It usually decided to maintain the status quo after review on the grounds that I have said just now. Secondly, the review should not be carried out by the Inland Revenue Department which is responsible for checking and collecting taxes. It should be carried out by a policy bureau of higher status. As for whether we need to set up an organization or department to deal with tax matters, I withhold my comment on this for the time being and I am open-minded.

However, our tax rates are very low. Nowadays, if we are to really promote new industries, new leading industries and new economic shining points in order to complement with the globalization of the economy and the development of a knowledge-based economy, we need to offer more concessions to enterprises so that they can conduct research and development of technologies and create other knowledge-based wealth, including brands, trade marks, patents and so on. To apply for a patent requires a lot of money and time and this is not affordable for small and medium enterprises, such as those struggling in the Science Park or the new start ups. It is therefore necessary for Hong Kong to give tax deductions of 200% to those engaged in new industries, such as those

conducting research and development of technologies and creating intellectual properties. The Government should abandon its old thinking that the current tax rates are already very low and there is no need to take any measure. Such an attitude of sticking to established practice should be dispensed with and subject to review.

President, some Members have pointed out in their speeches just now that many of our competitors of similar conditions, such as Singapore which has a small area and population, have resorted to reducing taxes to attract investors and I think we should pay close attention to this. I do not support the introduction of a two-tier tax system, nor do I support a progressive one as only about 10 000 people pay taxes at the highest rate (15%). Even if they are fully taxed, it will not bring in huge amount of revenue for the Government and on the contrary, it may scare away many wealthy households. I therefore support the motion moved by Mr Paul CHAN and the amendment moved by Mr Vincent FANG. Thank you, President.

**DR LAM TAI-FAI** (in Cantonese): President, first of all, I appreciate Mr Paul CHAN's persistence very much. Mr CHAN has clearly explained and thoroughly analysed his motion, which goes right to the heart of the matter and offers the right solution that meets the needs of the market and enterprises.

However, Mr CHAN seemed to have forgotten to fight for the enterprises engaged in the business of importing materials to process for export purpose to be given the same treatment of a 50% tax concession which is available to those enterprises engaged in the business of processing imported materials for export purpose. Why should we fight for the same treatment? Mr Andrew LEUNG has explained the reasons just now and I do not want to repeat them. Although Mr CHAN's motion has neglected this point, it is still a down-to-earth and constructive motion. I therefore support his motion and very much hope that his motion will be carried at today's meeting.

Nevertheless, I do not mean to pour cold water on Mr Paul CHAN, but having listened to what Secretary K C CHAN has said just now, I am afraid that Mr CHAN had better be psychologically prepared. The Government has turned a deaf ear to his motion and showed an indifferent attitude. The Government would repeat the answers and replies which we have heard many times. Mr CHAN has ridiculed the Hong Kong Government for failing to keep its tax

system abreast of the time. But the Government always said with pride that it would maintain the current tax system and refused to budge. Such an approach taken by the Government is, in my opinion, rather conservative and passive. The Government should listen more to the views of the sector and understand more about the difficulties faced by the sector. In fact, if the Government does not understand the difficulties faced by the sector, how can it help the sector to overcome the difficulties and develop?

The key to supporting enterprises lies in understanding them, especially the survival and development conditions of small and medium enterprises (SMEs); the key lies in knowing when to implement the most effective policies to help enterprises survive and compete, and to attract investors. I think now is the time to review the tax system.

We all know that it will take a long time for the Government to formulate or change its policies. The Government therefore needs to be forward-looking in its approach and regularly review its policies so as to adapt to market changes and development needs, and help enterprises to survive and develop. The Government would be ill-advised to keep the tax system unchanged for many years or always consider the current system the best one. This approach is no longer workable.

Whether maintaining the current tax system can effectively maintain our competitiveness and ensure the future development and survival of Hong Kong? It is necessary for the Government to listen more to the voices of the industrial sector and the business community as they are genuinely the soldiers fighting in the battlefields and understand the most how the current tax system in Hong Kong has affected and helped their development and survival. I therefore earnestly ask the Government to reconsider again how to enforce Section 16G(6) and Section 39E of the existing Inland Revenue Ordinance as these two sections constitute a heavy blow to enterprises who are struggling to cope with them.

With the onslaught of the financial tsunami, the Government has been boasting about how it will give strong support to enterprises. However, I have said many times that the Government has said a lot and done very little. It has said many encouraging words but without effective actions. It has come up with nothing more than two funding schemes which have been ineffective and failed to achieve their expected goals. The Government has said that it will review the schemes at the end of May and will make significant adjustments to them so as to

give more support to enterprises. Our sector, especially SMEs, are earnestly looking forward to hearing good news from the Government.

Therefore, I very much hope that Secretary K C CHAN will bring some good news about the tax system to the sector so that we can continue to develop. President, I so submit.

**MR JAMES TO** (in Cantonese): President, whenever the subject of taxes is touched upon, it is always a sensitive one. In a general election, what position a party takes and whether a legislator supports a particular tax proposal or otherwise will have an impact may even bring down a political party or a legislator even if they are part of the incumbent government in power. Therefore, it is a very sensitive subject.

President, in my opinion, our views on policy-wise tax concession measures or if we consider some technical adjustments in the tax policy unreasonable, we can bring them up for discussion. However, we should ask ourselves conscientiously whether our judgment and a final decision will bring about an impact in the long term so that we will receive more taxes, or how much more taxes will be received, or how much more direct taxes will be received? How many economic activities will bring more indirect taxes for us? How much more will be received? All of these require careful assessment.

Of course, someone may say that it is now a new era and we should try new things and be forward-looking and do things quickly and decisively without too much regard to details. However, at this point, I would like to mention a very interesting person and this is Henry TANG, our Chief Secretary for Administration. Why do I mention him? It is because many issues have been raised by Mr Paul CHAN today, plus the supplements by Dr LAM Tai-fai just now. As a matter of fact, when Chief Secretary Henry TANG was the Financial Secretary, to be frank, he had done very little. We have actually had lengthy discussion about this.

Chief Secretary Henry TANG has an entrepreneur background and his family still runs many businesses. I do not suspect that what he has done is for his own interests. Nevertheless, he fully understood that even though all of the officials had said that nothing needed to be done, our then Financial Secretary

would allow them to do so. He himself had thought about it and done the calculations. Even when he was the Financial Secretary, he had studied whether these policies would, in the long term, truly promote the development of a lot of innovative technologies, attract the return of many enterprises and every thing would be fairer and more reasonable. To be frank, he understood very well. In the many discussions between us (I will not quote anything here), he always understood that things were not that simple. We talk about reform, but reform will not necessarily bring about improvements in the long term.

We should proactively enhance our competitiveness. The Democratic Party has also chanted this slogan. However, let us carefully think about the effect of trying these measures in a small way, such as those proposed by Mr Paul CHAN today, should there be a cap? To be frank, if we come up with a very complicated tax reform package and set a cap, it will be disastrous. Our anti-tax evasion measures in the future will need to be very detailed and exhaustive. Therefore, if we really are to try these measures, even if there will be a cap, it will not be easy to stop the whole process when we want to stop it.

Nevertheless, to be frank, if we are in a situation where we have to take the risk, otherwise, we will lose, then it is worth taking the risk. However, Hong Kong now depends on our Motherland, even though most of the integration is being promoted from a point of view of our past achievements. If you ask me whether we should take the risk in a completely innovative way? To be frank, I have serious doubt about this.

I have listened to the speech by Dr Priscilla LEUNG just now in which she said that she opposed our proposal to abolish the standard rate of salaries tax because this proposal would result in the middle class she represented paying more taxes. I wonder whether, in her opinion, someone with an annual income of \$1.5 million should be regarded as a middle class. We have been directly elected in the same geographical constituency, to be frank, how many middle class people with an annual income of \$1.5 million live in Kowloon West geographical constituency? Can we regard someone with an annual income of \$1.5 million as a middle class?

Secondly, to be frank, relatively speaking, if you consider my words hard to take, it is all right. If I suggest that these people pay more taxes at an extra one or two percentage points, are we following the practice in some foreign

countries, such as the United Kingdom or some European countries which have heavily taxed the wealthy and "driven them away" (some colleagues have used the words "driven them away"), will the situation reach such an exaggerated extent? In my opinion, this is not the reason. Sometimes, they leave a place because it is inconvenient for their children to go to school there. Sometimes, it may be the bad air quality. I think that they leave because of other factors instead of the increase of one or two percentage points in tax rates.

According to our standards, those enterprises with profits of \$10 million or above should not be regarded as small and medium enterprises (SMEs). I hope that Dr Priscilla LEUNG or her professional forum — her other three colleagues are representing other interests ..... However, as a directly elected legislator, Dr Priscilla LEUNG should represent the public in general. But she even claimed that those enterprises with profits of \$10 million or above could be called SMEs. This has me feel very strange. I hope that her other colleagues will argue for her.

President, in our amendment, we have added the word "study" to Mr Paul CHAN's proposals out of politeness because we cannot come to a conclusion so quickly, for example with regard to Mr Paul CHAN's proposals to introduce group tax loss relief, tax loss carry-back provisions and so on. In the long term, all of these should not be implemented and we have therefore added the word "study" out of politeness. Nevertheless, in the end, we can see no effectiveness of these two proposals for the time being. From a long-term point of view, I think that they will result in losses rather than gains. As for the proposals other than these two put forward by Mr Paul CHAN, I consider them more worthwhile to study.

Finally, in our opinion, as far as the vision and level of the tax policy unit are concerned, if the actual tax policy will be dominated by them or completely dominated by them in terms of interpretation, I think that sometimes, the Secretaries and accountability officials concerned should pay more attention to some grey areas.

In my opinion, the tax policy unit is more suitable to offer purely technical support, or provide some consolidated tax statistics, so as to enable the Secretaries, or the accountability officials, or those in senior positions and with forward-looking vision to make the final judgment. Should we put forward this amendment? Should we take the risk? If so, we should take on the political



responsibility instead of letting the colleagues in the Inland Revenue Department make the judgment.

It can be seen that the Democratic Party is of the view that the various proposals in the motion and the amendments moved by other colleague, if implemented today, will have serious implications for government tax revenue about which we are very worried and concerned. Therefore, we will abstain and the scope which we propose to study is very narrow and not very wide.

**MISS TANYA CHAN** (in Cantonese): President, the low tax rate and simple tax system are the competitive edges in which Hong Kong has been taking pride. Nevertheless, whilst the neighbouring regions of Hong Kong, in particular our competitors, are working on the reform on the tax system along these two directions, Hong Kong should think about how to strive for the better with an aim to further improve our tax system.

If all of you have kept in view Hong Kong's taxation policy, it is not surprising to find that the series of measures proposed in the original motion have already been sought by the professional sector throughout the past years. I agree that quite a number of these proposals can definitely improve our tax system and enhance our competitiveness. However, it seems that the Government to date has not responded enthusiastically on this issue.

For instance, the "Carry Back Tax Losses" provision mentioned in the original motion has worked well in the United Kingdom and other overseas tax jurisdictions; but over the past few years, both Financial Secretaries, whether Chief Secretary Henry TANG or Financial Secretary John TSANG, have not yet conducted a detailed study on this recommendation. Why does the Government not listen to the views of the professional sector? Besides, it is imperative for the Government to sign, as early as possible, agreements with more countries in respect of avoidance of double taxation and exchange of taxation information, so as to avoid being blacklisted as a tax avoidance haven. Of course, we must ensure that extra care will be exercised in the course of disclosing taxation information.

It is proposed in the original motion that profits tax should be reduced. In my view, it will be more acceptable for the Government to reduce tax by means

of certain tax concessions. If we are to suggest that the rate of profit tax be reduced, I think that the proposal should be considered very carefully since it will directly affect the public revenue.

If we are to reduce the profit tax rate by 1%, corporations can only save \$10,000 for every 1 million earned. The effectiveness is insignificant. On the contrary, the overall revenue of the Government will be reduced substantially as a result of the 1% decrease in the profit tax rate. Take 2007-2008 as an example. If we use \$91.4 billion of profit tax revenue as the basis for calculation, the Government is going to lose \$6 billion of taxation revenue per year with just a 1% of reduction in the profit tax rate. Without this revenue, the Government's revenue will be reduced by 2% to 3% per year. Does it mean that the expenditure on our education, medicine and social welfare all needs to be reduced? Against this background, we definitely do not support reducing the profit tax rate.

It is also proposed in the motion that tax concessions should be offered for expenditure on research and development (R&D). I think that this proposal can have significant positive effect on the long-term economic development of Hong Kong, especially the development of new industries. This proposal will encourage more corporations to allocate more funding to the R&D on new technologies and new products, hence stimulating more efforts in this area and promoting more important and appropriate innovative work to be done on R&D.

The Innovation and Technology Commission indicated earlier in the review report issued by the R&D Centre of the Government that the proportion of funds allocated to R&D by corporations has remained on the low side. The ratio of funds allocated to R&D set for corporations by the Government right before the establishment of the R&D Centre has lagged far behind so far. This poses very great hindrance to developing new growth areas for our economic development.

As a matter of fact, the six economic pillars highlighted by the Task Force on Economic Challenges (TFEC) require substantial investment on R&D. I hope that the Government can offer tax concessions for expenditure on R&D within the shortest possible time in order to foster such a culture among our corporations and create a better environment for development and a healthier culture in the long run.

President, regarding the introduction of the concept of "progressive profits tax system" suggested by Mr Albert HO, we believe this is worth studying. All taxation policies should be dealt with in accordance with the "ability to pay" principle. If the concept of progressive tax rate should be introduced to the profits tax system, the recurrent revenue of the Government could be increased, thereby enabling the Government to better implement the various measures to support the underprivileged groups. What is more, the Government may even have the ability to offer various tax concessions in the long run.

Having said that, in implementing the progressive concept, we must hold fast to the low tax rate principle, as this is the way to strike a balance among the competing needs to alleviate the tax burden on small and medium enterprises, increase government revenue, and maintain our taxation system's attractiveness to investors. In my view, upon the introduction of the progressive tax system, we have to carefully and comprehensively handle issues relating to the difference between the two tax systems, the profits dividing line between companies paying the higher tax rate and the lower tax rate, as well as the respective rates of the two tax systems.

If the tax rates under the progressive system are too high for the high profits enterprises or even higher than the profits tax rates of Hong Kong's competitors, the attractiveness of Hong Kong in the eyes of investors will be undermined. For instance, whether the profits dividing line should be set at \$5 million or \$10 million is one thing that has to be worked out clearly. Besides, should we make reference to the existing progressive system for salaries tax? All these are important subjects to be dealt with.

As regards Mr HO's suggestion to abolish the standard rate of salaries tax, I believe the Government should give very careful and prudent thoughts to the issue, as this would mean a rather important policy change. I certainly believe that the target of this Council as a whole is to implement the "ability to pay" principle and to narrow the gap between the rich and the poor, but we still need to work out the relevant details very clearly.

Under the existing system, the taxable income of taxpayers will be subject to assessment with regard to both the standard tax rate and the progressive tax rate, with the lesser of the amounts assessed being the tax amount payable. If the standard tax rate should be abolished, the tax rate for the higher-income taxpayers would be raised from the existing 15% to the highest tax band which stands at 17%. This is because the majority of their income would fall into the

highest tax band if the progressive system is the only system available, and all of their income will be assessed with regard to the highest tax rate.

Such a move will certainly add to the government revenue. However, as in the case of the progressive profits tax system, the impact of the measure on the taxpayers of middle to high income levels must be taken account of before it is implemented. If the standard rate of salaries tax should be abolished, the tax burden on the high-income group would immediately be increased by more than 10%. For these reasons, we should consider adjusting the tax bands and the marginal tax rates of the various tax bands, so as to avoid adding too much to the burden on the middle-to-high-income groups.

President, if we believe that ours is a very competitive tax system, we should not introduce substantial changes to the underlying principles. Rather, we should consider making use of concession measures and resolving the technical and administrative issues in implementing the tax system ..... in the hope that the efficiency of our tax system could be greatly enhanced after such issues are resolved.

I so submit. Thank you, President.

**MS MIRIAM LAU** (in Cantonese): President, Mr Vincent FANG has talked about the reform on profits tax, and now I would like to talk about salaries tax.

Globalization has resulted in different regions competing not just for funds, but also for talents. With the changes in local living environment, especially the poor air quality, insufficient supply of international school places and so on, many overseas talents have been discouraged from coming here. A simple and low tax system has become the only advantage for Hong Kong in attracting talents. Although the original motion has made no mention of salaries tax, its purpose is clear and that is to enhance Hong Kong's competitiveness through reforming the tax system. However, the amendment moved by Mr Albert HO has run counter to this direction, the Liberal Party therefore considers it difficult to support his amendment.

It is a well-known fact that the majority of salaries tax revenue has been paid by a small number of taxpayers due to the narrow tax base. Take 2008-2009 for example, only 1.3 million people among the 3.35 million working

population needed to pay salaries tax and 80.1% of salaries tax revenue has been paid by 200 000 taxpayers (accounting for 15.3% of the entire 1.3 million taxpayers). This has shown how narrow our tax base is! Our salaries tax is levied on a progressive basis, basically an embodiment of the principal under which the better able pay more.

The amendment moved by Mr Albert HO has suggested abolishing standard rate of salaries tax. Such a proposal will, in effect, make those who already pay relatively more taxes pay an extra more, which will in turn put a greater burden of salaries tax on a small number of taxpayers and further narrow the tax base. Hong Kong's tax rates will be substantially increased at any time or regarded as having been increased as a result. The consequence will be another round of brain drain for Hong Kong. Multinational companies may have to move their headquarters out of Hong Kong in order to ensure that the tax system will not be discouraging. As a result, their staff, especially those with high salaries, will follow their headquarters and move to other places from Hong Kong. Hong Kong will suffer losses of both talents and funds, that is a failure to keep talents and funds. Once the pillar of salaries tax collapses, where does the tax revenue come from? In the end, other taxpayers will have to pay more in tax and shoulder a heavier burden. I am afraid that the call to "narrow the gap between the rich and the poor" is nothing more than a self-deception.

Moreover, Hong Kong's competitiveness in international market and the driving force for continued economic development will be weakened, resulting in enterprises reducing their investments or leaving and the subsequent loss of jobs. I believe that the general public in Hong Kong will end up being the most affected.

Finally, the further amendment moved by Mr Ronny TONG suggests studying the abolition of the provisional tax and the Liberal Party supports it. In fact, the Liberal Party suggested as early as October last year when the financial tsunami struck that the Government should consider suspending levying the provisional tax temporarily. We have repeatedly asked the Government to do so when outlining our expectations of the budget and discussing the "additional relief" measures in the budget. The Liberal Party is of the view that with the onslaught of the financial tsunami, many small and medium enterprises (SMEs) and middle class people need more cash in hand to weather the downturn. If the Financial Secretary proposes suspending levying the provisional tax temporarily when considering the "additional relief" measures in the budget, this will be an

ideal option as it will bring timely relief to those SMEs and middle class people in need so that they will have more cash in hand. This proposal will only result in a delay in receiving the tax money for the Government. Why not implement such a proposal which will benefit others while not harming oneself? As for whether the provisional tax should be abolished permanently, the Liberal Party agrees that the Government should actively study and consider it. However, Mr TONG has not moved an amendment to today's motion on his own and chosen to "hang on" the amendment moved by Mr Albert HO. As he has only moved amendment to Mr Albert HO's amendment, we cannot support his amendment now that we oppose Mr Albert HO's amendment.

President, I so submit.

**MR WONG YUK-MAN** (in Cantonese): President, Mr Paul CHAN wrote an article in Hong Kong Commercial Daily on 13 March 2008. I have downloaded this article from the Internet, which is entitled "Seizing the opportunities to reform the tax system and facilitate development". A passage from the article reads "There is not much need to further reduce the standard rates of the two taxes (profits tax and salaries tax), Hong Kong is already one of regions with the lowest tax rates in the world, we do not levy value-added tax and only tax income derived from within Hong Kong while no tax is levied on income derived from outside Hong Kong, this is already very competitive, a further cut in tax rates will not be very useful in attracting more overseas investors and talents."

What Mr Paul CHAN said in the past was right, but today he advocates a reduction in profits tax on the pretext of attracting overseas investments. His past and present beliefs are contradictory. Mr Paul CHAN of today has overturned Mr Paul CHAN of yesterday. His opportunism has been fully exposed. Such an opportunistic person is like what DU Fu has described "producing clouds with one turn of the hand and rain with another", is it right? Such capricious behaviour is characteristics of many political parties in this Chamber, including our so-called allies, is it right?

With regard to today's motion, as a centre-left political organization which upholds social democratic ideas, the League of Social Democrats (LSD) must oppose it. I was born to oppose it, is it right? The LSD opposes all unjust motions, including all of their amendments. Mr Albert HO's amendment includes a progressive taxation factor which is consistent with some of the LSD's

points of view on tax reform. Unfortunately, the amendment still retains the proposal for profits tax concessions. Such an amendment is self contradictory, illogical and confuses right with wrong. The LSD must oppose it.

Six months ago, the United Nations published a report which pointed out that Hong Kong was the Asian city with the most serious disparity between the rich and the poor, with a Gini Coefficient of up to 0.53, which is higher than the critical line of 0.4. We have overtaken both the United Kingdom and the United States in disparity between the rich and the poor. We are not overtaking the United Kingdom and closing on the United States. We have overtaken the United States and are on a par with such developing countries as South Africa and Namibia. The SAR Government has chosen not to deeply reflect on the disparity between the rich and the poor as pointed out by the United Nations report, but to reject the report by saying that it was not appropriate to directly compare the Gini Coefficients in different places. The Government will continue with its financial policy which is biased towards big corporations and an unfair tax system and will continue with the unfair tax policy, resulting in the disparity between the rich and the poor becoming more serious.

The LSD drafted its political platform in 2006 which has been revised many times ever since. One paragraph on tax reform and redistribution of wealth reads "the tax system in Hong Kong must be reformed fundamentally by gradually introducing other types of tax to substitute the current one which depends on land sale, the overall tax system must be of progressive nature. At present, the revenue from direct taxes accounts for only one third of the total tax revenue, rendering the redistribution of income through the tax system in Hong Kong ineffective. The Government should enhance the progressive features of salaries and profits taxes. If necessary, it should broaden the tax base and adopt progressive tax rates as the basis, such as value-added tax, profits tax, interest tax, tax on overseas income. But it is absolutely not suitable to levy sales tax, departure tax and so on, which are of regressive nature." Therefore, we consider the levy on plastic shopping bags a regressive one and will not support it.

We take a clear-cut position and whether you support us is up to you, at least we are not like those who produce clouds with one turn of the hand and rain with another, is it right? The one of today overturn the one of yesterday, is it right? If he wants to take an opportunistic approach, it will be very easy. To be honest, it is very easy to earn a life, is it right?

In this Council, those motions which truly benefit people's livelihood and reflect justice are often voted down. Our Members representing public opinions are always the minority in this Council. To be honest, in the face of such a faulty political situation, we have visions, so what? We are still regarded as rubbish, is it right? Therefore, under these circumstances, how can we not "entertain" these big brothers at each question and answer session and the delivery of the Budget or the policy address?

The current situation is similar to last time when we moved amendment which demanded that Joseph YAM step down. He is sure to step down, is it right? Secretary, you were not here then, was it right? I am not sure whether you were on holiday or went to the United Kingdom (UK) then. I have heard that the Secretary was troubled by some students from Hong Kong while in the UK. I am not sure whether this was true or not and I will ask him at the Anti-Chamber later. We can only let the people of Hong Kong know our visions through this platform. The current tax reform is often conceived for the capitalists under the simple notion, is it right? That is to raise the willingness of investors to invest and that is the only hope for Hong Kong.

Buddy, what did Adam SMITH, the pioneer of right-wing economics and author of the Wealth of Nations, say? In English, his statement reads to that effect: "it is reasonable that the rich should contribute to the public expense, not only in proportion to their revenue, but something more than in that proportion." What is the problem, is it right? He was the pioneer of right-wing economics, we as leftists also support him. What is the problem with a progressive system? Why should a regressive one be adopted? Why should profits tax be reduced? Why should the standard tax rates be reduced? These are all unreasonable, is it right?

Therefore, we oppose the original motion and all the amendments. Thank you, President.

**MR WONG TING-KWONG** (in Cantonese): President, Hong Kong has been practising free economy and maintaining a good business environment through low tax rates and a simple tax system. The Organization for Economic Co-operation and Development recently published an article which commended Hong Kong's low and transparent tax system. However, Hong Kong is recently



facing many impacts from outer environment, such as economic restructuring, complicated and unpredictable modes of business operations, fierce competition from neighbouring regions, the fact that many regions have implemented some tax concession and reduction measures, and the onslaught of the financial tsunami, resulting in an economic downturn. If Hong Kong still relies on its advantages of a simple and low tax system, the free and non-interventionist economic principle, I believe that these are not enough to enable enterprises to develop on a continuous basis and to facilitate economic growth in such an economic environment. The Government should therefore introduce some changes to provide reasonable tax concessions for enterprises and improve the tax system, so as to facilitate the economic restructuring, enhance competitiveness and attract investments.

I support the proposal in the original motion to introduce tax loss carry-back provisions and group tax loss relief. Tax loss carry-back provisions will allow enterprises to offset current year's losses against the profits earned in the preceding year in order to receive tax rebates while group tax relief will allow a group to pay tax after its subsidiaries have offset their profits and losses. In fact, the business community has been fighting for these two proposals for many years and many colleagues in the Legislative Council have also put forward the same proposals repeatedly. Some small and medium enterprises (SMEs) have recently relayed to me that they had applied for bank loans because of cash flow problems, but the applications were unsuccessful due to some reasons. As a result, they did not have cash amounting to as little as a few hundred thousand dollars for production purpose even if they had received orders from their clients. They had no choice but to close down.

Many SMEs are facing similar difficulties in the current financial tsunami. I believe that the introduction of tax loss carry-back provisions and group tax loss relief will alleviate the tax burdens on the enterprises with operating losses and increase their cash liquidity to meet their critical needs so that the enterprises have more confidence in making investments to develop their business, which will also help to a certain extent to facilitate restructuring and innovation. On the other hand, they can also attract overseas companies to set up regional headquarters in Hong Kong and facilitate the economic development of Hong Kong. The Government was unwilling to implement these two proposals out of concern about the potentially significant loss of tax revenue and their likelihood of being abused for tax evasion. Nevertheless, many overseas countries have adopted these two arrangements. If Hong Kong still maintains the *status quo*, it

is believed that it will gradually lose its competitive edges and many business opportunities, with losses outweighing gains.

Moreover, the long-term and continued development of an enterprise requires the creation of brand names and the development of creative ideas. However, the huge research and development expenses in this respect will constitute an operating burden on the enterprises. According to a statistics report published by the Wall Street Journal recently, many big corporations in the United States have not reduced their expenses on research and development in the face of the current economic crisis. On the contrary, some of them have increased their investments in this respect despite the economic downturn because they have learnt from the pattern of economic development in the past: if one is to show stronger competitiveness when the economy recovers, one must maintain investments in research and development at times of economic downturn. The financial crisis is a severe test on one hand, it is also an opportunity for various industries to develop by leaps and bounds on the other. Research and development are the preparation by enterprises for their future needs. I therefore hope that the Government will consider increasing tax deductions for research and development expenditure and for the purchase of trademarks and brand names by enterprises, which will encourage to a certain extent enterprises to develop innovative economy.

On the other hand, there are taxation problems in Hong Kong, which run counter to the actual needs of the market and should be improved. Firstly, factory owners in Hong Kong can claim depreciation deductions for expenses for purchasing machinery and equipment, but such machinery and equipment cannot be rented out to other people or used outside Hong Kong. At present, many businessmen from Hong Kong are engaged in processing trade on the Mainland and they cannot claim tax deductions for their machinery and equipment because they have provided such machinery and equipment for the use of Mainland manufactures. Secondly, the 50:50 tax arrangement with the Mainland — in the past, Hong Kong businessmen adopting the manufactory mode of "importing materials to process for export purpose" were 50% taxed on the Mainland and 50% taxed in Hong Kong. However, many Hong Kong businessmen have changed to the operation mode of "processing imported materials for export purpose" from the original one of "importing materials to process for export purpose" in recent years, a small number of them still declared their "trade profits" on a 50% basis, which were detected by the Inland Revenue Department

upon further checks. As a result, the taxes which have not been paid in the previous years are being recovered from them.

President, I so submit and support the original motion moved by Mr Paul CHAN and the amendment moved by Mr Vincent FANG.

**MR LEUNG KWOK-HUNG** (in Cantonese): President, our Chairman WONG Yuk-man has quoted the words of Adam SMITH. Why did Adam SMITH write a book on economics or why did he study economics? As a matter of fact, he was a moralist. What he had to consider was why human society would be like this? Marx was also such an example. In fact, he had a critical view of society first and then wrote the Capital after study. What is the difference between these two men and the so-called opportunistic politicians? The difference is that the two had hoped to make some contribution to the advancement of society. No matter whether you agree or not — of course, here is not a university, nor is it a place to learn, however — this legislature should have a purpose, and that is to serve the best interests of the community, especially to serve those whose interests have been trampled and neglected in the social policy-making process.

All of the motions today show a style typical of an overly wary and cautious small businessman. In other words, because our votes come from many walks of life, what we say cannot offend those from a particular walk of life. We must utter our words clearly no matter what we are talking about, even though they are self-contradictory. Generally speaking, that is to utter words loudly in speeches but act softly when casting the vote, that is to vote inconsistently with what one has said — this is what we call "producing clouds with one turn of the hand and rain with another".

Let us take a look at the tax system in Hong Kong. We often say that grass-root people in Hong Kong do not pay taxes. I am lost for words about this. High land price and high rent are a hidden tax, is it right? I can have a full stomach for less than HK\$15 at a 7-Eleven in Taiwan. You can hardly have a full stomach for HK\$15 at a 7-Eleven in Hong Kong. Why? It is because our income has been spent under the shadow of "the three-high" policy. The consumers have to pay taxes for the wealthy at different stages, right? Why does nobody take these taxes into account? Our labourers are constantly subject to multiple exploitation despite their meager wages. The Government Economist is present, what does multiple exploitation mean? This is more than

exploitation, it is a case of "extortion of money in exchange for the right of passage". This is multiple exploitation. It is the same story with our public utilities, which is the result of the so-called non-interventionist policy, that is, an irresponsible policy — a legacy from the Hong Kong British Government. Why? It was because the Hong Kong British Government did not know when it would have to leave. So it would not spend much on public utilities or transport, right? That is it. Buddy, you provided them first and then I would allow you to earn reasonable profits. You do not have to care about whether "Long Hair" can afford the travelling expenses, nor do you have to care about the agony of low-income workers who have to travel from Tin Shui Wai to Central for work. Are these not taxes in effect? It is the same story with all public utilities.

Our wages are pitifully low and we are not protected by a minimum wage. Our workers are subject to suffering and pain. They are in a situation of "searching in the heaven and the netherworld persistently in vain and hopelessness" and do not know what future lies ahead. Some people still said that if the current situation persisted, the wealthy would suffer a lot. What were they talking about? Were they insane? If so, please take medicines. Please read some classical works, right? Not those about how to speculate in the stock market. For example, Secretary K C CHAN beamed with joy when he talked about CTO. But it was nothing more than a case of hindsight and it was also a failure. You should understand that a government in power should not use dishonourable means. Ten years ago, Rubin and Greenspan wanted to deregulate the market and the biggest merger and acquisition deal was done by one committee under them. At that time, the deal was described as having saved the group. But it is now described as having destroyed the world. Let us take a longer vision, "my brother".

What is our reform today? It is very simple and that is to make those wealthy people who are too fat to put on their socks shed some fat so that the extremely poor can have a decent life. This is the essence of wealth redistribution. Under a progressive system, a company needs to pay profits tax only after they have made profits, "my brother", income tax is also the same in that one needs to pay income tax only after his income reaches a certain level, "brother", is this fair or not? Value-added tax is payable after the value has increased. What are the taxes which are similar to the current hidden taxes? However, the Administration has insisted that it would not care about you and you should find a job.

President, I met a woman the other day who had to travel for work from Tsz Wan Shan to Wo Yi Hop Road, Kwai Chung and she did cleaning work for a 9-hour shift and earned a little more than \$3,000. She said to me: "Long Hair, you must scold those 'dog officials' on behalf of me". I do not know whether you are a "dog official", but what I have said is logical.

Therefore, in my opinion, if all of us still do not support the introduction of progressive profits tax rates today, I would like to know from all of you the following: the Democratic Alliance for the Betterment and Progress of Hong Kong and the Hong Kong Federation of Trade Unions criticize every day the Government for failing to do this and this, the Government has asked you: "did the money drop from trees? Did your money drop from trees? We are very clear about this: the money does not drop from trees and it will come from the rich, the super rich who have so much money that they can live a luxurious and loose life. They should do something for the millions of wage earners and their families. It is as simple as this. Therefore, we cannot support those amendments which are characteristic of "producing clouds with one turn of the hand and rain with another".

Thank you, President.

**MR ALBERT CHAN** (in Cantonese): President, in this Chamber, almost all political parties claim that they are fighting for and uphold social justice. The embodiment of social justice does not depend on words, the purely conceptual rhetoric. Social justice should be embodied in social policies, the distribution of wealth and the handling of financial resources, particularly in the handling of public money. When the disparity between the rich and the poor in our society is among the worst in the world, our society definitely does not have social justice. To support further reduction in profits tax in a society without social justice will further impair social justice. It is absolutely impossible to get social justice in our society. Therefore, let us not deceive oneself and others here, particularly those political parties which champion social justice here. They should not claim that they support profits tax reduction on one hand, but fight for social justice on the other. Because you are liars, out-and-out political liars. Those who demand profits tax reduction while advocating social justice are contradicting themselves.

Therefore, President, to really uphold social justice, we must genuinely tackle the problem of disparity between the rich and the poor. Grass-roots people should not be allowed to live under the poverty line. Grass-roots people and the disadvantaged groups should not be allowed to live inhuman life as a result of the allocation of resources and the handling of public money. If some people are forced to live inhuman life, this society is absolutely without justice. If a political party allows some people to live inhuman life, it is absolutely not a political party supporting justice. I therefore strongly condemn these political parties, particularly those deceiving people, those composed of political liars.

President, the motion and all the amendments today can be said to be the ones protecting vested interests groups. President, on the subject of vested interests groups, I read an article a few days ago, which touched me deeply and woke me up. The article talked about how the Communist Party of China had dealt with vested interests groups on mainland China recently. The Central Government seemed to deal with this problem carefully and seriously. Moreover, JIANG Ze-min already indicated as early as 2003 that the Communist Party of China needed to concentrate its efforts to deal with the influence of Mainland vested interests groups. The article said that JIANG Ze-ming had pointed out at that time that under the rule of the Communist Party of China, they could not remain indifferent to and tolerate the growth of vested interests groups and their threat to the governance by the Central Government. Ironically, today in this Chamber, my friends, including those from the Democratic Alliance for the Betterment and Progress of Hong Kong, support such a motion which will strengthen and consolidate the interests of vested interests groups in Hong Kong. This is inconsistent with the policy of governance by the Central Government under the Communist Party of China.

President, to handle the use of public money and embody social justice in our society, the basic needs of the general public and the grassroots should be taken care of. We have been talking about the problems with the Comprehensive Social Security Assistance (CSSA) Scheme for over 10 years, those who depend on CSSA still have to live under the poverty line, this is a sign of injustice. For persons with disabilities who wish to apply for disability allowance, they have to be 100% disabled before they can receive the allowance, this is also a sign of injustice. The expensive traveling expenses have resulted in many people unable to live a humane life with a reasonable salary, this is a sign of social injustice. Many underemployed people have to live under the poverty line because of their meager wages, this is also a sign of injustice.

As representatives of public opinions, especially there are many intellectuals here, they should push for reforms in the light of these social injustices. Our group leader, our Party Chairman, WONG Yuk-man mentioned Adam SMITH just now. I would like to talk about the analysis by Marx in the Communist Manifesto. His analysis was that when intellectuals saw labourers exploited in society, they should stand for the interests of labourers, help them fight for their interests, push for changes in society. Unfortunately, many so-called intellectuals in this Chamber protect and support the interests of vested interests groups for further exploitation and suppression of the community in general, making social injustice more serious. Therefore, President, this Chamber is full of ridiculousness and hypocrisy.

The League of Social Democrats have put forward many proposals to the Financial Secretary over the years, such as the proposal to increase profits tax and to comprehensively reform the tax system. There are many detailed contents, including all people with a monthly income of less than \$8,000 are eligible to receive transport allowance under the cross-district Transport Support Scheme; the taxpayers who have to support their parents should be entitled to claim deductions regardless of whether their parents have reached 60; the taxpayers who need to support their children who are over 18 but do not have a job should be entitled to claim deductions; the residents of old buildings should be entitled to claim tax deductions for their building maintenance expenses as long as the values of their flats are under \$1 million.

Most importantly, I support what JIANG Ze-min has said and we should not allow vested interests groups to monopolize our society and exploit the general public, especially the disadvantaged groups. We should not tolerate the fact that they are making huge profits by exploiting the general public, millions of general public in Hong Kong.

Therefore, we must oppose the original motion and all the amendments today and strongly condemn those hypocritical political parties.

**MR WONG KWOK-HING** (in Cantonese): President, I did not intend to speak because Dr PAN Pey-chyou from the Hong Kong Federation of Trade Unions (FTU) has expressed our position on the tax system in Hong Kong on behalf of the four Members from the FTU. Why do I have to speak? It is because Mr LEUNG Kwok-hung has regarded the FTU as part of the Democratic Alliance for the Betterment and Progress of Hong Kong probably due to his confusion arising

from his swearing at others. He has said that the FTU opposes a progressive tax system. Mr LEUNG has been confused and I hope that he will apologize to FTU.

Just now, his group leader, Mr WONG Yuk-man has said to us at the Ante-Chamber that they always see eye to eye with us on the tax system. I therefore wish to make this point clear. As a matter of fact, the introduction of a progressive tax system has always been the FTU's position and proposal. We are of the view that the situation in Hong Kong where the poor are getting poorer while the rich are getting richer is undesirable for a harmonious and prosperous society. We have been advocating the principle of better able paying more so as to achieve the redistribution of wealth, help the disadvantaged groups and "wage earners" who are subject to serious exploitation through the "collection" and "spending" of tax revenue. The Government has not accepted our point of view which has been expressed for many years. However, we have been adhering to this vision and sticking to our position and will move forward with "wage earners". I have made this point clear in order to correct the misunderstanding about our position.

President, what is required in politics is not a lot of words, nor is it necessary to raise everything to a higher plane of principle. Now that Dr PAN Pey-chyou from the FTU has expressed our position on our behalf, I do not want to repeat it. Thank you, President.

**MR LEUNG KWOK-HUNG** (in Cantonese): I want to clarify.

**PRESIDENT** (in Cantonese): Do you want to clarify the part of your speech that has been misunderstood by other Members?

**MR LEUNG KWOK-HUNG** (in Cantonese): What I meant was that the FTU had a "flexible hand" when voting. I did not say that they opposed a progressive tax system. When voting in the past, what they had voted for was different from what they had stood for in their speeches. Thank you, President,

(Mr WONG Kwok-hing stood up)



**MR WONG KWOK-HING** (in Cantonese): President, I want to clarify what Mr LEUNG Kwok-hung has clarified.

**PRESIDENT** (in Cantonese): You sit down, please. The rule on clarification is that if other Members spoke after a Member had spoken, but that Member considered that other Members had misunderstood what he had meant when quoting the contents of his speech, he could stand up and seek clarification, but no debate may arise from such clarifications. Mr WONG, if you do not agree with the words of another Member and want to reply, that will not be clarification.

(Mr WONG Kwok-hing stood up again)

**MR WONG KWOK-HING** (in Cantonese): President.

**PRESIDENT** (in Cantonese): Which part of your speech just now has been misunderstood by Mr LEUNG Kwok-hung?

**MR WONG KWOK-HING** (in Cantonese): Mr LEUNG Kwok-hung misunderstood the FTU's voting position.

**PRESIDENT** (in Cantonese): Which part of your speech just now has been misunderstood by Mr LEUNG Kwok-hung? If you do not agree with other Members' opinions about the position of your organization, this is your opinion and you should express it in the debate instead of seeking clarification of the contents.

**MR WONG KWOK-HING** (in Cantonese): President.

**PRESIDENT** (in Cantonese): You can only point out which part of your speech just now has been misunderstood by Mr LEUNG Kwok-hung.

**MR WONG KWOK-HING** (in Cantonese): What I had said was that the FTU supported the introduction of a progressive tax system for profits tax and we will definitely vote against the original motion. We have made this very clear.

**PRESIDENT** (in Cantonese): I believe that you have clarified the contents of your speech. Does any other Member wish to speak?

**MS AUDREY EU** (in Cantonese): President, I need not repeat as Mr Ronny TONG and Miss Tanya CHAN have expressed our views on the original motion and the amendments on behalf of the Civic Party. I just want to talk about the Civic Party's position in the voting later and explain how we will vote by then.

President, I have said the same thing time and again in this Chamber. But each time when we talk about these subjects, I will have to repeat it. On many occasions, when a motion has been moved, especially when the motion has many different parts and amendments, it is difficult to decide how to vote as we only have three choices: for, against and abstain. On many occasions, be it the original motion or the amendments, we support some parts of them, or even strongly support these parts, or support them morally, but it is possible that there are some other parts of them — be it the major or minor parts — which we find very difficult to agree with. If we abstain due to this reason, it will give rise to a lot of misunderstandings and other people will have the impression that the Civic Party often has no position on these issues. We will therefore avoid abstaining as far as possible.

The motion calls for enhancing the tax system which I believe we all support. Article 108 of the Basic Law has stipulated that we must have low tax rates. But apart from this, are there many areas which require improvements so as to strengthen our competitiveness? Especially the many suggestions put forward by Mr Paul CHAN in the original motion, which Miss Tanya CHAN has mentioned and I will not repeat them. These suggestions have received strong support from the professional sector or the business community, including small and medium enterprises (SMEs). There are also many suggestions in Mr Vincent FANG's amendment, which he has put forward after seeing the difficulties faced by many SMEs. We support most of these suggestions. President, the Civic Party therefore supports the overall spirit behind them.

Moreover, I would also like to put it clearly that the Civic Party does agree that an adequate progressive tax system will embody social justice to a greater extent. We very often take the view that the disadvantaged groups need more help. In the light of the serious disparity between the rich and the poor in Hong Kong, we absolutely agree that certain improvements in the tax system will embody social justice to a greater extent. However, what are the difficulties faced by us, President? Sometimes, the problem does not lie in the tax system, but in how the Government handles the financial resources, or the Government's thinking on the financial budget. Our Government possesses huge amount of financial reserves which ranks among the highest in the world. But it is unwilling to use them where they are needed the most. There are many areas on which this Council has reached consensus, but the Government is reluctant to spend the reserves. Therefore, if we support its refusal to offer concessions on certain areas, what will the result be? The result will be we will have more and more reserves. Therefore, the crux of the problem lies in the fact that we should reach a consensus and hold discussions. At this Chamber, we have held many discussions on how many reserves are needed? For example, what is the adequate level of financial reserves to cope with the public expenditure in Hong Kong? Whether the excessive amount of reserves should be used where they are needed the most? This is not part of the original motion or the amendments today, but I think it is a very important question.

If we judge the original motion and the amendments by these principles, we are of the view that no concrete percentage point or rate has been put forward no matter whether it is an increase or a reduction, a progressive system or an offer of concessions. For example, the amendment moved by Mr Albert HO does not suggest that a cap must be put on the progressive tax rates. We need to ascertain how much public expenditure is needed for Hong Kong before we can set an appropriate percentage rate. When we look at these problem, we should often bear in mind that the tax base in Hong Kong is very narrow, that is why many people, including some tax experts, are of the view that we should study how to improve our tax system.

Even if the original motion and the amendments are carried, the Government will not implement all the proposals immediately. We very often just express our views in the hope that the Government will absorb the good points of them and make improvements. Therefore, if we abstain or vote against, it will produce a very negative result and give people the impression that

this Council always achieves nothing and advances nothing. Therefore, we have decided to support the original motion and all of the amendments. But we do have reservations which Miss Tanya CHAN has expressed and I will not repeat them. I just want to explain that when we give our support to them, we do not support them without reservation. It just represents our view that we should look at many aspects of our tax system and make improvements, and we support the main principles. For example, we should have a fairer system. We accept a progressive system with a cap and hope that Hong Kong, especially the SAR Government, will change its mindset on the use of financial resources. Thank you, President.

**MR FREDERICK FUNG** (in Cantonese): President, what should be done with tax revenue? What purpose does tax revenue serve? As a matter of fact, taxes have the most basic function and that is the Government collects taxes from the people and amasses them as assets for use as government expenditure.

However, as far as tax revenue and expenditure are concerned, traditionally, apart from the function which I have pointed out just now, and that is taxes are the income for a government for use as expenditure associated with government policies, taxes also have functions in two areas. Let us think about it. One is the class angle which many Members have discussed just now. For example, the socialists advocate a tax system which will "rob the rich to help the poor". Of course, the liberalists think otherwise and support a reasonable and fair tax system under which the more able pay more. This is the direction of traditional mindset.

The second direction can also apply to traditional tax system. Taxes can also deal with or solve social problems. Let me give an example, donations to charitable organizations entitle the donor to tax deductions, employing the unemployed will entitle the employers to tax exemptions and even the government offers financial support to them for employing the unemployed. In its visit to some regions in Spain, the Subcommittee on Poverty Alleviation of the Legislative Council had found that the government there would offer financial support for the employment of persons with disabilities, that is tax concession in effect. This is one way to deal with or solve social problems. In Spain, there are additional functions, take social enterprises for example, commercial enterprises are entitled to tax concessions for co-operation with social enterprises.

For example, one will enjoy tax concessions for purchasing the services provided by social enterprises. Tax concession can facilitate the emergence, development and grow of social enterprises. I regard it as the function which helps to solve social problems.

Firstly, the class angle, I of course agree with a progressive tax system. As far as the position of the Hong Kong Association for Democracy and People's Livelihood (ADPL) is concerned, we were among the first to propose progressive rates for both profits and salaries taxes. What is the profit level which should be subject to progressive rates? Our suggestion is that when the economy is good, profits of more than \$10 million will be subject to an additional 1% profits tax rate as suggested by Mr Albert HO. At times of economic downturn, it is the other way round as the conditions are different. Profits of less than \$10 million should be given a one percent reduction in profits tax rate. We have said in the past that profits of more than \$10 million should be subject to additional tax. We are now saying that profits of less than \$10 million should be given tax reduction so as to relieve the tax pressure on small and medium enterprises (SMEs). In fact, I have talked to the Members from the business sector just now and our positions are getting closer, although they opposed our views in the past.

On the issue of salaries tax, the proposal by Mr Albert HO is exactly the same as that by the ADPL. I will not repeat it.

I would like to raise two points, including using government tax revenue for government expenditure. Government tax revenue has three functions. As a matter of fact, in today's world, government tax revenue has the fourth function — I do not know whether the Government will consider this function — and that is due to global warming. Global warming itself is a major problem faced by mankind. We can deal with this problem through the tax system during the process of global warming. Some works and economic activities contribute to global warming and they should therefore be subject to additional taxes. Success in carbon emission reduction should be rewarded with tax reduction.

In conclusion of the four functions I have mentioned just now, we have three ways to handle the issue of tax revenue. Firstly, under the current income system, a line should be drawn between those who will be taxed and those who will not be taxed. Those with a monthly income of less than \$8,000 will be exempted from paying income tax. This is one of the functions and that is

low-income people will be exempted from paying income tax. Secondly, if taxes are to be collected, the amount should be set, that is to set tax bands. Thirdly, that is the function of solving social problems as I have pointed out just now. If some activities aggravate social problems, it may be necessary to subject them to additional taxes. If some activities can help to improve social problems, they should be given tax reduction. The adoption of such so-called levies, the amounts of levies and the ways of increasing or reducing can balance social problems.

In my opinion, we should consider these questions when dealing with the tax system. Of course, the first question is that we tend to support a fair system. The tax system should serve as a mechanism for dealing with the disparity between the rich and the poor. But the Government has been resisting this. However, I cannot see why the Government does not enhance the effectiveness of such a mechanism in deal with social problems, particularly in the light of the practices in some countries in Western Europe. Chief Executive TSANG has also specially stressed his support for social enterprises. It is now more than one year, which social enterprises have been helped to develop or given the opportunities to develop by the Government through taxation means and have become successful? If the Government has such a policy, it can use the tax system to deal with these problems.

Of course, more importantly, some countries have practised this, should Hong Kong consider doing the same? We should not always assume that tax reform is disliked by many people and will be off-putting to the business community. As a matter of fact, we should not always assume that other people must be afraid of tax reform. The countries which have implemented tax reforms are those advocating a free market economy, including the United States, the United Kingdom and France. For example, to build a house needs a number of trees which will be felled, certain amount of iron, certain amount of cement and so on. All of these may produce waste, which will contribute to global warming and should be subject to additional taxes in general tax levy. On the other hand, the activities which can help to plant more trees, exploit solar energy, adopt a sustainable development strategy and do not aggravate global warming, should be given tax reduction in general tax levy.

How to change the whole society and the way of life established by mankind itself? Only by using tax as bait, offering incentives and inducements, or meting out punishment, can we save the Earth from its present dangerous

situation: we can see footage of "Salvage the Earth, keep it below 16°C" on RoadShow and according to this programme, the current average temperature of the Earth is 14.5°C and it will be dangerous for the Earth if its average temperature reaches 16°C, just a difference of 1.5°C. Whether we must come up with different measures, especially the measures which we are able to implement?

I hope that the Government will give serious consideration to my suggestions after today's debate. The problems which involve the issue of class, the function to help to solve social problems and global warming respectively can all be adjusted, balanced, dealt with through the tax system. Thank you, President.

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

**DR RAYMOND HO** (in Cantonese): President, Hong Kong's tax system, including profits tax, is famous for being low, simple and clear. However, with the deepening of the globalization of the world economy, the tax system in every economy will to a great extent affect its competitiveness and attractiveness to investments from enterprises. Although many people are worried about the re-emergence of protectionism after the financial turmoil, the globalization of the world economy in different fields and areas will continue to deepen and this is also an irreversible trend in the development of the world economy. It is therefore also necessary for Hong Kong to enhance its tax system.

The enhancement of Hong Kong's tax system will help to maintain its competitiveness. However, we must retain the special features of our tax system. The first and foremost is a simple and clear tax system. The kinds of taxes in Hong Kong are very simple in that we do not levy value-added tax, dividend tax or interest tax. Our profits tax rate is very low and is the lowest in the Asia-Pacific Region. The profits tax rate in Hong Kong currently stands at 16.5%. As for unincorporated businesses, the profits tax rate is 15%. Hong Kong's tax rates are about half of those in other places in the Asia-Pacific Region. The simple tax system and the low tax rates definitely bring competitive edge to the enterprises operating in Hong Kong and this is also considered by the middle class as one of the major factors attracting them to stay in Hong Kong for career development. An advanced and stable society must have a strong middle class which is also the pillars of society. Many small and medium enterprises (SMEs)

are earning profits of only \$1 or 2 million, which are by no means easy to make. They would be extremely disappointed if profits of \$1.5 million were subject to a two-tier tax system or tax increase was not effected through the established mechanism. Many middle class people may not choose to stay in Hong Kong. As a result, it will be very difficult for Hong Kong to achieve the stability level in the future as expected by us. It will also very difficult for it to achieve balanced development. The middle class will not be able to become the driving force to support social development.

Since the outburst of the financial crisis, the implementation of International Financial Reporting Standards and Fair Value Accounting has become a hot topic. The relevant standards are closely related to the calculation of taxes. Hong Kong should therefore closely follow the development in this area and make revisions if necessary, so as to bring the criteria for the calculation of profits tax in Hong Kong in line with international mainstream practice and make them geared to international standards.

The global financial tsunami has resulted in operating losses and liquidity problems for many enterprises, the Government should consider introducing group tax loss relief and tax loss carry-back provisions. Such arrangements will help these enterprises tide over the current cycle of economic downturn on one hand, they can also encourage continued investments by enterprises on the other, so as to facilitate economic recovery.

Moreover, Hong Kong should also encourage enterprises to conduct research and development activities through tax arrangements, such as the offer of tax deductions. Hong Kong's efforts in this respect are inadequate in comparison with other Asian Countries. Therefore, the relevant authorities should consider introducing the relevant tax deductions in order to give enterprises the incentive to conduct research and development activities.

In the face of fierce competition brought about by globalization, Hong Kong needs to keep its tax system under constant review so as to maintain our advantages in this respect. In the process of review, the Administration should consult the stakeholders, including major business associations, accounting and tax professional bodies, as well as the relevant people from all walks of life, instead of taking the views of a particular class seriously or lightly. The Administration should take an impartial attitude because people from all walks of life who live in our society together should be able to enjoy the various fruits of



the society together. The Administration should study and consider their suggestions thoroughly, instead of only heeding the views of a particular party.

President, I so submit. Thank you.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr Paul CHAN, you may now speak on the amendments. You may speak up to five minutes.

**MR PAUL CHAN** (in Cantonese): President, I would like to thank the three Members, Mr Vincent FANG, Mr Albert HO and Mr Ronny TONG, for their respective amendments, and I also wish to thank those 21 colleagues for their addresses.

First, I would like to say that a tax system is multi-functional. I fully agree that a tax system performs the function of redistributing social resources and thus, is an important means to alleviate the disparity between the rich and the poor. I also agree totally that economic growth of our society shall benefit different sectors. The wide gap between the rich and the poor in Hong Kong is an unsettling issue which must be tackled proactively. With regard to the objective of enabling the socially disadvantaged groups to have more equal opportunities, there is not much difference between Mr Albert HO, Mr Ronny TONG and me.

A while ago some members quoted from a newspaper article written by me, and yes, I did object to the Government's measure to reduce the profits tax rate and standard rate by 1% last year. This was because I thought it was not necessary and considered it better to use the revenue foregone to help the poor or serve other purposes. Today my stance has not changed in this regard.

What is the objective of this motion today? This motion does not aim at a tax reduction, but at making a larger "cake". As regards how the "cake" should be distributed, I think owing to the limited time it is impossible to cover so many

issues in one motion. Therefore, I suggest that if Members are interested ..... we can propose another motion for in-depth discussion. Today we shall focus on the issue of Hong Kong's competitiveness and how to enlarge this "cake" so that everyone can be benefited.

Mr Albert HO's amendment proposes the introduction of a two-tier profits tax system and impose an additional 1.5% profits tax on enterprises which have made large profits. I think such proposal is not so peculiar but is worth considering. However, with regard to Mr Albert HO's proposal of abolishing the standard rate of salaries tax in order to narrow the gap between the rich and the poor, certain defects will arise if it comes into effect. Why do I say so? If the standard rate of salaries tax is abolished and replaced by a progressive salaries tax system while the profits tax rate remains at a relatively low level, it may create more unfairness and may even lead to more tax avoidance arrangements. High-income employees undoubtedly will have to pay more tax if the standard rate of salaries tax is abolished. Yet we should not forget who is the person that earns the most. It is the companies that are making the most money. But they can still be taxed at a lower rate. Under such circumstances, people doing business and making big money will pay less tax than those employees and professionals from the middle and upper classes. Is this what we wish to see? Those people can even pay dividends to themselves after their companies have made profits. Since dividend income is not taxable in Hong Kong, such people need not pay any tax at all. In view of such, I consider that instead of looking at the issue on a piecemeal basis, we should carry out a comprehensive review of the whole tax system with respect to salaries tax, profits tax and the overall allocation of social resources.

President, on the other hand, regarding Mr Ronny TONG's amendment, I agree with some proposals contained therein. However, my greatest concern is on the proposal of abolishing the provisional tax. Being a professional accountant, it is rather difficult for me to accept it. There might probably be a misconception with regard to provisional tax. The provisional tax in Hong Kong is not tax paid in advance. Taxpayers are not required to pay tax on the income that they have not earned. In fact, they are only required to pay tax on the income they have already earned. Technically the tax is called provisional tax because the Inland Revenue Department has not yet formally issued a notice of assessment. For instance, the amount of tax we paid in January 2009 is the sum of the balance of tax we should pay for the year 2007-2008 and 75% of the

provisional tax for the year 2008-2009. Why is 75% charged for the year 2008-2009? This is because the 2008-2009 financial year covered from April last year to March this year, and by January this year, nine months of that twelve-month period have passed already. Therefore, in theory the tax is charged on the income which taxpayers have already earned. When the Government imposes provisional tax, only 75% is payable under the first instalment. Then we must pay the remaining 25% in April. Thus this is not a pre-paid tax but provisional tax. At present, a mechanism is in place for taxpayers earning less than last year to apply for hold-over of the provisional tax and the application procedures are not complicated.

In fact, as compared with mainland China and other foreign countries where tax is deducted from taxpayers' income each month once they have received their salaries, we can see that the provisional tax system in Hong Kong cannot be considered harsh at all. Therefore, I do not support this amendment.

Thank you, President.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, thanks for Members' valuable views. As explained earlier, we have been adhering to the taxation principles upon which we build our success. Now, I would like to respond to the suggestions raised by Members in relation to individual measures and policies on taxation.

Mr Paul CHAN proposes to introduce "tax loss carry-back" provisions, which allow enterprises to carry its loss for the current year to offset the profits made in the preceding year, and to receive a refund of the tax previously paid. The introduction of tax loss carry-back provisions may cause the Government to suffer a great loss in tax revenue. As the revenue credited to the Government's accounts may be refunded anytime under this regime, this may cause drastic and unpredictable fluctuations in the revenue, thus making it more vulnerable to economic cycles. This negative impact is particularly serious amid the current economic downturn. As expressed by Mr CHAN, we may set a dollar cap for the loss that can be carried back in order to reduce the impact on Government's revenue, but if the cap is set at too low a level, companies may find the concession measure useless. Under the existing tax system, companies are, in fact, allowed to carry forward its tax loss indefinitely to offset its future profits.

This is already a very favourable arrangement. Therefore, we consider that it is not desirable to introduce the proposed tax concession at present.

The Government indicated in the 2006-2007 Budget that it did not intend to introduce "tax loss carry-back" provisions, and also reiterated its stance in its replies to the questions raised at the Legislative Council meetings on 30 January 2008 and 17 December 2008.

Mr CHAN's second suggestion is about the introduction of "group tax loss relief", which enables profits made by companies of the same group to be offset by losses in others. This relief measure involves a number of complicated issues, such as how to ascertain whether companies are members of the same group, and the arrangement of deducting losses against each other. Moreover, with the development of new corporate financial instruments, the proposed measure may easily be abused as a means to evade tax. Hence, the implementation of this relief measure must be complemented with complicated legislation. By doing so, our simple tax system will be made complicated. It is worth noting that the companies mainly benefited from the proposal are not small and medium enterprises (SMEs) because it is not common for SMEs to operate as a group. Taking account of the above considerations, we consider that it is not desirable to introduce the proposed tax concession at present.

Likewise, the Government indicated in the 2006-2007 Budget that it did not intend to introduce "group tax loss relief", and also reiterated its stance in its replies to the questions raised at the Legislative Council meetings on 30 January 2008 and 17 December 2008.

Mr CHAN's third suggestion is about the provision of allowance for manufacturing facilities physically located outside Hong Kong (for example on the mainland) and which are used in processing trade. I think Mr CHAN refers to depreciation allowance. This issue is rather technical. The Inland Revenue Department (IRD) has explained in detail to relevant sectors and tax representatives through various channels the reasons for adopting the current practice. In short, under the import processing arrangement, when a Hong Kong company provides its manufacturing facilities for use by a mainland company, it is hard for IRD to find out whether such facilities are only used for producing goods sold to Hong Kong because that mainland company may have domestic sales right. Moreover, it is also difficult for IRD to find out whether the

facilities concerned have been re-sold to others, or depreciation allowance for such facilities has been claimed by others. Therefore, according to the existing Inland Revenue Ordinance (IRO), under the import processing arrangement, manufacturing facilities which are provided by Hong Kong companies to the mainland firms are not entitled to depreciation allowance.

Mr CHAN's fourth suggestion relates to profits tax reduction and provision of tax credits on foreign withholding tax. On profits tax reduction, the Financial Secretary announced in the Budget last year that the profits tax rate was lowered by 1% to 16.5%, and a one-off waiver of 75% of the profits tax was given subject to a ceiling of \$25,000. Our present profits tax rate is one of the most competitive rates in the region, as well as in the world. Given that the Government's revenue will reduce \$4 billion for every 1% reduction in profits tax, and the local economy and external environment are currently filled with challenges, we consider that the room for making further tax reductions is very limited. It is also prudent to do so.

As regards the suggestion to provide tax credits on withholding tax, we consider that this is at variance with our established taxation principles. Tax credit generally refers to the reduction of a tax chargeable locally in respect of an income or a profit by an amount of tax paid in foreign countries in respect of the same income or profit for the purpose of eliminating double taxation. Hong Kong adopts a territorial source principle in taxation, that is, only incomes which have a source in Hong Kong are taxable. Hence, the incomes sourced elsewhere outside Hong Kong are generally not subject to taxation in Hong Kong, so problems related to double taxation and tax credits do not exist. Nevertheless, if foreign countries tax their residents on incomes sourced in Hong Kong, double taxation may arise. In this case, tax credits should be provided to residents by the foreign countries concerned, instead of by Hong Kong where the incomes are sourced. I believe all of you will agree that the profits tax rate in Hong Kong is low. The request to provide tax credits for foreign organizations in Hong Kong is tantamount to calling upon the Government to lower the profits tax rate for a particular sector or industry. This violates the principle of maintaining a fair tax system in Hong Kong.

A better way to avoid double taxation is to make comprehensive avoidance of double taxation agreements (CDTAs) with major trading partners. A CDTA can provide a clearer and more concrete basis for the purpose of avoiding double

taxation. Moreover, the concessions provided by CDTAs are often more favourable than those unilaterally provided by tax credits.

In the amendments moved by Mr Vincent FANG and Mr Albert HO respectively, they propose to double the rate of tax deductions for some particular expenditure items. At present, all operating expenses of companies are offered 100% tax deductions. Expenditures on research and development, and purchase of eligible environmental protection facilities for manufacturing, and even capital expenditure are granted 100% tax deductions. We object to increasing the tax deduction rate to 200% for any particular expenditure, as it will not only violate our principle of maintaining a fair tax system, but also provide convenience for tax evasion.

Furthermore, we also oppose Mr Albert HO's suggestions to introduce a two-tier profits tax system and abolish the standard rate of salaries tax. The reasons are, as I have mentioned earlier, that these suggestions will further confine our sources of revenue to the minority high-income group and enterprises with good profits. From the point of view of maintaining a stable income from revenue, this phenomenon is not healthy. Moreover, the introduction of a two-tier profits tax system may lead companies to split their operations in order to reduce the amount of tax. This may make them unable to operate at the most optimal and effective scale. In my view, our profits tax system should avoid as far as possible making unnecessary influence on companies in making commercial decisions.

We also oppose Mr Ronny TONG's suggestion to the abolish provisional tax. Unlike most countries, Hong Kong does not have the practice of deducting income tax from salaries. Mr Paul CHAN has recently elaborated on the practice adopted by other countries, that is the so-called "pay-as-you-earn" system. The IRD has to assess the incomes or profits declared by taxpayers and issue notices of assessment to them before it can collect the tax payable. Therefore, there is a time gap between the taxpayers earning their incomes or profits and the calculation of the amount of tax payable. To enable the IRD to collect the tax from taxpayers in the same year they earn their incomes or profits, it is necessary to implement the provisional tax system. Under the system, incomes or profits of the preceding year will be used as a basis for calculating the provisional tax.

Since Mr Paul CHAN has just analysed our tax system, I would like to emphasize that provisional tax is absolutely not pre-paid tax because the due date for payment of provisional tax must be set at a date after the taxpayers earn the relevant incomes or profits. Therefore, it is probably more appropriate to call "provisional tax" as "provisionally-assessed tax", but not "pre-paid tax" in any case. Moreover, as we have explained to Members many times, the existing IRO provides the long-standing arrangement on holdover of tax in order to cater for the needs of taxpayers who anticipate a drop of their incomes.

As for the suggestion made by Mr Vincent FANG on the provision of tax reductions for the purchase of trademarks and brand names, we consider that this suggestion may be further considered. In fact, the cross-sector Joint Liaison Committee on Taxation (JLCT) has recently submitted to me a detailed proposal on this measure, and we will study it carefully. In addition, Mr Ronny TONG proposes that the administrative procedures and costs should be reduced. This is consistent with our existing policy.

Besides individual taxation measures, Members also raise a number of suggestions on taxation policies.

Mr Paul CHAN and Mr Vincent FANG call upon the Government to review, evaluate and update the existing IRO and code of practice, so as to enhance the clarity and enforceability of the IRO, and in turn, the competitiveness of Hong Kong's tax system. This is in line with our practice. Starting from the 1980s, we have adopted a constant mode of review in the light of the changing social and economic conditions. We have not only encouraged the establishment of a cross-sector JLCT to advise the Government on taxation policies and the IRO, but also reviewed a number of tax items in conjunction with the formulation of the Budget every year.

Moreover, the Government has in the past conducted a number of taxation policy reviews. For instance, a profits tax review group (the review group) was set up in late 1990's for the purpose of conducting a comprehensive and in-depth review of the profits tax regime. Upon the recommendation of the review group, the Government has also launched a number of reforms to the profits tax regime, including granting a 100% immediate tax deduction to specified equipment such as the machinery, computer equipment and software used by the manufacturing industries, offering concessionary tax rates for interest income

derived from eligible debt instruments, establishing a system for the Commissioner of Inland Revenue to provide advance ruling on taxation matters, and so on.

I take the trouble to look back on some of the important taxation reforms in the past as aforementioned because I would like to prove that we do not refuse to make progress or changes to our tax system. Instead, we change with times. In 2000, the Government established the Advisory Committee on New Broad-based Taxes (the Advisory Committee) to examine which new broad-based tax types are suitable for Hong Kong, under the principle of maintaining a simple tax regime and Hong Kong's competitiveness. The team set up in 2004 for assessing the estate duty successfully abolished the estate duty. Furthermore, in the Budget of last year, we also provided tax concessions for the purchase of environment-friendly machinery and equipment. Recently, the most important effort in taxation reform has been the IRO revision exercise, which is still in progress. The revision aims to enhance the power of the IRD in collecting information in order to facilitate the signing of CDTAs between Hong Kong and the major trading partners.

Mr Vincent FANG highlights that the concept of charging tax according to the "territorial source principle" should be further clarified. We consider that the source of income is a matter of fact. Therefore, cases with different facts may often bring about different results. It is understandable that IRD and taxpayers may have different views on the source of profits. Taxpayers have the right to oppose and appeal against the assessments of the IRD. The rulings of the Board of Review and the courts clearly indicated that the IRD had, overall speaking, properly applied relevant principles in these cases.

Given that the source of income is a matter of fact, and the mode of commercial operation will change over time, there will be practical difficulty in attempting to enact a set of comprehensive and all-embracing express legislation on which judgment is arrived at. Moreover, even if such a piece of legislation is made, it is inevitable that the IRD and taxpayers will have disputes over its interpretation. The IRD has all along been committed to enhancing the clarity and transparency of its code of practice. In this respect, the IRD has drawn up the draft of the revised Departmental Interpretation and Practice Notes (Practice Notes), and has consulted JLCT and the Hong Kong Institute of Certified Public



Accountants (HKICPA) on it. The Government is now studying their views, and will publish the revised Practice Notes as soon as possible.

Moreover, Mr Paul CHAN also proposes to establish a tax policy unit, which is staffed by senior personnel with relevant technical knowledge and practical experience. At present, a unit has been set up under the Treasury Branch of the Financial Services and the Treasury Bureau to formulate taxation policies. In formulating taxation policies, we will consult relevant sectors and the public from a broad perspective. Efforts in this regard include attending the JLCT's meetings regularly. The JLCT is set up by the Government and professional, commercial and academic organizations/individuals which/who are interested in taxation. It comprises representatives from the HKICPA, the International Fiscal Association, the Law Society of Hong Kong and chambers of commerce. The JLCT provided many constructive opinions in the past. We opine that the existing mechanism effectively enables the Government to understand the views of professional, commercial and other sectors on taxation policies, and to formulate appropriate policies in this regard. When drawing up the Budget each year, the Financial Secretary and I consider the views expressed by stakeholders during the Budget consultation, and also study the necessity of improving the tax system and legislation of Hong Kong from the perspectives of public finance management and enhancing the overall competitiveness of Hong Kong. Hence, I do not see the necessity of establishing a tax policy unit to take up similar duties.

President, the Financial Services and the Treasury Bureau, the IRD, as well as the professional, commercial and academic organizations have maintained close co-ordination. We have frequent communications and discussions on a wide range of taxation measures, with a view to further enhancing the competitiveness of Hong Kong's tax system. Today, there may not be sufficient time for me to discuss each technical issue suggested by Members, but we attached great importance to every piece of opinion given by Members and relevant sectors. We also hope that all of us will maintain communication and dialogue in respect of identifying ways to raise Hong Kong's competitiveness in taxation.

President, with these remarks, I oppose the motion and all amendments moved today.

**PRESIDENT** (in Cantonese): I now call upon Mr Vincent FANG to move his amendment to the motion.

**MR VINCENT FANG** (in Cantonese): President, I move that Mr Paul CHAN's motion be amended.

**Mr Vincent FANG moved the following amendment:**

"To delete "whereas the Hong Kong profits tax system has not kept pace with time and does not offer" after "That," and substitute with "on the basis of maintaining Hong Kong's simple and low tax system,"; to delete "to help Hong Kong enterprises and manufacturers" after "adequate incentives and concessions" and substitute with "should be offered to industrial and commercial enterprises in Hong Kong to help them"; to add "(a) regularly review and update the legislation and code of practice on taxation in Hong Kong, so as to enhance the clarity and enforceability of the tax stipulations in Hong Kong and, in particular, provide greater certainty in the concept of charging profits tax according to the 'territorial source principle', with a view to consolidating Hong Kong's status as an international financial centre and the regional headquarter of enterprises;" after "this Council urges the Administration to:"; to delete the original "(a)" and substitute with "(b)"; to delete "and" after "profits assessable in Hong Kong;" to add "and (v) tax deductions for research and development expenditures to be increased to a rate of at least 200%, and full tax deductions for the purchase of trademarks and brand names, so as to encourage product research and development and promote the development of creative industries;" after "group companies;" to delete the original "(b)" and substitute with "(c)"; to delete the original "(c)" and substitute with "(d)"; and to delete "establish" before "a specialist" and substitute with "study the establishment of"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Vincent FANG to Mr Paul 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 Wai-ming rose to claim a division.

**PRESIDENT** (in Cantonese): Mr IP Wai-ming 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 Raymond HO, Dr Margaret NG, Mrs Sophie LEUNG, Ms Miriam LAU, Mr Abraham SHEK, Mr Vincent FANG, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr IP Kwok-him and Dr Samson TAM voted for the amendment.

Ms LI Fung-ying, Mr CHEUNG Kwok-che, Mr IP Wai-ming and Dr PAN Pey-chyou voted against the amendment.

Mr CHEUNG Man-kwong, Dr Philip WONG, Mr CHIM Pui-chung and Mr Paul TSE abstained.

Geographical Constituencies:

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr Frederick FUNG, Ms Audrey EU, Mr Alan LEONG, Mr CHEUNG Hok-ming, Mr Ronny TONG, Ms Starry LEE, Mr CHAN Hak-kan, Miss Tanya CHAN, Dr Priscilla LEUNG and Mrs Regina IP voted for the amendment.

Mr LEE Cheuk-yan, Mr Albert CHAN, Mr WONG Kwok-hing, Mr LEUNG Kwok-hung, Ms Cyd HO, Mr WONG Kwok-kin and Mr WONG Yuk-man voted against the amendment.

Mr Albert HO, Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, Mr LEE Wing-tat, Mr KAM Nai-wai 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, 24 were present, 16 were in favour of the amendment, four against it and four abstained; while among the Members returned by geographical constituencies through direct elections, 29 were present, 13 were in favour of the amendment, seven 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 I move that in the event of further divisions being claimed in respect of the motion on "Enhancing the tax system to keep Hong Kong competitive" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by 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, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, 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 "Enhancing the tax system to keep Hong Kong competitive" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

**PRESIDENT** (in Cantonese): Mr Albert HO, you may now move your amendment.

**MR ALBERT HO** (in Cantonese): President, I move that Mr Paul CHAN's motion be amended.

**Mr Albert HO moved the following amendment:**

"To delete "amend" after "(a)" and substitute with "study amending"; to delete "and" after "profits assessable in Hong Kong;"; to add "and (v) provision of tax concessions whereby the costs incurred by companies for employee training and purchase of environment-friendly facilities, etc are

deductible from assessable profits and the amount of deduction allowable should be double the amount of the costs incurred, so as to encourage companies to provide in-service training for their employees and protect the environment; (b) study the introduction of a two-tier profits tax system whereby the profits tax rate for those companies with assessable profits of \$10 million or above should be raised by 1.5%, while such tax rate for other companies should remain unchanged, so as to achieve a progressive and fair profits tax system as well as increase the government revenue to support the Government in promoting more measures to create employment, stabilize the economy and alleviate people's hardship; (c) abolish the standard rate of salaries tax so that taxpayers will pay their salaries tax according to marginal tax rates on the basis that the higher the income, the more the amount of tax payable and vice versa, so as to narrow the gap between the rich and the poor;" after "group companies;"; to delete the original "(b)" and substitute with "(d)"; and to delete the original "(c)" and substitute with "(e)"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Albert HO to Mr Paul CHAN's motion, be passed.

**PRESIDENT** (in Cantonese): I now call upon Mr Ronny TONG to move his amendment to Mr Albert HO's amendment.

**MR RONNY TONG** (in Cantonese): President, I move that Mr Albert HO's amendment be amended.

**Mr Ronny TONG moved the following amendment to Mr Albert HO's amendment:**

"To add "abolition of the provisional tax, and reduction of the unnecessary economic, operational and administrative procedures and costs borne by the business sector, with the small and medium enterprises in particular; and also study the" before "introduction of a two-tier profits tax system"; and to add "the provisional tax and" before "the standard rate of salaries tax"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Ronny TONG to Mr Albert HO's amendment, 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 Margaret NG, Mr CHEUNG Man-kwong and Dr Joseph LEE voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr Abraham SHEK, Ms LI Fung-ying, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Dr LAM Tai-fai, 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 amendment.

Ms Miriam LAU, Mr Vincent FANG, Mr CHIM Pui-chung, Mr CHEUNG Kwok-che and Mr Paul TSE abstained.

Geographical Constituencies:

Mr Albert HO, Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Miss Tanya CHAN and Mr WONG Sing-chi voted for the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr Albert CHAN, Mr WONG Kwok-hing, Mr LEUNG Kwok-hung, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr WONG Yuk-man and Mrs Regina IP voted against the amendment.

Mr LEE Cheuk-yan abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, three were in favour of the amendment, 16 against it and five abstained; while among the Members returned by geographical constituencies through direct elections, 29 were present, 14 were in favour of the amendment, 13 against it and one 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.



**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr Albert HO to Mr Paul CHAN's motion, 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 HO rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Albert HO 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 Margaret NG, Mr CHEUNG Man-kwong and Dr Joseph LEE voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Ms Miriam LAU, Mr Abraham SHEK, Ms LI Fung-ying, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Dr LAM Tai-fai, 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 amendment.

Mr CHIM Pui-chung, Mr CHEUNG Kwok-che and Mr Paul TSE abstained.

Geographical Constituencies:

Mr Albert HO, Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Miss Tanya CHAN and Mr WONG Sing-chi voted for the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr Albert CHAN, Mr WONG Kwok-hing, Mr LEUNG Kwok-hung, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr WONG Yuk-man and Mrs Regina IP voted against the amendment.

Mr LEE Cheuk-yan abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, three were in favour of the amendment, 18 against it and three abstained; while among the Members returned by geographical constituencies through direct elections, 29 were present, 14 were in favour of the amendment, 13 against it and one 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.

**PRESIDENT** (in Cantonese): Mr Paul CHAN, you may now reply and you have one minute 20 seconds. This debate will come to a close after Mr Paul CHAN has replied.

**MR PAUL CHAN** (in Cantonese): President, two Members, Dr PAN Pey-chyou and Mr WONG Yuk-man, have quoted earlier from a newspaper article written by me, accusing me of changing my stance. In fact, I have published many articles. Nevertheless, they have not read all of them, and have merely quoted out of context. Besides, Mr WONG Yuk-man might have either failed to read the details of my motion carefully or he is not well-versed enough in this subject, and therefore cannot comprehend the meaning of this motion at all. I certainly hope that he is not deliberately trying to mix up what is right or wrong, confuse people and create unnecessary social conflicts in such a way as to provide an excuse for the Government to "sit back" instead of implementing any reform.

The details of my motion are about enhancing Hong Kong's competitive power and creating more opportunities, so as to benefit most of the people, even each and every one. I have not said that I would request the Government to reduce the profits tax rate. On the contrary, as I have stated earlier, the Government should not have reduced the tax rate concerned by 1% in a simplified manner and threw a huge sum of \$6 billion at one go last year, while it failed to remedy the defects in the tax system of Hong Kong.

Honourable Members, as Secretary K C CHAN's earlier reply was absolutely bureaucratic in tone, I think it is even more imperative for us not to allow the Government to procrastinate any further. We should pass this motion and coerce it to do something. President, I move my motion on "Enhancing the tax system to keep Hong Kong competitive" as printed on the Agenda.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Paul 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 LEUNG Kwok-hung rose to claim a division.

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung has claimed a division. The division bell will ring for 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 Raymond HO, Dr Margaret NG, Mrs Sophie LEUNG, Ms Miriam LAU, Mr Abraham SHEK, Mr Vincent FANG, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr IP Kwok-him and Dr Samson TAM voted for the motion.

Ms LI Fung-ying, Mr CHEUNG Kwok-che, Mr IP Wai-ming and Dr PAN Pey-chyou voted against the motion.

Mr CHEUNG Man-kwong, Dr Philip WONG, Mr CHIM Pui-chung and Mr Paul TSE abstained.

Geographical Constituencies:

Mr Albert HO, Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr Frederick FUNG, Ms Audrey EU, Mr Alan LEONG, Mr CHEUNG Hok-ming, Mr Ronny TONG, Ms Starry LEE, Mr CHAN Hak-kan, Miss Tanya CHAN, Dr Priscilla LEUNG and Mrs Regina IP voted for the motion.

Mr LEE Cheuk-yan, Mr Albert CHAN, Mr WONG Kwok-hing, Mr LEUNG Kwok-hung, Ms Cyd HO, Mr WONG Kwok-kin and Mr WONG Yuk-man voted against the motion.

Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, Mr LEE Wing-tat, Mr KAM Nai-wai 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, 24 were present, 16 were in favour of the motion, four against it and four abstained; while among the Members returned by geographical constituencies through direct elections, 29 were present, 14 were in favour of the motion, seven against it and seven 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: Proposed establishment of a Tourism Bureau with dedicated responsibility for handling tourism issues.

(Some Members talked among themselves while leaving their seats.)

**PRESIDENT** (in Cantonese): Members, the meeting is still in progress.

**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 Paul TSE to speak and move his motion.

**PROPOSED ESTABLISHMENT OF A TOURISM BUREAU WITH DEDICATED RESPONSIBILITY FOR HANDLING TOURISM ISSUES**

**MR PAUL TSE** (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed. President, I will first raise three points for introduction, and then I will proceed to the eight items in the principal motion.

At the Chief Executive's Question and Answer (Q&A) Session on 15 January this year, Chief Executive said the following which I would like to quote here: "Regarding the proposal of setting up a tourism bureau and creating a director of bureau, I will give consideration to this. However, I do not know whether the Legislative Council will support it. Nevertheless, I will definitely consider this issue." President, today we are going to hand this responsibility back to the Government and Chief Executive by means of this motion. If this Council gives a clear message to the Government, it will definitely act accordingly as it has also given a very optimistic and positive response to the previous question. Some Members whom I have contacted have told me not to waste my efforts as the Government will not do it and this is just a waste of time. Nevertheless, I truly hope that I can force the Government to face this issue squarely through this motion.

Secondly, this is also my solemn pledge to my voters. This motion is in itself very much in line with the needs of the tourism industry and it also involved heavily with more technical issues. However, rather than proposing empty motions, such as the one concerning the tourism industry proposed by this Council in 1997-1998, which simply called for the revitalization of the tourism industry without putting forward any specific proposals, I hope that this motion is a wake-up call that will invoke more discussion among the industry and Members of this Council and give more ideas for the reference of the Government.

Thirdly, this motion is not only concerned with the tourism industry but is also involved with the revitalization of Hong Kong's economy, as tourism is vital to Hong Kong. I will place emphasis on this aspect again later on.

President, the Government has recognized that tourism as one of the four economic pillars of Hong Kong years ago but has it provided sufficient resources and support to this industry? Or is it just paying lip service, and its words never count? Let us look at Hong Kong's GDP. According to the Government's record, tourism only accounts for about 3.2%. However, in his reply to this Council's question on 11 March this year, Secretary Prof K C CHAN admitted that such a figure might have underestimated the importance of the industry. Now I would like to challenge Members present here today who are from various sectors: which one of your sectors involves more other sectors and concerns more trades in society than tourism? You can refute me anytime.

Just taking a glance, we can readily find that the trades which are related to tourism include those we are most familiar with, such as shipping, transportation, hotel, catering, entertainment (including culture, art, sports), retail, wholesale, export, IT (ticketing), conference and exhibition, planning, construction (involving hotels and tourist attraction points), finance (arrangements involving the credit card), insurance, and even some "extraordinary business", namely "vice establishments, gambling and drugs". Moreover, other than developing the cruise industry, the new proposals put forth by the Government recently, such as the recreation of the health care and education industries, and even the red wine industry, are all linked to tourism.

I can recall that in my casual conversation with the President some time ago, the President said that he admired my ability to link tourism with any topics brought up in this Council. However, it is a fact that all industries are involved with tourism. They are just inseparable.

President, tourism is an industry that can revitalize the economy quickly. Compared with the 10 infrastructure projects or any other industries, tourism can help to bring our economy out of the abyss of the depression faster. It can also create many employment opportunities and the jobs thus created require workers with general knowledge rather than special expertise. With only a few months' training, unemployed workers can find jobs in this industry. I do not think I need to elaborate further the economic benefits of tourism in this respect.

President, we have also noticed the importance of tourism has become increasingly complicated. Incidents such as the outbreak of H1N1 and SARS, the political uprising in Thailand, earthquakes, snowstorms, all have bearing on

tourism and can lead to serious consequences if not handled properly. Hence, the importance of tourism cannot be underestimated.

Furthermore, the importance of the tourism industry also has a global meaning. As we engage ourselves globally, the whole world becomes our competitor. If we excel we can beat the whole world, but once we underperform we will be beaten by the world. On the other hand, if we excel in a certain area, we can transfer our skills to other countries. For example, the hotel industry in Hong Kong has always performed excellently and the Mainland imports plenty of hotel professionals from Hong Kong in no time.

The tourism industry also requires making decisions promptly. As I said earlier, in the face of many emergency incidents, and natural and man-made disasters, we must issue alerts and arrange for the evacuation of tourists, and all these require prompt decisions. Why do I consider it necessary to have a bureau secretary handle tourism issues? First of all, we need to understand its importance.

President, as regards our present situation, which I wish there will be sufficient time for me to elaborate on the shortcomings of our present situation if I have the chance later. I believe that many colleagues will also talk about the inadequacies of our present situation. I hope that I can give more details about this point when there is time.

I would like to return to other points first, that is, why I think that consideration should be given to upgrading the present structure of the Tourism Commission to a bureau and promoting the position of Commissioner for Tourism to that of a bureau secretary. I have already mentioned just now the two issues, namely the importance of tourism and the inadequacies of the present situation. The third issue is that tourism usually involves interdepartmental policies. This was evidenced by the incident involving the "Tatami Hampton Hotel" in which because of a lack of co-ordination among various departments, tourists coming to Hong Kong fully expecting Hong Kong to provide them with "the best treatment for tourists in the world", ended up having to sleep on the streets, something that would never have crossed their minds.

Another incident was the evacuation of Hong Kong residents from Thailand, which also involved many departments. When explaining why it took



so long for the Government to decide to evacuate the people, Secretary Ambrose LEE also indicated that such an action involved too many departments and too much co-ordination work. Therefore, co-ordination is very import. If an officer at the rank of D6 is to compete with an officer at the rank of D8 for manpower and resources, what can he say? Among our colleagues present here today, some are also former bureau secretaries and they should be very clear that D6 and D8 officers seldom agree with each other as they are not on an equal footing. They would have to go through many detours in order to negotiate something. Why do I think that under the present situation that tourism issues are handled by more than one department, the Commissioner for Tourism cannot achieve what need to be accomplished? Even though she has tried her best, some people from other trades joke that there is a beauty queen from the police in the tourism sector, which is a fact that she is beautiful. Although she has made great efforts, she is still unable to address the present situation and achieve the efficiency that should be achieved. It has nothing to do with her own ability, just like the general should not be blamed for losing the battle. That is only because that a beauty queen from the police has been assigned to carry out the work of a Police Superintendent and that will naturally create difficulties for her.

Fourthly, the policy on tourism usually entails longer-term endeavours, such as the expansion of the airport and transportation system, building more theme parks, holding mega event, conducting big marketing promotion activities, as well as conservation and environmental protection work, which all involve long-term policies. Take the recent development of the Fisherman's Wharf as an example. This project had been under discussion for a decade but was finally shelved abruptly like a burst bubble. Why? That is because the Government did not have a long-term policy consideration, neither a ranking tourism official to follow through the whole project.

President, more and more large-scale projects will commence work in Hong Kong, such as the construction of the Cruise Terminal, the expansion of Disneyland, the construction of the West Kowloon Cultural District and also the Fisherman's Wharf, which was supposed to be a burst bubble, and these projects all need to be supervised by a forward-thinking bureau secretary with adequate experience and exposure.

President, we are also in the face of great opportunities, for instance, the potential opportunities brought by the Individual Visit Scheme, the change of the policy on "Three Direct Links" across the Taiwan Strait and the progress in the

development of the ASEAN, which are all excellent opportunities for the tourism industry if we take good advantage of them.

President, tourism is not an internally oriented industry which involves internal competition only; rather, it is open to the whole world. If we do not perform well in this industry, other countries will take over our place and surpass us. This is a sum-zero game with everyone competing against one another for tourists and markets. Compared with our neighbours such as the Mainland, the China National Tourism Association is headed by a very high official in the rank of a Department Director. In fact, Mr SHAO Qiwei was promoted from the rank of vice-governor of a province to the present rank of a minister. Even our neighbour, Macao, has also placed tourism affairs under the charge of a very high-ranking policy secretary. The policy of Singapore is even officially established early on. The Singaporean government made a very clear decision in its strategy in 1995 to attach great importance to the development of tourism in order to compete with other countries and earn a profit. A thriving tourism industry will certainly make a profit quickly and revitalize the economy in a short time.

A few days ago, there was a television programme on the victims of the earthquake in Wenchuan who succeeded in turning the earthquake stricken area into a tourism project to let tourists see the plights of the victims in the aftermath of the earthquake. They would, for instance, cook some rural village dishes for the tourists to taste and such a "tourist attraction" could bring in hundreds of thousands of yuan. If it is managed well by the nation, the tourism industry is one of the fastest and most effective means to revitalize the economy.

President, I have to point out also that the revitalization of tourism is a matter of great urgency. About one or two weeks ago, there were many reports about the outbreak of H1N1 on the television and the outbreak has, so to speak, paralysed the tourism industry in Hong Kong. On the television, we could see the solemn face of Secretary York CHOW when he spoke, as if Hong Kong was faced with a grave enemy and about to collapse. Even on the television in other countries, we could see that many people in Hong Kong were wearing protective clothing and the street was full of policemen, which also sent out a very negative message. Of course, after the lesson learned from the outbreak of SARS, there is no doubt that the present epidemic in front of us needs to be handled with great care, and there is no cause for heavy criticism. However, why is it that we cannot have a smiling Secretary for Tourism sitting opposite Dr York CHOW Yat-ngok — not necessarily Dr York CHOW as he has a nickname "CHOW

Yat-'wok'", meaning he always has to deal with "woks", serious problems, that is. Why can we not have among us the Secretary for Tourism as a "CHOW Yat-lok", one who can always bring happiness and good fortune, to balance out this negative feeling? That is to say, although Hong Kong is dealing with an epidemic, it is still very safe here, and we will continue to introduce various supporting tourist facilities and tourist facilities, hence there is nothing to worry about. Besides, Hong Kong is not an infected area yet. Why is there not such a vision? Therefore, I think that the revitalization of Hong Kong's tourism industry cannot wait; and we need a bureau secretary who is forward-thinking and has the resolution, vision and capability to deal with these problems for us.

Many colleagues have expressed support for my proposal. However, the Government will definitely not approve the establishment of a new policy bureau. Besides, there is no reason to waste the resources as the public funds must be properly used. However, I would like to ask again which trade or industry can help to revitalize Hong Kong's economy faster and earn more profits than the tourism industry? Our issue here is that our present investment will not be wasted because the tourism industry is our means and condition of making profits. As long as we recognize its importance, we will obtain sufficient resources soon. This is totally justified, which means the use of the resources can be explained and they are properly used and can help to revitalize Hong Kong's economy.

President, I am afraid that I will not have too much time to explain the present situation of this industry but I believe that many colleagues will talk about the inadequacy of the Tourism Bureau, the Travel Industry Council or other tourism structure. Perhaps when I make my response later I will elaborate why I consider the tourism industry to be in dire need for improvement, why I consider that there needs to be a higher level of management and a higher ranking official, that is a bureau secretary, to take the charge and co-ordinate all tourism affairs. Why was it that when a tree fell, an official at the ranking of a Secretary of Department, the Chief Secretary for Administration, was assigned to set up a committee to co-ordinate the work of saving trees but not an official of similar ranking has been assigned to salvage the tourism industry, the pillar vital to our economy? Why is there not sufficient government funding allocated to carry out improvements and reform in support of the tourism industry? To me, this is a grave problem.

Thank you, President.

**Mr Paul TSE moved the following motion: (Translation)**

"That, in order to promote the development of Hong Kong's tourism industry in a more effective and systematic manner, this Council urges the Government to:

- (a) establish a "Tourism Bureau" and confer dedicated powers and responsibilities on the "Secretary for Tourism" to formulate tourism policies and take charge of the business of the Bureau, including coordinating the various organizations which regulate and promote the development of tourism, such as placing the Hong Kong Tourism Board (which is responsible for marketing and promotion), the Travel Industry Council of Hong Kong (which is responsible for regulating travel agents) and the Travel Agents Registry (which is responsible for the licensing of travel agents) within the purview of the Tourism Bureau, and immediately review and abolish over-lapping structures and work procedures, so that the departments can focus on their respective responsibilities and cut down expenditure;
- (b) confer on the "Secretary for Tourism" the authority to represent the Hong Kong Special Administrative Region Government to attend meetings organized by travel organizations worldwide, and directly liaise with the official tourism representatives of various places to handle and promote tourism-related policies and issues;
- (c) assign departments with specific responsibilities to take charge of (i) sea and land transport that primarily serves tourism; (ii) hotel business; (iii) the management and development of tourist attractions; and (iv) tourists' protection and complaints, so as to ensure that every tourism-related issue is efficiently and directly handled by a corresponding department;
- (d) authorize the "Tourism Bureau" to take over the jurisdiction on hotel licensing to formulate a licensing regulation and rating mechanism, so as to safeguard the rights of tourists;
- (e) formulate a regulatory and rating mechanism for tourist attractions and coordinate and promote the development of new tourist

attractions, so as to safeguard the right to know and consumers' rights of both local and inbound tourists;

- (f) confer financial power on the "Tourism Bureau" to handle applications for huge expenses for promoting tourism, determine the establishment and remuneration arrangement of the organizations within the purview of the Bureau, regularly review the accumulated balance of the Travel Industry Compensation Fund and adjust the level of stamp levy, reduce the licence fees of travel agents, and abolish the "Council Levy" which was previously used for operating the Travel Industry Council of Hong Kong, so as to reduce the operating costs of the industry;
- (g) establish a contingency mechanism under the "Tourism Bureau" to handle tourism-related crises, review the existing mechanism for issuing "travel advices" and "travel warnings" and its efficiency, and arrange Hong Kong tourists stranded overseas to return to Hong Kong;
- (h) ensure that the departments under the "Tourism Bureau" fully seek the views of the representatives of the tourism industry and invite operators of the industry to take part in policy formulation, so that the policies will closely follow the needs of the market; and
- (i) strive to encourage and assist community organizations and private enterprises in exploring, conserving and developing tourist facilities, and organizing and promoting tourist events or projects that have local characteristics or are appealing to tourists."

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

**PRESIDENT** (in Cantonese): Mr Fred LI will move an amendment to this motion. This Council will now proceed to a joint debate on the motion and the amendment.

I now call upon Mr Fred LI to speak and move his amendment to the motion.

**MR FRED LI** (in Cantonese): President, I move that Mr Paul TSE's motion be amended. In fact, my amendment is just to let us have one more choice, and I propose that some detailed research be conducted. As to the issue concerned, I absolutely agree to it. I am very glad to see Mr Paul TSE moving this motion today, and I believe the fact that Mr Paul TSE was elected into this Council by the tourism sector as their representative also reflects that there is a lot of dissatisfaction in the tourism sector. So they hope that he can do something in this Council. In the past, the tourism sector had all along been represented in this Council by Members from the Liberal Party. We can see that whether it is the Travel Industry Council or the Hong Kong Tourism Board (HKTB), its representatives have always been appointed from Members from the Liberal Party.

Of course, I support Mr Paul TSE's motion as I have actually raised a similar issue years ago. Long before Mr SO took up the office of Under Secretary, and when Mrs Rebecca LAI still served as the Commissioner for Tourism, the Ordinance had been amended incessantly and every time I would raise an issue. That is about the Travel Industry Council, which is a business association currently responsible for the self regulatory and licensing matters. Although it is not responsible for the issuance of licences, you will not be allowed to start business operation if you do not become its member. In such way, it has the power of licensing indirectly — it even has the power to revoke licences and impose punishments, all of which come under the responsibility of the Travel Industry Council, an organization controlled by the representatives of travel agents. I am absolutely dissatisfied with this.

As Mr TSE has just clearly said, the tourism industry is one of the four economic pillars of Hong Kong. Speaking of the organizations related to the tourism industry in Hong Kong, I can list four organizations for you. First, it is the Travel Industry Council, which is a business association responsible for regulating the travel agents, both for inbound and outbound tours. Second, it is the HKTB, which spends hundreds of millions of dollars a year on marketing to promote Hong Kong and attract more visitors to Hong Kong. Third, it is the Tourism Commission, which is responsible for creating more scenic spots for tourists and co-ordinating the matters relating to tourism, and which is a

government department. Fourth, it is the Registry of Travel Agents, which is responsible for the registration and revocation of the licences of travel agents. Actually it is more than these. I wish to tell you there is one more organization which is responsible for the licensing of hotels, but not included in the abovementioned four organizations. It is the Home Affairs Department. Despite that hotels are closely related to the tourism industry, the relevant work is passed to the Home Affairs Department, a department with dedicated responsibility for local affairs. This department simply has nothing to do with the tourism industry. No wonder some of the tourists were surprisingly placed in a community centre when their hotel met problems, thereby prompting the Chief Secretary for Administration to say such words as "with thingies dangling".

How come such an important economic sector — a source for the economy of Hong Kong — is put under the joint administration of several different organizations. So which organization will actually take the leading role and be responsible for the co-ordination work? They would just end up with "eyes gazing at each other". That is why the development of the tourism industry in Hong Kong has really come to a stage where reform is necessary.

Firstly, there must be a strong and powerful organization to take charge of the co-ordination, and the responsibility should not be split among four or five organizations any more. I have already conducted research on this issue for a long time. Let me quote to the Government an example, which is the Estate Agents Authority (EAA), for its reference. I had been its executive member also appointed by the Government. The EAA is responsible for providing training to the estate agency sector as a whole. Like tour leaders in the tourism industry, estate agents also have to obtain licences and receive training. The EAA has the power to revoke licences, impose penalties and other punishments, and is also responsible for enhancing the standard of the entire industry and regulating their operations. However, the EAA is basically headed by individuals outside the sector. Its Chairman must be selected from outside the sector. Only one fourth of its members come from within the sector. The remaining three fourths can be said to have nothing to do with the sector, and they come from all trades and professions. They are only related to the interest of consumers.

Basically, I fully support the line of thought of the Government. But why is it that among the 29 Directors of the Travel Industry Council for the tourism industry — being itself a business association rather than a statutory body — 60% of the Directors are from the sector, who are also owners of the travel agents?

Mr WONG Kwok-hing is very concerned about the tour guides, and they simply have no representatives there. There is not even a representative from the front-line staff. Big bosses of the travel agents have already taken up all seats of Directors in the Travel Industry Council. The so-called representatives from the eight trade associations are all elected from those in the tourism industry, even the Chairman is also from the tourism sector. From this we can see that the Travel Industry Council is basically a self-regulatory body headed by the sector itself. May we ask how it can help resolve the conflicts between the consumers patronizing the travel agents and the travel agents having their own interest concerns? We simply cannot see how it can resolve the relevant issue.

Let us look at the neighbouring regions such as Singapore, Macao and Taiwan competing with Hong Kong. They all have an authority in place to take care of the duties of regulating, developing and promoting the tourism industry. For example, in Taiwan, they have a Tourism Bureau under the Ministry of Transportation and Communications, and in Macao, they have a governmental Tourist Office. All these are government bodies. They are exactly tantamount to the Tourism Bureau, which is intended to be a government body, as mentioned by Mr TSE. However, the statutory body that I proposed is to be set up by reference to the practice of Singapore. Singapore has a Tourism Board, which is a statutory body responsible for the marketing and promotion, the regulation of travel agents and the handling of the licensing of travel agents with all functions put together in one body. Nevertheless, it is a statutory body, and its nature is similar to the EAA that I have just mentioned. It is also backed up by legislation, hence a statutory body, and the government is substantially involved in it. Currently, the Government plays an insignificant role in the Travel Industry Council with little involvement and no legislation to back it up.

As such, we have very seriously studied Mr TSE's proposal to see whether a Tourism Bureau should be set up, thereby converting the structure of three Secretaries of Departments and 12 Directors of Bureaux into 13 Directors of Bureaux. We must discuss the proposal carefully, and provide one more choice to our colleagues. This is to hope that we may consider setting up a statutory body similar to that of Singapore rather than adding a new government body and a bunch of secretaries, under secretaries and political assistants with no reasons. Would it be better for a statutory body to take charge of the tourism work?

I would like to talk further on the Registry of Travel Agents, which is notionally responsible for the registration and revocation of the licences of travel agents. However, it is provided by the Government as a condition for the



issuance of licence that an applicant must be a member of the Travel Industry Council. The Travel Industry Council covertly plays the role of a gatekeeper before the licence applications are handed over to the Registry of Travel Agents for its handling. You will not be able to apply for a travel agent licence if you are not a member of the Travel Industry Council. So we can see how important the Travel Industry Council is! Not only can it impose punishments, penalties and suspension of licence, but it can also propose to the Government to revoke a licence. All these are within the ambit of its powers. It is not only a judge, but also a policeman despite that it comprises members from within the industry. So there have been a lot of scandals incessantly coming up in the Travel Industry Council during the period from 2007 to 2009. For instance, more than a year ago, six Directors of the Travel Industry Council were respectively involved in more than one complaint relating to problems such as "zero fare" tours and dishonest means to deceive mainland travellers into visiting Hong Kong. All of these are related to the Directors of the Travel Industry Council, and many such complaints have been received. This exactly reflects the problem of "people in the industry regulating people in the industry". Where is its credibility? Even the candidature of Mr Paul TSE for the Legislative Council seat had caused incessant disputes, such as that someone had persuaded him not to run the candidature, or that the said Executive Director had resigned to run the same candidature and resumed to take up his original position after being defeated in the election. We can see that this is just the way the Travel Industry Council operates, but such an impermeable business association now dominates the important development of our tourism industry.

Although the Democratic Party brought up this issue a few years ago, not many colleagues supported us as words of the lowly like us carried little weight. I therefore wish to amend the motion moved by Mr TSE today. We are not totally opposed to setting up a Tourism Bureau. It is, however, only one of the modes, and different countries have different ways of handling it. We just hope that this matter will not drag on any more, and we will no longer have four or five organizations promoting the tourism industry, one of the four economic pillars in Hong Kong, in such a manner. Therefore, the Democratic Party hopes that Honourable colleagues will support the amendment that I proposed, and I also believe that Mr TSE will not object to my amendment. We all hope to contribute some effort to develop the tourism industry and create a better economy for Hong Kong.

Thank you all.

**Mr Fred LI moved the following amendment: (Translation)**

"To add "as members of the Board of Directors of the Travel Industry Council of Hong Kong, which is currently responsible for regulating travel agents, are mainly from the tourism industry, this has given rise to a phenomenon of people in the industry regulating people in the industry;" after "That,"; to delete "establish" after "(a)" and substitute with "consider establishing"; to delete "and confer dedicated powers and responsibilities on the 'Secretary for Tourism'" after "a 'Tourism Bureau'" and substitute with "or setting up a statutory body"; to delete "and take charge of the business of the Bureau" after "tourism policies"; to add "or the statutory body" after "the Tourism Bureau"; to delete "'Secretary for Tourism'" after "confer on the" and substitute with "'Tourism Bureau' or the statutory body"; to add "or the statutory body" after "authorize the 'Tourism Bureau'"; to add "or the statutory body" after "power on the 'Tourism Bureau'"; to add "or the statutory body" after "purview of the Bureau"; to add "or the statutory body" after "mechanism under the 'Tourism Bureau'"; and to add "or the statutory body" after "departments under the 'Tourism Bureau'".

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

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, as pointed out by Mr Paul TSE and Mr Fred LI, the tourism industry is one of four pillars supporting the economy of Hong Kong, and accounts for 3.4% of our Gross Domestic Product, and a total inbound tourism-related expenditure of \$159 billion. The tourism industry also helps to give a boost to the development of other related industries. What is more, the performance of industries like transport and shipping, hotel, retail, as well as food and beverages is closely related to the tourism industry. That is why the Government has attached considerable importance to the tourism industry.

Over the years, Hong Kong's tourism-related policies, promotion and supervision framework have all along been evolving with reference to the market trend and the consensus between the industry and the community. The expansion of the supervisory role played by the Travel Industry Council of Hong Kong (TIHK), the establishment of the Tourism Commission and the Hong Kong

Tourism Board (HKTB), and so on, are the policies the Government has made in response to the market needs and the challenges confronting the tourism industry, and the Government has come up with such policies after extensive consultation and discussions with the industry.

Under the Government's existing framework, tourism matters fall within the policy portfolio of the Secretary for Commerce and Economic Development, and handled by the Tourism Commission under the leadership of the Commissioner for Tourism (Commissioner). In the event that the matter concerned involves the work of other policy bureaux or government departments, the Commissioner, the Permanent Secretary for Commerce and Economic Development and the Secretary for Commerce and Economic Development will co-ordinate efforts to resolve the matter.

The Tourism Commission is responsible for formulating the Government's policies and strategies for developing the tourism industry. It is also responsible for co-ordinating liaison with the industry, with a view to enhancing the efforts to promote the industry's development. In performing its various functions, the Tourism Commission has all along been maintaining close contacts with the tourism industry, the HKTB, the TIHK, the hotel and retailing industries, and so on, so as to listen to their views and suggestions regarding the development of Hong Kong's tourism industry and the promotion efforts concerned. Representative from the trade and the relevant organizations are also appointed as members of the relevant statutory bodies or advisory agencies, with a view to reflecting the views of the relevant sector.

The restructuring of a policy bureau is a big move on the administrative front. In order to complement the policy highlights of the Government and to fulfil its administrative responsibilities in an efficient and effective manner, the Government introduced a major restructuring to the Government Secretariat in 2007. While the said restructuring took place only two years ago, after every restructuring, the running-in of bureaux and departments would take quite some time. We have to take into account the question of whether or not frequent restructuring would have an impact on the implementation and consistency of policies. As Mr TSE has pointed out, quite a large number of policy areas are related to tourism, such as maritime transport, immigration policy, and so on. It just may not be the most effective or efficient practice to put all these policy areas under one single policy bureau.

President, how to perfect the relevant framework in a continuously changing environment is a challenge both the Government and the tourism industry have to face up to. I will keep on listening carefully to the views of the Legislative Council, and give our response later today.

Thank you, President.

**MRS REGINA IP** (in Cantonese): I am grateful to Mr Paul TSE for moving this motion today, so that we can discuss the development of the tourism industry.

I have communicated with Mr TSE before my speaking, and I asked him why he wanted to establish one more policy bureau. Superficially, some colleagues may feel that such measure sounds like "one more incense burner means one more ghost". If the Government adds one more policy bureau, it will mean adding a bunch of under secretaries and political assistants. Will it be an unnecessary move? Mr TSE said the principle behind his thought was the same as the thought behind the motion I had moved earlier, in which I suggested establishing a bureau with dedicated responsibility for innovation and technology as well as cultural and creative industries, so as to drive forward the development of creative culture and technology innovation industries proposed by the Chief Executive. That is, if we want to do things well and this industry is important, the Government should handle it in a focused manner, and appoint an official at the bureau level with dedicated responsibility for it. Also, as what Mr Fred LI has just said, let all matters relating to tourism ..... Taking hotel registration as an example, why is it the responsibility of the Home Affairs Bureau? This arrangement has been in place for decades. Perhaps the homes affairs department at that time treated hotels as dormitories, and consequently it was responsible for their registration. But that was a long time ago. There are currently several organizations related to the tourism industry, which should be co-ordinated by a single bureau-level government department, and grouped together under the administration of an official at a higher level.

On hearing the explanation by Mr TSE, I share his view. Especially Mr TSE and Mr LI have just pointed out that many competitors in the tourism industry in the neighbourhood such as Singapore, Malaysia and Thailand have established authorities with dedicated responsibility for tourism. In particular for Malaysia, I think that they have spared no efforts and resources in promoting

the tourism industry with a great deal of TV advertising. However, we do not even have a film trailer. I have talked to Mr LAU, the Executive Director of the Hong Kong Tourism Board, and he said this is a problem with resources and the shooting of a film trailer is a small problem; but if it is to be broadcast on the CNN, it would still be inadequate no matter how much public money you have. However, Malaysia has many film trailers targeting at different visitors and promoting its attractions. In fact, how many resources can a Commissioner for Tourism at D6 rank secure? Perhaps we can look at our country's National Tourism Administration. Although it is called Tourism Administration, its leading official is in fact at the ministry level, which shows how much importance our nation attaches to the tourism industry. That is why it comes under the responsibility of a ministry-level official. As such, in principle, I am in support of it.

I have pointed out to Mr TSE that the only reservation I have about his motion is that I want him to clarify what is meant by placing the Hong Kong Travel Industry Council and the Travel Agents Registry within the purview the Tourism Board? He explained that it is not to turn them all into governmental departments, especially the Travel Industry Council, which is a council for the industry, and the Tourism Board, which is a non-government public body. I think that they should not be converted into government departments as they will be subject to the Government regulations in many areas once they become a government department, hence lacking the flexibility. If their existing status is maintained, they can do a lot of things that the Government cannot do. Therefore, I think we should maintain their flexibility. Mr TSE has explained to me that what he meant by placing them under the Tourism Board is to strengthen the leadership and management, but not to turn the Travel Industry Council which is an organization representing the industry into a government department. On this point, I think it is all right after having had an understanding of it.

Another reason for my support of Mr TSE's motion is that the tourism industry is indeed very important to Hong Kong despite the fact that it only accounts for just more than 3% of the GDP. I do not want to be entangled with the Government on figures, as it needs to seriously study how the Government did the calculations. Nevertheless, according to those whom I have come into contact, I know that the tourism industry is very important, be it for the local small businesses such as the tea restaurants like the one down below my office in Wanchai, or for the high-class city shops in Admiralty and Central. We notice that most of their business relies on the mainland visitors, particularly at such a

time when the unemployment rate remains high, and many workers have stopped patronizing the tea restaurants for breakfast or afternoon tea break as they are out of work. The wife of the owner of the tea restaurant down below my office told me that she totally relied on the Renminbi earned from the travellers of DIY tours to pay the rent. Of course, the Government may need to do some more for the high-class restaurants, and see how the attraction of Hong Kong can be maintained, so that we can attract more European visitors to come to Hong Kong and keep patronizing the high-class restaurants and the Swiss restaurants in five-star hotels.

In fact, our tourism industry encounters a lot of challenges, and a very obvious challenge comes from Taiwan. Under the policy of "Three Direct Links", Taiwan is closely linked to the Mainland in terms of geographic and blood relationships, as well as language and cultural linkage. They have many scenic spots that Hong Kong does not. For instance, as regards mountains and rivers, Taiwan has more magnificent mountain and river sceneries than Hong Kong. They have the National Palace Museum that Hong Kong does not. As such, it really deserves our worry as regards the prospect of the tourism industry if we do not enhance our attraction, and do more in the five items of work as proposed in Mr TSE's motion, including monitoring the scenic spots, and conferring more financial power on the Tourism Board — I am not saying to spend money indiscriminately, and the Legislative Council will try its best to monitor it.

In addition, for example, we will develop a cruise-ship terminal, which is an investment project worth \$7 billion. However, I heard from the industry that it was in fact not easy to do this project well. If Hong Kong is to become a hub for cruise-ships, its site should be able to let the tourists alight the liner at around 6 o'clock in the evening to enjoy a splendid meal on shore before returning to the liner to sleep, and then go to another city the next day, like in the Mediterranean and the Caribbean where the cruise-ships can visit a city with different culture and characteristics every day. Given the geographical location of Hong Kong, it takes more than one day to sail from Hong Kong to Sanya, and liners may encounter heavy wind and wave en route to Taiwan, which is actually not very ideal. We therefore need to do much more if we want to develop Hong Kong into a hub for cruise-ships.

I support Mr TSE's motion in principle. As to Mr Fred LI's amendment, it is, in principle, all right with me. Of course, it will be better if we can do it as

soon as possible, and it is also good to do a research. As to the issue whether we need a statutory body no matter what, I have some reservation about it. But I also think this is not a big problem. I therefore support the original motion and Mr Fred LI's amendment. Thank you, President.

**MR CHIM PUI-CHUNG** (in Cantonese): President, I speak in support of the original motion and the amendment. President, as we know, Hong Kong was basically a trading city in the 1950s. At that time, the community as a whole was very poor, and all we could see were squatters when we looked up from the Victoria Harbour. There were simply no permanent flush toilets in the Central and Western District. Naturally, the tourism industry was not flourishingly developed under such circumstances. However, we can see from the existing conditions of Hong Kong that members of the public, no matter to which class they belong, will try to travel to places outside Hong Kong whenever they have time and opportunity. Similarly and correspondingly, people of other countries or cities around the world will also try to travel to Hong Kong.

Hong Kong is richly endowed by nature as we have our Motherland at our back. There are lots and lots of scenic attractions in the neighbourhood, and now people will go to Macao and even China via Hong Kong and other places. The attraction of Hong Kong is very, very great.

Does the Government really attach importance to the issue we are discussing and debating today? I am personally in doubt about it very much. However, as some Members have just said, the tourism industry is a very important sector in Hong Kong. If the Government still gives no emphasis to it, and remains apathetic ..... What purpose can it achieve for the Under Secretary to come to this meeting today? May he try to do his best and perhaps send our words to other departments and officials of the Government when he goes back so that they also have the opportunity to listen to what we have said. Nevertheless, is our Government a responsible government? In this regard, I am greatly doubtful about it, but I still hope it will really wake up to reality, and realize that it is not simply just to have the job done, but requires bold commitment, and that it also has to be held accountable to the members of the public, to mainland China and to the World.

President, as our original motion is that we hope we can establish a policy bureau, we are naturally dissatisfied with the existing equipment and facilities,

that is, we want to pull them down and start anew. According to my understanding, there are currently three departments, and one of which is the Commissioner for Tourism, which was originally intended to have the official regulatory status. But what has it done? It is no more than a big public relations agent. As for the official Tourism Board ..... Mr Paul TSE has just said that the Chief Executive had criticized it as a "big spender", which has spent lots and lots of money without bringing about any benefit and effect. It needs to be reviewed as it fails to do so, and be subject to criticism in the process of review so that it will make improvement and do things better in the future after hearing the criticisms. That is the most important aspect they have to encounter.

Another one is the Travel Industry Council. We understand that the Travel Industry Council is a private organization representing the tourism industry. The Council receives a lot of feedbacks from members of the tourism industry. From 1993 up to now, there is a so-called Travel Industry Compensation Fund. If there are problems with some travel agents and resultantly the travellers cannot make their trips as scheduled, compensation will be given to them. I have just mentioned that the Travel Industry Council has only made out an amount of compensation of approximately \$20 million from 1993 up to now. However, judging from the current situation, the Compensation Fund still has a reserve of more than \$500 million. Therefore, many members of the tourism industry have reflected and demanded that collection of contribution to the Compensation Fund should be suspended immediately. My personal view is that it will not be too late to resume the collection of levy when the reserve of the Fund has dropped to an amount of about only \$100 million, if there is no cap set for the compensation made out from the Fund. As such, the Government, in particular the Commissioner, has to conduct a study to see if this is true, and if so, immediately cancel such Compensation Fund for the benefit of the public.

President, the second mistake committed by the Travel Industry Council is that it hitherto requires that any member of the tourism industry must be a member of the Travel Industry Council before it is qualified to apply for a licence. This is unreasonable. According to the Basic Law, everyone shall have the freedom of association or incorporation. Why is it that one must be its member? The Government does not recognize its status, and has not made public its duties and responsibilities, and why is it that it requires that one has to be its member? Are there any ulterior motives and does it involve other illegal activities? Regarding this point, I believe the members of the industry will



lodge a complaint with the Independent Commission Against Corruption (ICAC), and the ICAC should impartially conduct investigations into the matter. Why are they allowed to enjoy such powers and conditions to do such things that cause so much inconvenience to the industry? So this is what the Commissioner for Tourism needs to face and tackle immediately.

President, the third issue is that they now have the income from the stamp duty and other sources. The Travel Industry Council has an Executive Director, and what I mean is Mr Joseph TUNG; maybe it is unfair to him for me to say this here because he has no right to respond in defence. Nevertheless and anyway, in fact he has resigned so as to participate in the Legislative Council election, and resumed to take the post after being defeated in the election. We firmly believe that he is a talent. However, if there is only one talent like him in the Travel Industry Council, I personally think that it is necessary for them to conduct a review. Is their way of doing things like that credible and representative in society? What are the reasons?

Tourism, which is orientated towards the world, concerns with everyone in Hong Kong. It does not merely involve the interest of them — a small group of people in the industry. They have to be held accountable to the whole world and all members of the public in Hong Kong for what they have done, in particular to the electors in the tourism functional constituency and its representatives, as the tourism industry is an institution in which credibility counts, and it works to have real money for buying real things. If its credibility is in doubt, what its representatives have conveyed will be called into question by members of the public. I hope such thing will bear no legal effect. However, one who serves as the Commissioner for Tourism has to be accountable to the industry and the Hong Kong citizens in relation to the third issue.

President, from my point of view, it needs no more saying anyhow if the HKSAR Government only considers that the tourism industry is important but cares nothing about the bold commitments.

**MR CHAN KAM-LAM** (in Cantonese): President, the tourism industry is one of the economic pillars in Hong Kong, generating for Hong Kong a tourism revenue of approximately \$150 billion every year. According to the statistics of the Hong Kong Tourism Board (HKTB), the total expenses related to inbound tourism in Hong Kong in 2008 amounted to \$158.95 billion. The above results

attained by the Hong Kong tourism industry are partly due to the policy support of the Mainland Government in expanding the DIY tours incessantly and in adopting a recent measure to allow Mainland residents to travel to Taiwan from Hong Kong by taking cruise vessels homeporting at Hong Kong. The DAB considers that the SAR Government must strengthen its effort in bettering the co-ordination so as to achieve the best policy effect for the sustained and prosperous development of the tourism industry in Hong Kong.

Despite that the Hong Kong Government has put in a lot of resources to expedite the work for tourism, and strictly monitor the market with a view to protecting the interest of the tourists and consumers, it is a pity that it has still been criticized all along. What aroused much attention was that the HKTB was criticized as a spendthrift, and its former Executive Director was reproached for squandering money and being inefficient. More sensational was that the CCTV exposed a scandal involving the visitors of Mainland tours who were arranged to visit "unscrupulous shops" and were forced to go or misled into going shopping, in which the reputation of Hong Kong being a tourism capital was tarnished. The reasons for it are the problems of both policy and implementation. Not only are there regulatory problems, but also structural problems. There is a need to improve the existing mechanism if we want to drive forward, with enhanced effort, the development of the tourism industry in Hong Kong.

While we agree that the Hong Kong Government should strengthen its role in co-ordinating the matters concerning tourism, we have reservation about the original motion which proposes the establishment of a Tourism Bureau with dedicated responsibility for handling the tourism issues. As indicated in the information provided by Mr Paul TSE today, the Hong Kong Government had established the Hong Kong Tourist Association since 1957 for the development of the tourism industry, which was responsible for co-ordinating all issues concerning inbound tourism. Thereafter, a number of bodies have been established to oversee the operation and licensing of travel agents. In 1993, in response to the problems arising from the operation of the tourism industry and the accidents involving outbound tours, the Government set up a Travel Industry Compensation Fund. The existing Tourism Commission is a government department responsible for formulating policies for the development of the tourism industry as a whole. If the existing Tourism Commission is to be disbanded and a new Tourism Bureau independent of the Commerce and Economic Development Bureau is to be set up, it will not only increase the administration cost, but also make it difficult for the overall planning and

co-ordination work to be conducted to tie in with the development of other economic sectors in Hong Kong.

There are currently three departments and bodies responsible for the industry with a clear division of labour: the Tourism Commission is responsible for formulating policies, the HKTB for promoting tourism, and the Hong Kong Travel Industry Council (TIC) for regulating the industry. If any change is needed, we should proceed with it on the existing mechanism and streamline the relationship between these three bodies. To add a Tourism Bureau with all matters for tourism being grouped under it will only be further inflating and complicating the regulatory structure for tourism matters, as well as lowering the administrative efficiency and surge capacity.

By drawing reference from the experience of overseas governments such as the governments of Singapore and Malaysia, we see in Singapore they have a Tourism Board under the Ministry of Trade and Industry, and in Malaysia they have a Tourism Promotion Board under the Ministry of Culture, Arts and Tourism, both of which are statutory bodies.

Therefore, we opine that we may consider how to improve the relevant structure, and strengthen the regulating and co-ordinating role of the Tourism Commission under the Commerce and Economic Development Bureau. The Tourism Commission will continue to exist within the Commerce and Economic Development Bureau, and the HKTB will become an organization under the Tourism Commission. The role of the Tourism Commission in overall planning and co-ordination will be strengthened from an institutional point of view. The Tourism Commission will be responsible for co-ordinating and expediting the matters for tourism, be it the formulation of policies, the construction of tourism facilities, the planning and organization of tourist events, the promotion of tourism, the regulation of the industry and the protection of the interests of tourists, and the HKTB will be responsible for implementing them. We may even consider that the Tourism Commission and the HKTB will be jointly responsible for all these matters in due course.

Of course, we think that the representativeness of the TIC has long been subject to criticism. The members of the Board of Directors of the Council mainly comprise individuals from the sector, of whom 17 are from the tourism sector, and only 12 are individuals appointed by the Government from the community, hence giving rise to a phenomenon of people in the industry

regulating people in the industry. However, quite a few professional associations are self-regulated by the sector, and such practice has all along served the community well. So we think that the practice of being self-regulated by the sector can be maintained, provided that the existing organizations must be restructured by bringing in more independent persons and enhancing the representativeness of the organization, so as to achieve the target of avoiding the conflict of interest arising from the sector, and protecting the interest of the consumers.

Regarding the suggestions to cancel the "Council levy" which is used for the operation of the TIC, and to lower the licence fees for travel agents, we think that we need to consider them prudently. The lowering of the licence fees for travel agents will, of course, be beneficial to the tourism sector as it can reduce costs. As for the general downward adjustment of the "Council levy", however, we are worried that it will affect the day-to-day regulatory work and impact on the protection of the consumers' interest and the service quality of the tourism industry. Nevertheless, the Administration has to strengthen its regulatory role, and the TIC needs to cut down its administration expenses as far as possible in a bid to use the relevant levy in a reasonable manner. In addition, the licence fees for travel agents have been set based on the "user pays" principle with a view to recovering the cost for the provision of service. We think that such fees can be reduced unless the financial tsunami deals a serious and significant blow to the travel agents.

As regards the issue of encouraging and assisting community organizations and private enterprises in exploring, conserving and developing tourist facilities, and organizing and promoting tourist events or projects that have local characteristics or are appealing to tourists, we think that it is worth our support because if, in addition to the efforts of the Government, we can tap the creative ideas of the community and have their involvement, it will help put the software and hardware for tourism to better meet the market needs and expedite the development of the tourism industry in Hong Kong.

President, I so submit.

**PROF PATRICK LAU** (in Cantonese): President, the tourism industry is one of Hong Kong's economic pillars, and has a decisive effect on the economy of Hong Kong. The debate today is to discuss how the Government can optimize the

administration concerning tourism. No matter whether we establish a Policy Bureau or a statutory body to co-ordinate the development of tourism, I hope the Administration will proactively consider its functions and objectives. It is a matter of the utmost importance as it can help the Hong Kong tourism industry develop better.

Today, some press reports mentioned that the CNN has conducted an international survey on tourism, and it is reported that Hong Kong ranks first as the best city in shopping, night life and vitality in the Asia-Pacific Region, and comes second in convention and exhibition facilities and foods. However, Hong Kong receives no ranking in items such as natural environment, environmental protection, hiking and cultural monuments. I believe that Hong Kong's advantage is more than that.

So it is important that we should do more on the unranked items that are mentioned just now. Actually, there are a lot of stunning natural environments in Hong Kong, and we have also debated such spots as the geopark in this Council. The Government should drive forward the development of natural environment and conservation, which is not only for the benefits of the tourism industry, but also for the general public in Hong Kong. As such, I think the Hong Kong Tourism Board (HKTB) and the Environment Bureau should do more in addition to beefing up the promotion. The tourism industry is not only to revitalize the local economy, but also to facilitate foreign tourists or the whole world to know this place. For instance, when travelling in Europe, we will know about the old buildings and fortresses in the Gothic style. These unique cultures attract a lot of tourists every year. Similarly, Hong Kong is in fact a high-density modern city where there is no lack of high-rise buildings, public housing estates, large transit systems, and traditional wet markets and tea restaurants. These characteristics of living are unique to Hong Kong, and you will not find them in any foreign country. Tourists would like to know the mode of living and the culture of Hong Kong people at a close distance. Therefore, the Government should proactively do more in developing the local community culture so that the public and the tourists can integrate with each other.

I think the authorities should organize more mega events at regular intervals with a view to proactively promoting the local community culture as a local characteristic. This is not specifically for the tourists. Actually we Chinese have 24 solar terms, and we also hold celebrations in important festivals

such as the Mid-Autumn Festival, the Dragon Boat Festival and the Buddha Festival. These mega events are not just for viewing by the tourists, but will also, as we hope, promote our own culture. This way of integration is of the utmost importance.

President, I think that each of the 18 districts in Hong Kong has its own characteristics as regards palatable foods, historical monuments, cultures and hot shopping spots, and so on. In addition to the promotion activities, I think the Government should also set up a tourist centre in each of the 18 districts to provide quality services, answer queries, and sell souvenirs of the district with cultural value. Whether such work should be done by the HKTB, I do not know and have queries about it. Should the District Councils also do something perhaps?

President, speaking of the architectures, a representative landmark can bring life to a city. Nowadays, many cities have set up landmarks with distinctive architecture to symbolize themselves, such as the Opera House in Sydney and the Bird's Nest in Beijing, and so on. People will associate the architectural structure with the place. Many visitors are attracted to come to have a look at these structures every year, thus driving up the local economy. A typical example is Bilbao in Spain, which some Members of the Legislative Council had visited, and which was originally an inconspicuous city and has now been transformed into a city of charms. So we should, at this time when the West Kowloon ..... The most important thing is to organize an architectural design competition to explore architectural designs with unique cultural value. If the Art and Culture Belt in West Kowloon can establish itself as a landmark, the tourists will be aware that there are special characteristics in each district in Hong Kong.

Hong Kong has been embarking on urban renewal in recent years, and the refurbishment or removal of many old building structures has caused a lot of changes to the landscape of Hong Kong. In fact, I think during this renewal process the Government should also co-ordinate the holding of an exhibition of the landscape of Hong Kong before and after the renewal, as both the Hong Kong public and the tourists wish to see the accelerating changes in Hong Kong.

Lastly, what I would like to talk about is that if we want to boost the tourism industry, the concerned authorities should proactively co-ordinate the training matters, allocate more resources for the training of young people, and

train up more high-calibre talents for the sustainable development of the tourism industry. So President, which Bureau is responsible for it in this respect? Of course, the Education Bureau should do some more work. All in all, our professional Council considers that the work for developing the tourism industry is not something that a single Bureau or a single department can do alone. Most importantly, it actually hinges on whether the Government is determined to do it, and whether the Chief Executive thinks that the tourism industry is closely related to the development of Hong Kong. This is an issue of even greater importance. Does the Government wish to have a unique city with enhanced attractions so that it will become a place which is equally important to the public and the tourists? As such, we think that it is not something a single Bureau can do to expedite the tourism industry, and that it is most important for the Government and the general public as a whole to work together to optimize tourism and do more to drive forward the industry. Thank you, President.

**MR IP WAI-MING** (in Cantonese): President, just now, many Honourable colleagues have mentioned that the tourism industry had formerly been known as the "smokeless industry", but this view is outdated now. In fact, the role played by the tourism industry in our economic development is really not simple. Whether this industry is important or not really has to depend on whether the Government thinks highly of it and how to develop it.

The data obtained by Honourable colleagues reveal that the income from the tourism industry occupied 30% of the total global trade income. As far as Hong Kong is concerned, the tourism industry, in the past, was one of the four major pillars of the economy. As shown by the data from the Hong Kong Tourism Board (HKTB), overall visitor arrivals last year reached more than 29.5 million, bringing tourism earnings to a considerably huge amount close to \$158.95 billion. Actually, our conservative estimate is that among the 3.6 million working people in Hong Kong, there are nearly 500 000 of them whose jobs are related to the industry concerned. It can be seen that the tourism industry has played a decisive role in the economy, the employment and even the people's livelihood of Hong Kong. If there are any problems with the tourism industry, like persistent shortfall of visitors, poor quality of the tourism industry or failure in attracting people to the scenic spots, not only will the tourism industry be affected, but industries of different nature like retailing, catering and other service industries will also be involved.

Therefore, a slight move in one part may affect the situation as a whole. Unfortunately, the responsibilities of regulating and promoting the tourism industry currently rest with a great number of departments and institutions. For instance, the Tourism Commission and the Travel Agents Registry of the Government are responsible for implementing the development work and policies of the Government in the tourism industry, and carrying out the registration work respectively. Moreover, the HKTB, a subvented agency, is mainly responsible for promotion, while the TIC of the industry is responsible for regulating travel agencies. In fact, this composition appears to be very desirable as it seems to allow different parties to play their respective roles. Yet, to put it more unkindly or from what we see now, it has actually involved different policies, with each party seemingly acting on its own will without mutual co-ordination. Therefore, we think it is good that Mr Paul TSE and Mr Fred LI proposed the establishment of a uniform institution to co-ordinate and lead the tourism authorities and to communicate with trade representatives.

President, why do we think it is necessary to have a centralized department or institution to develop the tourism industry? The reason is that we think the views of the Government or other related institutions over the current development of the tourism industry are rather incomprehensive. There is also a lack of representativeness, and the regulation concerned needs improvement still. Upon long-term development, we are afraid that the tourism industry of Hong Kong will be affected if problems remain unresolved. Take the HKTB, which spends hundreds of millions of dollars each year to promote Hong Kong's tourism, as an example, there are 20 members who all are appointed members coming from very limited sectors. Therefore, we consider that there is a lack of representativeness. Most of these members are traders such as passenger carriers, hotel partners, travel agents, and so on. In line with their mindset, the HKTB has employed promotion strategies focusing on the consumption aspects such as shopping, food and drink, and so on. However, tourism around the world has gradually tended towards the so-called in-depth or cultural tourism. Yet, claiming that our culture is not as deep-seated as those of other places, the HKTB simply does not conduct any promotion, and has not tried to explore any aspects of the local community culture that can attract other tourists. As such, our concern that the future West Kowloon Cultural District will become a "white elephant" is actually not without any objective basis.

Apart from the fact that the HKTB is an institution of businessmen and businessmen's mindset, the TIC, which regulates the travel trade, is also formed



by representatives of the commercial sector of their own accord. When it comes to the development of the industry, the Government only listens to their views. It seems that there is not a channel through which employees of the tourism trade providing front-line services can voice their opinions. We believe that listening to only one side will affect the development of Hong Kong's tourism industry.

Take "zero fare" tours and the so-called "ripping off customers" as examples, despite the great efforts paid by the Government, the HKTB and the TIC in combating these activities, these problems still exist within the industry. Previously, the HKTB said that in the first quarter of 2009, there were 89 complaints relating to the industry. Meanwhile, the TIC received around 30 complaints from mainland visitors within one month. Why do front-line tourist guides and leaders have to "rip off customers" or force tourists to buy things? Why are these activities not eliminated despite the efforts paid? In our opinion, the root of the problem is the inadequate regulation of the industry coupled with the absence of the Government's intervention. As a result, these problems will continue to exist when they are regulating themselves. Frankly speaking, being wage earners, front-line practitioners, our tourist guides and leaders certainly hope that customers can go travelling happily. This is, after all, better than confronting with the whole group. Unfortunately, given the low tour fares received by companies, the low salaries they receive themselves as well as the pressure exerted by their bosses in meeting quotas, some of the staff and colleagues cannot but act as a "bad guy". Therefore, as regards the regulation of the industry, we are of the view that the Government should indeed take part in it.

Finally, I wish to give an explanation for today's voting on behalf of the FTU: regarding the directions put forward by Mr Paul TSE's original motion, the FTU expresses their agreement. However, as regards the possibility of establishing a policy bureau or a tourism bureau, we consider that review has to be conducted before coming to any decision. Therefore, we will abstain from voting on Mr TSE's motion. As for Mr Fred LI's amendment, since he is only studying the establishment of a tourism bureau or a statutory institution to co-ordinate the existing departments, which we think is in line with our idea, we will vote for this amendment. However, we hope that the views of the representatives of the employees can be included no matter how the tourism industry of Hong Kong is changed, because employees nowadays are not vocal in the industry basically. Thank you, President.

**MISS TANYA CHAN** (in Cantonese): President, if I ask whether the revitalization of the tourism industry is very important to the revitalization of the Hong Kong economy, I believe every one of you would say it is. However, as for Mr Paul TSE's proposal today for the establishment of a new policy bureau with dedicated responsibility for tourism, I think there are still many areas that we need to discuss and consider in detail. But I would like to explain one point, which is that whether we need to establish a new policy bureau is totally different from whether we have put enough investment in and attached enough importance to the tourism industry.

In fact, I still do not see the need to establish a policy bureau with dedicated responsibility to regulate the matters concerning tourism. Currently, none but the policy areas of education and environmental protection have an independent policy bureau. I believe every one of you would agree that both the policies for education and environmental protection, in particular the quality of human resources and the quality of living, are very important to the long-term development of the Hong Kong community as a whole, and what they require are very specialized knowledge, and so it is justified to establish an independent policy bureau for handling the relevant matters. However, do we also need to establish a similar policy bureau to take care of the tourism policies?

Not many foreign countries have such policy bureau or cabinet minister with dedicated responsibility for handling the tourism matters. For example, the Central Government and the governments of Japan and Singapore have only established tourism administration or authorities similar to the Tourism Commission or the Hong Kong Tourism Board (HKTB) in Hong Kong rather than policy authorities for tourism. Countries in Europe and America also seldom have the establishment of tourism ministries.

In fact, there are many authorities and bodies currently responsible for tourism in Hong Kong, and the most pressing matter now is not necessarily to consider whether there is a need to establish a policy bureau for the co-ordination of the tourism matters, but to see how we should enhance the management and governance of these existing bodies and improve the effectiveness of their work. For instance, if the operation and governance of these bodies such as the HKTB and the Hong Kong Travel Industry Council whose operations have been criticized can be improved so that they can operate more smoothly, I think it will certainly be faster for it to attain the result than proceeding with the design of a policy bureau.

President, I believe the motion moved by Mr TSE today is to hope that the Government can put more thought into the development of tourism. However, I think the biggest challenge that the tourism industry in Hong Kong faces is not only the problem with structure, but also the problem with the attitude and direction of development. So I wish to give a brief account on this.

Our Government always talks about assisting the SME, that is the small and medium enterprises, and it turns out that our tourism industry also places much emphasis on boosting the SME, meaning the so-called "Shopping Mall Economy". I really do not quite understand why we only know how to sell souvenirs, organize shopping mall activities and promote eateries in promoting the tourist attractions in Hong Kong?

We can, in fact, have some more thought. For example, the Repulse Bay is one of the very important tourist hot spots in Hong Kong, be it for the foreigners or the local people. However, apart from having plans to open a few more shops or restaurants around, why is it that we always want to have it conceived as a place to be swarmed by people and illuminated by lights? Actually, travellers sometimes come to these places to really enjoy the sun and the beach, or they can come with their partners or kids at night to enjoy the moonlight and count the stars. But if these places are always illuminated and there are so many visitors shuttling to and fro around you and your partner, you may lose interest in it, not to mention the stars. Can we actually have a more diversified way to enjoy the fun at some tourist spots?

Another issue is that the tourism industry in Hong Kong should actually attach greater importance to, or put more effort to preserve, the characteristics and advantages that we have now, especially some of the existing attractions that are appealing to the tourists. Two months ago, I went with a group of friends from Italy to Cheung Chau for fun. On arrival at Cheung Chau, they became very, very curious and enthusiastic, and also felt very happy, as they may all along only know to go to the Women's Street or the theme parks in Hong Kong. They found it very interesting when they saw the sun-drying of fishes and shrimps in Cheung Chau. That day was a Saturday, and there were people all around, of whom many were Hong Kong people, who spent most of their time in the urban areas on weekdays, but could still see the life of some local people or special produce in Cheung Chau. As such, places with local community characteristics like Cheung Chau can actually attract some travellers and even some high-spending European and American tourists.

Let me quote another example. I met with and talked to a group of residents from Tai O last week. They thought the Government should have done better as regards the community facilities and complementary amenities in Tai O, and hoped that in doing so people would keep living in Tai O, and preserve the landscape of Tai O as a fishing village. Tai O is in fact Venice of Hong Kong, and its greatest value is that tourists can see the organic life of the Tai O residents, and take a look at the stilt houses of the local residents. I really do not hope to see Tai O ultimately turn into another fake and artificial theme park, or masquerade as a cultural village by engaging outsiders to act as residents, which will be a tourist spot with flesh only but without soul.

What else can we do other than the "Shopping Mall Economy"? In fact, the Government has already proceeded to organize ecotourism. Many foreigners and even our Asian fellows are actually very fond of hiking, experiencing ecotourism and seeing the countryside in Hong Kong. Of course, safety is very often an issue. But it may not be too good a thing if the hiking trails are unduly laid with concrete, making their surfaces too hard to resemble the nature. I hope that the Government can strike a balance between safety and artificiality.

For example, the Mai Po Nature Reserve is really a nice and well-regulated place. However, perhaps given the requirement to protect its original natural sceneries and avoid causing excessive disturbance to the lives in their natural habitats, sometimes there may be a need to properly restrict the number of visitors, so as to make it remain as a place permanently for both the foreign tourists and local people to know about our natural environment. President, Hong Kong is now reputed as a city of delicacies and a paradise for shopping where the Chinese and western cultures meet, and has just been elected today the best city for vitality and night life. However, apart from doing better to develop the tourist industry and attract foreign tourists coming to Hong Kong for eating, drinking and consumption, I think Hong Kong can do more to bring its local community characteristics into full play, and offer more ecotourism and cultural activities as well as local flavours as its selling points so as to build the Hong Kong tourism industry in a 3-dimensional and diversified manner. It is hoped that this will enable Hong Kong to become a hot tourism spot repeatedly and incessantly frequented by the tourists in the long run.

Thank you, President.

**MR LEUNG KWOK-HUNG** (in Cantonese): President, many Members said in the preceding motion that we had to propose tax reduction to enhance our competitiveness. What exactly is our competitiveness? If measured by the strength of a nation, it is actually the quality of people — the people of the nation, and the level of their education or cultural attainment. Therefore, some Members have actually pointed out in the discussion of the preceding Motion that our competitiveness would be enhanced if we could facilitate investors to earn more money so that they would come and invest in Hong Kong. However, such thinking is wrong. Competitiveness all depends on the quality of the people and not just the investment in one place or at one time.

The same also applies to the tourism industry. Let us first look at how the tourism industry treats its staff. For instance, on the issue regarding the calculation of salary for tourist guides, how come it is still unresolved after so many discussions, and it is really shameful. When we say that this industry is very important, and that it should be counted as one of the four pillars no matter how we do our calculations. However, the concrete for these four pillars is just as shoddy as the "bean curd residue" which will, of course, be fatal eventually. I want to ask those who have raised a cry of warning in this Council for advice regarding how many practitioners in the Hong Kong tourism industry can speak foreign languages fluently. Say, for example, if we have visitors from Spain, do we have tourist guides who can speak Spanish to receive them? Do we have training for the relevant tourist guides? The answer is no, buddy. Are you going to demand that the Spanish listen to you talking in English? Are you sick in the head? So our competitiveness in this respect is really deplorable. After all we cannot advertise in CNN telling people in foreign countries not to come to Hong Kong if you do not speak English, as there is none in Hong Kong who can serve as your tourist guide.

Speaking of training, you can see how serious the situation is as regards the exploitation of front-line staff in the tourism industry. Have you ever asked the housekeeping and banquet hall staff in hotels about it? I want to tell you that there are currently many banquet service staff whose salaries are calculated on a piece-work basis, and that they are not permanent staff, buddy. We offer no training but exploitation for our labour force, especially the front-line staff. Buddy, you must not assume that the staff will shape up in response to the promotion featuring Andy LAU who says something like "such attitude does not work now". In fact, Andy LAU should instead tell the employers that "such

attitude does not work now". So it will not work if we give no emphasis to cultivating the soft power.

Second, let us talk about the scenic spots, which are restricted by the shopping mall culture and the high land-price policy. When you go to the Repulse Bay — talking of the Repulse Bay now ..... Buddy, you are really sick. There are many high-rise buildings at the back of the Repulse Bay, right? Travellers who look up trying to take a glance at the sun will only find that it is completely blocked. The Repulse Bay is the place where a very famous writer — XIAO Hong — died. Did we put up a stele there? No. But we have a MacDonald's fast-food shop there instead. This is already a big problem if Hong Kong relies on the visitors from the Mainland only. Xiao Hong died in Hong Kong as a result of the war against the Japanese, and was buried in the Repulse Bay for which people also hold respect.

All our landmarks imbued with cultural value have been eradicated. The Star Ferry Pier has been wiped out. What more can we say? I do not understand what we are discussing. If the tourists wish to see the high-rise buildings, why come to Hong Kong? They can see them in their own countries. For this I have also mentioned the commonest nutrient for the tourism industry, which is to where the local people will travel? You can simply ask the youngsters where they will go, buddy. Whether they will go to the Karaoke lounges more often than to the country parks? They go to karaoke lounges every night, buddy. President, Karaoke lounges are irresistible, and you may as well go to California Red to have a look when you have time. Inside a karaoke room, the people may be smoking. Ask them why not go sightseeing? They will abuse you for being nuts, and say why take the trouble to go sightseeing, and it is much more convenient to visit a karaoke lounge. So we continue destroying our tourist spots where even the Hong Kong people themselves will not go, and we instead rely on foreign travellers to visit these scenic spots. When the French take holiday for a month, they sometimes go sightseeing inside France, and sometimes they travel to Spain as the cost of living is less expensive there or some other countries. Where comes such rationale that you lure people to visit places destroyed at your own hands and treat them as "fat lamb" waiting to be slaughtered? But we will not develop our own tourism industry, right? This is another problem.

The third issue is that the policies are made by a number of authorities. The Hong Kong Tourism Board has built up its own forces, spent so much money

and engaged in nepotism to reinforce its stronghold. Now they appointed another person — "Young Master TIEN", who is cleverer and knows to make visits outside Hong Kong, and so performs more satisfactorily. We had put so much resource into the incessant reform of the Hong Kong Tourist Association (HKTA) which was eventually converted into the Travel Industry Council of Hong Kong. But again it is of the same kind with people in the industry regulating people in the industry, and never thinks of the front-line staff.

The tourism industry in Hong Kong adopts the wholesaling system. There is wholesaling for hotel rooms. Wholesaling can be arranged for anything. What is wholesaling? With the practice of wholesaling, the marginal profits become increasingly lower, hey buddy, are you going to absorb them all? Mr LAM Tai-fai, is that right? What happens if you are requested to arrange wholesaling for all rooms and 30% of which are left unoccupied? In case there is no way out, you may include it in the costs, buddy. However, why do we have to adopt the wholesaling system? I really do not understand. The wholesaling system is itself a form of monopoly. Not only are we not to reform this system, but instead we now request the Government to see ..... Now there are three things on the ground, and let us put them all into one basket, buddy. Nothing of this sort will work because these things are unrelated whatsoever with each other.

So Mr TSE proposes to establish a bureau. I understand that this is the problem with the small circle election. It is because if he does not make such proposal, it is surprising that he will get elected in the next election. He now bets on it, and buys the idea. If not, he will have problem in the next election. In fact, I have no grudges against him but no way can he convince me. I think the crux of the whole issue is that each of our industries is being monopolized by the large consortia, and the monopoly in the real estate market has burdened the operation of every industry with additional costs. How can we have soft power if the low-level staff gets no training and low pay? As such, competitiveness hinges on not only money, but also the investment we make in our staff. Thank you, President.

**MR JEFFREY LAM** (in Cantonese): President, last Friday, after staying in the Metro Park Hotel for seven days for quarantine purposes due to the human swine influenza, many of the tourists concerned said upon leaving the hotel that they loved Hong Kong, and that they would arrange time to visit Hong Kong again

and spend money here. What they have said is indeed a vote of confidence for Hong Kong. We all hope that Hong Kong's tourism industry could achieve perfection in all aspects and attract tourists from across the world to visit Hong Kong and spend money here, and to explore the many beautiful features of our city. The motion today has put forward a series of suggestions for the structure of the tourism sector, and I believe all such suggestions are put forward out of goodwill. However, are new arrangements necessarily better than the old ones?

We attach great importance to the proper and appropriate use of public resources. In this connection, the Public Accounts Committee (PAC) of the Legislative Council published a Value for Money Audits Report on the Hong Kong Tourism Board (HKTB) last year. President, I was a member of the PAC at that time, and the PAC has put forward some recommendations in relation to the HKTB's management, remuneration system, administrative control, corporate governance, and so on. As I understand, the HKTB is currently following up the recommendations concerned. It is my hope that all of such recommendations can be implemented as soon as possible to enhance the transparency and accountability of the HKTB, thereby ensuring that the work of the HKTB is done in a fair, just and open manner, and that public resources are put to appropriate use.

We can see that the HKTB has been making good efforts to maintain the attractiveness of Hong Kong and to explore and develop new sources of tourists. As indicated in the figures provided by the HKTB, the number of tourists visiting Hong Kong in the first quarter of the year was over 7.4 million, representing a 1.8% increase over the same period last year. Of these visitors, 4.67 million were from the Mainland, and the figure represents a 12.6% increase compared to the same period last year.

The HKTB has flexibly allocated resources in the light of the latest market situation. Last month, for example, the HKTB sent a 50-member delegation to visit Taiwan. They also plan to visit the newly emerged markets in our vicinity (such as India) hold business negotiation conferences. All these moves are made in response to the impacts of the financial tsunami. It is the HKTB's hope that resources could be re-deployed from the long-distance markets to the short-distance markets, as this could attract more tourists to visit Hong Kong.

As regards the Travel Industry Council of Hong Kong (TIC), since its establishment in 1978, the TIC has also reform measures for a number of times to



enhance its self-regulatory work. By the end of 2007, the TIC increased the number of independent members on its Board of Directors from eight to 12. In addition, it also required that the committee on disciplinary matters should be held accountable to an independent director, and that over 50% of the members of such committee should come from non-tourism sectors. In my view, these measures can ensure that there will be trade members familiar with the operation of the industry sitting on the Board of Directors of the TIC, and at the same time the opinions of independent directors could be heard. That way, the criticism of "having the TIC's own people supervising the TIC" would be offset.

Over the years, the TIC has been discussing the stamp duty of the Travel Industry Council Reserve Fund. And recently, the TIC launched a public consultation on the tourism stamp duty mechanism and the duty rate to listen to more views from consumers and members of the trade, so as to come up with a better way to safeguard the rights and benefits of tourists.

President, the majority of the members of the tourism industry all consider that tourism policy and the promotional structure should be separated, and such a mechanism has been in operation for a long time. With the change of times, there will certainly be areas which call for improvement. And that is why I agree that while the mode of operation should be reviewed from time to time under the existing mechanism, transparency and accountability should also be enhanced to further improve the mechanism to better suit the needs of the community.

However, reform should be carried out step by step. At present, I cannot see any need to replace the existing mechanism with a totally new mechanism. If public resources should be redeployed and yet the redeployment was conducted in an inappropriate manner, the impact could be very grave and far-reaching. Tourism is an ever-changing industry, and encompasses many different areas. In my view, too much government control may not be a good thing. If all aspects of the tourism industry should be gathered under the "leadership" of the Government, the development of the industry would certainly be hindered. That way, the commercial mode of operation accepted by the industry will certainly be affected, and making it impossible for the industry to cater for the needs of different operators and tourists. It just may not be a good thing to the members of the industry or the travellers if drastic reforms were to be introduced forcibly to the tourism industry.

Let us take unexpected tourism incidents as an example. In the event of such incidents, the TIC will immediately respond and contact with the tourism authority of the places concerned to offer assistance to the Hong Kong people there. And all such arrangements are highly flexible. On the contrary, if such incidents were handled by one single government department, could things get done so efficiently?

President, we all hope that Hong Kong's tourism industry could do well with flying colours. The day after tomorrow, a group of Members under the leadership of the President will be visiting a number of places in the Pearl River Delta, including the tourist facilities there. I believe this will be a very good chance for the Guangdong and Hong Kong authorities to work together to come up with more new ideas and create more business opportunities for the tourism industry.

President, I so submit.

**MS MIRIAM LAU** (in Cantonese): President, the tourism industry is one of the four pillar industries in Hong Kong. So the Liberal Party would agree to any proposal that can develop the tourism industry for the better and attract more tourists to Hong Kong, and we also hope that we can pool our wisdom to offer more suggestions and advice in this respect. However, I am afraid that the original Motion, which proposes to establish a Tourism Bureau so as to better develop the tourism industry in Hong Kong, will be a wrong diagnosis and a wrong medication, and the Liberal Party cannot agree to it.

The responsibilities and powers conferred to the Secretary for Tourism as proposed in the original Motion in fact overlap the existing ones of the Commissioner for Tourism in many areas. For instance, Mr TSE proposes that the Secretary for Tourism represent the SAR Government to attend meetings organized by travel organizations worldwide and co-ordinate and promote the development of new tourist attractions, and so on. Are these not essentially the current responsibilities of the Commissioner for Tourism?

As for the task of co-ordinating the various organizations which regulate and promote the development of tourism conferred on the Secretary for Tourism, it is in fact the first responsibility of the Commissioner to formulate policies and

overall strategies after consultation with the Hong Kong Tourism Board (HKTB) and the tourism industry, so the crux is whether the Commissioner has performed the duties effectively and conducted the co-ordination and consultation vigorously.

Besides, we should not forget that the Tourism Commission gets huge support within the structure of the Government. For example, regarding the recent negotiation for the expansion of the Hong Kong Disneyland, it has all along been undertaken by the Secretary for Commerce and Economic Development, and recently even commanded by the Financial Secretary himself who went to negotiate directly with the Disneyland at its headquarters in the United States. As such, there is simply no need to establish one more policy bureau thereby avoiding the overlapping of structure.

Apart from this, it is not a common practice in overseas places to appoint ministry-level officials with dedicated responsibility to promote tourism. For instance, in Taiwan, the Tourism Bureau is established under the Ministry of Transportation and Communications, and in Singapore, the Tourism Board is set up under the Ministry of Trade and Industry, both of which are not ministry-level bodies. Moreover, they will not take on all work, and instead will collaborate with the industry to promote the development of tourism.

In the case of Hong Kong, the Travel Industry Council of Hong Kong, a self-regulatory organization, has long been discussing regularly with the Government over the past 30 years in the formulation of measures to improve the protection for Hong Kong travellers joining out-bound tours, and the imposition of the stamp levy is one of the very successful policies. In March this year, the World Economic Forum released the "Travel and Tourism Competitiveness Report 2009", in which Hong Kong ranks the second around the world in regulatory system for the tourism industry, evidencing the existing regulatory system is satisfactory and effective. Therefore, Mr TSE's proposal will only make the SAR Government an overly-expanded mammoth government, which is against the philosophy of "big market, small government" upheld by the Liberal Party and as such we cannot but have to oppose Mr TSE's proposal.

So what we really have to do now is to seriously review whether the Tourism Commission has performed its functions effectively. For instance, a major function of the Tourism Commission is to develop new scenic spots, but in recent years the scenic spots in Hong Kong have been criticized as becoming

ageing and lacking attraction, and the construction of new scenic spots has been postponed time and again. A latest example is that the Tourism Commission has decided to axe the Fisherman's Wharf Development that have been discussed for 10 years and are well-supported by all sectors of the community, backing down a project to which they had lent support.

We hope that the Tourism Commission is able to perform its responsibilities proactively in future so as to play a leading and active role in the formulation, co-ordination and implementation of policies, plans and strategies for the promotion of the development of the tourism industry, and fulfil its duties consistently, avoiding the situation of making a magnificent start only to tailing off later.

Nevertheless, we are in support of the requirement proposed in the original Motion that we need to regularly review the accumulated balance of the Travel Industry Compensation Fund and the related mechanism with a view to reducing the costs of operation for the industry. However, we absolutely disagree to the cancellation of the Council levy as it will "dry up" the Council and put an end to an organization that can regulate the industry effectively.

Instead of inducing internal dissipation and unnecessary disputes for the industry, we think it is more constructive to offer more suggestions to promote the development of the industry in light of the current precarious situation faced by the industry. For instance, we should demand that the Government expedite its discussions with the relevant mainland authorities, strive to optimize the DIY tour programme, and strengthen the promotion aiming at the potential tourists in other countries or regions (such as Taiwan), so as to lessen the impact brought by the implementation of the Three Direct Links across the Taiwan Strait.

President, as for the contingency mechanism, we agree that there is really room for improvement. However, as the nature of each incident varies, it may not be appropriate to entirely rely on the tourism authorities to issue travel warnings. Despite this, the Government should formulate clear internal guidelines, and demand that the Tourism Commission must take part in the handling of all sudden events involving tourists so as to avoid the problems arising from such earlier incidents as the foreclosure of the Tatami Hampton Hotel in which the tourists were expelled, or the quarantine at Metropark Hotel in which some tourists complained of being ill-treated in the beginning.

Regarding the amendment proposed by Mr Fred LI for the establishment of a statutory body, as we think that there is still a chance of causing the overlapping of structure, the Liberal Party finds it difficult to support the amendment as well, despite that this body may not be necessarily a bureau.

President, I so submit.

**MR RONNY TONG** (in Cantonese): President, no doubt the tourism industry is an important economic pillar supporting Hong Kong, and perhaps it is for this reason that so many relevant authorities and agencies are involved in this industry. Let us do some counting. We have in this industry the Tourism Commission, the Travel Agents Registry, the Hong Kong Tourism Board, the Travel Industry Council of Hong Kong (TIC), and so on. And on top of these agencies is the Commerce and Economic Development Bureau, which serves as the co-ordinator and policy bureau of this entire structure.

President, can we achieve pluralistic development and results and attain higher efficiency be achieved just by adding more layers to a structure? Things do not seem to work out this way, President. On the contrary, many people consider the structure of the tourism industry too excessive and clumsy, making it impossible to hold any party accountable, and even creating the effect of manipulating matters behind closed doors.

One example is the TIC, which has been under criticism since a long time ago. President, the TIC is established out of goodwill, as members of the industry can handle by themselves issues involving their own interests and policy issues. Having their own people to supervise themselves is by no means any problem. Unfortunately, however, the TIC is actually being totally monopolized by some gigantic stakeholders and large business operators — and even permanently monopolized. Some of the members remain totally unchanged. The attitude they adopt and the policies they formulate are all in the interest of the large operators in the tourism industry. Some may even gather the impression that there is transfer of benefits or manipulation behind closed doors going on. One example is the recent case in which complaints were lodged against a company under the name of a former director of the TIC. Instead of openly reprimanding the party concerned in the light of the complaints received, the TIC just closed the case hastily.

If any one should have the opportunity to enter the Board of Directors of the TIC, he would find that members of the industry must join the TIC. This requirement is indeed a kind of monopolistic and fiefdom-like practice in disguise. Why is it that some of the independent members of the industry never conduct any internal monitoring? Besides, the election method of the Board of Directors has undoubtedly been monopolized by the gigantic stakeholders, and this one reason why they can remain in office as TIC's directors. As such, the "big brothers" and the largest operators in the industry are in effect not subject to any supervision.

President, apart from internal problems, the industry is also confronted with the problem of duplication of work. As I have mentioned at the beginning, there too many agencies promoting development in different directions, and such agencies all claim that they are helping to promote the development of the tourism industry. As such, it is inevitable that of their efforts will be overlapped and not very well co-ordinated. One example is the case of the members of an inbound tour from the Mainland being abandoned on the street by their tour guide because they were unwilling to do shopping. Even though they were left on the street and deprived of their hotel accommodation, it was only after the incident had been reported by the media that the relevant governments were willing to follow up. Another example is the Tatami-Hampton Hotel in Mongkok. In 2008, the hotel was attached due to some dispute over debts, and the hotel guests had to drag their luggage along to look for other hotels. This incident has also caused our Financial Secretary to say something improper and thus incur criticism. The more outrageous was yet to follow, as the affected hotel guests had to move to the community centres opened for street-sleepers to endure the heat and the cold whether. If not for the loud reprimand voiced by the public opinion, the Tourism Commission would not have offered an apology.

President, in the face of such huge problems, how should we straighten up the supervision framework and policy-related problems? Just now Mr Paul TSE put forward a series of suggestions. These suggestions, however, are all based on the notion of establishing a so-called "Tourism Bureau". From the first point of the original motion we can see that this tourism bureau is only responsible for co-ordinating the efforts of the many agencies of the clumsy structure I mentioned earlier on. It will not review the situation comprehensively to see whether the problem of overlapped efforts between agencies can be alleviated, nor clearly define anew their respective responsibilities, thereby improving the

management of the structure and the election procedures of the supervisory circle. And yet these are the proposals that are really of help to the Tourism industry.

President, we agree and concur with the spirit behind Mr Paul TSE's motion. However, we have found the motion heading towards a totally wrong direction. President, we do not need any additional policy bureau. We already have too many, an additional one will only lead to additional under-secretary and political assistants, thereby further expanding the already clumsy structure. What are we doing all these for? On the contrary, we believe that instead of expansion, the matters related to the tourism industry like policy formulation, implementation and supervision should be heading towards a streamlining direction. To achieve "streamlining", we must review earnestly whether we really need to have so many agencies to handle the different aspects of the tourism industry, and whether any of the monitoring agencies have been monopolized by certain large business operators in the industry. President, these are in fact the most important and most urgent question we need to face up to. We really do not need to add a new structure on top of the existing one, nor do we need a new policy bureau which will be performing exactly the same functions as the existing policy bureaux concerned.

President, for these reasons, we cannot support Mr Paul TSE's original motion.

**MR ALBERT CHAN** (in Cantonese): President, first of all I thank Mr Paul TSE for moving a timely and important motion for debate. Many Members have criticized the Motion that it would be an overlapping of structure and a waste of public money if a policy bureau is added. Actually it may not be so, and all depends on the results of the final review. The Hong Kong Tourism Board (HKTB) is also squandering money, is it not? The HKTB at its peak spent \$900 million a year. If we close down the HKTB, and set up a responsible, accountable, effective and productive policy bureau with an amount of millions of dollars, it may save a lot and may not need to spend \$900 million as the operation of a policy bureau requires a lesser amount. Currently the Commissioner for Tourism is at least a position of directorate grade at D4, and we can upgrade it to D6 so that the Commissioner can co-ordinate many issues in the capacity equivalent to that of a bureau secretary. The biggest problem now is that the work relating to tourism in Hong Kong is extremely chaotic — this is the most befitting description of all. The Travel Industry Council of Hong Kong (TIC)

has a function to assist the travel agents, while the HKTB being criticized by a lot of people as a "spendthrift" is responsible for the overseas promotion. As far as I can remember, the most ironic thing is that the HKTB had organized a series of high-profile promotion at the Outlying Islands Ferry Pier promoting the Yu Lan Festival in Cheung Chau some years ago. The local residents in Cheung Chau have been organizing the event for decades, and all along received no assistance from the HKTB. But with the sudden promotion initiated and organized by the HKTB at the Outlying Islands Ferry Pier that year, the ferries were packed with passengers beyond their capacity, and the HKTB published the event in its Annual Report as its own achievement.

As for the Commissioner for Tourism, I really do not know what its functions are over all these years. I had invited the Commissioner to visit Mei Wo. Two different Commissioners had come to officiate at two "Hung Shing Festival" activities organized by me. However, when we look at the tourism industry in Hong Kong, the role of the Commissioner for Tourism can be said to be dispensable. The largest tourist development in Hong Kong — the Disneyland — has nothing to do with the Commerce and Economic Development Bureau and the Commissioner for Tourism. It was a project decided by the former Chief Executive.

So we can see that actually there had been very few tourist projects really initiated and expedited by the tourism industry over the past few decades in the development of the tourism industry in Hong Kong. If we want to expedite its development, there must be someone who is conferred with dedicated responsibilities and powers to do it. The problem now is that the Commissioner for Tourism has no power and resources. The Commissioner has neither the right to land nor the right to appropriation, and does not even have the power for the creation of tourist projects. The opening ceremonies of the few mega events are very often officiated by the Secretary for Commerce and Economic Development and the Chief Secretary for Administration. The Chief Secretary is laughable indeed, and he does not know much about tourism. For instance, when he officiated at the Ngong Ping 360, he transliterated and pronounced the English name of the place as "衫碌拎 (Sam Luk Ling)" for 360, making it the world's laughing stock, and when he handled the Tatami Hampton Hotel incident, he made comments by describing the tourists as "with thingies dangling", which was even a smear.



President, let me briefly account for the series of events that had occurred over these few years. In the recent Metropark Hotel incident, it was also very chaotic. But the handling in the final stage turned better when a number of bureaux and departments, such as the Social Welfare Department, the Home Affairs Bureau and the Food and Health Bureau, stepped in. The Thailand chartered flight incident was also a scandal, in which the Tourism Commission made no response and took no follow-up action when the incident broke out. While the TIC was responsible for liaising with the tour groups in Thailand, the HKTb made no response and took no follow-up action. And it was mainly the Immigration Department and the Security Bureau which provided the so-called assistance to the Hong Kong people stranded in Thailand. In the Tatami Hampton Hotel incident that I mentioned just now, the Tourism Commission was notified only after the incident. The Government told the TIC that the tourists might contact it, but it made no initiative to take any action. The HKTb only set up a telephone hotline to assist the affected tourists at 11 am on the second day after the occurrence of the incident, the day when all travellers had been expelled and found no place to stay. The incident of a Qinghai tour being abandoned by the tourist guide was also very ridiculous. The incident happened on 14 October 2006, and the Tourism Commission also took no follow-up action, and the TIC only knew about the incident when contacted by *Ming Pao*, and dispatched a coach to pick up the abandoned tourists at 5 pm. Again the HKTb took no follow-up action. We have seen these incidents, and incidents like these are really too numerous to mention individually.

Looking back over the years, there had been a lot of significant events occurring to the tourism industry, be they scandals or others. The relevant authorities were decoupled with each other and they just stepped back and did nothing when these events unfolded. How can the tourism industry have the chance to develop better in Hong Kong under these circumstances? The development of tourism industry has to be driven with a lot of software and hardware. The tourism industry is a fast-changing industry, which has to tie in with the global trend, the local characteristics and the needs of travellers. Very often we need to develop some hardware as soon as possible to meet the needs of the travellers. If any problem occurs to the travellers, there must be immediate contingency measures in place to avoid causing distress to them. However, the situation of Hong Kong in this area is deplorable. A case that I have quoted many times is that two years ago a small consortium in Hong Kong tried to develop Moulin Rouge and rents were paid for this, but two years had passed and the project fell through as it was unable to obtain a licence. Its target clients

were mainly tourists, and it ended up in failure as oppositions rose from all sides, and no assistance was provided. The consortium ultimately said that it would never develop the tourism industry in Hong Kong.

So we must have an organization conferred with the power of co-ordination to handle the issues concerning the development of tourism industry. I think today's motion is a very good trigger for discussion. But how can we establish an effective and productive policy bureau with real power? This requires our wisdom, with which we will strive to establish a capable policy bureau. Only by this way will the tourism industry in Hong Kong have the opportunity to be really developed and recovered.

**DR PRISCILLA LEUNG** (in Cantonese): President, recently I led a group of several hundred mothers to Gulangyu Island, Xiamen. At the time we said there were so many small islands in Hong Kong, and it would not be a bad idea if one of these islands could be developed like Gulangyu Island. However, some people poured cold water over this idea by saying that it would be very difficult to have a small island developed in Hong Kong as there were so many hurdles to overcome, so all you could do was just merely to mention it.

I think this reflects the feelings of many Hong Kong people. Hong Kong people like travelling very much. Whenever we visit a place, we show great appreciation for and are fond of the way they develop even a very, very small area into a tourist spot. Singapore is famous for this. There are in fact many tourist spots in Hong Kong, including the Flower Market that we discussed last week, and the West Kowloon Cultural District mentioned by Honourable colleagues just now. A lot of people say that the hardware is inadequate, but I can always see without any difficulty that many local community cultures in Hong Kong are being neglected instead. Actually we should enhance the development of these local community cultures. Take the shadow puppet show as an example, some people have asked me whether the West Kowloon Cultural District can link up the cultures of the new and old districts as well as the international culture with the local Guangdong culture in Hong Kong? I think this is one of the very important topics for our discussions today on how to develop the tourism industry in Hong Kong.

I have read Mr Paul TSE's motion in great detail. He is actually very thoughtful and the nine suggestions he made really deserve support in terms of

their contents. He is very systematic, and I believe that he has already made a comparison with the existing inadequacies, and so he proposes that such bureau be established to implement the restructuring. Nonetheless, there is still an issue yet to be resolved as contemplated by Honourable colleagues, that is the current relationship with the Hong Kong Tourism Board (HKTB). How can we solve the issue as regards the overlapping of resources? The issue still went unresolved when we discussed it in the Professional Forum. Mr Paul TSE can actually discuss it more with us in future. However, at this stage we cannot agree that there is a need to establish another bureau.

Regarding the contents of Mr TSE's motion, I agree to most or nearly all of them. Basically, I feel that the arrangements such as those to improve the expenditure, assessment and salary mechanism for tourism as proposed by him are carefully made. Nonetheless at the moment I also agree ..... Mr Albert CHAN has left the Chamber. I think we also do not have to defend the HKTB by saying that it has already done a very good job and so there is no need to establish a Tourism Bureau. Actually I am quite open-minded as various recent information shows that the impression of Hong Kong people on the HKTB is indeed not very good. They think that it is a "spendthrift" and problems always arise in its governance such that in the development of the tourism industry, we incessantly ..... Even for Ngong Ping 360, there are also many problems in regulating the cable cars, which contribute nothing to relieve the worries of the public. Therefore I think the Government really needs to conduct an overall review of the role of the HKTB, and enhance its transparency. In the meantime, I think we might as well refer the nine suggestions raised by Mr TSE as the "nine suggestions of TSE", and see how they reflect each other as compared with those of the tourism industry.

I am totally 100 percent in support of the topic on the development of tourist industry that we discuss today. I think all Hong Kong people are very glad to hear that Hong Kong is now at least a city with the best night life and ranks at least among the best. So the Hong Kong people have a strong sense of identity towards the tourism industry. However, it appears that we have wasted a lot of resources currently available to us. The power of observation we have is not sensitive enough to bring many of the existing things into play. As such, based on this premise, despite that we do not agree to the establishment of a Tourism Bureau at this stage, we hope to make it clear that the performance of the HKTB still fails to live up to our expectation.

I really hope that the Government can conduct a comprehensive review of the nine suggestions raised by Mr Paul TSE and the role currently played by the HKTB, and provide us with a very good checklist. I very much believe that we will certainly discuss this again with Mr Paul TSE being with us here. At this stage, I would say on behalf of the Professional Forum that we cannot support the original Motion moved by Mr Paul TSE and the amendment proposed by Mr Fred LI as our worries over the proposed statutory body have not been relieved for the time being. We are worried that it will result in the overlapping of structure, and we also have doubts over whether we need to establish an additional policy bureau. It appears that the original Motion fails to untie the knot as regards the issue of allocation of resources and manpower. As such, we cannot support the original Motion and the amendment. Thank you, President.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr Paul TSE, you may now speak on Mr Fred LI's amendment. You may speak up to five minutes.

**MR PAUL TSE** (in Cantonese): President, I would like to thank colleagues who have commented on my motion. As far as Mr Fred LI's amendment is concerned, his amendment is actually not much different from my motion. The two major differences are, firstly, should it be taken forward immediately or be given consideration, and secondly, whether it should be of a size of a policy bureau or under other types of statutory structure.

Basically, I do not have many disputes over these. Nevertheless, I want to raise a point that when we are examining the H1N1 virus (the swine flu) and when Government officials of various ranks unanimously said there are a lot of uncertainties hanging over us, what should we do? At a time when we have lost all our direction, the Government could still be resolute in ordering the immediate closure of a very large-scale hotel paying no attention to the consequence of also closing the door to inbound tourism to Hong Kong. The Government could be as resolute as this in the face of numerous uncertainties. In view of this, why we

still have to spend so much time considering it when we have the so-called scandals and deficiencies of the governance structure of the tourist industry that have been under continuous attack by many industry practitioners for years dribbled out one by one?

In the final analysis, it is actually a question of whether we want it or not. Whether or not we wish to improve the tourist industry right away to help Hong Kong recover? Indeed there is no need to think too much about it. Repeated consideration is not helpful as we have already examined all circumstances which we need to consider. If we could be so resolute in the face of uncertainties, why shouldn't we go ahead with the reform when the situation is so clear now? I am utterly unable to understand this. Actually, the key is whether the Government ..... as several Members including Mr CHIM Pui-chung and Mr IP Wai-ming also mentioned just now that whether we have the determination to get it done. Actually, the key is whether we are determined or not. If we are, it is not necessary to take so long to consider it; if not, persistent contemplation bears no fruit. This is the first point.

Secondly, I cannot quite understand the logic and reasoning that the more the structures the higher the efficiency. We are aware that these several structures are heavily overlapped. Under this circumstance, I believe that if all structures are to be put under one umbrella or one roof, it will be effective in enhancing efficiency — more efficiency and better contingency arrangements. In this regard, no matter it is a bureau or a statutory body as Mr Fred LI has mentioned ..... of course I support neither the squandering of public money nor redundancy. My thought is that several existing structures should be put under one centralized framework. In this respect, I hold an open attitude to Mr Fred LI's amendment. Nevertheless, if I am given a choice and if the Hong Kong Government is now determined to improve the tourist industry without further delay, the structure has to be at a bureau level in order to deal with issues it needs to resolve. What we need to decide is whether we should employ the so-called sectorial and fragmented way of governance to let various trades and industries deal with their own businesses, or we should deal with issues under a centralized and integrated structure?

It is because when we look around countries and neighbouring regions which are successful in their tourism policies, they all have a centralized and dedicated tourism structure in place and there is no question of fragmentation and

unclear demarcation of responsibilities in carrying out policies. Actually, it is just a common sense. In this respect, although Members have opined that it may not be suitable to immediately carry out reforms for the time being, I believe that the Government should examine its own conscience and ask itself how much attention it has paid to the tourism industry. Is it just paying a lip service? Or does it really mean to put public money, efforts, and resources to push through the tourism reform? If this is the case, we will have no time to delay as the tourism industry is experiencing severe hardship. Nowadays, we are haunted by frequent natural and man-made calamities which require us to deal with numerous problems vigorously and dedicatedly. We can no longer allow our children to struggle and survive on their own as in the past. While it was feasible in the past, we cannot afford to struggle and survive on our own now as Hong Kong and its tourist industry are facing competition world-wide. Besides, I do not hope that our reform will be hindered by the political party factor. Thank you, President.

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, I think today's debate is very worthwhile. Despite their varied angles or points of view, Members are very concerned about the development of tourism; therefore I feel grateful to all of our Members for having shared their valuable views on the framework arrangement and the Government's strategy for pushing forward tourism development in Hong Kong.

As I pointed out at the outset of my speech, the structures relating to the policy, promotion and regulation of Hong Kong's tourism have been evolving over the years along with the market trend and the consensus between the industry and the community. At present, with clear division of labour in policy planning, tourism promotion and industry regulation, the Tourism Commission (TC), the Hong Kong Tourism Board (HKTB) and the Travel Industry Council of Hong Kong (TIC) each have their own role without overlapping with that of one another. The three institutions play their respective functions, maintain close communication and co-ordination, make concerted efforts in contributing to the long-term development of the tourism industry, and commit themselves to implementing various development strategies and policies.

Many Members are concerned about whether the Government and relevant institutions have fully consulted the views of the industry in the formulation and implementation of tourism strategies. The TC always maintains close

communication with the HKTB, the TIC and the tourism industry, and fully gauges their views in formulating policies and development strategies.

Every year, the HKTB would set out the promotional strategies and work projects for the coming year, and seek views from various stakeholders of the industry. Before launching important promotional efforts and major events, the HKTB would also consult the tourism industry and non-tourism partners such as business associations.

As far as tourism strategies are concerned, some Members have just mentioned a number of strategic proposals on tourism development. The TC's policy is to consolidate Hong Kong's position as the ideal destination for family tourism, MICE tourism and cruise tourism, and to attract more events to be held in Hong Kong in order to strengthen our image as the Events Capital.

In addition, we also attach great importance to the promotion of tourism with local characteristics. Prof Patrick LAU, Miss Tanya CHAN and Dr Priscilla LEUNG have just put forward many valuable comments suggesting how to better promote Cheung Chau, Repulse Bay, Tai O, Mai Po and so on. We will study carefully with the HKTB and make more appropriate adjustment in our promotional efforts. In fact, the HKTB has already done a lot of work on this front, including studies on introducing tourist attractions along the tramway. It also actively maintains close contact with relevant District Officers and regional organizations for the promotion of local food and traditional festivals.

Members have just mentioned cruise tourism. In fact the Government has long been monitoring the potential of developing the cruise market. In order to further understand the needs of the cruise market, we have engaged cruise experts in advisory studies. The results indicated a need for Hong Kong to increase the number of cruise liner berths, and by so doing Hong Kong can foster sustainable development towards a regional cruise hub. Therefore, we have decided to kick into top gear with the development project for a new cruise terminal, and fully play to our strengths in developing the cruise market of Hong Kong.

The Commissioner for Tourism chairs an interdepartmental core group, known as the Interdepartmental Core Group on the Development of New Cruise Terminal Facilities (the Core Group), for co-ordinating the new cruise terminal development project. The Core Group, consisting of experts from different departments, has a broad scope of work covering all details of work under the

cruise terminal project as well as future leasing arrangements. On the one hand, the Core Group keeps reviewing the work schedule and the progress, and compressing the work schedule with the aim of an earliest inauguration of the cruise terminal; on the other, it maintains close liaison with the industry to ensure that the terminal is in line with the needs of market users.

Since its inception, the Core Group has been actively taking forward development work on the cruise terminal. We expect the site formation work to be commenced before the end of the year, and the first berth of the cruise terminal to be put into service in mid-2013. These will be results achieved through the full co-ordination among a number of departments.

Just now several Members have also mentioned the issue of the Travel Industry Compensation Fund (the Compensation Fund). The Compensation Fund provides *ex gratia* payments to outbound travellers who have incurred loss of travel expenses due to closure of travel agents, as well as to outbound travellers involved in accidents while travelling abroad on package tours, to cover medical care, family visitation and funeral expenses on reimbursement basis. Since its establishment, the Compensation Fund has been held, managed and operated by the Travel Industry Compensation Fund Management Board (the Compensation Fund Board) in accordance with law. The Compensation Fund Board members hail from different sectors, such as banking, tourism, law and accounting, as well as the Consumer Council, while the Registrar of Travel Agents serves as *ex-officio* member and secretary of the Compensation Fund Board. At present, the Compensation Fund Board commissions a professional actuarial consultant to review the reserve level of the Compensation Fund every five years to ensure sufficient funds to cover *ex gratia* payments in the event of closure of a major travel agent.

As regards the issue of licensing for travel agents dealing with tourism business, in view of the rapidly changing tourism market for which new tourism products keep rolling out, and in order to protect the interests of consumers and ensure the long-term healthy development of the industry, the Government amended the Ordinance in 1988 to require that any travel agent should first ..... sorry, President, the manuscript pages stick together; so I have to start again.

On tourism policy and the promotional structures ..... excuse me ..... the views put forward by Members just now involve a rather broad range of areas, including the immigration policy, air transport, hotel licensing mechanism and so



on. Such diverse work has been included in the terms of reference of relevant policy bureaux. For example, The Office of the Licensing Authority under the Home Affairs Department is responsible for regulating matters relating to the premises and fire safety of hotels or guesthouses in accordance with the Hotel and Guesthouse Accommodation Ordinance; the Transport and Housing Bureau is responsible for shipping and transport policies; the Security Bureau is responsible for handling requests for assistance from Hong Kong residents in distress outside Hong Kong and it is reviewing the mechanism for issuing travel advices. This division of labour policy has taken into account the integrity and consistency of the policies, as well as the departments' experience in dealing with relevant policies and the professional supports they need.

Taking sea and land transport as example, it is closely related not just to the tourism industry, but also to the public's daily life and the development of transport and logistics industry; therefore the tourism-dominated policy on land and sea transport must absolutely not be singled out for a designated department to deal with. I believe that as a more effective approach, the relevant policy bureau, namely the Transport and Housing Bureau, should be designated to deal with all the development policies relating to aviation, maritime affairs, roads, public transport services and logistics in order to facilitate the bureau to achieve comprehensive policy co-ordination, strengthen Hong Kong as Asia's preferred international transportation and logistics hub and shipping centre, and ensure that the public enjoy more choices of convenient transport modes, which will eventually help the development of tourism.

President, although the Commerce and Economic Development Bureau is responsible for tourism policy, when it comes to matters that call for an interdepartmental solution, the Government's usual approach is to let relevant policy bureaux work closely to ensure seamless implementation of the policies, the tourism policy being no exception. I do not consider it an effective approach to forcibly divide all tourism-related policies and bring them together under the responsibility of a single policy bureau. Firstly, for its very broad scope of sectoral coverage, tourism can hardly at all be placed under the exclusive purview of a single policy bureau. Secondly, the proposal would have far-reaching impact on other policies such as those on security, transport and so forth; thus it should not be dealt with lightly.

As regards the existing regulatory and promotional structures for tourism, including the two-tier regulation of travel agents by the TIC and the Registry of

Travel Agents (RTA), as well as the HKTB's role in tourism promotion, they have all evolved in response to market needs and development.

According to the Travel Agents Ordinance (the Ordinance), all travel agents carrying on outbound or inbound travel business shall obtain a licence. In view of the rapidly changing tourism market for which new tourism products keep rolling out, and in order to protect the interests of consumers and ensure the long-term healthy development of the industry, the Government amended the Ordinance in 1988 to require that any travel agent should first become a member of an authorized institution before applying for a travel agent licence. In the same year the TIC became an authorized institution under the Ordinance, responsible for formulating the code of conduct for the industry in order to ensure the professional service level of the tourism industry and protect the interests of consumers, while RTA will focus on the financial audit work relating to the travel agents and the issuance of licences. In general, the two-tier regulatory system has been operating smoothly and earning public recognition over the long span of 20 years since its initial implementation.

Mr CHAN Kam-lam mentioned that in 2007, cases of market misconduct arose on the market because of the zero-/negative-fare tours from the mainland. In fact, the two-tier regulatory system amply demonstrated its flexibility on this matter. The TIC launched a series of targeted measures in a short time, including requiring the receiving travel agents to distribute to each and every member of the mainland tour groups the Hong Kong tour itinerary, with detailed daily itineraries and the TIC's complaints hotline, meting out more rigorous punishment to travel agents in violation of the provisions, providing a 6-month refund guarantee period for shopping refund and so on, to effectively curb the problem and quickly revive mainland visitors' confidence in sight seeing and shopping in Hong Kong. The success is evident to all.

Since its inception in 2001, the HKTB has been achieving great success in promoting Hong Kong throughout the world and attracting visitors to Hong Kong. In the face of economic slowdown and the shrinking long-haul travel market, and in order to ensure the proper use of resources, the HKTB promptly adjusted its strategy as early as in September 2008, redeploying resources to focus on the mainland and short-haul markets with growth potential, as well as experimenting with new promotional periods to attract visitors to Hong Kong, which kept opening up room for development of the tourism industry.

Most of the major tourist destinations across the world have set up dedicated front-line tourism promotion organizations in addition to policy bureaux in charge of tourism so as to render more flexibility in promotional activities. This structure is similar to that of Hong Kong.

Mr Fred LI, Mr Ronny TONG and a number of Members mentioned that the TIC is in closed-door operation under monitoring by insiders. However, in fact, the operation of the TIC and its use of resources are overseen by the TIC Board of Directors (Board of Directors). Apart from the Chairman, who hails from the industry, the Board of Directors consists of totally 28 directors, among which 16 are industry directors and 12 are independent non-industry directors from all sectors of society, including accounting, law, insurance, academia, as well as those representing the interests of consumers and so on, to be appointed by the Secretary for Commerce and Economic Development. In addition, we now have five convenors, who are all independent non-industry directors, in charge of matters involving the punishment of travel agents. As well, more than half of the TIC members are non-industry players. Therefore, neither the notion of "monitoring by insiders" nor that of "closed-door operation" reflects the facts.

According to the Ordinance, each year the TIC shall submit the next fiscal year's budget to the Secretary for Commerce and Economic Development. At the end of the year, the TIC should hire an auditor to audit the actual income and expenditure accounts of the year and submit the audited accounts to the General Assembly for approval. The TIC will also send the annual report containing the audited accounts to each member. This arrangement ensures effectiveness and transparency in the use of TIC resources. The TC will also monitor the effectiveness of the TIC's regulatory work and related use of resources.

In monitoring the HKTB's use of public resources, we have all along been scrutinizing the operation of the HKTB via the HKTB Board of Directors and the committees and urging the HKTB to review the policies, guidelines and procedures for its use of resources.

The HKTB has already implemented all the 75 follow-up measures raised in the Director of Audit's report. The Government and the HKTB have also introduced new procedures. Since last September, the HKTB has regularly submitted quarterly reports to the supervising personnel over its work and use of subsidies. The HKTB has also reviewed the operation of the committees under

the Board of Directors, and strengthened corporate governance and the mechanism for the committees to submit their views to the Board of Directors.

Members are concerned about the arrangement for hotel rating. As far as hotel quality is concerned, the HKTB has set up the Quality Tourism Services Scheme under which accredited hotels or guesthouses are required to go through rigorous evaluation every year so as to provide travellers with more desirable protection. Likewise, the HKTB is presently classifying hotels and guesthouses according to their room rates, facilities and locations in order to facilitate statistics on the overall occupancy rate and room rates of various types of hotels and guesthouses. As to whether a more comprehensive rating system for all hotels and guesthouses should be introduced as mandatory, we believe that the industry players may have stronger views. We can relay Members' views to the trade associations of hotels and guesthouses to explore feasible options.

Members mentioned just now the issue of monitoring scenic spots. In Hong Kong, companies managing scenic spots vary in ownership and management mode. Some scenic spots, such as the Wetland Park, are government properties, while others, such as Noah's Ark, are privately owned. No matter the scenic spots are private or government-owned, the TC maintains close contact with them. The HKTB also actively joins hands with various scenic spots to build Hong Kong as a wonderful tourist destination. I am pleased to point out that all these scenic spots are very supportive of the Government's work. For example, as Members have also mentioned, they responded to the Government's call for offering ticket concessions to some affected tourists to showcase Hong Kong's hospitality culture. As regards the scenic spot rating mechanism, not just interests vary with source markets and clienteles, but the tourists' choices also involve many personal subjective judgments. In this connection, the HKTB has always been promoting the diverse tourist experiences available in Hong Kong to overseas tourists and those in Hong Kong through various marketing activities and publicity channels such as websites, publications and Visitor Information & Services Centres. The establishment of a scenic sport rating mechanism may not necessarily be able to help visitors choose their favourable attractions, enhance their travel experience or increase their desire to visit Hong Kong.

Members have proposed to withdraw the TIC levy and reduce the licence fee for travel agents. As an authorized institution under the Ordinance, the TIC

shoulders the important tasks of regulating and co-ordinating travel agents, including the formulation of the code of good practices in tourism, as well as the handling of complaints and violations, with the aim of enhancing the professional service level of travel agents. Section 32(i) of the Ordinance provides for the TIC levy, with the purpose of ensuring that the TIC is able to properly implement these tasks which are beneficial to the community, industry and consumers. In addition to levy income, the TIC also actively explores other sources of income, including running training courses. Over the past three years, the TIC's income other than the levy accounts for 40% of its total annual expenditure.

President, in fact, the governments around the world keep on discussing about which structure to use that would be most conducive to the implementation of policies. On the tourism policy front, many countries, such as Australia, Japan and the United Kingdom, have adopted arrangements similar to those of Hong Kong; that is, the policy bureau is responsible for strategy and planning, while a dedicated tourism promotion organization is responsible for the publicity and promotional work. Of course there are slight differences between the structures of every place to suit local conditions.

The SAR Government attaches great importance to the development of tourism. Tourism is one of the four main economic pillars of Hong Kong. Under the existing structure, the Government, in conjunction with institutions for regulation and promotion of tourism industry, has done a lot in recent years to create a good and healthy business environment for the industry. We will continue to put our efforts in this direction to lay a solid foundation for the sustainable development of tourism in Hong Kong and to consolidate Hong Kong as Asia's premier tourist destination.

As I pointed out earlier, strategic and planning problems may involve the purviews of different policy bureaux and the interests of many stakeholders; therefore it can be more efficiently settled by the Government. If the TIC and the HKTB are to deal with front-line promotion and industry regulation, the promotion and regulation can be more flexible and conducive to the instant response by relevant institutions based on the latest information. We believe that the existing structure can effectively deal with various issues relating to tourism, including the formulation of tourism policies, communications with the local industry and tourism organizations worldwide, protection of consumer rights of tourists, attracting tourism events to be held in Hong Kong and so forth.

Therefore, we do not support the proposal of setting up a tourism bureau or a new statutory body.

President, I so submit.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Fred LI to Mr Paul TSE's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Paul TSE rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Paul TSE 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, Ms LI Fung-ying, Dr Joseph LEE, Mr CHIM Pui-chung, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Wai-ming, Dr PAN Pey-chyou and Mr Paul TSE voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai and Mr IP Kwok-him voted against the amendment.

Dr Samson TAM abstained.

Geographical Constituencies:

Mr Albert HO, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr Alan LEONG, Mr KAM Nai-wai, Ms Cyd HO, Miss Tanya CHAN, Mr WONG Sing-chi, Mr WONG Kwok-kin and Mrs Regina IP voted for the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan and Dr Priscilla LEUNG voted against the amendment.

Mr Albert CHAN, Mr LEUNG Kwok-hung and Mr WONG Yuk-man abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, 10 were in favour of the amendment, 12 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, 16 were in favour of the amendment, seven against it and three 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.

**PRESIDENT** (in Cantonese): Mr Paul TSE, you may now reply and you still have one minute 31 seconds.

**MR PAUL TSE** (in Cantonese): President, once again I like to thank the Members who have spoken, and to thank Mr Fred LI for introducing an amendment, with special thanks to Mr Albert CHAN who seems to better understand my aspiration, because the Tourism Bureau that we are talking about is not an institution of redundancy, but a way to really bring about a complete change to our existing tourism policy which is a complete failure.

Certainly, changes would not happen overnight, and this is the first step of my mission. Hong Kong's policy on inbound tourism is a failure. The practice of assigning the Travel Industry Council, an organization with a background comprising entrepreneurs of outbound travel companies, to supervise inbound tourism is also a failure.

It is just a gesture of expressing our opinion this time. I wish the Government can be reminded with our message that the tourism industry is in dire need of a reform by the Government. This is a matter of choice, that whether we are now choosing to maintain our previous policy to support inbound tourism merely with the Individual Visit Scheme, as well as with visitors from the mainland, or that when we no longer have this support, what will we have in supporting the inbound tourism of Hong Kong? Nothing at all.

The post of the Commissioner for Tourism was established 10 years ago. Now is the time for us to redefine our position and introduce reforms. The reforms in tourism should keep abreast of the time. It is time for us to seriously think about whether we want to have Hong Kong's tourism industry staying put, or we want to strive for the time and the opportunities in trying to maximize our efforts to reform the tourism industry of Hong Kong. It is not only the tourism industry of Hong Kong that is in dire need of a reform, but the general economy of Hong Kong as well.

Thank you, President.



**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Paul TSE 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 Paul TSE rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Paul TSE 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:

Mr CHEUNG Man-kwong, Ms LI Fung-ying, Dr Joseph LEE, Mr CHIM Pui-chung and Mr Paul TSE voted for the motion.

Dr Margaret NG, Mrs Sophie LEUNG, Dr Philip WONG, Ms Miriam LAU, Mr Timothy FOK, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Dr LAM Tai-fai, Mr Paul CHAN and Mr IP Kwok-him voted against the motion.

Dr Raymond HO, Mr Abraham SHEK, Prof Patrick LAU, Mr CHAN Kin-por, Mr IP Wai-ming, Dr PAN Pey-chyou and Dr Samson TAM abstained.

Geographical Constituencies:

Mr Albert HO, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Frederick FUNG, Mr LEE Wing-tat, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi and Mrs Regina IP voted for the motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Ms Audrey EU, Mr Alan LEONG, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan and Miss Tanya CHAN voted against the motion.

Mr Albert CHAN, Mr WONG Kwok-hing, Mr LEUNG Kwok-hung, Dr Priscilla LEUNG, Mr WONG Kwok-kin and Mr WONG Yuk-man abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, five were in favour of the motion, 11 against it and seven abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, 11 were in favour of the motion, nine against it and six 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 negatived.

## **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 3.00 pm tomorrow.

*Adjourned accordingly at twenty-five minutes past Seven o'clock.*